Tab 1	**CS/SB 1432** by **JU, Stargel**; (Similar to CS/CS/H 1231) Service of Process

647180	A		S	RS	RC, Negron	btw L.34 - 35:	02/29 07:37 PM
349518	SA		S	RCS	RC, Negron	btw L.34 - 35:	02/29 07:37 PM

Tab 2	**SM 600** by **Thompson**; (Identical to H 0333) Recognition of Haitian Independence Day, Haitian Flag Day, and Haitian Heritage Month

Tab 3	**CS/CS/SB 408** by **CF, CJ, Altman (CO-INTRODUCERS) Negron, Joyner, Clemens, Flores, Sachs, Sobel, Soto**; (Similar to CS/H 7085) Juvenile Civil Citation and Similar Diversion Programs

381912	A		S	L	RCS	RC, Negron	Delete L.60 - 74:	02/29 09:03 PM

Tab 4	**SB 7070** by **MS**; Advisory Councils of the Department of Veterans' Affairs

Tab 5	**CS/CS/SB 794** by **CF, JU, Ring**; (Similar to CS/H 0615) Dissolution of Marriage Parenting Plans

Tab 6	**CS/CS/SB 1036** by **CM, BI, Brandes**; (Similar to CS/CS/H 0659) Automobile Insurance

303146	A		S		RCS	RC, Benacquisto	Delete L.55 - 58:	02/29 08:54 PM
358012	A		S		RCS	RC, Benacquisto	Delete L.185 - 188:	02/29 08:54 PM
243552	A		S	L	RCS	RC, Negron	Delete L.41 - 61.	02/29 08:54 PM

Tab 7	**CS/SB 1298** by **JU, Brandes**; (Similar to CS/CS/H 1181) Bad Faith Assertions of Patent Infringement

Tab 8	**CS/SB 1306** by **HP, Grimsley**; (Identical to 1ST ENG/H 1063) Public Records and Meetings/Nurse Licensure Compact

Tab 9	**CS/SB 1420** by **CF, Bean (CO-INTRODUCERS) Gaetz**; (Similar to CS/CS/CS/H 1125) Eligibility for Employment as Child Care Personnel

Tab 10	**CS/SM 1710** by **MS, Evers**; (Identical to CS/H 1319) Use of Military Force Against Global Islamic Terrorist Organizations

Tab 11	**CS/SB 1190** by **CA, Diaz de la Portilla**; (Similar to CS/CS/H 1361) Growth Management

810490	D		S		RCS	RC, Diaz de la Portilla	Delete everything after	02/29 08:54 PM
~~913352~~	AA		S		WD	RC, Diaz de la Portilla	Delete L.8 - 36:	02/29 08:54 PM
~~144428~~	SA		S		WD	RC, Diaz de la Portilla	Delete L.8 - 36:	02/29 08:54 PM
~~970916~~	AA		S		WD	RC, Diaz de la Portilla	btw L.88 - 89:	02/29 08:54 PM
~~222796~~	AA		S		WD	RC, Diaz de la Portilla	Delete L.207 - 214:	02/29 08:54 PM
524390	AA		S	L	RCS	RC, Diaz de la Portilla	Before L.5:	02/29 08:54 PM
519826	AA		S	L	RCS	RC, Diaz de la Portilla	Delete L.8 - 36:	02/29 08:54 PM

Tab 12	**CS/SB 1322** by **AP, Latvala**; (Similar to H 1279) Juvenile Detention Costs

Tab 13	**SB 7076** by **EE**; (Identical to H 7103) Legislature

Tab 14	**SB 1412** by **Simmons**; (Similar to CS/H 0969) Conditions of Pretrial Release

Tab 15	**SB 460** by **Bradley (CO-INTRODUCERS) Soto, Sobel, Hutson**; (Compare to CS/CS/CS/H 0307) Experimental Treatments for Terminal Conditions

369986	D	S		RS	RC, Bradley	Delete everything after	02/29 08:54 PM
701276	AA	S		OO	RC, Richter	Delete L.273:	02/29 08:54 PM
767616	AA	S		OO	RC, Latvala	Delete L.329:	02/29 08:54 PM
836270	AA	S		OO	RC, Latvala	btw L.443 - 444:	02/29 08:54 PM
697494	AA	S	L	OO	RC, Soto	Delete L.270 - 273:	02/29 08:54 PM
127736	AA	S	L	OO	RC, Soto	Delete L.270 - 273:	02/29 08:54 PM
808432	SD	S		RCS	RC, Galvano	Delete everything after	02/29 08:54 PM
800924	AA	S	L	UNFAV	RC, Soto	Delete L.709 - 719:	02/29 08:54 PM
~~816526~~	AA	S	L	WD	RC, Latvala	Delete L.331:	02/29 08:54 PM
~~327944~~	AA	S	L	WD	RC, Latvala	btw L.445 - 446:	02/29 08:54 PM
196964	ASA	S	L	RCS	RC, Gibson	Delete L.273:	02/29 08:54 PM
865028	A	S		OO	RC, Latvala	Before L.16:	02/29 08:54 PM
501268	A	S		OO	RC, Latvala	Before L.16:	02/29 08:54 PM

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Simmons, Chair
Senator Soto, Vice Chair

MEETING DATE: Monday, February 29, 2016
TIME: 1:00—5:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 1432** Judiciary / Stargel (Similar CS/CS/H 1231)	Service of Process; Expanding the locations at which substitute service of process may be made when such location is the only discoverable address for the person to be served; defining the terms “virtual office” and “executive office or mini suite”, etc. JU 02/16/2016 Fav/CS RC 02/24/2016 Not Considered RC 02/29/2016 Fav/CS	Fav/CS Yeas 12 Nays 0
2	**SM 600** Thompson (Identical HM 333, Compare CS/HM 69, HR 9057, SM 568)	Recognition of Haitian Independence Day, Haitian Flag Day, and Haitian Heritage Month; Urging Congress to annually recognize January 1 as “Haitian Independence Day,” May 18 as “Haitian Flag Day,” and the month of May as “Haitian Heritage Month”, etc. CM 02/16/2016 Favorable RC 02/24/2016 Not Considered RC 02/29/2016 Favorable	Favorable Yeas 12 Nays 0
3	**CS/CS/SB 408** Children, Families, and Elder Affairs / Criminal Justice / Altman (Similar CS/H 7085, Compare S 506)	Juvenile Civil Citation and Similar Diversion Programs; Requiring the establishment of civil citation or similar diversion programs for juveniles, etc. CJ 02/08/2016 Not Considered CJ 02/16/2016 Fav/CS CF 02/24/2016 Fav/CS RC 02/29/2016 Fav/CS	Fav/CS Yeas 11 Nays 1
4	**SB 7070** Military and Veterans Affairs, Space, and Domestic Security	Advisory Councils of the Department of Veterans’ Affairs; Defining the term “veteran” and “military veteran” for purposes of determining persons the Florida Veterans’ Hall of Fame Council may consider as nominees for the Florida Veterans’ Hall of Fame, etc. RC 02/29/2016 Favorable	Favorable Yeas 10 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	**CS/CS/SB 794** Children, Families, and Elder Affairs / Judiciary / Ring (Similar CS/H 615)	Dissolution of Marriage Parenting Plans; Requiring that parenting plans provide that either parent may consent to mental health treatment for the child if the court orders shared parental responsibility; providing that the responsibility for the health care costs for the mental health treatment of the child shall be governed by the marital settlement agreement or court order, etc. JU 02/09/2016 Fav/CS CF 02/17/2016 Fav/CS RC 02/29/2016 Favorable	Favorable Yeas 11 Nays 0
6	**CS/CS/SB 1036** Commerce and Tourism / Banking and Insurance / Brandes (Similar CS/CS/H 659)	Automobile Insurance; Requiring the Office of Insurance Regulation to ensure that rates or rate changes contained in certain rate filings are not excessive, inadequate, or unfairly discriminatory; authorizing the Florida Automobile Joint Underwriting Association and a joint underwriting plan approved by the Office of Insurance Regulation to cancel personal lines or commercial policies within a specified time for nonpayment of premium due to certain reasons; adding a specified entity to a list of entities that are not required to be licensed as a clinic to receive reimbursement under the Florida Motor Vehicle No-Fault Law, etc. BI 01/26/2016 Fav/CS CM 02/16/2016 Fav/CS RC 02/29/2016 Fav/CS	Fav/CS Yeas 9 Nays 1
7	**CS/SB 1298** Judiciary / Brandes (Similar CS/CS/H 1181)	Bad Faith Assertions of Patent Infringement; Prohibiting a person from sending a demand letter to a target which makes a bad faith assertion of patent infringement; revising provisions authorizing the bringing of actions and specified remedies under the Patent Troll Prevention Act, etc. JU 02/09/2016 Not Considered JU 02/16/2016 Fav/CS ACJ 02/24/2016 Favorable RC 02/29/2016 Favorable	Favorable Yeas 11 Nays 0

With subcommittee recommendation - Criminal and Civil Justice

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	**CS/SB 1306** Health Policy / Grimsley (Similar H 1063, Compare H 1061, Linked S 1316)	Public Records and Meetings/Nurse Licensure Compact; Providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Nursing pursuant to the Nurse Licensure Compact; providing an exemption from public meeting requirements for certain meetings of the Interstate Commission of Nurse Licensure Compact Administrators; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portion of such a meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity, etc. HP 02/09/2016 Temporarily Postponed HP 02/16/2016 Fav/CS GO 02/22/2016 Favorable RC 02/29/2016 Favorable	Favorable Yeas 11 Nays 0
9	**CS/SB 1420** Children, Families, and Elder Affairs / Bean (Similar CS/CS/CS/H 1125)	Eligibility for Employment as Child Care Personnel; Prohibiting the removal of or exemption from certain disqualifications from employment for child care personnel under certain circumstances; specifying certain offenses that disqualify a person from child care employment, notwithstanding any prior exemption, etc. CF 01/27/2016 Temporarily Postponed CF 02/04/2016 Fav/CS CJ 02/22/2016 Favorable RC 02/29/2016 Favorable	Favorable Yeas 12 Nays 0
10	**CS/SM 1710** Military and Veterans Affairs, Space, and Domestic Security / Evers (Identical CS/HM 1319)	Use of Military Force Against Global Islamic Terrorist Organizations; Urging Congress to authorize the use of military force against al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations that similarly engage in acts of terrorism, etc. MS 02/22/2016 Fav/CS RC 02/29/2016 Favorable	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**CS/SB 1190** Community Affairs / Diaz de la Portilla (Similar CS/CS/H 1361, Compare CS/CS/S 7000)	Growth Management; Authorizing the governing body of a county to employ tax increment financing; specifying that certain developments must follow the state coordinated review process; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing criteria under which one approved land use may be submitted for another approved land use in certain land development agreements under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state-coordinated review process, etc. CA 01/26/2016 Fav/CS ATD 02/17/2016 Favorable FP 02/24/2016 Favorable RC 02/29/2016 Fav/CS	Fav/CS Yeas 12 Nays 0
12	**CS/SB 1322** Appropriations / Latvala (Similar H 1279)	Juvenile Detention Costs; Revising the annual contributions by certain counties for the costs of detention care for juveniles; requiring the state to pay all costs of detention care for juveniles residing out of state and for juveniles residing in state detention centers in counties that provide their own detention care for juveniles; deleting a requirement that the Department of Revenue and the counties provide certain technical assistance to the Department of Juvenile Justice, etc. ACJ 02/11/2016 Fav/CS AP 02/25/2016 Fav/CS RC 02/29/2016 Favorable	Favorable Yeas 11 Nays 0
13	**SB 7076** Ethics and Elections (Identical H 7103)	Legislature; Fixing the date for convening the 2018 Regular Session of the Legislature, etc. RC 02/29/2016 Favorable	Favorable Yeas 11 Nays 1
14	**SB 1412** Simmons (Similar CS/H 969)	Conditions of Pretrial Release; Requiring that a defendant be notified in writing if a court issues an order of no contact rather than receive a copy of the order, etc. JU 01/26/2016 Not Considered JU 02/08/2016 Favorable CJ 02/22/2016 Favorable RC 02/29/2016 Favorable	Favorable Yeas 12 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
15	**SB 460** Bradley (Compare CS/CS/CS/H 307)	Experimental Treatments for Terminal Conditions; Revising the definition of the term "investigational drug, biological product, or device"; providing for eligible patients or their legal representatives to purchase and possess cannabis for medical use; authorizing certain licensed dispensing organizations to manufacture, possess, sell, deliver, distribute, dispense, and dispose of cannabis; exempting such organizations from specified laws, etc. HP 11/17/2015 Favorable ACJ 12/03/2015 Favorable FP 01/20/2016 Temporarily Postponed FP 02/04/2016 Favorable RC 02/29/2016 Fav/CS	Fav/CS Yeas 10 Nays 1

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/SB 1432
INTRODUCER:	Rules Committee; Judiciary Committee; and Senator Stargel
SUBJECT:	Service of Process
DATE:	March 1, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	**Fav/CS**
2.	Brown	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1432 authorizes additional methods of service of process if personal service of process cannot be effected.

Under current law, a process server may personally serve process, such as a subpoena or summons, on a witness or opposing party in a lawsuit. In certain instances in which personal service of process is not possible, existing law authorizes substitute service of process, which is the service of the process on the intended recipient's spouse or person in charge of the recipient's business or private mailbox. If personal service or substitute service of process cannot be effected, existing law authorizes constructive service of process, which is usually accomplished by publishing a notice to the defendant in a newspaper.

The bill defines a virtual office as an office that provides communications services such as telephone or fax services, and address services without providing dedicated office space, provided that all communications are routed through a common receptionist. An executive office or mini suite is similar, except that it includes dedicated office space.

This bill allows a process server to effect substitute service of process on:

- A person in charge of an intended recipient's virtual office or executive office or mini suite; or
- A registered agent, officer, or director of a corporation, whose address or the principal place of business of the corporation is a virtual office, an executive office, or a mini suite.

Under the state's long-arm statute, the courts of this state do not have jurisdiction over a defendant who is engaged in isolated activity in the state. The statute further provides that the courts of this state lack jurisdiction to enforce penalties or fines imposed by a state agency from another state in which the defendant does not have a mandatory right of review of the agency order. In addition to prohibiting a court from enforcing only agency orders that impose a penalty or fine, this bill restricts the jurisdiction of courts to enforce any agency order.

II. Present Situation:

Service of Process and Process Servers

The role of a process server is to serve summons, subpoenas, and other forms of process in civil and criminal actions.[1] The term "to serve" means to make legal delivery of a notice or a pleading.[2] A summons is a writ or a process beginning a plaintiff's legal action and requiring a defendant to appear in court to answer the summons.[3] A subpoena is a legal writ or order commanding a person to appear before a court or other tribunal.[4] A subpoena can command a person to be present for a deposition or for a court appearance.

The sheriff of the county where the person is to be served is generally responsible for serving as process server. However, notice of the initial nonenforceable civil process, criminal witness subpoenas, and criminal summons may be delivered by a process server other than the sheriff—a special process server or a certified process server. Special process servers and certified process servers must meet certain statutory qualifications and appear on a list approved and maintained by the sheriff or the chief judge of a judicial circuit.[5]

Types of Process

Personal Service of Process

A process server generally must effect service of process by personal service by:

- Serving the person directly or by leaving a copy of a complaint, petition, or initial pleading or paper at the person's usual place of abode with a person who is 15 years old or older; or
- Serving a person at his or her place of employment in a private area designated by the employer.[6]

Substitute Service of Process

If a person cannot be personally served, a process server may accomplish substitute service of process by:

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[1] Sections 48.011 and 48.021, F.S. "… the common law writ of capias ad respondum was the historical precedent to contemporary service of process. …the writ obtained in personam jurisdiction over the defendant, allowing the royal court to secure the appearance of the defendant by taking him into custody." Troy Blair, *Receipt of a Complaint, Prior to or Unattended by Formal Service of Process, does not Trigger a Defendant's Thirty-day Period to Remove a Case: Murphy Brothers, Inc. v. Michetti Pipe Stringing, Inc.*, 38 DUQ. L.REV. 663, 666 (Winter 2000).

[2] BLACK'S LAW DICTIONARY (10th ed. 2014).

[3] BLACK'S LAW DICTIONARY (10th ed. 2014).

[4] BLACK'S LAW DICTIONARY (10th ed. 2014).

[5] Sections 48.021(1) and 48.29, F.S.

[6] Section 48.031(1), F.S.

- Serving process on a spouse if the cause of action is not an adversarial proceeding between the spouse and the person to be served, if the spouse requests service, and if the spouse and person to be served live together; or
- Serving process on an employee or other person in charge of the intended recipient's business if the intended recipient is a sole proprietor and two attempts have been made to serve him or her.[7]

Process may be served on a domestic or foreign corporation by personal service on a president or vice president or other head or officer of the corporation, or on a registered agent in this state.[8] If the address for the registered agent, officer, director, or principal place of business is a residence or private mailbox, substitute service may be made by serving the agent, officer, or director.[9]

Additionally, service of process of witness subpoenas may be accomplished through United States mail for the following cases:
- Criminal traffic case;
- Misdemeanor case;
- Second degree felony; or
- Third degree felony.[10]

To serve a subpoena on a witness by mail, the subpoena must be sent to the last known address of the witness at least 7 days before the appearance required in the subpoena. However, if a witness fails to appear in response to a subpoena served by mail, he or she may not be found in contempt of court.[11]

The final approved method of substitute service of process applies in instances in which the only address of person to be served is a private mailbox, discoverable through a public records search. If the process server confirms that the intended recipient maintains a mailbox at that location, the process server may leave a copy of the process with the person in charge of the private mailbox.[12]

Constructive Service of Process, including by Publication

Although the preferred methods of service of process are personal service or substitute service of process, another method is available. In instances in which these types of service of process may not be effected, constructive process is permitted in limited circumstances and actions. One type of constructive service of process is service by publication.

Service of process may be made by publication in certain legal actions, including:
- To enforce any legal or equitable lien or claim to any title or interest in real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.

[7] Section 48.031 (2), F.S.
[8] Section 48.081(3)(b), F.S.
[9] Section 48.081(3)(b), F.S.
[10] Section 48.031(3)(A), F.S.
[11] Section 48.031(3)(A), F.S.
[12] Section 48.031(6), F.S.

- To quiet title or remove any encumbrance, lien, or cloud on the title to any real or personal property within the jurisdiction of the court or any fund held or debt owing by any party on whom process can be served within this state.
- To partition real or personal property within the jurisdiction of the court.
- Dissolution or annulment of marriage.
- For the construction of any will, deed, contract, or other written instrument and for a judicial declaration or enforcement of any legal or equitable right, title, claim, lien, or interest thereunder.
- To reestablish a lost instrument or record which has or should have its situs within the jurisdiction of the court.
- A writ of replevin, garnishment, or attachment that has been issued and executed.
- Certain parenting actions, including adoption, termination of parental rights, and to establish paternity in certain cases.
- An action in which personal service of process or notice is not required by the statutes or state constitution or by the Constitution of the United States.
- In probate or guardianship proceedings in which personal service of process or notice is not required by the statutes or constitution of this state or by the Constitution of the United States.[13]

Service of process by publication may be effected upon any known or unknown person, corporation, or group that operates or does business in the state.[14]

If service of process is to be made by publication, the plaintiff or the plaintiff's attorney who requests service of process must first file a sworn statement as a condition precedent to the process being served through publication.[15] What must be included in the sworn statement varies slightly, depending on the intended recipient. For example, the sworn statement on a service of process on a natural person must attest:

- That a diligent search and inquiry has been conducted to discover the name and address of the person served;
- To whether the person to be served is over or under the age of 18, or if age is unknown; and
- That the residence of the person is unknown, out-of-state or out-of-country, or in the state but that the person has either been absent from the state or concealed his or her whereabouts.[16]

Florida's Long-arm Statute

A long-arm statute is a statute that grants personal jurisdiction over a nonresident defendant who has had contacts with the state in which the statute is in effect.[17] In determining whether a defendant is subject to jurisdiction, the court must determine whether:

- The defendant has minimum contact with the forum state; and

[13] Section 49.011, F.S.
[14] Section 49.021, F.S.
[15] Section 49.031, F.S.
[16] Section 49.041, F.S.
[17] BLACK'S LAW DICTIONARY (10th ed. 2014).

- The exercise of jurisdiction would offend traditional notions of fair play and substantial justice.[18]

Florida's long-arm statute is provided in section 48.193, F.S., which provides, in part:

> A person, whether or not a citizen or resident of this state, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself or herself and, if she or she is a natural person, his or her personal representative to the jurisdiction of the courts of this state.[19]

Acts that subject a person or entity to the long-arm jurisdiction of the state include:
- Operating a business in the state or having an office or agency in the state;
- Committing a tort in the state;
- Owning, using, possessing, or holding a mortgage or other lien on real property in the state;
- Contracting to insure a person, property, or risk located in the state at the time of contracting; and
- Breaching a contract in the state by failing to perform acts required in contract to be performed within the state.[20]

For the long-arm statute to apply, a defendant must be engaged in substantial and not isolated activity within the state.[21]

An exception in the long-arm statute prohibits a court from enforcing penalties or fines imposed by an agency of another state if the other state does not provide a mandatory right of review of the agency in a state court of competent jurisdiction.[22]

III. Effect of Proposed Changes:

This bill revises the law on substitute service of process and long-arm jurisdiction.

Substitute Service of Process

Current law authorizes process to be served through substitute service of process, such as to a private mailbox. This bill provides that a process server may also effect substitute service if the only address is for a virtual office, or an executive office or mini-suite. A virtual office may be an office that provides communication services such as telephone or fax services, and address services without providing dedicated office space, if all communications are routed through a common receptionist. An executive office or mini-suite includes a dedicated office space and other supportive services.

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[18] *Horizon Aggressive Growth, L.P., v. Rothstein-Kass*, 421 F.3d 1162, 1166 (11th Cir. 2005), quoting *Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).
[19] Section 48.193(1)(a), F.S.
[20] *Id*. *Internet Solutions Corp. v. Marshall*, 39 So.3d 1201 (Fla. 2010).
[21] Section 48.193(2), F.S.
[22] Section 48.193(1)(b), F.S.

This bill allows a process server to effect substitute service of process on:

- A person in charge of an intended recipient's virtual office or executive office or mini suite; or
- A registered agent, officer, or director of a corporation, whose address or the principal place of business of the corporation is a virtual office, an executive office, or a mini suite.

Once the process server confirms that the person to be served maintains a virtual office or mini-suite, the server may leave a copy with the person in charge of that location.

Long-arm Jurisdiction

Under the state's long-arm statute, the courts of this state do not have jurisdiction over a defendant who is engaged in isolated activity in the state. The statute further provides that the courts of this state lack jurisdiction to enforce penalties or fines imposed by a state agency from another state in which the defendant does not have a mandatory right of review of the agency order. In addition to prohibiting a court from enforcing only agency orders that impose a penalty or fine, this bill restricts the jurisdiction of courts to enforce any agency order.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A plaintiff may benefit by having a case heard in instances in which alternative service of process provided in the bill leads to the location of otherwise difficult to reach defendants.

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: 48.031, 48.081, and 48.193.

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 Rules on February 29, 2016:
The CS:

- Specifies that an agency order issued out of state is unenforceable against a corporation incorporated or having its principal place of business in the state if the other state does not provide a mandatory right of review of the agency decision.
- Authorizes service of process on a domestic or foreign corporation whose registered agent, officer, or director, or the principal place of business of the corporation is a virtual office, an executive officer, or a mini suite.

CS by Judiciary on February 16, 2016:
The CS removes the authority for a type of constructive service of process, electronic service of process, from the bill.

B. Amendments:

None.

647180

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/29/2016	.	
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	.	
	.	

The Committee on Rules (Negron) recommended the following:

Senate Amendment (with title amendment)

Between lines 34 and 35
insert:

Section 2. Paragraph (b) of subsection (1) of section 48.193, Florida Statutes, is amended to read:

48.193 Acts subjecting person to jurisdiction of courts of state.—

(1)

(b) Notwithstanding any other provision of this subsection, an order issued, or a penalty or fine imposed, by an agency of

647180

another ~~any other~~ state is ~~shall~~ not ~~be~~ enforceable against any person or entity incorporated or having its principal place of business in this state if the ~~where such~~ other state does not provide a mandatory right of review of the ~~such~~ agency decision in a state court of competent jurisdiction.

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

And the title is amended as follows:

Between lines 7 and 8

insert:

amending s. 48.193, F.S.; providing that orders issued by agencies of other states are not enforceable in certain circumstances;

349518

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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	.	

The Committee on Rules (Negron) recommended the following:

Senate Substitute for Amendment (647180) (with title amendment)

Between lines 34 and 35
insert:

Section 2. Paragraph (b) of subsection (1) of section 48.193, Florida Statutes, is amended to read:

48.193 Acts subjecting person to jurisdiction of courts of state.—

(1)

(b) Notwithstanding any other provision of this subsection,

349518

an order issued, or a penalty or fine imposed, by an agency of another ~~any other~~ state is ~~shall~~ not ~~be~~ enforceable against any person or entity incorporated or having its principal place of business in this state if the ~~where such~~ other state does not provide a mandatory right of review of the ~~such~~ agency decision in a state court of competent jurisdiction.

Section 3. Paragraph (b) of subsection (3) of section 48.081, Florida Statutes, is amended to read:

48.081 Service on corporation.—

(3)

(b) If the address for the registered agent, officer, director, or principal place of business is a residence, a ~~or~~ private mailbox, a virtual office, an executive office, or a mini suite, service on the corporation may be made by serving the registered agent, officer, or director in accordance with s. 48.031.

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

And the title is amended as follows:

Between lines 7 and 8

insert:

amending s. 48.193, F.S.; providing that orders issued by agencies of other states are not enforceable under certain circumstances; amending s. 48.081, F.S.; conforming provisions to changes made by the act;

By the Committee on Judiciary; and Senator Stargel

590-03684-16 20161432c1

A bill to be entitled

An act relating to service of process; amending s. 48.031, F.S.; expanding the locations at which substitute service of process may be made when such location is the only discoverable address for the person to be served; defining the terms "virtual office" and "executive office or mini suite"; providing an effective date.

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

Section 1. Subsection (6) of section 48.031, Florida Statutes, is amended to read:

48.031 Service of process generally; service of witness subpoenas.—

(6)(a) If the only address for a person to be served~~,~~ which is discoverable through public records~~,~~ is a private mailbox, a virtual office, or an executive office or mini suite, substitute service may be made by leaving a copy of the process with the person in charge of the private mailbox, virtual office, or executive office or mini suite, but only if the process server determines that the person to be served maintains a mailbox, a virtual office, or an executive office or mini suite at that location.

(b) For purposes of this subsection, the term "virtual office" means an office that provides communications services, such as telephone or facsimile services, and address services without providing dedicated office space, and where all communications are routed through a common receptionist. The term "executive office or mini suite" means an office that provides communications services, such as telephone and facsimile services, a dedicated office space, and other

590-03684-16 20161432c1

supportive services, and where all communications are routed through a common receptionist.

Section 2. This act shall take effect July 1, 2016.

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

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

February 25, 2016

Chairman Simmons

Dear Chair Simmons:

I am requesting permission for my LA, Chad Davis, to present SB 1432, which is dealing with Service of Process, at your committee meeting on Monday 2/29/16.

Thank you for this consideration,

Sincerely,

Kelli Stargel

Kelli Stargel
State Senator, District 15

Cc: John Phelps/ Staff Director
Cissy DuBose/ 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)

3/29/16
Meeting Date

1432
Bill Number (if applicable)

Topic SERVICE OF PROCESS

Amendment Barcode (if applicable)

Name MARTY BOWEN

Job Title

Address 108 E JEFFERSON
Street

Phone 228-3904

TALLAHASSEE FL
City *State* *Zip*

Email mbb226@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ASSOC OF PROFESSIONAL PROCESS SERVERS

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 Rules

BILL:	SM 600
INTRODUCER:	Senator Thompson
SUBJECT:	Recognition of Haitian Independence Day, Haitian Flag Day, and Haitian Heritage Month
DATE:	February 23, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Aldana	McKay	CM	**Favorable**
2.	Aldana	Phelps	RC	**Favorable**

I. Summary:

SM 600 urges Congress to recognize January 1st as "Haitian Independence Day," May 18th as "Haitian Flag Day," and the month of May as "Haitian Heritage Month."

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are formal petitions to the federal government that generally request the Congress to act on a particular subject.

II. Present Situation:

Haiti's Independence

Haiti is one-third of the island of Hispaniola, with a current population of approximately 10 million people.[1] Haiti's culture is heavily influenced by West Africa, from which slaves were imported in the 18th century by Spanish and French colonizers to support the island's agrarian economy. In 1789, Haiti had a total population of 520,000 individuals, 452,000 of whom were slaves.[2] From 1791 to 1804,[3] Haitian slaves and free people of color led "the largest and most successful slave rebellion in the Western Hemisphere,"[4] which ultimately resulted in Haitian freedom from colonial rule. The pinnacle of the Haitian Revolution occurred on May 18, 1803, when Jean-Jacques Dessalines, who would become the first president of an independent Haiti,[5]

[1] U.S. Central Intelligence Agency, *Haiti's Country Profile: People and Society*, available at: https://www.cia.gov/library/publications/the-world-factbook/geos/ha.html (last visited Feb. 15, 2016).
[2] Helen Chapin-Metz, Federal Research Division of the Library of Congress, *Dominican Republic and Haiti: Country Studies*, 266 (2001), available at http://www.loc.gov/resource/frdcstdy.dominicanrepubli00metz/?st=gallery (last visited Feb. 15, 2016).
[3] Chapin-Metz, *supra* note 2 at 268.
[4] Black Past, *Haitian Revolution (1791-1804)*, available at: http://www.blackpast.org/gah/haitian-revolution-1791-1804 (last visited Feb. 15, 2016).
[5] Chapin-Metz, *supra* note 2, at 272.

led a newly formed coalition under a blue and red flag to victories against the French.[6] Dessalines' flag would serve as the basis for the modern flag of Haiti. In honor of the creation of its original flag, Haiti celebrates Haitian Flag Day on May 18th every year.[7]

Haiti ultimately declared its independence on January 1, 1804, and as a result, Haiti's Independence Day is celebrated on January 1 of every year.

Haitians in the United States

Due in part to Haiti's close proximity to the United States, there are approximately 1.5 million people of Haitian descent living in this country.[8] Florida has the highest population of Haitian immigrants in the U.S., at 280,000—most of whom reside in the greater Miami area.[9] Haitians tend to be newer immigrants, with arrivals from Haiti peaking from 2000 to 2009.[10]

In recognition of the impact of Haitian culture and individuals on the United States, several resolutions have been introduced in the United States House of Representatives to recognize May as "Haitian American Heritage Month." For example, House Resolution 777, sponsored by former Congressman Kendrick Meek, was introduced, but never heard, during the 109th Congress.[11] House Resolution 224, sponsored by Congresswoman Frederica Wilson, was introduced, but not heard, during the 113th Congress.[12]

Additionally, in 2005, President George Bush and Laura Bush posted a letter to congratulate Haitian-Americans on the heroic accomplishments of their ancestors.[13] In 2010, President Obama recognized the importance of May's Haitian American Heritage Month by making a special presentation at the White House, lauding Haiti's contribution to the worlds of nations.[14] On May 17, 2010, President Obama also welcomed the largest contingency of Haitian-American leaders at the White House for a Haitian Flag Day celebration.[15]

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[6] Biography.com, *Jean-Jacques Dessalines*, available at http://www.biography.com/people/jean-jacques-dessalines-9273005 (last visited Feb. 15, 2016).
[7] South Florida Times, *Caribbean Crossroads: May is Haitian Heritage Month* (May 21, 2010) available at http://www.sfltimes.com/uncategorized/caribbean-crossroads-may-is-haitian-heritage-month (last visited Feb. 15, 2016).
[8] U.S. Census Bureau, *2013 & 2014 American Community Survey*.
[9] Miami-Dade and Broward County combined have a total of 151,700 Haitian immigrants. Migration Policy Institution, U.S. *Immigrant Population by State and County*, (2009-2013) available at: http://www.migrationpolicy.org/programs/data-hub/charts/us-immigrant-population-state-and-county?width=1000&height=850&iframe=true (last visited Feb. 15, 2016).
[10] Kristen McCabe, *Caribbean Immigrants in the United States*, (April 2011) available at: http://www.migrationpolicy.org/article/caribbean-immigrants-united-states (last visited Feb. 15, 2016).
[11] H.R. 777, 109th Congress (2006), available at: https://www.congress.gov/bill/109th-congress/house-resolution/777?q=%7B%22search%22%3A%5B%22777%22%5D%7D&resultIndex=42 (last visited Feb. 15, 2016).
[12] H.R. 224, 113th Congress (2013), available at: https://www.congress.gov/bill/113th-congress/house-resolution/224 (last visited Feb. 15, 2016).
[13] South Florida Times, *supra* note 7.
[14] *Id*.
[15] Black Past, *supra* note 4.

Miami-Dade County passed a resolution designating May as "Haitian Cultural Heritage Month," and has held annual celebrations since.[16] Similarly, the Palm Beach County School District adopted a resolution recognizing May as Haitian Heritage Month.[17]

Recognition of Cultural Heritage in the United States

Congress has passed legislation relating to national observances and commemorative months on several occasions. For example, as a result of Congressional action, February is recognized as National African American History Month, November as "American Indian Heritage Month," May as "Jewish American Heritage Month," May as "Asian Pacific Heritage Month," and September 15th through October 15th as "National Hispanic Heritage Month."[18]

III. Effect of Proposed Changes:

SM 600 urges the U.S. Congress to recognize January 1 of each year as "Haitian Independence Day," May 18th of each year as "Haitian Flag Day," and the month of May of each year as "Haitian Heritage Month."

Copies of the memorial are dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation of the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[16] Miami Dade County, Resolution Reallocating $35,000 to the Haitian American Foundation for Support of Haitian Cultural Heritage Month- May 2001, available at: http://www.miamidade.gov/govaction/matter.asp?matter=011622&file=false&yearFolder=Y2001 (last visited Feb. 15, 2016); see also Miami-Dade County, *Haitian Cultural Heritage Month kicks off on May 1*, (Apr. 24, 2015) available at: http://www.miamidade.gov/district02/releases/2015-04-24-haitian-month.asp (last visited Feb. 15, 2016).

[17] See, School District of Palm Beach County, Office of Communications, Palm *Beach County to Celebrate Haitian Heritage During the Month of May*, April 11, 2011, available at: https://news.palmbeachschools.org/pao/2011/04/11/palm-beach-county-to-celebrate-haitian-heritage-during-the-month-of-may/ (last visited Feb. 15, 2016).

[18] See Library of Congress, Commemorative Observances, available at: http://www.loc.gov/law/help/commemorative-observations/index.php (last visited Feb. 15, 2016).

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:

None.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Thompson

12-00754-16 2016600__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to annually recognize January 1 as "Haitian Independence Day," May 18 as "Haitian Flag Day," and the month of May as "Haitian Heritage Month."

WHEREAS, the Republic of Haiti, an island nation located in the West Indies on the western third of the Island of Hispaniola, declared its independence from French colonial rule on January 1, 1804, following a slave revolt under the leadership of Generals Toussaint L'Ouverture, Jean-Jacques Dessalines, and Alexandre Pétion, becoming the first and only state created from a successful slave rebellion, and

WHEREAS, Haiti was the first independent nation in Latin America and the first post-colonial independent nation led by blacks in the world, and

WHEREAS, Haitian Independence Day is globally acknowledged and annually celebrated on January 1 as an affirmation of equality, freedom, and the abolition of slavery, and

WHEREAS, the Haitian flag known today, a variant of which first came into use in 1806, is emblazoned with the country's coat of arms and the colors red and blue, adopted from the flag of France, the country from which Haiti gained its independence, and

WHEREAS, General Jean-Jacques Dessalines is regarded as the father of the Haitian flag, known to have dramatically cut the French tricolor with his saber at the May 1803 Arcahaie conference, ripping away the white of the French flag to

Florida Senate - 2016 **SM 600**

12-00754-16 2016600__

symbolize an end to European influence and leaving two strips that Catherine Flon then sewed back together: the blue, which represented the former African slaves brought to Haiti by colonial powers, and the red, which symbolized a people of mixed ancestry, and

WHEREAS, the Haitian flag is a definitive symbol of pride for the Caribbean nation, having become the second republic, after the United States, to defeat a European colonial power in the Americas, and

WHEREAS, Haitian Flag Day events are annually observed and celebrated with pride and enthusiasm throughout the United States, and

WHEREAS, Haitian Heritage Month is a jubilant celebration in the United States, embracing Haitian heritage and culture, and

WHEREAS, first celebrated in Boston, Massachusetts, in 1998, Haitian Heritage Month is observed nationwide in the month of May from Florida to New York with parades, festivals, and school activities, and

WHEREAS, the importance of Haitian Heritage Month is exemplified by South Florida Congressman Kendrick B. Meek's introduction of a bill in the United States House of Representatives in 2004 and 2006 to recognize the month of May as Haitian Heritage Month, by former President George W. Bush and First Lady Laura Bush's letter, sent in May 2005, to congratulate the Haitian-American community on the occasion of the heritage month, and by the organization of a celebration at the White House that same year, and

WHEREAS, as educators, authors, community leaders,

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

activists, athletes, artists, musicians, and politicians, Haitians and Haitian Americans have left an indelible mark on every facet of this nation's society and the world, evidenced by the accomplishments of such icons as Jean Baptiste Point du Sable, founder of the City of Chicago; civil rights activist W.E.B. Du Bois; National Football League player Pierre Garçon; author and candidate for the Nobel Prize for Literature in 2009, Frankétienne; and Tony Award-winning actress and singer Nikki M. James, and

WHEREAS, the close proximity of Haitian and American shores, in conjunction with our countries' common bond of mutual values and commitment to democracy, ensures lasting comity of nations and continued trade and diplomatic relations, and

WHEREAS, with an estimated 1.5 million persons of Haitian descent now residing in the United States, it is important to acknowledge the positive impact of Haitian Americans in their contribution to the betterment and diversity of this country, and

WHEREAS, the United States and Haiti share a history of freedom, a common belief in human rights, and diverse, complex, and resilient peoples who have impacted the world through vibrant cultures, democracy, and a wealth of talent and achievement, and

WHEREAS, Haitian Independence Day, Haitian Flag Day, and Haitian Heritage Month are each observed to salute the Haitian and Haitian-American communities and to exhibit appreciation for their culture and heritage, which have immeasurably enriched the lives of the people of this nation, NOW, THEREFORE,

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

That the Congress of the United States is urged to recognize January 1 of each year as "Haitian Independence Day," May 18 of each year as "Haitian Flag Day," and the month of May of each year as "Haitian Heritage Month" and to encourage the people of the United States to observe these occasions with appropriate ceremonies, celebrations, and activities.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the House of Representatives, and to each member of the Florida delegation to the United States Congress.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/2016
Meeting Date

Topic _____ Bill Number 600 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/CS/SB 408
INTRODUCER:	Rules Committee; Children, Families, and Elder Affairs Committee; Criminal Justice Committee; and Senator Altman and others
SUBJECT:	Juvenile Civil Citations and Similar Diversion Programs
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dugger	Cannon	CJ	**Fav/CS**
2.	Crosier	Hendon	CF	**Fav/CS**
3.	Dugger	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE – Substantial Changes

I. Summary:

CS/CS/CS/SB 408 *requires* a law enforcement officer to issue a civil citation or require the juvenile's participation in a similar diversion program when the juvenile is under 16 years of age for the following enumerated first-time "misdemeanor offenses":

- Possession of alcoholic beverages by a person under age 21;
- Petit theft;
- Retail theft;
- Resisting an officer without violence;
- Disorderly conduct;
- Possession of cannabis or other controlled substances; or
- Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia.

The bill *permits* the issuance of a civil citation or similar diversion program for:

- Any first-time misdemeanor offense that is not one of the enumerated "misdemeanor offenses" or any enumerated "misdemeanor offense" that is committed by a juvenile who is 16 years of age or older; or
- Any second or third-time misdemeanor offense, regardless of whether the offense is one of the enumerated "misdemeanor offenses."

A law enforcement officer must provide written documentation articulating why an arrest is warranted if he or she has discretion under the statute to issue a civil citation but chooses instead to arrest the juvenile.

The bill also provides that the civil citation law does not modify the authority of a law enforcement officer to issue only a simple warning to the juvenile or to notice the juvenile's guardian or parent of the alleged offense.

The bill could have a positive fiscal impact and has an effective date of July 1, 2016.

II. Present Situation:

Section 985.12, F.S., establishes a civil citation process that provides an efficient and innovative alternative to the Department of Juvenile Justice's (DJJ) custody for youth who commit nonserious delinquent acts.[1] The DJJ is required to encourage and assist in the implementation and improvement of civil citation programs or other similar diversion programs around the state.[2]

The DJJ must also develop guidelines for civil citation programs which include intervention services based upon proven civil citation or similar diversion programs within the state.[3] These programs are to be established at the local level in concurrence with the chief judge, state attorney, public defender, and head of each local law enforcement agency.[4]

Currently, statute provides that a law enforcement officer may issue a civil citation to a youth who admits to committing a misdemeanor [5] without taking the youth into custody.[6] Last session, the Legislature amended the law to allow a law enforcement officer to issue a simple warning to the youth or inform the youth's parents of the misdemeanor, or issue a civil citation or require participation in a similar diversion program.[7]

Another significant change to the statute last session was allowing a law enforcement officer to issue a civil citation to a youth who admits committing a second or third misdemeanor. (Civil citation was previously limited to the commission of a first-time misdemeanor.) If an arrest is made, the law enforcement officer is required to provide written documentation as to why the arrest is warranted under another amendment to the law last session.[8]

The law enforcement officer must send a copy of the citation to the department, sheriff, state attorney, DJJ's intake office or the community service performance monitor, parent or guardian

[1] Section 985.12(1), F.S.
[2] *Id.*
[3] Section 985.12(2), F.S.
[4] Section 985.12(1), F.S.
[5] Misdemeanors involving sexual or firearm offenses are currently ineligible for civil citation programs under the *DJJ Civil Citation Model Plan.* Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).
[6] *Id.*
[7] Ch. 2015-46, s. 1, Laws of Fla. (amending s. 985.12, F.S., effective October 1, 2015).
[8] *Id.*

of the youth, and the victim.[9] The issuance of a civil citation is not considered a referral to the department.[10]

A civil citation program or similar diversion program may be operated by law enforcement, the DJJ, a juvenile assessment center, a county or municipality, or an entity selected by the county or municipality. Operations must be in consultation and agreement with the state attorney and local law enforcement agencies.[11] According to the DJJ, since law enforcement agencies are not required to issue civil citations, there is variation in the use of civil citation programs among agencies and counties statewide.[12]

Youth issued a civil citation may be assigned up to 50 hours of community service and must participate in intervention services as indicated by a needs assessment. Intervention services include family counseling, urinalysis monitoring, substance abuse and mental health treatment services.[13] At the time a civil citation is issued, the law enforcement officer must advise the youth that he or she has the option of refusing the civil citation and of being referred to DJJ. The youth may refuse the civil citation at any time before completion of the work assignment.[14]

The youth is required to report to a community service performance monitor within seven working days after the civil citation has been issued. The youth must also complete at least five community service hours per week. The monitor reports information to DJJ regarding the youth's service hour completion and the expected completion date.[15] If the youth fails to timely report or complete a work assignment, fails to timely comply with assigned intervention services, or if the youth commits a subsequent misdemeanor, the law enforcement officer must issue a report to DJJ alleging that the youth has committed a delinquent act, thereby initiating formal judicial processing.[16]

According to the DJJ, there are 61 counties that have implemented a civil citation program in Florida. Taylor County has committed to implementing one. Bradford, Calhoun, Gulf, Hardee, and Washington counties use a similar diversion program without civil citations.[17]

In Fiscal Year 2014-15, there were 20,833 youth who were eligible to receive a civil citation (first-time misdemeanants who were not accused of a firearm or sexual offense). Statewide, 8,961 eligible youth (43% of eligible first-time misdemeanants) were issued a civil citation, according to DJJ.[18]

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[9] Section 985.12(3), F.S.
[10] Section 985.12(1), F.S.
[11] *Id.*
[12] Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).
[13] *Id.*
[14] Section 985.12(6), F.S.
[15] Section 985.12(4), F.S.
[16] Section 985.12(5), F.S.
[17] Department of Juvenile Justice, *2016 Bill Analysis for SB 408* (February 2, 2016) (on file with the Senate Criminal Justice Committee).
[18] *Id.*

III. Effect of Proposed Changes:

Section 1 amends s. 985.12, F.S., to allow the establishment of one or more civil citation or similar diversion programs in each county to serve all juveniles alleged to have committed a violation of law which would be a misdemeanor if committed by an adult.

The bill *requires* a "law enforcement officer"[19] to issue a civil citation or require the juvenile's participation in a similar diversion program when the juvenile is under 16 years of age for the following enumerated first-time "misdemeanor offenses":[20]

- Possession of alcoholic beverages by a person under age 21;[21]
- Petit theft;[22]
- Retail theft;[23]
- Resisting an officer without violence;[24]
- Disorderly conduct;[25]
- Possession of cannabis or other controlled substances;[26] or
- Use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia.[27]

The bill *permits* the issuance of a civil citation or similar diversion program for:

- Any first-time misdemeanor offense that is not one of the enumerated "misdemeanor offenses" or any enumerated "misdemeanor offense" that is committed by a juvenile who is 16 years of age or older; or
- Any second or third-time misdemeanor offense, regardless of whether the offense is one of the enumerated "misdemeanor offenses."

A law enforcement officer must provide written documentation articulating why an arrest is warranted if he or she has discretion under the statute to issue a civil citation but chooses instead to arrest the juvenile.

The bill specifies that civil citation programs do not apply to the following:

---

[19] The bill defines "law enforcement officer" to have the same meaning as in s. 943.10, F.S. Section 943.10, F.S., defines the term to mean any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

[20] The bill defines "misdemeanor offense" as one or more violations of law arising out of the same criminal episode, act, or transaction.

[21] Section 562.111, F.S.

[22] Section 812.014(2)(e) and (3)(a), F.S.

[23] Section 812.015(2), F.S.

[24] Section 843.02, F.S.

[25] Section 877.03, F.S.

[26] Section 893.13(6)(b), F.S.

[27] Section 893.147, F.S.

- A juvenile who is currently alleged to have committed, or is currently charged with, and awaiting final disposition of an offense that would be a felony if committed by an adult.
- A juvenile who has entered a plea of nolo contendere or guilty to, or has been found to have committed, an offense that would be a felony if committed by an adult.
- A misdemeanor arising out of an episode in which the juvenile is also alleged to have committed an offense that would be a felony if committed by an adult.

The bill provides that the civil citation law, s. 985.12, F.S., does not modify the authority of a law enforcement officer to issue only a simple warning to the juvenile or to notice the juvenile's guardian or parent of the alleged offense.

The bill retains current statutory provisions relating to the following:
- The program requirements placed upon juveniles participating in a civil citation program, including community service hours, intervention services, and time frames to complete the program;
- The ability of juveniles to refuse participation in a civil citation program;
- The requirement of DJJ and law enforcement officers to forward civil citations to specified parties;
- The requirement for civil citation programs to report the juveniles' outcomes to DJJ; and
- Participation in a civil citation program is not considered a referral to DJJ.

The bill extends the time period that a youth is required to report to a community service performance monitor from seven to ten working days after the civil citation has been issued.

Section 2 amends s. 943.051, F.S., to make conforming changes.

Section 3 amends s. 985.11, F.S., to make conforming changes.

Section 4 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Expanding the use of civil citation programs could result in more youth having future opportunities for employment since these youth will not have the hurdle of an arrest record.

C. Government Sector Impact:

The increase in civil citations under the bill could result in a potential cost savings to the state and local governments as youth are diverted from the more costly juvenile justice system.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 985.12 of the Florida Statutes**.**

The bill makes conforming technical changes to sections 943.051 and 985.11 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 Rules on February 29, 2016:

- Deletes s. 784.03(1), relating to battery, and s. 870.01(1), relating to affrays and riots, from the list of enumerated "misdemeanor offenses" under the bill.

CS/CS by Children, Families, and Elder Affairs on February 24, 2016:

- Requires the law enforcement officer to issue a civil citation or require the participation in a similar diversion program to a juvenile when the juvenile is under 16 years of age and if each violation of law in the misdemeanor offense is one of the enumerated offenses.

- Allows law enforcement officers the discretion to issue a civil citation or require the juvenile's participation in a similar diversion program regardless of whether the violation is one of the enumerated offenses identified in the bill.

CS by Criminal Justice on February 16, 2016:

- Requires a law enforcement officer to issue a civil citation or require the juvenile's participation in a similar diversion program for specified first-time "misdemeanor offenses" as enumerated by the bill.
- Permits the issuance of a civil citation or similar diversion program for a first-time misdemeanor offense that is not enumerated under the bill or any second or third-time misdemeanor offense, regardless of whether the offense is an enumerated "misdemeanor offense."
- Provides that the following misdemeanors are enumerated "misdemeanor offenses" for purposes of issuing a civil citation: possession of alcoholic beverages by a minor; battery, under certain circumstances; petit theft; retail theft; affrays and riots; disorderly conduct; possession of cannabis or other controlled substances; use, possession, sale, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia; and resisting an officer without violence.
- Deletes the provision requiring prior approval if a law enforcement officer makes an arrest instead of issuing a civil citation.
- Extends the time period that a youth is required to report to a community service performance monitor from seven to ten working days after the civil citation has been issued.

B. Amendments:

None.

381912

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Negron) recommended the following:

Senate Amendment

Delete lines 60 - 74
and insert:
2. Section 812.014(2)(e) or s. 812.014(3)(a), relating to theft;
3. Section 812.015(2), relating to retail and farm theft;
4. Section 843.02, relating to resisting an officer without violence;
5. Section 877.03, relating to disorderly conduct;
6. Section 893.13(6)(b), relating to possession of certain

381912

amounts of cannabis or controlled substances; or

7. Section 893.147, relating to use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia.

By the Committees on Children, Families, and Elder Affairs; and Criminal Justice; and Senators Altman, Negron, Joyner, Clemens, Flores, Sachs, Sobel, and Soto

586-04089A-16 2016408c2

A bill to be entitled

An act relating to juvenile civil citation and similar diversion programs; amending s. 985.12, F.S.; requiring the establishment of civil citation or similar diversion programs for juveniles; providing definitions; specifying program eligibility, participation, and implementation requirements; providing exceptions; providing applicability; amending ss. 943.051 and 985.11, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 985.12, Florida Statutes, is amended to read:

985.12 Civil citation and similar diversion programs.—

(1)(a) There is established a process for the use of juvenile civil citation and similar diversion programs to provide ~~process for the purpose of providing~~ an efficient and innovative alternative to custody by the department ~~of Juvenile Justice~~ for juveniles ~~children~~ who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The department shall encourage and assist in the implementation and improvement of civil citation and ~~programs or other~~ similar diversion programs in ~~around~~ the state.

(b) One or more ~~The~~ civil citation or similar diversion programs ~~program~~ shall be established in each county which must individually or collectively serve all juveniles who are alleged to have committed a violation of law which would be a

586-04089A-16 2016408c2

misdemeanor offense if committed by an adult. Such programs must be established ~~at the local level~~ with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved and~~. The program~~ may be operated by an entity such as a law enforcement agency, the department, a juvenile assessment center, the county or municipality, or another entity selected by the county or municipality. An entity operating such a ~~the civil citation or similar diversion~~ program must do so in consultation and agreement with the state attorney and local law enforcement agencies.

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

(a) "Misdemeanor offense" means one or more misdemeanor violations of law arising out of the same criminal episode, act, or transaction.

(b) "Law enforcement officer" has the same meaning as provided in s. 943.10.

(3) Under such a juvenile civil citation or similar diversion program, a law enforcement officer that makes~~, upon making~~ contact with a juvenile who admits having committed a first-time misdemeanor: ~~misdemeanor, may choose to issue a simple warning or inform the child's guardian or parent of the child's infraction, or may~~

(a) Shall issue a civil citation to the juvenile or require the juvenile's participation in a similar diversion program when the juvenile is under 16 years of age and if each violation of law in the misdemeanor offense is one of the following:

1. Section 562.111, relating to possession of alcoholic beverages by persons under age 21;

2. Section 784.03(1), relating to battery, if the victim approves the juvenile's participation in a civil citation or similar diversion program;

3. Section 812.014(2)(e) or s. 812.014(3)(a), relating to theft;

4. Section 812.015(2), relating to retail and farm theft;

5. Section 843.02, relating to resisting an officer without violence;

6. Section 870.01(1), relating to affrays and riots;

7. Section 877.03, relating to disorderly conduct;

8. Section 893.13(6)(b), relating to possession of certain amounts of cannabis or controlled substances; or

9. Section 893.147, relating to use, possession, manufacture, delivery, transportation, advertisement, or retail sale of drug paraphernalia.

(b) May issue a civil citation to the juvenile or require the juvenile's participation in a similar diversion program if the violations of law are not enumerated in paragraph (a), or if the violation of law is one of the enumerated offenses in paragraph (a) and the juvenile is 16 years of age or older.

(4) Under such a juvenile civil citation or similar diversion program, a law enforcement officer that makes contact with a juvenile who admits having committed a second-time or third-time misdemeanor offense may issue a civil citation to the juvenile or require the juvenile's participation in a similar diversion program, regardless of whether the violations of law are enumerated in subparagraph (3)(a).

(5) If an arrest is made for a misdemeanor offense subject to paragraph (3)(b) or subsection (4), a law enforcement officer

must provide written documentation as to why the arrest was warranted.

(6) A law enforcement officer shall advise a juvenile who is subject to subsection (3) or subsection (4) that the juvenile has the option to refuse the civil citation or other similar diversion program and be referred to the department. This option may be exercised at any time before completion of the community service assignment required under subsection (8). Participation in a civil citation or similar diversion program is not considered a referral to the department.

(7) Upon issuance of the civil citation or documentation requiring a similar diversion program, the law enforcement officer shall send a copy to the county sheriff, state attorney, the appropriate intake office of the department or the community service performance monitor designated by the department, the parent or guardian of the child, and the victim. The department shall enter such information into the juvenile offender information system.

(8) A juvenile that elects to participate in a civil citation or similar diversion program shall complete~~, and assess~~ up to 50 community service hours~~,~~ and participate ~~require participation~~ in intervention services as indicated by an assessment of the needs of the juvenile, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services.

(a) The juvenile shall report to the community service performance monitor within 10 business days after the date of issuance of the civil citation or documentation for a similar diversion program. The juvenile shall spend a minimum of 5 hours

per week completing the community service assignment. The monitor shall immediately notify the intake office of the department that a juvenile has reported to the monitor and the expected date on which the juvenile will complete the community service assignment ~~A copy of each citation issued under this section shall be provided to the department, and the department shall enter appropriate information into the juvenile offender information system. Use of the civil citation or similar diversion program is not limited to first-time misdemeanors and may be used in up to two subsequent misdemeanors. If an arrest is made, a law enforcement officer must provide written documentation as to why an arrest was warranted~~.

(b) At the conclusion of a juvenile's civil citation ~~program~~ or similar diversion program, the entity ~~agency~~ operating the program shall report the outcome of the program to the department.

(c) If the juvenile fails to timely report for a community service assignment, complete such assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a subsequent misdemeanor, the law enforcement officer shall issue a report alleging the juvenile has committed a delinquent act, at which time a juvenile probation officer shall process the original delinquent act as a referral to the department and refer the report to the state attorney for review ~~The issuance of a civil citation is not considered a referral to the department~~.

(9)~~(2)~~ The department shall develop guidelines for ~~the~~ civil citation and similar diversion programs ~~program~~ which include intervention services that are based on ~~upon~~ proven

civil citation or similar diversion programs in ~~within~~ the state.

(10) This section does not apply to:

(a) A juvenile who is currently alleged to have committed, or is currently charged with, and awaiting final disposition of an offense that would be a felony if committed by an adult.

(b) A juvenile who has entered a plea of nolo contendere or guilty to, or has been found to have committed, an offense that would be a felony if committed by an adult.

(c) A misdemeanor arising out of an episode in which the juvenile is also alleged to have committed an offense that would be a felony if committed by an adult.

(11) This section does not modify the authority of a law enforcement officer who comes into contact with a juvenile who is alleged to have committed a misdemeanor to issue only a simple warning to the juvenile or notice to a juvenile's parent or guardian of the alleged offense.

~~(3) Upon issuing such citation, the law enforcement officer shall send a copy to the county sheriff, state attorney, the appropriate intake office of the department, or the community service performance monitor designated by the department, the parent or guardian of the child, and the victim.~~

~~(4) The child shall report to the community service performance monitor within 7 working days after the date of issuance of the citation. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the child to the monitor, that the child has in fact reported and the expected date upon which completion of the~~

~~work assignment will be accomplished.~~

~~(5) If the child fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point a juvenile probation officer shall process the original delinquent act as a referral to the department and refer the report to the state attorney for review.~~

~~(6) At the time of issuance of the citation by the law enforcement officer, such officer shall advise the child that the child has the option to refuse the citation and to be referred to the intake office of the department. That option may be exercised at any time before completion of the work assignment.~~

Section 2. Paragraph (b) of subsection (3) of section 943.051, Florida Statutes, is amended to read:

943.051 Criminal justice information; collection and storage; fingerprinting.—

(3)

(b) A minor who is charged with or found to have committed the following offenses shall be fingerprinted and the fingerprints shall be submitted electronically to the department, unless the minor participates in ~~is issued~~ a civil citation or similar diversion program pursuant to s. 985.12:

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014(3).

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property, as provided in s. 790.115.

Section 3. Paragraph (b) of subsection (1) of section 985.11, Florida Statutes, is amended to read:

985.11 Fingerprinting and photographing.—

(1)

(b) Unless the child is participating in ~~is issued~~ a civil citation or ~~is participating in a~~ similar diversion program pursuant to s. 985.12, a child who is charged with or found to have committed one of the following offenses shall be fingerprinted, and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.

2. Battery, as defined in s. 784.03.

3. Carrying a concealed weapon, as defined in s. 790.01(1).

4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).

5. Neglect of a child, as defined in s. 827.03(1)(e).

6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).

7. Open carrying of a weapon, as defined in s. 790.053.

8. Exposure of sexual organs, as defined in s. 800.03.

9. Unlawful possession of a firearm, as defined in s. 790.22(5).

10. Petit theft, as defined in s. 812.014.

11. Cruelty to animals, as defined in s. 828.12(1).

12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

13. Unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115.

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records are not available for public disclosure and inspection under s. 119.07(1) except as provided in ss. 943.053 and 985.04(2), but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person

authorized by the court to have access to such records. In addition, such records may be submitted to the Department of Law Enforcement for inclusion in the state criminal history records and used by criminal justice agencies for criminal justice purposes. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

Section 4. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN
16th District

February 24, 2016

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

Dear Chairman Simmons:

I respectfully request that SB 408, related to *Juvenile Civil Citations and Similar Diversion Programs*, 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,

Thad Altman

Thad Altman

CC: John B. Phelps, Staff Director, 402 Knott Building
Cissy DuBose, Committee Administrative Assistant

TA/dw

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

2/29/2016 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 408

Meeting Date *Bill Number (if applicable)*

Topic Juvenile civil citation *Amendment Barcode (if applicable)*

Name Robert Hardwick

Job Title Chief of Police

Address 2300 A1A S *Street* Phone 904-471-3600

St. Augustine Beach FL 32080 *City* *State* *Zip* Email hardwickra@sabpd.org

Speaking: ☐ For ☑ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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)

29 FEB 2016
Meeting Date

408
Bill Number (if applicable)

Topic JUVENILE CIVIL CITATIONS

Amendment Barcode (if applicable)

Name MICHAEL MCQUONE (MICK-CUE-ONE)

Job Title ASSOCIATE DIRECTOR FOR HEALTH

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TALLAHASSEE FL 32301
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Email Mmcquone@flaccb.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FLORIDA CONFERENCE OF CATHOLIC BISHOPS

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)

2.29.2016
Meeting Date

408
Bill Number (if applicable)

Topic Civil Citation

Amendment Barcode (if applicable)

Name Sarrah Carroll

Job Title Partner

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Street

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Tallahassee FL 32301
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Speaking: ☐ For ☑ Against ☐ Information

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

Representing Florida Sheriffs Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/2016
Meeting Date

408
Bill Number (if applicable)

Topic Juvenile Civil Citations

Amendment Barcode (if applicable)

Name Sheldon Gusky

Job Title Executive Director

Address 103 North Gadsden Street
Street

Tallahassee | Florida | 32301
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Phone 850.488.6850

Email sgusky@flpda.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

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)

2/29/16
Meeting Date

SB 408
Bill Number (if applicable)

Topic Juvenile Civil Citation & Similar Diversion Programs *Amendment Barcode (if applicable)*

Name Lawrence Clermont

Job Title Florida PTA Legislative Committee Member

Address 2941 Englewood Drive *Street* Phone 727 3869558

Largo FL 33771 *City* *State* *Zip* Email lclermont@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida PTA

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)

2/29/16
Meeting Date

408
Bill Number (if applicable)

Topic Civil Citations

Amendment Barcode (if applicable)

Name Marty Cassini

Job Title Legislative Counsel

Address 115 S. Andrews Ave
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Fort Lauderdale FL 33301
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Phone 954-357-7575

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

29 Feb 16
Meeting Date

408
Bill Number (if applicable)

Topic Juvenile Civil Citations

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe
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Email barney@smartjusticealliance.org

Speaking: ☐ For ☑ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

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)

2/29/16
Meeting Date

SB 408
Bill Number (if applicable)

Topic CIVIL CITATIONS

Amendment Barcode (if applicable)

Name MARTY BRINSKO

Job Title TEACHER

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing FLORIDA CRIMINAL JUSTICE COLLABORATIVE/D.A.R.T.

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)

2/29/16
Meeting Date

408
Bill Number (if applicable)

Topic Juvenile Civil Citations

Amendment Barcode (if applicable)

Name Leah Wiley

Job Title Training Coordinator

Address 2626 E Park Ave. Apt 19305
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Speaking: ☑ For ☐ Against ☐ Information

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

Representing DART

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)

2-29-16
Meeting Date

SB 408
Bill Number (if applicable)

Topic Juvenile Justice Civil Citations

Amendment Barcode (if applicable)

Name Christine Stockelman

Job Title Retired Teacher

Address 4001 Bloomingdale AV
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Valrico FL 33596
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Phone 813-713-1542

Email chris.stockelman@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Hillsborough Organization for Progress & Equality

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)

2/29
Meeting Date

SB 408
Bill Number (if applicable)

Topic civil Citations

Amendment Barcode (if applicable)

Name Eugene Watson

Job Title Retired Pastor

Address 5491 SALEM Sq Dr. S.
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Phone 727-785 7157

Palm Harbor FL 34685
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Email gdwatson@verizon.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing DART

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)

2/29/16
Meeting Date

408
Bill Number (if applicable)

Topic Civil Citations

Amendment Barcode (if applicable)

Name Rev. Lois Rogers-Watson

Job Title Retired Clergy

Address 5491 Salem Square Dr, Sz.
Street

Phone 727-785-7157

Palm Harbor FL 34685-1139
City *State* *Zip*

Email glwatson@verizon.net

Speaking: [X] For [ ] Against [ ] Information

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

Representing PAST - Faith Strength Together (Pinellas Cty)
DART - Organization of 15,000+ religious people seeking Justice

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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)

2/29/
Meeting Date

408
Bill Number (if applicable)

Topic Juvenile Justice

Amendment Barcode (if applicable)

Name Jodi James

Job Title ED

Address 2613 Larry Ct
Street

Phone 321 890 7302

Melbourne FL 32935
City *State* *Zip*

Email JJamesflorida@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Cannabis Action Network

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)

2/29/14
Meeting Date

SB 408
Bill Number (if applicable)

Topic Juvenile Civil Citation

Amendment Barcode (if applicable)

Name Josephine Carrillo-Krehl

Job Title Licensed Clinical Social Worker

Address 3784 Wentworth Way
Street

Phone 850-653-6928

Tallahassee Fl. 32311
City *State* *Zip*

Email Jo.Krehl@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Families for Sensible Drug Policy

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)

2/29/16
Meeting Date

SB 408
Bill Number (if applicable)

Topic Juv. Civil Citation

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9164 Sunrise Dr.
Street

Phone

Largo FL 33773
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

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)

408

Meeting Date | *Bill Number (if applicable)*

Topic Civil Citation

Amendment Barcode (if applicable)

Name Wansley Walters

Job Title

Address 121 N Monroe St

Street

Tallahassee FL 32301

City *State* *Zip*

Phone 333-1469

Email Wansleyw@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

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

Representing Former Secretary DJJ

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 Rules

BILL:	SB 7070
INTRODUCER:	Military and Veterans Affairs, Space, and Domestic Security Committee
SUBJECT:	Advisory Councils of the Department of Veterans' Affairs
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Sanders	Ryon		**MS Submitted as Committee Bill**
1.	Sanders	Phelps	RC	**Favorable**

I. Summary:

SB 7070 allows the Florida Veterans' Hall of Fame Council to consider former members of the Florida National Guard for admission into the Florida Veterans' Hall of Fame.

The bill takes effect upon becoming law.

II. Present Situation:

Florida Veterans

A veteran is defined in Florida Statutes to mean a person who served in the active military, naval, or air service and who was discharged or released under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the U.S. Department of Veterans Affairs on individuals discharged or released with other than honorable discharges.[1]

Currently, there are 21.8 million veterans in the United States, of which, over 1.6 million reside in Florida.[2] This makes Florida the state with the third largest veteran population, behind only California and Texas.[3]

Florida National Guard

The Florida National Guard (FLNG) is comprised of an Army reserve component (Army National Guard) and an Air Force reserve component (Air Force National Guard). Each

[1] Section 1.01(14), F.S.
[2] U.S. Census Bureau, *A Snapshot of Our Nation's Veterans*, available at http://www.census.gov/library/infographics/veterans.html (last visited Feb. 3, 2016).
[3] Florida Department of Veterans' Affairs, *Fast Facts*, available at http://floridavets.org/?page_id=50 (last visited Feb. 3, 2016).

component of the FLNG is described in law as essential and is required to be an integral part of the first line defenses of the United States to be maintained and assured at all times.[4] The National Guard is governed under Title 32 of the United States Code whereas active duty members of the United States Armed Forces serve under Title 10.

While serving under Title 32, members of the FLNG are under the command of the Governor. However, as a reserve component of the Army and Air Force members of the FLNG may be ordered to active duty by the President. In this instance members of the FLNG become federalized under Title 10. A former member of the Florida National Guard may not qualify as a veteran, as defined in Florida Statutes, unless he or she is federalized under Title 10.

According to the Florida Department of Military Affairs, there are approximately 60,000 former members of the FLNG currently living in Florida.[5]

Florida Veterans' Hall of Fame

The Florida Veterans' Hall of Fame (Hall of Fame) was created during the 2011 Regular Session to honor veterans who, through their works and lives during or after military service, have made a significant contribution to the State of Florida.[6] The Hall of Fame is overseen by the Florida Veterans' Hall of Fame Council (council), which is comprised of seven honorably discharged veterans, of which four are members of a congressionally chartered veterans service organization.[7] The Governor, the President of the Senate, the Speaker of the House of Representatives, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the executive director of the Department of Veterans' Affairs each appoint one member to the council.[8] Council members serve 4-year terms.[9]

The council is directed to accept and consider nominations for transmission to the Florida Department of Veterans Affairs (FDVA). The FDVA then presents the list of nominees to the Governor and the Cabinet who will select the nominees to be included in the Hall of Fame. In selecting its nominees, the council shall give preference to veterans who were born in Florida or adopted Florida as their home state or base of operation and who have made a significant contribution to the state in civic, business, public service, or other pursuits.[10] The council is allowed to establish criteria, set the time frame for acceptance of nominations, and the process for selecting nominees.

Since the inaugural Class of 2013 there have been 19 veterans inducted into the Hall of Fame.[11]

---

[4] 32 U.S.C. s. 102.
[5] E-mail correspondence with the Florida Department of Military Affairs on Feb. 3, 2016 (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).
[6] Ch. 2011-168, s. 1, Laws of Fla.
[7] Section 265.003(3)(a), F.S.
[8] Id.
[9] Id.
[10] Section 265.003(4), F.S.
[11] Florida Department of Veterans Affairs, *Florida Veterans' Hall of Fame*, available at http://floridavets.org/our-veterans/florida-veterans-hall-of-fame/ (last visited Feb. 5, 2016).

III. Effect of Proposed Changes:

The bill amends s. 265.003, F.S., to allow the Florida Veterans' Hall of Fame Council to consider former members of the Florida National Guard for admission into the Florida Veterans' Hall of Fame.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 265.003 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security

583-03211-16 20167070__

A bill to be entitled

An act relating to advisory councils of the Department of Veterans' Affairs; amending s. 265.003, F.S.; defining the term "veteran" and "military veteran" for purposes of determining persons the Florida Veterans' Hall of Fame Council may consider as nominees for the Florida Veterans' Hall of Fame; providing an effective date.

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

Section 1. Subsection (4) of section 265.003, Florida Statutes, is amended to read:

265.003 Florida Veterans' Hall of Fame.—

(4)(a) The Florida Veterans' Hall of Fame Council shall annually accept nominations of persons to be considered for induction into the Florida Veterans' Hall of Fame and shall transmit a list of up to 20 nominees to the Department of Veterans' Affairs for submission to the Governor and the Cabinet who will select the nominees to be inducted.

(b) In selecting its nominees for submission to the Governor and the Cabinet, the ~~Florida Veterans' Hall of Fame~~ council shall give preference to veterans who were born in Florida or adopted Florida as their home state or base of operation and who have made a significant contribution to the state in civic, business, public service, or other pursuits.

(c) For purposes of this section, the term "veteran" or "military veteran" means a person who meets the definition of the term in s. 1.01(14) or a former member of the Florida National Guard.

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN
16th District

February 11, 2016

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

Dear Chairman Simmons:

I respectfully request that SB 7070, related to *Advisory Councils of the Department of Veterans' Affairs*, 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,

Thad Altman

Thad Altman

CC: John B. Phelps, Staff Director, 402 Knott Building
Cissy DuBose, Committee Administrative Assistant

TA/dw

REPLY TO:
☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

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)

2/29/16
Meeting Date

SB 7070
Bill Number (if applicable)

Topic Advisory Councils of the Dept. of Vets Affairs

Amendment Barcode (if applicable)

Name Colleen Krepstekies (crep-steck-keys)

Job Title Legislative and Cabinet Affairs Director

Address The Capitol, Suite 2105
Street
Tallahassee FL 32399
City *State* *Zip*

Phone (850) 487-1533

Email krepstekiesc@fdva.state.fl.us

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Florida Department of Veterans' Affairs

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/2016
Meeting Date

Topic _____ Bill Number 1070 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: CS/CS/SB 794

INTRODUCER: Children, Families, and Elder Affairs Committee; Judiciary Committee; and Senator Ring

SUBJECT: Dissolution of Marriage Parenting Plans

DATE: February 26, 2016 REVISED: _____ _____ _____ _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	**Fav/CS**
2.	Preston	Hendon	CF	**Fav/CS**
3.	Brown	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 794 revises what must be included in a parenting plan approved by the court. Current law requires parenting plans to adequately describe time-sharing arrangements and parental responsibility in the child's daily upbringing, health care, school-related matters and other activities, and the methods and technologies of communicating with the child.

Under the bill, if a court orders shared parental responsibility, the parenting plan must authorize either parent to consent to mental health treatment for the child. The costs for any mental health treatment shall be governed by the marital settlement agreement approved by the court or a court order.

II. Present Situation:

Dissolution of Marriage Actions and Minor Children

In instances in which parents to a minor child are parties to a legal dissolution of marriage, the court must approve or determine a parenting plan. A parenting plan is a plan in writing created to "govern the relationship between the parents relating to decisions that must be made regarding the minor child." [1]

[1] Section 61.046(14), F.S.

A court can only modify a determination of parental responsibility, a parenting plan, or a time-sharing schedule upon a showing of a substantial, material, and unanticipated change in circumstances. Additionally, the court must determine that modification is in the best interests of the child.[2]

Parenting Plan

A parenting plan must include a time-sharing schedule for the parents and child.[3] Issues that may be addressed in the plan include the child's education, health care, and physical, social, and emotional well-being.[4]

More specifically:

> A parenting plan approved by the court must, at a minimum, describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child; the time-sharing schedule arrangements that specify the time that the minor child will spend with each parent; ***a designation of who will be responsible for any and all forms of health care***, school-related matters including the address to be used for school-boundary determination and registration, and other activities; and the methods and technologies that the parents will use to communicate with the child.[5]

Shared or Sole Parental Responsibility

If a court orders shared parental responsibility, both parents retain full parental rights and responsibilities regarding the child. With shared parental responsibility, major decision-making about the child is jointly shared by the parents.[6] In contrast, if a court orders sole parental responsibility, one parent makes all decisions regarding the child.[7]

In determining parental responsibility, the court must consider the best interests of the child. A court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.[8] In ordering shared parental responsibility, the court may consider the wishes of the parents and grant one party exclusive responsibility over certain aspects of the child's welfare, including health care.[9]Similarly, the court is required to order sole parental responsibility to one parent with or without timesharing if it is in the best interests of the child.[10]

---

[2] Section 61.13(3), F.S.
[3] *Id*.
[4] Section 61.046(14), F.S.
[5] Section 61.13(2)(b), F.S.
[6] Section 61.046(17), F.S.
[7] Section 61.046(18), F.S.
[8] Section 61.13 (2)(c)2., F.S.
[9] Section 61.113(2)(c)a., F.S.
[10] Section 61.13(2)(c)2.b. F.S.

Parental Time-sharing

The public policy of the state is for each minor child to have "frequent and continuing contact with both parents."[11] In determining timesharing with each parent, a court must consider the best interests of the child based on a specific list of factors.

Factors for the court to consider in determining the best interest of the child include:

- The demonstrated capacity of each parent to have a close and continuing parent-child relationship, honor the time-sharing schedule, and be reasonable when changes are required.
- The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child, including developmental needs.
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
- The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- The moral fitness and the mental and physical health of the parents.
- The reasonable preference of the child, if the child is of sufficient intelligence, understanding, and experience to express a preference.
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime, and to be involved in the child's school and extracurricular activities.
- The demonstrated capacity of each parent to keep the other parent informed about the minor child, and the willingness of each parent to adopt a unified front on major issues.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has knowingly provided false information about these issues. If the court accepts evidence of prior or pending actions on these issues, the court must acknowledge in writing that the evidence was considered in evaluating best interests.
- The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before and during litigation, including the extent to which parenting responsibilities were undertaken by third parties.
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.[12]

A final factor provides the court with flexibility to consider any other factor relevant in establishing a parenting plan, including a time-sharing schedule.[13]

III. Effect of Proposed Changes:

This bill revises what must be included in a parenting plan approved by the court. Current law requires parenting plans to adequately describe time-sharing arrangements and parental responsibility in the child's daily upbringing, health care, school-related matters and other activities, and the methods and technologies of communicating with the child.

[11] Section 61.13(2)(c)1., F.S.
[12] Section 61.13(3), F.S.
[13] Section 61.13(3)(t), F.S.

The bill requires a parenting plan to allow either parent to consent to mental health treatment for the child. The scope of what is meant by mental health treatment, however, is not defined. Any mental health treatment costs must be governed by the marital settlement agreement approved by the court or a court order.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

If this bill results in disputes between parents over the necessity of psychological treatment or the appropriate type of treatment, those disputes might require resolution by a court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.13 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 Children, Families, and Elder Affairs on February 17, 2016:
The CS provides that any costs for mental health treatment for a child shall be governed by the marital settlement agreement approved by the court or a court order.

CS by Judiciary on February 9, 2016:
This CS clarifies that the provision in the bill which requires parenting plans to authorize either parent's approval of mental health treatment only applies in instances involving shared parental responsibility.

B. Amendments:

None.

By the Committees on Children, Families, and Elder Affairs; and Judiciary; and Senator Ring

586-03748-16 2016794c2

A bill to be entitled

An act relating to dissolution of marriage parenting plans; amending s. 61.13, F.S.; requiring that parenting plans provide that either parent may consent to mental health treatment for the child if the court orders shared parental responsibility; providing that the responsibility for the health care costs for the mental health treatment of the child shall be governed by the marital settlement agreement or court order; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(2)

(b) A parenting plan approved by the court must, at a minimum, describe in adequate detail how the parents will share and be responsible for the daily tasks associated with the upbringing of the child; include ~~the~~ time-sharing schedule arrangements that specify the time that the minor child will spend with each parent; designate responsibility ~~a designation of who will be responsible~~ for any and all forms of health care, school-related matters, including the address to be used for school-boundary determination and registration, and other activities; and describe in adequate detail the methods and technologies that the parents will use to communicate with the child. The parenting plan must also designate who will be responsible for health care decisionmaking. If the court orders

586-03748-16 2016794c2

shared parental responsibility, the plan must provide that either parent may consent to mental health treatment for the child. The responsibility for all health care costs for the mental health treatment of the child shall be governed by the marital settlement agreement approved by the court or court order.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR JEREMY RING
29th District

February 18, 2016

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

Dear Chairman Simmons,

I am writing to respectfully request your cooperation in placing Senate Bill 794, relating to Dissolution of Marriage Plans, on the Rules agenda at your earliest convenience. I would greatly appreciate the opportunity to discuss the bill at greater length before your committee.

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

Very Truly Yours,

Jeremy Ring

Jeremy Ring
Senator District 29

cc: John Phelps, Staff Director
Cissy Dubose, Committee Administrative Assistant

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

Senate's Website: *www.flsenate.gov*

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

SB 794
Bill Number (if applicable)

Topic [redacted] Marriage Parenting Plan
Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr
Street

Largo Fla. 33773
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/CS/SB 1036
INTRODUCER:	Rules Committee; Commerce and Tourism Committee; Banking and Insurance Committee; and Senator Brandes
SUBJECT:	Automobile Insurance
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Fav/CS**
2.	Harmsen	McKay	CM	**Fav/CS**
3.	Knudson	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1036 makes the following changes relating to automobile insurance:

Cancellation of Policies Issued by the Florida Automobile Joint Underwriting Association

- Allows the Florida Automobile Joint Underwriting Association (Auto JUA) to cancel personal lines or commercial lines policies issued by the plan for nonpayment of premium if a check is dishonored for any reason or any other form of payment is rejected or deemed invalid. The cancellation may only occur within the first 60 days of the policy or binder.
- Prohibits an insured of the Auto JUA from cancelling a policy or binder within the first 90 days of its effective date unless the insured vehicle is totally destroyed, ownership of the vehicle is transferred, or another policy is purchased covering the vehicle.

Payment of Premium and Return of Unearned Premium

- Allows motor vehicle insurers to apply the unearned portion of premium to unpaid balances of other policies with the same insurer or insurer group instead of returning the premium via mail or electronic transfer.
- Specifies that motor vehicle insurance premiums may be paid in cash in the form of a draft or drafts. Allows the insurer to impose an insufficient funds fee of up to $15 per occurrence if, due to insufficient funds, specified methods of premium payments are declined.

- Exempts policies paid via a recurring credit card or debit card agreement with the insurer from the requirement that, prior to issuing or binding a motor vehicle insurance policy, the insured must pay at least 2 months' premium.

Personal Injury Protection (PIP)

- Exempts publicly traded corporations with $250 million or more in total annual sales in health care services from the requirement to obtain health care clinic licensure as a condition of qualifying for reimbursement under PIP coverage.
- Clarifies and updates references to billing requirements under PIP.

The effective date is July 1, 2016.

II. Present Situation:

Automobile Insurance, Generally

The Office of Insurance Regulation (OIR) regulates the provision of automobile insurance. Automobile insurance coverage can include loss or damage to a vehicle; loss, liability, or expense as a result of ownership, maintenance, or use of a vehicle; medical, hospital, and surgical benefits to persons injured by a vehicle; and funeral and death benefits to survivors of someone killed by a vehicle.[1] Generally, automobile insurance covers either private individuals (Private Passenger Auto Insurance), or commercial vehicles and those who use them (Commercial Automobile Liability).

Cancellation of Florida Automobile Joint Underwriting Association Policies

Insurers[2] that offer motor vehicle insurance in Florida must participate in the Auto Joint Underwriting Association (Auto JUA).[3] The Auto JUA, or "Market of Last Resort," exists to provide motor vehicle insurance to individuals who cannot obtain such coverage in the voluntary insurance market.[4] The Auto JUA distributes risk among its members, and generally has higher premiums as a result. The Auto JUA is subject to generally the same requirements as other auto insurers under the Florida Insurance Code, but is subject to additional various limitations. For example, the Auto JUA may not provide any inducement designed to retain a policy, and must subject its operation to supervision by a board of governors, members of which are appointed by the CFO and the insurance industry.[5]

Motor vehicle insurers, which include the Auto JUA, may cancel insurance policies in the following situations:[6]

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[1] The Florida Office of Insurance Regulation, *Automobile Insurance, Definition*, available at: http://www.floir.com/sections/pandc/automobile/default.aspx (last visited Feb. 15, 2016).
[2] An insurer is every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance or of annuity. Section 624.03, F.S.
[3] Section 627.311, F.S.
[4] Florida Automobile Joint Underwriting Association webpage, available at: http://www.fajua.org/ (last visited Feb. 15, 2016).
[5] Section 627.311, F.S.
[6] Sections 627.7295 (4) and 627.728, F.S.

- Nonpayment of premium; however, an insurer may only cancel a policy on the basis of nonpayment after 60 days from the effective date of the policy;
- Where the policy was obtained as a result of a material misrepresentation or fraud; or
- The driver's license or motor vehicle registration of the insured has been suspended or revoked during the policy period, or 180 days immediately prior to the insurance policy's effective date.

An insured may only cancel his or her policy within the first 60 days after its issuance if:[7]
- The insured vehicle was totally destroyed;
- The insured vehicle transferred ownership; or
- The insured has purchased another motor vehicle insurance policy.

Return of Unearned Premium upon Cancellation of Motor Vehicle Insurance

Unearned premium is the pro rata share of the overall insurance premium paid in advance for which insurance coverage will not ultimately be provided, generally because of cancellation of the policy. If an insured cancels his or her auto insurance policy prior to its full term, the insurer must return the unearned premium to the insured within 30 days from the policy cancellation or receipt of notice of policy cancellation, whichever is later. If the insurer cancels the policy, the unearned premium must be returned to the insured within 15 days of the effective date of the policy's cancellation. These unearned portions of premiums must be mailed or electronically transferred to the insured by the insurer.[8]

Requirement to Initially Pay 2 Months' Premium before Issuance of Private Passenger Motor Vehicle Insurance

Before a policy of private passenger motor vehicle insurance may be initially issued or bound, an insurer must collect 2 months' premium from the insured.[9] This requirement does not apply:
- To policy renewals or replacement policies issued by the same insurer group;
- To an insurer that issues private passenger motor vehicle insurance policies primarily to active duty or former personnel, or their dependents;
- If all policy payments are paid pursuant to a payroll deduction plan or an automatic electronic funds transfer payment from the policyholder;
- If all policy payments are paid pursuant to an automatic electronic funds transfer payment plan from an agent, a managing general agent, or a premium finance company if the policy includes Personal Injury Protection (PIP) insurance, property damage liability coverage of at least $10,000, and bodily injury liability coverage of at least $10,000 per person and $20,000 per accident; or
- If the insured had a policy in effect for at least 6 months, then the insured's agent was terminated by his or her insurer, and the insured then obtains coverage on the policy's renewal date with a new company through the terminated agent.

[7] Section 627.7295(3), F.S.
[8] Section 627.7283, F.S.
[9] Section 627.7295(7), F.S.

Personal Injury Protection Insurance – Billings for Medical Services

Florida's Motor Vehicle No-Fault Law (the No-Fault Law)[10] requires motorists to carry personal injury protection (PIP) coverage. PIP coverage provides $10,000 in medical and disability benefits and a $5,000 death benefit.[11] Medical benefits are limited to $2,500 if the injured person is determined to not have an emergency medical condition.[12] The purpose of the No-Fault Law is to provide for medical, surgical, funeral, and disability insurance benefits without regard to fault. In return for assuring payment of these benefits, the No-Fault Law provides limitations on the right to bring lawsuits arising from motor vehicle accidents.[13]

Section 627.736(5)(d), F.S., requires all statements and bills for medical services reimbursable by PIP to be submitted according to specified criteria. The billings must be on properly completed Centers for Medicare and Medicaid Services (CMS) 1500 forms, UB 92 forms, or any other standard form approved by the OIR or adopted by the Financial Services Commission. Billings must, to the extent applicable, follow the Physicians' Current Procedural Terminology (CPT)[14] or Healthcare Correct Procedural Coding System (HCPCS)[15] or the International Classification of Diseases[16] (ICD-9). Though the No-Fault Law requires use of the ICD-9, the current updated version is the ICD-10.[17]

Personal Injury Protection Insurance –Health Care Clinic Licensure

The No-Fault Law requires entities that seek reimbursement under PIP coverage to obtain licensure under the Health Care Clinic Act,[18] unless they are otherwise exempt from this requirement. The Health Care Clinic Act provides for the licensure, establishment, and enforcement of basic standards for health care clinics, and provides for administrative oversight by the Agency for Health Care Administration (AHCA).[19]

Entities that are exempt from the Health Care Clinic Act include:

- Hospitals licensed under ch. 395, F.S.
- Ambulatory surgical centers licensed under ch. 395, F.S.
- Entities that wholly own or are wholly owned by a hospital licensed under ch. 395, F.S.
- Clinical facilities affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows.

[10] Sections 627.730-627.7405, F.S.
[11] Section 627.736(1), F.S.
[12] Section 627.736(1)(a)4, F.S.
[13] Section 627.737, F.S.
[14] The American Medical Association CPT codes provide standardized nomenclature used to report medical procedures and services. *See* American Medical Association, *About CPT®*, http://www.ama-assn.org/ama/pub/physician-resources/solutions-managing-your-practice/coding-billing-insurance/cpt/about-cpt.page (last visited Feb. 15, 2016).
[15] The HCPCS contains codes for products, supplies, and services not included in CPT codes such as durable medical equipment, prosthetics, orthotics, and supplies when used outside a physician's office. *See* Centers for Medicaid & Medicare Services, HCPCS – General Information HCPCS Background Information, https://www.cms.gov/medicare/coding/medhcpcsgeninfo/index.html (last visited Feb. 15, 2016).
[16] The ICD classifies diseases and other health problems and is used by health care providers and insurers.
[17] World Health Organization, *International Classification of Diseases (ICD)*, http://www.who.int/classifications/icd/en/ (last visited Feb. 15, 2016).
[18] Sections 400.990 – 400.995, F.S.
[19] Section 400.990, F.S.

- Entities wholly owned by:
  - Physicians licensed under ch. 458, F.S., or ch. 459, F.S.;
  - Dentists licensed under ch. 466, F.S.;
  - Chiropractic physicians licensed under ch. 460, F.S.;
- Entities certified under 42 C.F.R. part 485, subpart H (entities qualified under Medicare to provide outpatient physical therapy and speech pathology services).

III. Effect of Proposed Changes:

Florida Automobile Joint Underwriting Association Policies – Cancellation for Non-Payment of Premium

Section 1 amends s. 627.311(3), F.S., to allow the Florida Auto JUA to cancel personal or commercial lines policies they issue based on a nonpayment of premium if a check is dishonored for any reason, or any other form of payment is rejected or deemed invalid. Such cancellation may only occur within the first 60 days of the policy. The bill prohibits a consumer insured by an Auto JUA from cancelling a policy or binder within the first 90 days of its effective date unless the insured motor vehicle is totally destroyed, ownership of the vehicle is transferred, or after the purchase of another policy or binder covering the motor vehicle.

Motor Vehicle Insurance – Return of Unearned Premium upon Cancellation

Section 2 amends s. 627.7283, F.S., which sets the requirements for insurers to return the unearned premium to policyholders when insurance policies are cancelled by the insured or insurer. The bill allows motor vehicle insurers to apply the unearned portion of premium to unpaid balances of other policies with the same insurer or insurer group instead of returning the premium via mail or electronic transfer to the consumer.

Motor Vehicle Insurance – Methods of Premium Payment

Section 3 amends s. 627.7295, F.S., to exempt policies paid via a recurring credit card or debit card agreement with the insurer from the requirement that, prior to issuing or binding a motor vehicle insurance policy, the insured must pay at least 2 months' premium.

The bill also authorizes premiums to be paid in cash in the form of a draft or drafts. The bill allows the insurer to impose an insufficient funds fee of up to $15 per occurrence if, due to insufficient funds, a payment via draft made by debit card, credit card, or automatic electronic funds transfer is returned, declined, or cannot be processed.

Personal Injury Protection

Section 4 amends s. 627.736(5)(d), F.S., to clarify that billings under the Motor Vehicle No-Fault Law must follow the Physicians Current Procedural Terminology (CPT), the Healthcare Common Procedure Coding System in effect for the year in which services are rendered, and the International Classification of Diseases (ICD) adopted by the United States Department of Health and Human Services for the year in which services are rendered. Compliance with all three standardizes PIP billings and facilitates the timely adjustment and payment of benefits. The bill will require compliance with the current version of the ICD, the ICD-10.

The bill also exempts publicly traded corporations with $250 million or more in total annual sales in health care services from the requirement to obtain health care clinic licensure as a condition of qualifying for reimbursement under PIP coverage.

Section 5 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Policyholders of motor vehicle insurance will be subject to an insufficient funds fee of up to $15 if, due to insufficient funds, payment by debit card, credit card, or automatic electronic funds transfer is returned, declined, or cannot be processed.

Health clinics that are owned by a publicly traded corporation that has $250 million or more in sales of annual health care services provided by licensed health care practitioners and that are operated and supervised by one or more Florida-licensed health care practitioners are now exempt from the licensing requirements of part X of ch. 400, F.S., for purposes of reimbursement under ss. 627.730-627.7405, F.S. (the Florida Motor Vehicle No-Fault Law). This may result in a positive economic impact on such clinics.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The bill authorizes the payment of motor vehicle insurance premiums via cash by draft. However, s. 627.4035, F.S., currently allows payment by cash, check, debit card, credit card and electronic funds transfer. It is unclear what additional methods are captured by the bill. The $15 insufficient funds fee authorized by the bill only applies to debit card, credit card, or

automatic electronic funds transfer, all of which are currently available methods of payment under s. 627.4035, F.S., and thus would not apply to the additional methods of "draft" payment, if any, that are authorized by the bill.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.311, 627.7283, 627.7295, and 627.736.

IX. Additional Information:

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

CS/CS/CS by Rules on February 29, 2016:
The CS deletes a bill provision that would allow motor vehicle insurance rates to be developed using rating territories within a single zip code if specified requirements are met. The CS also clarifies that the $15 fee authorized by the bill when premium payments for motor vehicle insurance made via debit card, credit card, and electronic funds transfer are declined may only be charged when payment fails due to insufficient funds.

CS/CS by Commerce and Tourism on February 16, 2016:
Deletes the provision from the bill that allows car insurance companies to choose whether or not to require a pre-insurance inspection of certain cars that apply for insurance from their company. This amendment maintains the status quo, which requires that certain cars purchased in the seven most populous counties in Florida are subject to a pre-insurance inspection.

CS by Banking and Insurance January 26, 2016:
- Allows motor vehicle insurance rates to be developed using rating territories contained within a single zip code if specified requirements are met;
- Specifies that motor vehicle insurance premiums may be paid in cash in the form of a draft or drafts. Allows the insurer to impose an insufficient funds fee of up to $15 per occurrence if specified methods of premium payments are declined for insufficient funds; and
- Exempts publicly traded corporations with $250 million or more in total annual sales in health care services from the requirement to obtain health care clinic licensure as a condition of qualifying for reimbursement under PIP coverage.

B. Amendments:

None.

303146

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Benacquisto) recommended the following:

Senate Amendment (with title amendment)

Delete lines 55 - 58

and insert:

pursuant to paragraph (1)(a) and the justification for its rate incorporates sufficient actual or expected loss and loss adjustment expense experience so as to be actuarially sound. The office shall require that any rate filing resulting from the use

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

And the title is amended as follows:

303146

Delete line 7

and insert:

Regulation to require that rates or rate changes

358012

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Benacquisto) recommended the following:

Senate Amendment

Delete lines 185 - 188
and insert:
(b) If, due to insufficient funds, a payment of premium under this subsection by debit card, credit card, electronic funds transfer, or electronic check is returned or declined or cannot be processed, the insurer may impose an insufficient funds fee of up to

243552

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 61.

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

And the title is amended as follows:

Delete lines 3 - 9.

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

577-03595-16 20161036c2

A bill to be entitled

An act relating to automobile insurance; amending s. 627.0651, F.S.; providing an exception to a provision that deems use of a single zip code as a rating territory for insurance rates to be unfairly discriminatory; requiring the Office of Insurance Regulation to ensure that rates or rate changes contained in certain rate filings are not excessive, inadequate, or unfairly discriminatory; amending s. 627.311, F.S.; authorizing the Florida Automobile Joint Underwriting Association and a joint underwriting plan approved by the Office of Insurance Regulation to cancel personal lines or commercial policies within a specified time for nonpayment of premium due to certain reasons; prohibiting an insured from cancelling a policy or binder within a specified time except under certain conditions; amending s. 627.7283, F.S.; authorizing an insured who cancels a policy to apply the unearned portion of any premium paid to unpaid balances of other policies with the same insurer or insurer group; amending s. 627.7295, F.S.; updating applicability language to include a reference to recurring credit card or debit card payments; authorizing an additional form of payment for certain motor vehicle insurance contract premiums; authorizing an insurer to impose a specified insufficient funds fee under certain circumstances; amending s. 627.736, F.S.; requiring that a certain standard form be approved by the office and adopted by the Financial Services Commission, rather than approved by the office or adopted by the commission;

577-03595-16 20161036c2

revising standards for compliance for specified billings for medical services; adding a specified entity to a list of entities that are not required to be licensed as a clinic to receive reimbursement under the Florida Motor Vehicle No-Fault Law; providing an effective date.

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

Section 1. Subsection (8) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(8) Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against. Use of a single United States Postal Service zip code as a rating territory shall be deemed unfairly discriminatory unless filed pursuant to paragraph (1)(a) and the territory incorporates sufficient actual or expected loss and loss adjustment expense experience so as to be actuarially measurable and credible. The office shall ensure that any rate filing resulting from the use of a single zip code as a rating territory does not contain a rate or rate change that is excessive, inadequate, or unfairly

discriminatory.

Section 2. Paragraph (m) is added to subsection (3) of section 627.311, Florida Statutes, to read:

627.311 Joint underwriters and joint reinsurers; public records and public meetings exemptions.—

(3) The office may, after consultation with insurers licensed to write automobile insurance in this state, approve a joint underwriting plan for purposes of equitable apportionment or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the office which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted. Any disapproval by the office shall be subject to the provisions of chapter 120. The Florida Automobile Joint Underwriting Association is created under the plan. The plan and the association:

(m) May cancel personal lines or commercial policies issued by the plan within the first 60 days after the effective date of the policy or binder for nonpayment of premium if the check issued for payment of the premium is dishonored for any reason or if any other form of payment is rejected or deemed invalid. An insured may not cancel a policy or binder within the first 90 days after its effective date, or within a lesser period as required by the plan, except:

1. Upon total destruction of the insured motor vehicle;

2. Upon transfer of ownership of the insured motor vehicle; or

3. After purchase of another policy or binder covering the motor vehicle that was covered under the policy being canceled.

Section 3. Section 627.7283, Florida Statutes, is amended to read:

627.7283 Cancellation; return of unearned premium.—

(1) If the insured cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned portion of any premium paid within 30 days after the effective date of the policy cancellation or receipt of notice or request for cancellation, whichever is later. This requirement applies to a cancellation initiated by an insured for any reason. However, the insured may apply the unearned portion of any premium paid to unpaid balances of other policies with the same insurer or insurer group.

(2) If an insurer cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned premium portion of any premium within 15 days after the effective date of the policy cancellation. However, the insured may apply the unearned portion of any premium paid to unpaid balances of other policies with the same insurer or insurer group.

(3) If the unearned premium is not mailed, ~~or~~ electronically transferred, or applied to the unpaid balance of other policies within the applicable period, the insurer must pay to the insured 8 percent interest on the amount due. If the unearned premium is not mailed or electronically transferred within 45 days after the applicable period, the insured may

bring an action against the insurer pursuant to s. 624.155.

(4) If the insured cancels, the insurer may retain up to 10 percent of the unearned premium and must refund at least 90 percent of the unearned premium. If the insurer cancels, the insurer must refund 100 percent of the unearned premium. Cancellation is without prejudice to any claim originating prior to the effective date of the cancellation. For purposes of this section, unearned premiums must be computed on a pro rata basis.

(5) The insurer must refund 100 percent of the unearned premium if the insured is a servicemember, as defined in s. 250.01, who cancels because he or she is called to active duty or transferred by the United States Armed Forces to a location where the insurance is not required. The insurer may require a servicemember to submit either a copy of the official military orders or a written verification signed by the servicemember's commanding officer to support the refund authorized under this subsection. If the insurer cancels, the insurer must refund 100 percent of the unearned premium. Cancellation is without prejudice to any claim originating prior to the effective date of the cancellation. For purposes of this section, unearned premiums must be computed on a pro rata basis.

Section 4. Subsection (7) of section 627.7295, Florida Statutes, is amended, and a new subsection (9) is added to that section, to read:

627.7295 Motor vehicle insurance contracts.—

(7) A policy of private passenger motor vehicle insurance or a binder for such a policy may be initially issued in this state only if, before the effective date of such binder or policy, the insurer or agent has collected from the insured an

amount equal to 2 months' premium. An insurer, agent, or premium finance company may not, directly or indirectly, take any action resulting in the insured having paid from the insured's own funds an amount less than the 2 months' premium required by this subsection. This subsection applies without regard to whether the premium is financed by a premium finance company or is paid pursuant to a periodic payment plan of an insurer or an insurance agent. This subsection does not apply if an insured or member of the insured's family is renewing or replacing a policy or a binder for such policy written by the same insurer or a member of the same insurer group. This subsection does not apply to an insurer that issues private passenger motor vehicle coverage primarily to active duty or former military personnel or their dependents. This subsection does not apply if all policy payments are paid pursuant to a payroll deduction plan, ~~or~~ an automatic electronic funds transfer payment plan from the policyholder, or a recurring credit card or debit card agreement with the insurer. This subsection and subsection (4) do not apply if all policy payments to an insurer are paid pursuant to an automatic electronic funds transfer payment plan from an agent, a managing general agent, or a premium finance company and if the policy includes, at a minimum, personal injury protection pursuant to ss. 627.730-627.7405; motor vehicle property damage liability pursuant to s. 627.7275; and bodily injury liability in at least the amount of $10,000 because of bodily injury to, or death of, one person in any one accident and in the amount of $20,000 because of bodily injury to, or death of, two or more persons in any one accident. This subsection and subsection (4) do not apply if an insured has had

a policy in effect for at least 6 months, the insured's agent is terminated by the insurer that issued the policy, and the insured obtains coverage on the policy's renewal date with a new company through the terminated agent.

(9)(a) In addition to the methods provided in s. 627.4035(1), the premiums for motor vehicle insurance contracts issued in this state or covering risk located in this state may be paid in cash in the form of a draft or drafts.

(b) If a payment of premium under this subsection by debit card, credit card, or automatic electronic funds transfer is returned or declined or cannot be processed due to insufficient funds, the insurer may impose an insufficient funds fee of up to $15 per occurrence pursuant to the policy terms.

Section 5. Paragraphs (d) and (h) of subsection (5) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority; claims.—

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(d) All statements and bills for medical services rendered by a physician, hospital, clinic, or other person or institution shall be submitted to the insurer on a properly completed Centers for Medicare and Medicaid Services (CMS) 1500 form, UB 92 forms, or any other standard form approved by the office and ~~or~~ adopted by the commission for purposes of this paragraph. All billings for such services rendered by providers must, to the extent applicable, comply with the CMS 1500 form instructions, the American Medical Association CPT Editorial Panel, and the Healthcare Common Procedure Coding System (HCPCS); and must follow the Physicians' Current Procedural Terminology (CPT), the

HCPCS in effect for the year in which services are rendered, and the International Classification of Diseases (ICD) adopted by the United States Department of Health and Human Services for the service year in which the services, supplies, or care is rendered as described in subparagraph (a)2. ~~follow the Physicians' Current Procedural Terminology (CPT) or Healthcare Correct Procedural Coding System (HCPCS), or ICD-9 in effect for the year in which services are rendered and comply with the CMS 1500 form instructions, the American Medical Association CPT Editorial Panel, and the HCPCS.~~ All providers, other than hospitals, must include on the applicable claim form the professional license number of the provider in the line or space provided for "Signature of Physician or Supplier, Including Degrees or Credentials." In determining compliance with applicable CPT and HCPCS coding, guidance shall be provided by the ~~Physicians' Current Procedural Terminology (~~CPT~~)~~ or the ~~Healthcare Correct Procedural Coding System (~~HCPCS~~)~~ in effect for the year in which services were rendered, the Office of the Inspector General, Physicians Compliance Guidelines, and other authoritative treatises designated by rule by the Agency for Health Care Administration. A statement of medical services may not include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer is not considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph and are properly completed in their entirety as to all material provisions, with all relevant information being

provided therein.

(h) As provided in s. 400.9905, an entity excluded from the definition of a clinic shall be deemed a clinic and must be licensed under part X of chapter 400 in order to receive reimbursement under ss. 627.730-627.7405. However, this licensing requirement does not apply to:

1. An entity wholly owned by a physician licensed under chapter 458 or chapter 459, or by the physician and the spouse, parent, child, or sibling of the physician;

2. An entity wholly owned by a dentist licensed under chapter 466, or by the dentist and the spouse, parent, child, or sibling of the dentist;

3. An entity wholly owned by a chiropractic physician licensed under chapter 460, or by the chiropractic physician and the spouse, parent, child, or sibling of the chiropractic physician;

4. A hospital or ambulatory surgical center licensed under chapter 395;

5. An entity that wholly owns or is wholly owned, directly or indirectly, by a hospital or hospitals licensed under chapter 395;

6. An entity that is a clinical facility affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; ~~or~~

7. An entity that is certified under 42 C.F.R. part 485, subpart H; or

8. An entity that is owned by a publicly traded corporation, either directly or indirectly through its subsidiaries, that has $250 million or more in total annual

sales of health care services provided by licensed health care practitioners, if one or more of the persons responsible for the operations of the entity are health care practitioners who are licensed in this state and are responsible for supervising the business activities of the entity and the entity's compliance with state law for purposes of this section.

Section 6. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: February 16, 2016

I respectfully request that **Senate Bill #1036**, relating to **Automobile Insurance**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/ *Meeting Date*

1036 *Bill Number (if applicable)*

Topic _____ *Amendment Barcode (if applicable)*

Name Mark Delegal

Job Title _____

Address _____ *Street*

Phone _____

_____ *City* *State* *Zip*

Email _____

Speaking: ☑ For ☐ Against ☐ Information

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

Representing State Farm Mutual Automobile Ins

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)

2/29/2016
Meeting Date

Topic _____ Bill Number 1036 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1298
INTRODUCER:	Judiciary Committee and Senator Brandes
SUBJECT:	Bad Faith Assertions of Patent Infringement
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Maida	Cibula	JU	**Fav/CS**
2.	Clodfelter	Sadberry	ACJ	**Favorable**
3.	Maida	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1298 amends the Patent Troll Prevention Act in following three main ways:

- Requires that a demand letter to be objectively baseless before it may be deemed a bad faith assertion of patent infringement.
- Removes the act's bond-posting requirement for a plaintiff who may have made a bad-faith assertion of patent infringement.
- Limits the entitlement to and amount of punitive damages awards against a person who makes a bad-faith assertion of patent infringement.

The bill imposes no direct costs to the private sector, but eases restrictions on filing patent infringement lawsuits. There is no fiscal impact to the government sector.

The bill is effective upon becoming law.

II. Present Situation:

Patent Law and Federal Preemption

The U.S. Constitution authorizes Congress "[t]o promote the Progress of Science and useful Arts, by securing for limited Times to … Inventors the exclusive Right to their … Discoveries."[1]

[1] U.S. Const. art. I, s. 8, cl. 8.

Federal patent laws grant patentees a limited monopoly in the form of a property right,[2] providing inventors with a "legal right, for a limited time, to exclude others from using, selling, offering to sell, or manufacturing the invention."[3] In order to promote progress as set forth by the U.S. Constitution, patent laws require inventors to describe their work in "full, clear, concise, and exact terms."[4] This strikes a "delicate balance" whereby inventors may rely on the aegis of the law while the public is "encouraged to pursue innovations, creations, and new ideas beyond the inventor's exclusive rights."[5]

As patents are creatures of the U.S. Constitution and acts of Congress, most issues related to patents reside exclusively within the province of the federal government. For example, federal district courts have original jurisdiction over any civil actions "arising under any Act of Congress relating to patents," and "[n]o State court shall have jurisdiction over any claim for relief arising under any Act of Congress …."[6] Interpreting 28 U.S.C. section 1338(a), the Supreme Court held that cases "arising under" federal patent law require a plaintiff to "set up some right, title or interest under the patent laws, or at least make it appear that some right or privilege will be defeated by one construction, or sustained by the opposite construction of these laws."[7] As such, if a party brings a lawsuit alleging patent infringement, a federal court—and only a federal court—would possess subject matter jurisdiction. Even cases technically arising under state law may still be under the exclusive ambit of federal courts.[8] As articulated by the U.S. Supreme Court, federal jurisdiction over a state law claim will lie if a federal issue is: 1) necessarily raised, 2) actually disputed, 3) substantial, and 4) capable of resolution in federal court without disrupting the federal-state balance approved by Congress.[9] Nevertheless, some patent-related actions may properly remain in state court.[10]

Whether SB 1298 is preempted is an open question. Although a patent grant is within the exclusive purview of federal law,[11] federal patent law does not "occupy the field."[12] Rather,

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[2] *See Nautilus, Inc. v. Biosig Instruments, Inc.*, 134 S. Ct. 2120, 2124 (2014); *see also* 35 U.S.C. s. 261 (2012).
[3] *Litton Systems, Inc. v. Honeywell, Inc.*, 145 F.3d 1472, 1474 (Fed. Cir. 1998).
[4] 35 U.S.C. s. 112 (2012).
[5] *See Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., Ltd.*, 535 U.S. 722, 731-2 (2002) (citing *Bonito Boats, Inc. v. Thunder Craft Boats, Inc.*, 489 U.S. 141, 150 (1989)); *see also Sears, Roebuck & Co. v. Stiffel Co.*, 376 U.S. 225, 230-1 (1964) ("Thus the patent system is one in which uniform federal standards are carefully used to promote invention while at the same time preserving free competition.").
[6] 28 U.S.C. s. 1338(a) (2012); *see also Biotechnology Industry Organization v. District of Columbia*, 496 F.3d 1362, 1367 (Fed. Cir. 2007) ("This court has exclusive jurisdiction to review cases which arise under the patent laws.") (citing *Christianson v. Colt Indus. Operating Corp.*, 486 U.S. 800, 807 (1988)).
[7] *Christianson v. Colt Industries Operating Corp*, 486 U.S. at 807-8.
[8] *See Gunn v. Minton*, 133 S. Ct. 1059, 1064-5 (2013).
[9] *Id.* at 1065.
[10] *See Milprint, Inc. v. Curwood, Inc.*, 422 F. Supp. 579 (E.D. Wis. 1976) *aff'd,* 562 F. 2d 418 (7th Cir. 1977) (holding that a contract action based upon patent license agreements and involving defense of patent noninfringement or invalidity may be brought and maintained in state court).
[11] *Sukumar v. Nautilus, Inc.*, 829 F. Supp. 2d 386, 394 (W.D. Va. 2011) (citing *Abbott Labs v. Brennan*, 952 F.2d 1346, 1355 (Fed. Cir. 1991)).
[12] *See Aronson v. Quick Point Pencil Co.*, 440 U.S. 257, 262 (1979) ("State law is not displaced merely because the contract relates to intellectual property which may or may not be patentable; the states are free to regulate the use of such intellectual property in any manner not inconsistent with federal law.") (citing *Kewanee Oil Co. v. Bicron Corp.*, 416 U.S. 470, 479 (1974)). Note that federal law "occupies the field" if one can reasonably infer that Congress left no room to supplement it. *See Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 516 (1992).

patent law is subject to conflict preemption.[13] As such, there may be room for states to regulate the improper or unfair use of patents. This includes state laws creating tort liability pursuant to "objectively baseless" patent infringement claims.[14]

Patent Trolls

"Patent assertion entities," often referred to more pejoratively as "patent trolls," make no products themselves but instead file dubious patent infringement lawsuits purely to extract money from commercially-productive companies.[15] Having purchased a patent—rather than developing a patentable product—these "patent trolls" assert their newly-acquired patents against companies that use the patented technology in their business operations.[16] Patent trolls typically function by sending notices of alleged patent infringement to large numbers of businesses threatening litigation if those businesses refuse to pay a licensing fee.[17] Even if a targeted business believes the patent infringement claim lacks merit, it often chooses not to litigate.[18] Justifying unpredictable litigation costs can be difficult, so targets often eliminate the threat by paying the patent troll a sum far less than the cost of successfully defending the lawsuit.[19] In 2011, patent troll suits cost American technology companies over $29 billion.[20] Much of this burden falls on small and medium-sized companies.[21]

Patent Troll Prevention Act

Recognizing that the "frivolous filing of bad faith patent claims … have led to technical, complex, and especially expensive litigation,"[22] the Florida Legislature passed the Patent Troll Prevention Act ("Act"), Part VII of ch. 501, F.S.[23] Under this law, a person is prohibited from making a bad faith assertion of patent infringement.[24] In determining whether an assertion of patent infringement violates the act, the court may consider the following factors, among others, as evidence that the assertion was made in bad faith:

- The demand letter does not include specified identification and contact information or factual allegations concerning the specific products, services, and technology that are covered by the patent infringement claim;
- The demand letter requests payment of a license fee or response within an unreasonable period;

[13] *Sukumar v. Nautilus*, 829 F. Supp. 2d at 396-7 ("Where it is physically impossible to comply with both federal and state law, it is evident that federal law must prevail.").
[14] *Globetrotter Software, Inc. v. Elan Computer Group, Inc.*, 362 F.3d 1367, 1377 (Fed. Cir. 2004).
[15] Eric Rogers, Young Jeon, *Inhibiting Patent Trolling: A New Approach for Applying Rule 11*, 12 NW. J. TECH. & INTELL. Prop. 291, 294 (2014).
[16] Thomas A. Hemphill, *There Paradox of Patent Assertion Entities*, American Enterprise Institute (August 12, 2013), *available online at* http://www.aei.org/publication/the-paradox-of-patent-assertion-entities/ (last accessed February 5, 2016).
[17] *See* Paul R. Gugliuzza, *Patent Trolls and Preemption*, Boston University School of Law Public Law & Legal Theory Paper No. 15-03, 1-4 (Jan. 20, 2015), *available online at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2539280 (last accessed February 5, 2016).
[18] Eric Rogers, Young Jeon, *supra*, at 299.
[19] *Id*.
[20] James E. Bessen & Michael J. Meurer, *The Direct Costs from NPE Disputes*, 99 CORNELL L. REV. 387, 412-13 (2014).
[21] James E. Bessen & Michael J. Meurer, *supra*, at 388. 398.
[22] Section 501.991(2), F.S.
[23] Sections 7-13, Ch. 2015-92, Laws of Fla, codified as sections 501.991-997, F.S.
[24] Section 501.993, F.S.

- The demand offers to license the patent for an amount that is not based on a reasonable estimate of the value of the license;
- The claim or assertion of patent infringement is unenforceable, and the claimant knew, or should have known, that the claim was unenforceable;
- The claim of patent infringement is deceptive;
- The claimant has previously filed, or threatened to file, one or more lawsuits based upon the same or a similar claim of patent infringement which either did not include required information or was found to be meritless; and
- Any other factor the court considers relevant.[25]

Alternatively, the Act provides statutorily-defined factors evincing the absence of bad faith, including whether:

- The demand letter contains required identifying and contact information and factual allegations concerning the specific products, services, and technology that are covered by the patent infringement claim;
- The claimant provided omitted information within a reasonable period of time after request;
- The claimant made a good faith effort to establish that the target of the lawsuit has actually infringed the patent and negotiated an appropriate remedy;
- The claimant made a substantial investment in the use of the patented invention or discovery in a product or sale of a product or item covered by the patent;
- The claimant is the inventor or joint inventor of the patented invention or discovery, or alternatively the original assignee; or
- Any other factor the court finds relevant.[26]

The target of a bad faith patent infringement action may request a protective order requiring the initial claimant to post a bond in an amount equal to the lesser of $250,000 or a good faith estimate of the target's expenses of litigation, including attorney fees.[27]

The Act creates a private right of action which may be brought in a court of competent jurisdiction. A court may award equitable relief, damages, costs and fees, and punitive damages of either 1) $50,000, or 2) three times the total damages, costs, and fees.[28]

Lastly, institutions of higher education, technology transfer organizations owned by institutions of higher education, and other patent infringement assertions arising under 35 U.S.C. s. 271(e)(2)[29] or 42 U.S.C. s. 262[30] are exempt from liability under the Act.

[25] Section 501.993(1), F.S.
[26] *Id.* at subsection (2).
[27] Section 501.994, F.S.
[28] Section 501.995, F.S.
[29] 35 U.S.C. s. 271(e) relates to the use, offering for sale, or sale of veterinary biological products.
[30] 42 U.S.C. s. 262 regulates biological products regarding the prevention, treatment, or cure of a disease or condition of human beings.

Other State Laws

As of February 1, 2016, 27 states—including Florida—have passed statutes regulating bad faith patent infringement assertions.[31] Many of these new laws are modeled after a statute first adopted in Vermont,[32] which itself prohibits bad faith assertions of patent infringement.[33] Other states have outlawed assertions that "confirm false, misleading, or deceptive information,"[34] or have defined specific acts as illegal, such as making infringement assertions that "lack a reasonable basis in fact or law" or failing to provide, in a letter alleging patent infringement, "factual allegations" about how, exactly, the recipient infringes the patent.[35] The Vermont statute is currently facing a legal challenge based, in part, on federal preemption. A pending petition seeks a writ of certiorari with the United States Supreme Court.[36]

III. Effect of Proposed Changes:

CS/SB 1298 amends the Patent Troll Prevention Act in several ways. Most significantly, it removes the current criteria necessary to show a bad faith assertion of a patent infringement and replaces it with an "objectively baseless" standard, among other considerations. More specifically, the bill prohibits patent infringement demand letters that:

- Falsely assert that the sender has filed a lawsuit in connection with the claim;
- Assert a claim that is objectively baseless due to any of the following:
  - The sender, or a person whom the sender represents, lacks a current right to license the patent to the target or to enforce the patent against the target;
  - The patent is invalid or unenforceable; or
  - The infringing activity occurred after the expiration of the patent.
- Are likely to materially mislead a reasonable person because the letter does not include sufficient information to inform the target of: (1) the identity of the person asserting the claim, including the name and address of such person; (2) the patent alleged to have been infringed, including the patent number of the patent, and 3) at least one of the target's products, services, or technologies alleged to infringe the patent, or at least one activity of the target which is alleged to infringe the patent.

The bill repeals s. 501.994, F.S. As such, plaintiffs in a proceeding against a target are no longer required to post a bond if the court finds that there is a reasonable likelihood that the assertion of patent infringement was made in bad faith.

The bill amends s. 501.995, F.S., to allow recovery of punitive damages in a private cause of action under the Act for bad faith assertion of a patent infringement claim only if the court determines that the entity asserting the patent infringement claim has repeatedly violated the Act. In addition, the bill limits punitive damages to a maximum of $75,000. This removes a deterrent

[31] Patent Progress' Guide to State Patent Legislation (Feb. 1, 2016), *available online at* http://www.patentprogress.org/patent-progress-legislation-guides/patent-progresss-guide-state-patent-legislation/ (last accessed February 5, 2016); *See also* Utah Code s. 78B-6-1901; Wash. Rev. Code. s. 19.350.900; and Va. Code. s. 59.1-215.2.
[32] Gugliuzza, *supra* note 17, at 1582 n. 18.
[33] Vt. Stat. tit. 9, s. 4197(a) (2014).
[34] *See, e.g.*, Wis. Stat. s. 100.197(2)(b) (2014).
[35] *See, e.g.*, Tenn. Code. s. 29-10-102(a)(3) (2014); Gugliuzza, *supra* note 17, at 1582-83.
[36] *Vermont v. MPHJ Technology Investments, LLC*, 803 F.3d 635 (Fed. Cir. 2015) (affirming a lower court decision, holding, in part, that the company's counterclaim that federal law preempts the Vermont statute arose under federal patent law).

that may have prevented companies with good faith patent infringement claims from initiating lawsuits based upon patent infringement because of a lack of sufficient capital to post a bond,.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

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

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

As stated earlier, federal patent law does not occupy the field. Rather, patent law is subject to conflict preemption. As such, there may be room for states to regulate the improper or unfair use of patents. This includes state laws creating tort liability pursuant to "objectively baseless" patent infringement claims. Because SB 1298 includes "objectively baseless" language in Section 3, it may well survive a preemption challenge.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1298 imposes no direct costs to the private sector, but eases restrictions on filing patent infringement lawsuits.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 501.991, 501.992, 501.993, and 501.995 of the Florida Statutes.

This bill repeals section 501.994 of the Florida Statutes.

IX. Additional Information:

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

CS by Judiciary on February 16, 2016:
The committee substitute omits portions of the underlying bill which would have eliminated the private cause of action in existing law in favor of the enforcement of the Patent Troll Prevention Act by the Attorney General. Instead, the committee substitute authorizes a revised form of the existing private cause of action.

B. Amendments:

None.

By the Committee on Judiciary; and Senator Brandes

590-03683-16 20161298c1

A bill to be entitled

An act relating to bad faith assertions of patent infringement; amending s. 501.991, F.S.; providing for construction; amending s. 501.992, F.S; revising definitions; amending s. 501.993, F.S.; prohibiting a person from sending a demand letter to a target which makes a bad faith assertion of patent infringement; specifying what constitutes such a demand letter; repealing s. 501.994, F.S., relating to the requirement that a plaintiff post a specified bond in certain circumstances; amending s. 501.995, F.S.; revising provisions authorizing the bringing of actions and specified remedies under the Patent Troll Prevention Act; providing an effective date.

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

Section 1. Section 501.991, Florida Statutes, is amended to read:

501.991 Legislative intent; construction.—

(1) The Legislature recognizes that it is preempted from passing any law that conflicts with federal patent law. However, the Legislature recognizes that the state is dedicated to building an entrepreneurial and business-friendly economy where businesses and consumers alike are protected from abuse and fraud. This includes protection from abusive and bad faith demands and litigation.

(2) Patents encourage research, development, and innovation. Patent holders have a legitimate right to enforce their patents. The Legislature does not wish to interfere with good faith patent litigation or the good faith enforcement of patents. However, the Legislature recognizes a growing issue:

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the frivolous filing of bad faith patent claims that have led to technical, complex, and especially expensive litigation.

(3) The expense of patent litigation, which may cost millions of dollars, can be a significant burden on companies and small businesses. Not only do bad faith patent infringement claims impose undue burdens on individual businesses, they undermine the state's effort to attract and nurture technological innovations. Funds spent to help avoid the threat of bad faith litigation are no longer available for serving communities through investing in producing new products, helping businesses expand, or hiring new workers. The Legislature wishes to help businesses avoid these costs by encouraging good faith assertions of patent infringement and the expeditious and efficient resolution of patent claims.

(4) This part may not be construed to:

(a) Limit the rights and remedies available to the state or a person under any other law;

(b) Alter or restrict the Attorney General's authority under any other law regarding claims of patent infringement; or

(c) Prohibit a person who owns, or has a right to license or enforce, a patent from:

1. Notifying other parties of such person's ownership of, or rights under, the patent;

2. Offering the patent to other parties for license or sale;

3. Notifying other parties of such parties' infringement of the patent as provided by 35 U.S.C. s. 287; or

4. Seeking compensation for past or present infringement of, or license to, the patent.

Section 2. Subsections (1) and (3) of section 501.992, Florida Statutes, are amended to read:

501.992 Definitions.—As used in this part, the term:

(1) "Demand letter" means a ~~letter, e-mail, or other~~ written communication, including e-mail, asserting or claiming that a person has engaged in patent infringement.

(3) "Target" means a person residing in, incorporated in, or organized under the laws of this state who purchases, rents, leases, or otherwise obtains a product or service in the commercial market which is not for resale in the commercial market ~~and who:~~

~~(a) Has received a demand letter or against whom a written assertion or allegation of patent infringement has been made; or~~

~~(b) Has been threatened in writing with litigation or against whom a lawsuit has been filed alleging patent infringement~~.

Section 3. Section 501.993, Florida Statutes, is amended to read:

501.993 Bad faith assertions of patent infringement.—A person may not send a demand letter to a target which makes ~~make~~ a bad faith assertion of patent infringement. A demand letter makes a bad faith assertion of patent infringement if it:

(1) Includes a claim that the target, or a person affiliated with the target, has infringed a patent and that the target is legally liable for such infringement; and ~~A court may consider the following factors as evidence that a person has made a bad faith assertion of patent infringement:~~

~~(a) The demand letter does not contain the following information:~~

~~1. The patent number;~~

~~2. The name and address of the patent owner and assignee, if any; and~~

~~3. Factual allegations concerning the specific areas in which the target's products, services, or technology infringe or are covered by the claims in the patent.~~

~~(b) Before sending the demand letter, the person failed to conduct an analysis comparing the claims in the patent to the target's products, services, or technology, or the analysis did not identify specific areas in which the target's products, services, and technology were covered by the claims of the patent.~~

~~(c) The demand letter lacked the information listed under paragraph (a), the target requested the information, and the person failed to provide the information within a reasonable period~~.

~~(d) The demand letter requested payment of a license fee or response within an unreasonable period.~~

~~(e) The person offered to license the patent for an amount that is not based on a reasonable estimate of the value of the license.~~

~~(f) The claim or assertion of patent infringement is unenforceable, and the person knew, or should have known, that the claim or assertion was unenforceable.~~

~~(g) The claim or assertion of patent infringement is deceptive.~~

~~(h) The person, including its subsidiaries or affiliates, has previously filed or threatened to file one or more lawsuits based on the same or a similar claim of patent infringement and:~~

~~1. The threats or lawsuits lacked the information listed under paragraph (a); or~~

~~2. The person sued to enforce the claim of patent infringement and a court found the claim to be meritless.~~

~~(i) Any other factor the court finds relevant.~~

(2) Meets one or more of the following criteria ~~A court may consider the following factors as evidence that a person has not made a bad faith assertion of patent infringement~~:

(a) The demand letter falsely asserts that the sender has filed a lawsuit in connection with the claim ~~contained the information listed under paragraph (1)(a)~~.

(b) The demand letter asserts a claim that is objectively baseless due to any of the following:

1. The sender, or a person whom the sender represents, lacks a current right to license the patent to, or enforce the patent against, the target.

2. The patent is invalid or unenforceable pursuant to a final judgment or an administrative order.

3. The infringing activity alleged in the demand letter occurred after the expiration of the patent ~~The demand letter did not contain the information listed under paragraph (1)(a), the target requested the information, and the person provided the information within a reasonable period~~.

(c) The demand letter is likely to materially mislead a reasonable person because it does not contain sufficient information to inform the target of all of the following:

1. The identity of the person asserting the claim, including the name and address of such person.

2. The patent alleged to have been infringed, including the

patent number of such patent.

3. At least one product, service, or technology of the target alleged to infringe the patent, or at least one activity of the target which is alleged to infringe the patent ~~The person engaged in a good faith effort to establish that the target has infringed the patent and negotiated an appropriate remedy~~.

~~(d) The person made a substantial investment in the use of the patented invention or discovery or in a product or sale of a product or item covered by the patent~~.

~~(e) The person is the inventor or joint inventor of the patented invention or discovery, or in the case of a patent filed by and awarded to an assignee of the original inventor or joint inventors, is the original assignee.~~

~~(f) The person has:~~

~~1. Demonstrated good faith business practices in previous efforts to enforce the patent, or a substantially similar patent; or~~

~~2. Successfully enforced the patent, or a substantially similar patent, through litigation.~~

~~(g) Any other factor the court finds relevant.~~

Section 4. Section 501.994, Florida Statutes, is repealed.

Section 5. Section 501.995, Florida Statutes, is amended to read:

501.995 Private right of action.—A person aggrieved by a violation of this part may bring an action in a court of competent jurisdiction. A court may award the following remedies to a prevailing plaintiff in an action brought pursuant to this section:

(1) Equitable relief;

(2) Actual damages;

(3) Costs and fees, including reasonable attorney fees; and

(4) Punitive damages in an amount not to exceed $75,000.

However, such punitive damages may only be awarded if the court determines that the person asserting the patent infringement claim has repeatedly violated this chapter ~~Punitive damages in an amount equal to $50,000 or three times the total damages, costs, and fees, whichever is greater~~.

Section 6. This act shall take effect upon becoming a law.

The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: February 24, 2016

I respectfully request that **Senate Bill #1298**, relating to **Bad Faith Assertions of Patent Infringement**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

1298
Bill Number (if applicable)

Topic Patent Infringement

Amendment Barcode (if applicable)

Name Aimee Diaz Lyon

Job Title

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Street

Phone 850-205-9000

Tallahassee FL 32301
City *State* *Zip*

Email aimee.diazlyon@mhdfirm.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing The Business Law Section of the Florida Bar

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

1298
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Bad Faith for Patent Infringement

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St
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Email cjohnson@flchamber.com

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.

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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)

2-29-16
Meeting Date

1298
Bill Number (if applicable)

Topic Patent Infringement

Amendment Barcode (if applicable)

Name Stephen Shiver

Job Title

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Tallahassee
City *State* *Zip*

Phone

Email SS@cardenaspark...

Speaking: [X] For [ ] Against [ ] Information

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

Representing Caterpillar Corporation

Appearing at request of Chair: [X] Yes [ ] No

Lobbyist registered with Legislature: [X] 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)

2.29.2016
Meeting Date

1298
Bill Number (if applicable)

Topic Bad Faith Assertions of Patent Infringement

Amendment Barcode (if applicable)

Name Kim Siomkos

Job Title VP of Governmental Affairs

Address 1001
Street

Phone 561-317-4704

City *State* *Zip*

Email Ksiomkos@floridabankers.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Florida Bankers Association

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

2/29/2016
Meeting Date

Topic _____ Bill Number 1298 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1306
INTRODUCER:	Health Policy Committee and Senator Grimsley
SUBJECT:	Public Records and Meetings/Nurse Licensure Compact
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Lloyd	Stovall	HP	**Fav/CS**
2.	Kim	McVaney	GO	**Favorable**
3.	Lloyd	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1306 exempts from public record inspection and copying requirements personal identifying information of a nurse, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system (CLIS) under the Nurse Licensure Compact (NLC or compact), as defined in s. 464.0095,[1] and held by the Department of Health (department) or the Board of Nursing (board). This information is not exempt from public records requirements if the state originally reporting the information to the CLIS authorizes disclosure of such information by law.

The bill exempts from public meeting requirements a meeting or a portion of the meeting of the Interstate Commission of Nurse Licensure Compact Administrators established under the compact. The exemption applies when matters are specifically exempted from disclosure by state or federal law are discussed. The recordings, minutes, and records generated from those meetings are also exempt from requirements to disclose such public records.

The bill takes effect on the same date that SB 1316 or similar legislation takes effect. SB 1316, the substantive bill authorizing Florida's participation in the compact, is effective on December 31, 2018, or upon enactment of the NLC into law by 26 states whichever occurs first.

[1] Section 464.0095, F.S., is created in SB 1316 and establishes the state's participation in the Nurse Licensure Compact and the coordinated licensure information system.

The bill provides for the repeal of the exemption on October 2, 2021, unless reviewed and reenacted by the Legislature. It also provides statements of public necessity for the public records and public meetings exemptions as required by the State Constitution.

Because the bill creates a new public records exemption, a two-thirds vote of the members present and voting in each house of the Legislature is required for final passage.

II. Present Situation:

The Florida Constitution provides that the public has the right to access government records and meetings. The public may inspect or copy any record made or received in connection with the official business of any public body, officer, or employee received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.[2] The public also has a right to be afforded notice and access to meetings of any collegial public body of the executive branch of state government or of any local government.[3] The Legislature's meetings must also be open and noticed to the public, unless there is an exception provided for by the Constitution.[4]

In addition to the Florida Constitution, the Florida Statutes specify conditions under which public access must be provided to government records and meetings. Chapter 119, F.S., the "Public Records Act" constitutes the main body of public records laws, and states that:

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

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.[6] A violation of the Public Records Act may result in civil or criminal liability.[7]

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[2] FLA. CONST. art. 1, s. 24(a).
[3] FLA. CONST. art. 1, s. 24(b).
[4] FLA. CONST. art. 1, s. 24(b).
[5] Chapter 119, F.S.
[6] Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of their physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purpose of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). The Legislature's records are public pursuant to s. 11.0431, F.S.
[7] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are penalties for violations of those laws.

Section 286.011, F.S., the "Sunshine Law,"[8] requires all meetings of any board or commission or local agency or authority at which official acts are to be taken to be noticed and open to the public.[9]

The Legislature may, by two-thirds votes of the House and the Senate[10] create an exemption to public records or open meetings requirements.[11] An exemption must explicitly state the public necessity of the exemption[12] and must be tailored to accomplish the stated purpose of the law.[13] A statutory exemption which does not meet these two criteria may be found unconstitutional, and efforts may not be made by the court to preserve the exemption.[14]

Open Government Sunset Review Act

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

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

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

[9] Section 286.011(1)-(2), F.S. The Sunshine Law does not apply to the Legislature; rather, open meetings requirements for the Legislature are set out in the Florida Constitution. Article III, s. 4(e) of the Florida Constitution provides the legislative committee meetings must be open and noticed to the public. In addition, prearranged gatherings, between more than two members of the Legislature, or between the Governor, the President of the Senate, or the Speaker of the House of Representatives, the purpose of which is to agree upon or to take formal legislative action, must be reasonable open to the public.

[10] FLA. CONST. art. I, s. 24(c).

[11] FLA. CONST. art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates as *confidential* and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola,* 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole,* 874 So.2d 48 (Fla. 5th DCA 2004).

[12] FLA. CONST. art. I, s. 24(c).

[13] FLA. CONST. art. I, s. 24(c).

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

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

[16] Section 119.15(3), F.S.

Under the OGSR the purpose and necessity of reenacting the exemption are reviewed. The Legislature must consider the following questions during its review of an exemption:[17]

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.[18] If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.[19]

Practitioner Profiles

Pursuant to s. 456.041, F.S., the department operates a database of Florida's healthcare practitioners, which includes nurses. The practitioner profile database is online and searchable.[20] The profile may include information that is public record and relates to the practitioner's profession.[21] Practitioners and the department are required to update profiles.[22] Information exempt from public disclosure and submitted by another governmental entity that the department uses for practitioner profiles continues to maintain its exempt status.[23]

Nurse Licensure Compact

The Nurse Licensure Compact bill, SB 1316, authorizes Florida to enter the revised Nurse Licensure Compact (NLC or compact), a multi-state agreement that establishes a mutual recognition system for the licensure of registered nurses and licensed practical or vocational nurses. A nurse who is issued a multi-state license from a state that is a party to the NLC would be permitted to practice in any state that is also a party to the compact. A nurse with a multistate license privilege must comply with the practice laws of the state in which he or she is practicing or where the patient is located. A party state may continue to issue a single-state license, authorizing practice only in that state.

[17] Section 119.15(6)(a), F.S.
[18] FLA. CONST. art. I, s. 24(c).
[19] Section 119.15(7), F.S.
[20] Section 456.041(8), F.S. Department of Health Practitioner Profile Search, https://appsmqa.doh.state.fl.us/MQASearchServices/HealthCareProviders/PractitionerProfileSearch (last visited February 18, 2016).
[21] Section 456.041(7), F.S.
[22] Section 456.042, F.S.
[23] Section 456.046, F.S.

The NLC permits a state to take adverse action against the multistate licensure privilege of any nurse practicing in that state. The home state has the exclusive authority to take adverse action against the home state license, including revocation and suspension. The NLC requires all participating states to report to the CLIS, all adverse actions taken against a nurse's license or multistate licensure practice privilege, any current significant investigative information, and denials of information.

All party states may access the CLIS to see licensure and disciplinary information for nurses licensed in the party states. The CLIS includes nurse's personal identifying information, licensure classification information and statuses, public emergency and final disciplinary action information, and status information about multistate licensure privileges from all party states. A party state may designate the information it contributes to the CLIS as confidential, prohibiting its disclosure to nonparty states. State licensing boards must report disciplinary information, significant investigative information, and denials of applications to the CLIS promptly.

The NLC establishes the Interstate Commission of Nurse Licensure Compact Administrators (commission) to oversee the operation of the NLC. The head of each state's licensing board of his or her designee must serve as the state's delegate to the commission. The NLC grants the commission authority to promulgate uniform rules relating to the implementation and administration of NLC. The commission may also take action against a party state if a party state fails to meet its obligations under the NLC, including termination of membership after exhausting all other means of compliance.

All commission meetings are open to the public and must be publicly noticed. Both commission meetings and hearings for proposed rules must be noticed at least 60 days prior to each meeting on the commission's website and on the website of each party state's licensing board or published in the publication in which each state would otherwise post proposed rules. The compact also provides for public comment opportunities through both oral and written testimony. Closed meetings are permitted if the commission is discussing:

- A party state's noncompliance with its obligations under the compact;
- The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;
- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with the NLC; or
- Matters specifically exempted from disclosure by federal or state law.

The commission must keep comprehensive minutes of matters discussed in its meetings and provide a full and accurate summary of actions taken, and the reasons. Minutes of a closed meeting will be sealed; however, such minutes may be released pursuant to a majority vote of the commission or an order of a court of competent jurisdiction.

The compact is effective on December 31, 2018, or upon enactment of the NLC into law by 26 states whichever occurs first.[24]

III. Effect of Proposed Changes:

Section 1 creates s. 464.0096, F.S., to make a nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, F.S., and held by the department or board exempt from public disclosure under s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. The personal identifying information is exempt from public disclosure unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information. Under such circumstances, the information may only be disclosed to the extent permitted by the reporting state's law.

The bill also creates an exemption from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution for a meeting or any portion of a meeting of the commission during which any matters specifically exempted from disclosure by federal or state statute are discussed.

Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

These exemptions are subject to the Open Government Sunset Review Act and will stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2 provides, as required by the State Constitution, a statement of public necessity which states that protection of the specified information is required under the NLC which the state must adopt in order to become a party state to the compact. Without the public records exemption, the state would be unable to effectively and efficiently implement and administer the compact.

Additionally, the bill provides a statement of public necessity, as required by the State Constitution, for protecting any meeting or portion of a meeting of the commission at which matters specifically exempted from disclosure by federal or state statute are discussed. These meetings or portions of meetings would be exempted from s. 286.011, F.S., and s. 24(b), Art. I. of the Florida Constitution.

Without the public meeting exemption, the state will be prohibited from becoming a party to the compact. Thus, the state will be unable to effectively and efficiently administer the compact.

[24] Twenty-five states have enacted the original Nurse Licensure Compact.

The bill includes a statement of public necessity by the Legislature that the recordings, minutes, and records generated during an exempt meeting of the commission is exempt pursuant to s. 464.0096, F.S., and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. Release of such information would negate the public meeting exemption.

Section 3 provides that the act shall take effect on the same date as SB 1316 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Public Records

SB 1316 provides that any contributing party state may designate information which cannot be disclosed without the express consent of the contributing state. A public records exemption for this information is not included in this bill, but may need to be considered.

SB 1306 provides that personal identifying information obtained from a nurse's home state may only be disclosed to the extent permitted by the home state's laws.

Public Meetings

Under the compact, SB 1316 provides that commission meetings must be open to the public, and such meetings, including rulemaking hearings, must be publicly noticed 60 days prior to each meeting. Proposed rules must be posted to the commission's website and to the party state's licensing board websites or the publication in which each party state would otherwise publish proposed rules. The public must also be provided a reasonable opportunity for public comment, orally or in writing, for proposed rules.

However, under SB 1316, the compact permits the commission to meet in closed, nonpublic meetings under these circumstances:

- A party state's noncompliance with its obligations under the compact;
- The employment, compensation, discipline, or other personnel matters, practices, or procedures related to specific employees or other matters related to the Commission's internal personnel practices and procedure;
- Current, threatened, or reasonably anticipated litigation;
- Contract negotiations for the purchase or sale of goods, services, or real estate;
- Accusing a person of a crime or formally censuring a person;
- Disclosure of trade secrets or commercial or financial information that is privileged or confidential;

- Disclosure of information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;
- Disclosure of investigatory records compiled for law enforcement purposes;
- Disclosure of information related to any reports prepared by or on behalf of the commission for the purpose of investigating compliance with the NLC; or
- Matters specifically exempted from disclosure by federal or state law.

CS/SB 1306 simplifies this list to the last bullet: matters specifically exempted from disclosure by state or federal statute. Typically, a public meetings bill specifically states what subjects are or are not subject to closing a meeting.

The commission is required to keep minutes of these closed sessions that fully describe all matters discussed and provide an accurate summary of actions taken. All minutes and documents of a closed meeting shall remain under seal according to the compact's provisions, subject to release by a majority vote of the commission or order of a court of competent jurisdiction.

Vote Requirement

Article I, Section 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records or public meeting exemption. This bill creates a public records exemption for information obtained from the coordinated licensure information system, and held by the department or the board, thus it requires a two-thirds vote.

Public Necessity Statement

Article I, Section 24(c) of the State Constitution requires a public necessity statement for a newly created or expanded public records or public meeting exemption. This bill creates a new public records exemption and includes a public necessity statement that supports the exemption. The exemption is no broader than necessary to accomplish the stated purpose.

Breadth of the Exemption

It is not clear if the public records exemption is broader than necessary to accomplish the purposes outlined in the public necessity statement. The exemption covers personal identifying information (excluding a nurse's name, licensure status and license number) that is otherwise exempt in the nurse's home state. In the context of the compact, it is not clear what information would be considered "personal identifying information" for purposes of this exemption. Personal identifying information is used throughout Florida statutes, but it may have a different meaning in other states. For example, it is not clear if a state would consider a nurse's business address, certifications, or level of education to be personal identifying information. State laws are also subject to change, so it is not clear if this exemption is limited to state laws as currently enacted or in the future. Therefore, the breadth of the exemption is subject to change depending on when or how the department or the board interprets the laws of the nurse's home state.

It is also unclear if the public meetings exemption is broader than necessary to accomplish the purposes outlined in the public necessity statement. SB 1316 provides instances during which a public meeting may be closed. Some of those matters are already exempted under Florida's public meetings exemptions.[25] In addition, SB 1306 provides that the commission has the authority to vote on when it will close a meeting, so it is not clear exactly which meetings or portions of meetings will be closed. It is unclear if giving the commission the authority to vote on when it will close its meetings would be considered an overly broad exemption. Finally, one reason the commission may close a meeting is to protect someone's personal privacy. This may conflict with Article 1, section 23, of the Florida Constitution which provides:

> Every natural person has the right to be let alone and free from governmental intrusion into the person's private life except as otherwise provided herein. This section shall not be construed to limit the public's right of access to public records and meetings as provided by law.

Courts will look to the Legislature to balance these competing interests.[26]

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The department reports no impact for CS/SB 1306.

[25] Meetings with attorneys on pending litigation are exempt under s. 286.011(8), F.S. Competitive solicitations team meetings and some negotiations are exempt under s. 286.0113(2), F.S. Meetings to determine if there is probable cause to find that a practitioner is subject to discipline are closed until 10 days after probable cause has been found pursuant to s. 456.073(4), F.S. These exemptions are provided as examples and not an exhaustive list of relevant public meetings exemptions.

[26] *See Campus Communications, Inc. v. Earnhardt*, 821 So. 2d 388, 402-403 (Fla. 5th DCA 2002) ("Thus our function here has not been to weigh these two constitutional rights with respect to autopsy photographs and determine whether the right that helps ensure an open government freely accessible by every citizen is more significant or profound than the right that preserves individual liberty and privacy. Rather, our function has been to determine whether the Legislature has declared that the latter prevails over the former in a manner that is consistent with the constitutional provisions that bestow upon it the power to do so."); *see also Wallace v. Guzman*, 687 So. 2d 1351, 1354 (Fla. 3d DCA 1997) (noting "[t]he [L]egislature has balanced the private/public rights by creating the various exemptions from public disclosure contained in section 119.07, Florida Statutes (1995).").

VI. Technical Deficiencies:

The exemption for records generated during a meeting does not specify that the records are held by the department, board or commission.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 464.0096 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on February 16, 2016:
The CS narrows the types of personal identifying information obtained from the coordinated licensure system and held by the department that will be exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution. A nurse's name, licensure status, and licensure number will not be exempt. Additional information may be made public if the state that originally reported the information authorizes the disclosure of such information by law.

The CS provides that a meeting or a portion of a meeting of commission is specifically exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution at which matters specifically exempted from disclosure under federal or state statute are discussed. The bill no longer lists specific topics of discussion that are exempt.

The CS modifies both the public records and the meeting exemptions throughout the bill to reflect that such exemptions are only exempt, and are not 'confidential and exempt.'

A cross reference to the substantive bill, SB 1316, is added to the effective date.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Grimsley

588-03658-16 20161306c1

A bill to be entitled

An act relating to public records and meetings; creating s. 464.0096, F.S.; providing an exemption from public records requirements for certain information held by the Department of Health or the Board of Nursing pursuant to the Nurse Licensure Compact; authorizing disclosure of the information under certain circumstances; providing an exemption from public meeting requirements for certain meetings of the Interstate Commission of Nurse Licensure Compact Administrators; providing an exemption from public records requirements for recordings, minutes, and records generated during the closed portion of such a meeting; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 464.0096, Florida Statutes, is created to read:

464.0096 Nurse Licensure Compact; public records and meetings exemptions.—

(1) A nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, and held by the department or the board is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution unless the state that originally reported the information to the coordinated licensure information system authorizes the disclosure of such information by law. Under such

588-03658-16 20161306c1

circumstances, the information may only be disclosed to the extent permitted by the reporting state's law.

(2)(a) A meeting or portion of a meeting of the Interstate Commission of Nurse Licensure Compact Administrators established under s. 464.0095 at which matters specifically exempted from disclosure by federal or state statute are discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution.

(b) Recordings, minutes, and records generated during an exempt meeting are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that a nurse's personal identifying information, other than the nurse's name, licensure status, or licensure number, obtained from the coordinated licensure information system, as defined in s. 464.0095, Florida Statutes, and held by the Department of Health or the Board of Nursing be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Protection of such information is required under the Nurse Licensure Compact, which the state must adopt in order to become a party state to the compact. Without the public records exemption, this state will be unable to effectively and efficiently implement and administer the compact.

(2)(a) The Legislature finds that it is a public necessity that any meeting or portion of a meeting of the Interstate Commission of Nurse Licensure Compact Administrators established

under s. 464.0095, Florida Statutes, at which matters specifically exempted from disclosure by federal or state statute are discussed be made exempt from s. 286.011, Florida Statutes, and s. 24(b), Article I of the State Constitution.

(b) The Nurse Licensure Compact requires any meeting or portion of a meeting in which the substance of paragraph (a) is discussed to be closed to the public. Without the public meeting exemption, this state will be prohibited from becoming a party state to the compact. Thus, this state will be unable to effectively and efficiently administer the compact.

(3) The Legislature also finds that it is a public necessity that the recordings, minutes, and records generated during a meeting that is exempt pursuant to s. 464.0096, Florida Statutes, be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Release of such information would negate the public meeting exemption. As such, the Legislature finds that the public records exemption is a public necessity.

Section 3. This act shall take effect on the same date that SB 1316 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-29-16
Meeting Date

1306
Bill Number (if applicable)

Topic Nurse Licensure Compact Public Records

Amendment Barcode (if applicable)

Name Martha DeCastro

Job Title VP for Nursing

Address 306 E. College Ave
Street

TLH FL 32301
City *State* *Zip*

Phone 222-9800

Email martha@fha.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Hospital Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/2016
Meeting Date

Topic _____ Bill Number 1306 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1420
INTRODUCER:	Children, Families, and Elder Affairs Committee and Senator Bean
SUBJECT:	Eligibility for Employment as Child Care Personnel
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	**Fav/CS**
2.	Sumner	Cannon	CJ	**Favorable**
3.	Preston	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1420 restricts persons who can be employed by a child care provider. Specifically, it prohibits any current or prospective employee from employment with a child care provider if the individual is registered as a sex offender under federal law.

Additionally, it restricts those persons who:

- Have been arrested
- Are awaiting final disposition, or
- Have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged

for any felony or misdemeanor referenced in the federal child care criminal background check law or any felony or misdemeanor enumerated in Florida's Level 1 and Level 2 employment screening statutes. Such individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill also requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

The bill is not anticipated to have a fiscal impact on state government but may have an indeterminate fiscal impact on Broward County.

II. Present Situation:

Child Care Licensure and Personnel

The Department of Children and Families (DCF or department) is responsible for the licensure and regulation of child care facilities, family day care homes, and large family child care homes.[1] In addition, there are child care providers that are not licensed by the department, including those that are only required to register with the department and those that have an exemption from being licensed by virtue of being an integral part of a church or parochial school that meets certain requirements.[2] All child care personnel employed in a setting regulated by DCF, whether it is licensed, registered, or exempt because of an affiliation with a religious entity, are required to be background screened as provided in ch. 435, F.S., using the level 2 standards for screening set forth in that chapter.[3] If an applicant for employment is disqualified from working with children due to the results of the level 2 screening, the department may grant an exemption from that disqualification.[4]

Background Screening and Exemptions from Disqualification

Level 2 Background Screening

A level 2 background screening includes but is not limited to fingerprinting for statewide criminal history records checks through the Florida Department of Law Enforcement (FDLE) and national criminal history checks through the Federal Bureau of Investigation (FBI), and may include local criminal records checks through local law enforcement agencies.[5] The applicant has fingerprints taken by a vendor that submits the electronic fingerprints to FDLE for DCF. FDLE then runs statewide checks and submits the electronic file to the FBI for national checks.

Once the background screening is completed, and FDLE receives the information from the FBI, the criminal history information is transmitted to DCF. DCF then determines if the screening contains any disqualifying information for employment. DCF must ensure that no applicant has been arrested for, is awaiting final disposition of, has been found guilty of, or entered a plea of nolo contendere or guilty to any prohibited offense including, but not limited to, such crimes as sexual misconduct, murder, assault, kidnapping, arson, exploitation, lewd and lascivious behavior, drugs, and domestic violence.[6] If the department finds that an individual has a history containing any of these offenses, they must disqualify that individual from employment in child care settings regulated by the department.

Exemptions from Disqualification

The Secretary of DCF is authorized to grant an exemption from disqualification to applicants for employment, including applicants wanting to work in child care, based on a number reasons:

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[1] *See* ss. 402.301-402.319, F.S.
[2] *See* s. 402.316, F.S.
[3] See s. 402.305, F.S.
[4] *See* s. 435.07, F.S.
[5] *See* s. 435.04, F.S.
[6] *Id*.

- Felonies for which at least 3 years have elapsed since the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court for the disqualifying felony;
- Misdemeanors prohibited under any of the statutes cited in this chapter or under similar statutes of other jurisdictions for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court;
- Offenses that were felonies when committed but that are now misdemeanors and for which the applicant for the exemption has completed or been lawfully released from confinement, supervision, or nonmonetary condition imposed by the court; or
- Findings of delinquency.[7]

The Secretary of the department may not grant an exemption to an individual who is found guilty of, regardless of adjudication, or who has entered a plea of nolo contendere or guilty to, any felony covered by s. 435.03 or s.435.04, F.S., solely by reason of any pardon, executive clemency, or restoration of civil rights.[8] An exemption may also not be granted to anyone who is considered a sexual predator,[9] career offender,[10] or sexual offender (unless not required to register).[11]

Child Care Development Block Grant

The Child Care and Development Fund (CCDF), also known as the Child Care and Development Block Grant (CCDBG), is administered by the U.S. Department of Health and Human Services (HHS). CCDF provides funding for state efforts to provide child care services for low-income family members who work, train for work, attend school, or whose children receive or need to receive protective services. Block grant funding can be used for public or private, religious or non-religious, and center or home-based care. Child care programs that accept funding must comply with state health and safety requirements.[12]

The CCDBG is administered in Florida by the school readiness program in the Office of Early Learning within the Department of Education (DOE).[13] To be eligible to deliver the school readiness program, a school readiness program provider must be:

- A child care facility licensed under s. 402.305, F.S.;
- A family day care home licensed or registered under s. 402.313, F.S.;
- A large family child care home licensed under s. 402.3131, F.S.;
- A public school or nonpublic school exempt from licensure under s. 402.3025, F.S.;
- A faith-based child care provider exempt from licensure under s. 402.316, F.S.;
- A before-school or after-school program described in s. 402.305(1)(c), F.S.; or

[7] *See* s. 435.07, F.S.
[8] *See* s. 435.07, F.S.
[9] *See* s. 775.21, F.S.
[10] *See* s. 775.261, F.S.
[11] *See* ss. 943.0435 and 943.04354.
[12] U.S. Department of Education, Office of Non-Public Education, *available at* http://www2.ed.gov/about/offices/list/oii/nonpublic/childcare.html (last visited January 24, 2016).
[13] *See* s. 1001.213, F.S.

- An informal child care provider under certain circumstances.[14]

The DCF regulates many, but not all, child care providers that provide early learning programs.

On November 19, 2014, the Child Care and Development Block Grant (CCDBG) Act of 2014 was signed into law. The new law reauthorizes the block grant program and makes expansive changes focused on improving the health and safety of children in child care, making the program more family-friendly by streamlining eligibility policies, ensuring parents and the general public have transparent information about the child care choices available to them, and improving the overall quality of early learning and afterschool programs.[15]

Reauthorization of the block grant program requires changes to Florida law, including an increase in requirements for screening all child care personnel to include searches of the National Sex Offender Registry, state criminal records, state sex offender registries, and child abuse and neglect registries of all states in which the child care personnel resided during the preceding five years.[16] It will also require that individuals who are sex offenders or convicted of certain crimes be ineligible for employment with child care providers receiving CCDBG funds.

Based on the new requirements of the CCDBG, in order to continue to receive federal funding, the state must make ineligible for employment by school readiness providers any person who is registered, or is required to be registered, on a state sex offender registry or the National Sex Offender Registry[17] or has been convicted of:

- Murder;
- Child abuse or neglect;
- A crime against children, including child pornography;
- Spousal abuse;
- A crime involving rape or sexual assault;
- Kidnapping;
- Arson;
- Physical assault or battery;
- A drug-related offense committed during the preceding 5 years; or
- A violent misdemeanor committed as an adult against a child, including the following crimes: child abuse, child endangerment, sexual assault, or of a misdemeanor involving child pornography.[18]

However, these Federal prohibitions on employment will not apply to child care facilities that are not school readiness providers and as such do not receive any CCDBG funds.

[14] *See* s. 1002.88, F.S.
[15] U.S. Department of Health and Human Services, Office of Child Care, *Program Instruction on CCDF Reauthorization Effective Dates, available at* http://www.acf.hhs.gov/programs/occ/resource/pi-2015-02 (last visited January 24, 2016).
[16] Pub. L. No. 113-186, 128 Stat. 1971, Sec. 658H(b).
[17] 42 U.S.C. s. 9858f(c)(1)(C)
[18] 42 U.S.C. s. 9858f(c)(1)

III. Effect of Proposed Changes:

Section 1 amends s. 435.07, F.S., by restricting persons who can be employed by a child care provider. Specifically, it prohibits any current or prospective employee from employment with a child care provider if the individual is registered as a sex offender under federal law.[19]

Additionally, it restricts those persons who:

- Have been arrested
- Are awaiting final disposition, or
- Have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged

for any felony or misdemeanor referenced in the federal child care criminal background check law[20] or any felony or misdemeanor enumerated in Florida's Level 1 and Level 2 employment screening statutes.[21] Such individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill provides that individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.

The bill also requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

Section 2 provides for an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[19] 42 U.S.C. 30 s. 9858f(c)(1)(c)
[20] 42 U.S.C. s. 9858f
[21] Sections 435.03 and 435.04, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Broward County conducts background screening for individuals applying to work for child care providers at the county level. It is unknown what impact, if any, the bill will have on the county.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 435.07 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 Children, Families, and Elder Affairs on February 4, 2016:

- Prohibits a disqualification from employment under ch. 435, F.S., from being removed, and prohibits an exemption from being granted to, any current or prospective personnel with a child care provider if the individual:
  - Is registered as a sex offender as described in 42 U.S.C. 30 s. 9858f (c)(1)(c); or
  - Has been arrested for and is awaiting final disposition of, has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or has been adjudicated delinquent and the record has not been sealed or expunged for, any felony or misdemeanor referenced in 42 U.S.C. s. 9858f or any felony or misdemeanor covered by s. 435.03 or s. 435.04, F.S.
- Provides that individuals are disqualified from employment with a child care provider notwithstanding any prior exemption from disqualification.
- Requires that any person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and Senator Bean

586-03044-16 20161420c1

A bill to be entitled

An act relating to eligibility for employment as child care personnel; amending s. 435.07, F.S.; prohibiting the removal of or exemption from certain disqualifications from employment for child care personnel under certain circumstances; specifying certain offenses that disqualify a person from child care employment, notwithstanding any prior exemption; requiring that certain persons who have been granted an exemption from disqualification from child care employment be rescreened by a certain date; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (4) of section 435.07, Florida Statutes, to read:

435.07 Exemptions from disqualification.—Unless otherwise provided by law, the provisions of this section apply to exemptions from disqualification for disqualifying offenses revealed pursuant to background screenings required under this chapter, regardless of whether those disqualifying offenses are listed in this chapter or other laws.

(4)

(c)1. Disqualification from employment under this chapter may not be removed from, nor may an exemption be granted to, any current or prospective employee of a child care provider if the person:

a. Is registered as a sex offender as described in 42 U.S.C. s. 9858f (c)(1)(c); or

b. Has been arrested for and is awaiting final disposition

586-03044-16 20161420c1

of; has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to; or has been adjudicated delinquent and the record has not been sealed or expunged for any felony or misdemeanor referenced in 42 U.S.C. s. 9858f or any felony or misdemeanor covered by s. 435.03 or s. 435.04.

2. Such persons are disqualified from employment with a child care provider, notwithstanding any prior exemption from disqualification from employment.

3. A person employed by a child care provider on July 1, 2016, who has been granted an exemption to a disqualification from employment must be rescreened no later than August 1, 2016.

Section 2. This act shall take effect July 1, 2016.

The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: February 22, 2016

I respectfully request that **Senate Bill # 1420**, relating to Eligibility for Employment as Child Care Personnel, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

29 Feb 16
Meeting Date

1420
Bill Number (if applicable)

Topic Child Care Personnel

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe
Street

Tall FL 32399
City *State* *Zip*

Phone 577.3032

Email barney@smartjusticealliance.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

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)

2/29/2016
Meeting Date

Topic _____ Bill Number 1420 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☑ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

1420
SB ~~294~~
Bill Number (if applicable)

Topic Dissolution of Marriage Parenting Plans.

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Phone

Largo Flan 33773
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption.

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 Rules

BILL:	CS/SM 1710
INTRODUCER:	Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Evers
SUBJECT:	Declaration of War Against Global Islamic Terrorist Organizations
DATE:	February 26, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanders	Ryon	MS	**Fav/CS**
2.	Sanders	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SM 1710 urges the Congress of the United States to approve an authorization for the use of military force against al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations that similarly engage in acts of terrorism against the United States and its people and against allied and friendly governments and their populations.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

II. Present Situation:

Declarations of War

The United States Constitution authorizes Congress to declare war.[1] Pursuant to that power, Congress has enacted eleven formal declarations relating to five different wars in the nation's history, the most recent being those that were adopted during World War II.[2] Congress' power to declare war has also been understood to include the power to issue authorizations for the use of

[1] U.S. Const., art. I, s. 8, cl. 11.

[2] Jennifer K. Elsea and Richard F. Grimmett, Congressional Research Service, *Declarations of War and Authorizations for the Use of Military Force: Historical Background and Legal Implications* (April 18, 2014), available at https://www.fas.org/sgp/crs/natsec/RL31133.pdf (last visited Feb. 19, 2016).

military force (AUMF).[3] Since the Second World War, the United States Congress has only adopted AUMFs.[4]

Two factors led to the shift away from formal declarations of war. First, no formal declaration of war has been delivered by diplomatic channels since 1945.[5] Nations have increasingly attempted to maintain diplomatic and commercial relationships to the extent possible during conflicts, with the historical tendency to abrogate treaties replaced by a tendency to deem treaties as remaining in effect to the maximum possible extent.[6] Second, a formal declaration of war is the operative event in many statutes to confer special powers on the President, many of which directly affect domestic concerns.[7] These special powers include:

- Interdiction of trade;[8]
- Ordering manufacturing plants to produce arms and seizing them if they fail to comply;[9]
- Taking control of the transportation system;[10] and
- Taking control of communications systems.[11]

The most vital powers relevant to conducting a military operation, however, are triggered by either a declaration of war or an AUMF. Both types of resolutions eliminate the time limits imposed on military deployments by the War Powers Resolution[12] and authorize the capture and detention of enemy combatants through the duration of hostilities.[13] Since the September 11, 2001 terrorist attacks, the U.S. Congress has issued two AUMFs. The first was in 2001 to authorize the U.S. Armed Forces to act against those responsible for 9/11 and the second was in 2002 to authorize the use of force against Iraq.[14]

Foreign Terrorist Organizations

The Secretary of State is responsible for designating Foreign Terrorist Organizations (FTOs), as directed by the Immigration and Nationality Act (INA).[15] The INA defines terrorism as premeditated, politically motivated violence perpetrated against noncombatant targets by subnational groups or clandestine agents.[16] A terrorist organization is further defined in the INA as any group practicing, or which has significant subgroups which practice, international

[3] *Id*. at 23.
[4] *Id*.
[5] *Id*.
[6] *Id*.
[7] *Supra* note 2, at 25. Some of these powers are also triggered in the event the President declares a national emergency.
[8] 50 U.S.C. s. 1702.
[9] 10 U.S.C. s. 2538.
[10] 10 U.S.C. s. 2644.
[11] 47 U.S.C. s. 606.
[12] *Supra* note 2, at 25.
[13] *Id*, citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 518 (2004) (O'Connor, J., plurality opinion) and *Hamdi v. Rumsfeld*, 542 U.S. 507, 588-89 (2004) (Thomas, J., dissenting).
[14] *Supra* note 2.
[15] The National Counterterrorism Center, *2016 Counterterrorism Calendar*, at 4 (2016), available at http://www.nctc.gov/site/pdfs/ct_calendar.pdf (last visited Feb. 18, 2016).
[16] 22 U.S.C. s. 2656f(d)(2).

terrorism.[17] Designations of an FTO can be done through the INA or under the authority of Executive Order (E.O.) 13224.[18]

To be designated as an FTO under the authority of the INA, a group must:

- Be a foreign-based organization;
- Engage in terrorist activity, or retain the capacity to engage in terrorist activity; and
- Threaten the security of U.S. nationals or the national defense, foreign relations, or economic interests of the United States.[19]

Under the authority of E.O. 13224,[20] a wider range of entities can be designated by either the Department of State or the Department of the Treasury as Specially Designated Global Terrorists (SDGTs).[21] SGDTs are individuals or entities that have committed, or pose a significant threat of committing, acts of terrorism that threaten the security of U.S. nationals or the national security, foreign policy, or economy of the United States.[22]

Terrorist designations play a critical role in the fight against terrorism and are an effective means of curtailing support for terrorist activities and pressuring groups to get out of the terrorism business. Designations support U.S. government efforts to curb terrorist finance, deter donations and contributions, block economic transactions, and implement international obligations under UN Security Council Resolution 1373.[23] The U.S. Department of State currently lists 59 groups designated FTOs.[24]

Al-Qaeda and the Islamic State of Iraq and the Levant (ISIL)

Formed by Osama Bin Ladin in 1988, al-Qaeda[25] was comprised of Arabs who fought in Afghanistan against the Soviet Union, and declared its goal as the establishment of a pan-Islamic caliphate[26] throughout the Muslim world.[27] The group's cohesiveness has diminished in recent years because of leadership losses from counterterrorism pressure in Afghanistan and Pakistan.[28]

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[17] 22 U.S.C. s. 2656f(d)(3).
[18] *Supra* note 15, at 5.
[19] *Id.*
[20] See U.S. Department of State, Office of the Coordinator for Counterterrorism, *Executive Order 13224* (Sept. 23, 2001), available at http://www.state.gov/j/ct/rls/other/des/122570.htm (last visited Feb. 18, 2016).
[21] *Supra* note 15, at 5.
[22] *Id.*
[23] *Id.* UN Security Council Resolution 1373 called for UN member states to work together to suppress terrorist financing, share intelligence on terrorism, monitor borders, and "implement...the relevant international conventions and protocols to combat terrorism". Resolution available at: http://www.un.org/en/sc/ctc/specialmeetings/2012/docs/United%20Nations%20Security%20Council%20Resolution%201373%20(2001).pdf (last visited Feb. 19, 2016)
[24] U.S. Department of State, Bureau of Counterterrorism, *Foreign Terrorist Organizations* (2016), available at http://www.state.gov/j/ct/rls/other/des/123085.htm (last visited Feb. 19, 2016).
[25] *Id.* Al-Qaeda was designated as an FTO on October 8, 1999.
[26] A "caliphate," a state governed by a "caliph," refers to the religious and political successors of Muhammad. Disputes over succession form the basis of the early fissures in Islam. Gerhard Bowering, *The Princeton Encyclopedia of Islamic Political Thought* 202 (1st ed. 2013).
[27] *Supra* note 15, at 18.
[28] *Id.*

However, al-Qaeda remains committed to conducting attacks in the United States and against American interests abroad and could seek to reconstitute its remnants in Afghanistan.[29]

Abu Musab al-Zarqawi, a previous leader of al-Qaeda, separated from the organization in 2002 to create al-Qaeda in Iraq (AQ-I).[30] Following Zarqawi's death in June 2006, AQ-I leaders repackaged the group as a coalition called the Islamic State of Iraq (ISI).[31] ISI lost its two top leaders in 2010 and was weakened, but not eliminated, by the time of the U.S. withdrawal from Iraq in 2011.[32] The group would later rebrand as the Islamic State of Iraq and the Levant (ISIL)[33] in 2013.[34]

ISIL is currently operating as a terrorist organization primarily in Iraq and Syria.[35] In addition to the group's fighters in Iraq and Syria, ISIL has received pledges of support from various terrorist groups in the Middle East, Africa, and South Asia.[36] Prior to 2015, the majority of the group's attacks were concentrated in Iraq and Syria, but attacks elsewhere in 2015 resulted in more than 1,000 deaths.[37] It is believed active ISIL cells currently operate in Yemen, Egypt, Algeria, Saudi Arabia, Libya, Afghanistan, and Nigeria.[38]

The following military operations are recognized as part of the effort to combat FTOs such as al-Qaeda and ISIL:[39]

- Operation Noble Eagle;
- Operation Enduring Freedom;
- Operation Iraqi Freedom;
- Operation Nomad Shadow;
- Operation New Dawn;
- Operation Inherent Resolve; and
- Operation Freedom's Sentinel.[40]

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[29] *Id*.
[30] Christopher M. Blanchard and Carla E. Humud, Congressional Research Service, *The Islamic State and U.S. Policy*, at 7 (Feb. 9, 2016), available at https://fas.org/sgp/crs/mideast/R43612.pdf (last visited Feb. 19, 2016).
[31] *Id*.
[32] *Id*.
[33] *Supra* note 24. ISIL was designated as an FTO on December 17, 2004.
[34] *Supra* note 30.
[35] John W. Rollins and Heidi M. Peters, Congressional Research Services, *The Islamic State—Frequently Asked Questions: Threats, Global Implications, and U.S. Policy Responses*, at 2 (Nov. 25, 2015), available at https://www.fas.org/sgp/crs/mideast/R44276.pdf (last visited Feb. 29, 2016).
[36] *Supra* note 30, at 1.
[37] *Supra* note 35.
[38] *Id*.
[39] *See* 68 FR 12567-12568 (March 12, 2003).
[40] U.S. Department of Defense, Office of the Under Secretary for Personnel and Readiness, *Global War on Terrorism Expeditionary Medial – Approved Operations* (2015), available at http://prhome.defense.gov/Portals/52/Documents/RFM/MPP/OEPM/docs/GWOT-E%20Medal%20-%20Approved%20Ops%20-%202015%2003%2011.pdf; and *Global War on Terrorism Service Medial – Approved Operations* (2015), available at http://prhome.defense.gov/Portals/52/Documents/RFM/MPP/OEPM/docs/GWOT-S%20Medal%20-%20Approved%20Ops%20-%202015%2003%2011.pdf (both sites last visited Feb. 19, 2016).

Operation Inherent Resolve

On October 15, 2014, U.S. Central Command designated new military operations in Iraq and Syria against ISIL as Operation Inherent Resolve.[41] As of January 19, 2016, American and coalition forces have conducted 9,782 airstrikes against ISIL in Syria and Iraq.[42] The American-led coalition contains 60 nations and partner organizations conducting military operations, stopping the flow of fighters and funds to ISIL, and addressing humanitarian crises that ISIL has previously exploited as a recruitment tool.[43] As a result of the operation, various forces have been able to recapture portions of Iraq and northern Syria.[44] It is unclear what impact Operation Inherent Resolve has had on the number of fighters ISIL is able to field in Iraq and Syria, with some reports suggesting the group has been forced to resort to conscription in some areas, while others suggest ISIL is still being replenished with significant numbers of foreign fighters.[45]

In addition to the efforts of the American-led coalition, Russian forces have engaged in the conflict.[46] While initially acting in support of Syrian President Bashir al-Assad, Russian efforts have been focused on ISIL since the group targeted a Russian airliner on October 31, 2015, killing all 224 passengers.[47]

Legal Status of Operation Inherent Resolve

Operation Inherent Resolve was initially launched under a claim of Presidential authority pursuant to the President's Article II powers as commander-in-chief.[48] However, later statements of the Obama administration cited to the authorizations for the use of military force against al-Qaeda and Iraq as providing the legal basis for the strikes.[49] The President also indicated in November 2014 that he intended to seek explicit Congressional authorization to specifically target ISIL, in order to "right-size and update" the earlier authorizations.[50]

Debates over a new authorization for the use of military force are still on-going. The Senate Foreign Relations Committee voted to approve a new AUMF in December 2014, but final passage was hindered by concerns of whether the authority granted to the President was too restricted.[51] The issue was again raised after the Obama administration announced in November

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[41] U.S. Department of Defense, *Centcom Designates Ops Against ISIL as 'Inherent Resolve'* (Oct. 15, 2014), available at http://www.defense.gov/news/newsarticle.aspx?id=123422&source=GovDelivery (last visited Feb. 19, 2016).
[42] U.S. Department of Defense, *Operation Inherent Resolve: Targeted Operations against ISIL Terrorists*, available at http://www.defense.gov/News/Special-Reports/0814_Inherent-Resolve (last visited Feb. 19, 2016).
[43] *Supra* note 35, at 3.
[44] *Supra* note 30, at 2.
[45] *Supra* note 30, at 4.
[46] *Supra* note 35, at 4.
[47] *Id*.
[48] *Supra* note 35, at 5.
[49] *Id*.
[50] *Id*.
[51] Karen DeYoung, Washington Post, *Senate committee approves military action against Islamic State* (Dec. 11, 2014), available at https://www.washingtonpost.com/world/national-security/senate-committee-approves-military-action-against-islamic-state/2014/12/11/48dbd0fc-815b-11e4-9f38-95a187e4c1f7_story.html (last visited Feb. 19, 2016).

2015 that 50 special operations forces were being sent to Syria to act as advisors to allied rebel groups.[52]

Pending Legislation

There are currently several proposals pending in Congress authorizing the President to use military force against ISIL.

Senate Joint Resolution 29 would authorize the President to use "all necessary and appropriate force" to defend the national security of the United States against ISIL and associated forces, organizations, and persons as well as any successor organizations.[53] The resolution would also require the President to submit a report to Congress at least once every sixty days to provide updates on matters relevant to the resolution.

An earlier measure, Senate Joint Resolution 26, contains virtually identical language.[54] Senate Joint Resolution 26 has a companion measure in the House.[55]

The broad contours of these resolutions appear to derive from a joint resolution filed in 2015.[56] House Joint Resolution 33 would authorize the President to use force against ISIL and associated persons and forces. The resolution would have also repealed the 2002 authorization for the use of military force against Iraq.

Another resolution, House Joint Resolution 27, is structured more narrowly to only allow the President to use force against ISIL.[57] The resolution would also repeal the 2001 and 2002 authorizations for the use of military force against al-Qaeda and Iraq, respectively.

House Joint Resolution 73 asserts that a "state of war" exists between the United States and ISIL and authorizes the President to "use the Armed Forces of the United States to carry on war against the Islamic State".[58]

III. Effect of Proposed Changes:

The memorial urges the Congress of the United States to approve an authorization for the use of military force against al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations that similarly engage in acts of terrorism against the United States and its people and against allied and friendly governments and their populations.

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[52] Karoun Demirjian, Washington Post, *Boots on the ground in Syria have lawmakers calling for a new AUMF* (Nov. 1, 2015), available at https://www.washingtonpost.com/news/powerpost/wp/2015/11/01/boots-on-the-ground-in-syria-has-lawmakers-calling-for-a-new-aumf/ (last visited Feb. 19, 2016).
[53] S.J.Res 29, 114th Cong. (2016).
[54] S.J.Res. 26, 114th Cong (2015). S.J. Res 29 contains a precatory clause about ISIL's use of social media and its online magazine in an attempt to radicalize Americans and inspire attacks within the United States.
[55] H.Con.Res. 106, 114th Cong (2016).
[56] H.J.Res. 33, 114th Cong. (2015).
[57] H.J.Res. 27, 114th Cong. (2015).
[58] H.J.Res. 73, 114th Cong. (2015).

Copies of this memorial will be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law, as they are mechanisms for formally petitioning the federal government to act on a particular subject.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Military and Veterans Affairs, Space, and Domestic Security on February 22, 2016:
The CS urges the Congress of the United States to approve an authorization of the use of military force against al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations in lieu of a formal declaration of war.

B. Amendments:

None.

By the Committee on Military and Veterans Affairs, Space, and Domestic Security; and Senator Evers

583-03910-16 20161710c1

Senate Memorial

A memorial to the Congress of the United States, urging Congress to authorize the use of military force against al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations that similarly engage in acts of terrorism.

WHEREAS, the attacks on the United States of September 11, 2001, were organized and financed by al-Qaeda, and

WHEREAS, another global Islamic terrorist organization, whether known as the Islamic State of Iraq and the Levant (ISIL), the Islamic State of Iraq and Syria (ISIS), the Islamic State, or by the Arabic acronym Daesh, claimed responsibility for coordinated attacks launched against six sites across Paris, France, on November 13, 2015, resulting in the loss of at least 129 innocent lives and the severe wounding of many hundreds, and

WHEREAS, ISIL systematically targets, kidnaps, and kills innocent men, women, and children throughout Iraq and Syria, continues to expand its terror influence, and is responsible for recent attacks in Egypt, Lebanon, Tunisia, and France, and

WHEREAS, al-Qaeda, ISIL, and other global Islamic terrorist organizations have committed unprovoked acts of war against the government and people of the United States and against allied and friendly governments and their populations, NOW, THEREFORE,

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

That the Congress of the United States, by the power vested in it by Section 8, Article I of the United States Constitution, is urged to approve an authorization for the use of military

Florida Senate - 2016 CS for SM 1710

583-03910-16 20161710c1

force against al-Qaeda, the Islamic State of Iraq and the Levant (ISIL), and all other global Islamic terrorist organizations that similarly engage in acts of terrorism against the United States and its people and against allied and friendly governments and their populations.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

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

The Florida Senate

Committee Agenda Request

To: Senator Simmons
Chair, Committee on Rules

Subject: Committee Agenda Request

February 22, 2016

Dear Senator Simmons,

I respectfully request that **Senate Bill 1710,** regarding **Declaration of War Against Global Islamic Terrorist Organizations,** be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

C

Greg Evers

Senator Greg Evers
Florida Senate, District 2

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

1710
SB [redacted]
Bill Number (if applicable)

Topic Global Islamic Terrorist

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise Dr.
Street

Phone

Largo Fla. 33773
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption.

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 Rules

BILL:	CS/CS/SB 1190
INTRODUCER:	Rules Committee; Community Affairs Committee; and Senator Diaz de la Portilla
SUBJECT:	Growth Management
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cochran	Yeatman	CA	**Fav/CS**
2.	Gusky	Miller	ATD	**Recommend: Favorable**
3.	Jones	Hrdlicka	FP	**Favorable**
4.	Cochran	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1190 makes several changes to the state's growth management programs. Specifically, the bill:

- Adds that a county governing board may hold joint public meetings with the governing body or bodies of one or more adjacent municipalities or counties to consider multi-jurisdictional issues at any appropriate public place within the jurisdiction of any participating municipality or county upon the giving of due public notice within the jurisdiction of all participating entities;
- Allows the governing body of a county to designate specific tax increment areas, not exceeding 300 acres, to employ tax increment financing to fund economic development activities, and infrastructure projects that directly benefit the tax increment area;
- Revises the types of comprehensive plan amendments that must follow the state coordinated review process, and also establishes a procedure for issuing a final order if the state land planning agency fails to take action;
- Amends the minimum acreage for application of a sector plan from 15,000 to 5,000 acres;
- Changes the acreage for annexation of enclaves under certain circumstances from 10 to 110 acres;
- Replaces the Administration Commission with the state land planning agency as the reviewing entity for modifications and proposed changes dealing with plans and regulations for the Apalachicola Bay Area of Critical State Concern;

- Authorizes a developer, the Department of Economic Opportunity (DEO), and a local government to amend a development of regional impact (DRI) agreement when a project has been determined to be essentially built out without following the notice of proposed change process;
- Authorizes a local government to approve the exchange of one approved DRI land use for another so long as there is no increase in impacts to public facilities;
- Specifies that persons do not lose the right to complete DRIs upon certain changes to those developments;
- Provides that a substantial deviation to a previously approved DRI or development order condition is subject to further DRI review through the notice of proposed change process;
- Clarifies that certain proposed developments which are currently consistent with the local government comprehensive plan are not required to be reviewed pursuant to the State Coordinated Review Process for comprehensive plan amendments;
- Revises conditions under which the DRI aggregation requirements do not apply; and
- Establishes procedures relating to rights, duties, and obligations related to certain development orders or agreements if a development elects to rescind a development order.

II. Present Situation:

Growth Management

The Local Government Comprehensive Planning and Land Development Regulation Act,[1] also known as Florida's Growth Management Act, was adopted in 1985. The act requires all counties and municipalities to adopt local government comprehensive plans that guide future growth and development.[2] Comprehensive plans contain elements that address topics including future land use, housing, transportation, conservation, and capital improvements, among others.[3] Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first. The state land planning agency that administers these provisions is the Department of Economic Opportunity (DEO).[4]

State law requires a proposed comprehensive plan amendment to receive 3 public hearings, the first held by the local planning board.[5] The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies, including DEO, the relevant Regional Planning Council (RPC), and adjacent local governments that request to participate in the review process.[6]

The state and regional agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for "extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within

[1] *See* ch. 163, part II, F.S.
[2] Section 163.3167, F.S.
[3] Section 163.3177, F.S.
[4] Section 163.3221(14), F.S.
[5] Sections 163.3174(4)(a), and 163.3184, F.S.
[6] Section 163.3184, F.S.

the region" as well as adverse effects on regional resources or facilities.[7] Upon receipt of the reports from the various agencies, the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.[8] The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant laws and agency rules.[9]

Development of Regional Impact Background

A development of regional impact (DRI) is defined as any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.[10] The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. The DRI program provided a lengthy and complicated review process for proposed projects that was largely duplicated by the successor comprehensive planning review process.

Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed law that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992 recommended that the DRI program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) that is required to be included in local comprehensive plans.[11] After much controversy, this recommendation was not implemented, and the DRI program continued in its previous form.

However, over the years, the program was amended to include a number of exemptions. The following list of exemptions is not exhaustive, but illustrates the number and variety of exemptions from the DRI program that have been enacted:[12]

- Certain projects that created at least 100 jobs that met certain qualifications – 1997.
- Certain expansions to port harbors, certain port transportation facilities and certain intermodal transportation facilities – 1999.
- The thresholds used to identify projects subject to the program were increased by 150 percent for development in areas designated as rural areas of critical economic concern (now known as rural areas of opportunity) – 2001.
- Certain proposed facilities for the storage of any petroleum product or certain expansions of existing petroleum product storage facilities – 2002.
- Any renovation or redevelopment within the same land parcel which does not change land use or increase density or intensity of use – 2002.
- Certain waterport or marina developments – 2002.

[7] Section 163.3184(3)(b)3.a., F.S.
[8] Section 163.3184, F.S.
[9] Sections 163.3184(3)(c)4., and 163.3184(4)(e)4., F.S.
[10] Section 380.06, F.S.
[11] *See* Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.
[12] Section 360.06(24), F.S.

- The establishment, relocation, or expansion of any military installation as defined in s. 163.3175, F.S. – 2005.

In 2009, the Legislature enacted the most significant exemption from the DRI program: the exemption for Dense Urban Land Areas (DULAs).[13] In 2015, eight counties and 243 cities qualified as DULAs. This meant that all projects within those counties and cities were exempted from the DRI program. The areas qualifying as DULAs accounted for more than half of Florida's population.[14]

Consistency with Comprehensive Plans

DRI development orders are required to be consistent with a local government's comprehensive plan.[15] In *Bay Point Club, Inc., v. Bay County* the court held that any change to a DRI development order must be consistent with the local government's comprehensive plan.[16] This can create concerns for a developer where the DRI development order itself is no longer consistent with the local comprehensive plan because of plan amendments adopted after the DRI development order was approved.[17]

Approval of New DRIs

Section. 380.06, F.S., governing DRIs, was amended in 2015 to provide that new proposed DRI-sized developments shall be approved by comprehensive plan amendment in lieu of the review process in s. 380.06, F.S. Section 163.3184(2)(c), F.S., was amended to provide that such plan amendments will be reviewed under the state coordinated review process.[18]

Administrative Proceedings Related to Comprehensive Plan Amendments – Final Order Timeframes

In comprehensive plan amendment cases, the DEO enters final orders finding a plan amendment "in compliance" and the Administration Commission enters final orders finding a plan amendment "not in compliance." When an Administrative Law Judge (ALJ) issues a recommended order to find a plan amendment "in compliance," it is sent to the DEO. The DEO can then enter a final order finding the plan amendment in compliance or, if it disagrees with the ALJ's recommendation, it must refer the matter to the Administration Commission with its recommendation to find the plan amendment "not in compliance." The DEO must make every effort to enter the final order or refer the matter to the Administration Commission expeditiously but at a must be within 90 days after the recommended order is submitted.[19]

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[13] Section 380.06(29), F.S.
[14] Department of Economic Opportunity, List of Local Governments Qualifying as DULAs, available at http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/list-of-local-governments-qualifying-as-dense-urban-land-areas (last visited February 20, 2016).
[15] Section 163.3194(1)(a), F.S.
[16] *Bay Point Club, Inc., v. Bay County*, 890 So.2d 256 (Fla. 1st DCA 2004).
[17] For example, a DRI development order may authorize more density or greater building height than the current comprehensive plan allows, or the plan may require more stringent environmental protections potentially reducing the development footprint from what was allowed when the DRI development order was issued. Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).
[18] Chapter 2015-30, L.O.F.
[19] Sections 120.569 and 163.3184, F.S.

Essentially Built Out DRIs

Section 380.06(15)(g), F.S., prohibits a local government from issuing permits for development in a DRI after the buildout date in the development order except under certain circumstances. For an essentially built out DRI, the developer, the local government, and the DEO may enter into an agreement establishing the terms and conditions for continued development, after which the development proceeds pursuant to the local comprehensive plan and land development regulations without further DRI review.[20] The DEO believes an agreement can be modified on request, with the consent of all the parties to the agreement and without a formal application process.[21]

Substantial Deviations and Notice of Proposed Changes

Any proposed change to a previously approved development which creates a reasonable likelihood of additional regional impact, or any type of regional impact created by a change not previously reviewed by the regional planning agency, constitutes a substantial deviation and will cause the proposed change to be subject to further DRI review.[22] Section 380.06(19), F.S., identifies changes to a DRI that, based on numerical standards, are substantial deviations, which means that further DRI review is required. Certain changes do not require further DRI review, for example:

- Changes in the name of the project,
- Changes to certain setbacks,
- Changes to minimum lot sizes,
- Changes that do not increase external peak hour trips,
- Changes that do not reduce open space or conserved areas, and
- Any other changes that DEO agrees in writing are similar to the enumerated changes that do not increase regional impacts.[23]

Aggregation

Section 380.0651(4), F.S., provides that two or more developments shall be aggregated and treated as a single DRI when they are determined to be part of a unified plan of development and are physically proximate to one another. Aggregation is not applicable when:

- DRIs that have already received development approval;
- Developments that were authorized before September 1, 1988, and could not have been aggregated under the law existing at that time; and
- Developments exempt from DRI review.[24]

Vested Rights; Rescinding a DRI Development Order

Statutory changes or changes in a developer's development program may result in a development that was a DRI when approved no longer being subject to the DRI review process. Section

[20] Section 380.06(15)(g)4., F.S.
[21] Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).
[22] Section 380.06(19)(a), F.S.
[23] Section 380.06(19)(e)2., F.S.
[24] Section 380.0651(4)(c), F.S.

380.115, F.S., preserves the vested rights of those developments and establishes a procedure under which the developers of such projects may seek to rescind the DRI development orders. Developments subject to this provision are those that:

- Are no longer defined as DRIs under the applicable guidelines and standards;
- Have reduced their size below the DRI guidelines and standards; and
- Are exempt from DRI review.[25]

Sector Plans – Minimum Acreage

Section 163.3245, Florida Statutes, authorizes local governments to adopt sector plans into their comprehensive plans. A sector plan is defined as:

> The process authorized by s. 163.3245, in which one or more local governments engage in long-term planning for a large area and address regional issues through adoption of detailed specific area plans within the planning area as a means of fostering innovative planning and development strategies, furthering the purposes of [part II of ch. 163, F.S.,] and part I of chapter 380, reducing overlapping data and analysis requirements, protecting regionally significant resources and facilities, and addressing extrajurisdictional impacts. The term includes an optional sector plan that was adopted before June 2, 2011.[26]

Sector plans are intended for substantial geographic areas of at least 15,000 acres and emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.[27]

Annexation of Enclaves

Florida law defines annexation as the adding of real property to the boundaries of an incorporated municipality.[28] The purpose of annexation varies. Historically, annexation was typically used to provide rural communities with access to municipal services—a proposition grounded in the notion that only cities could effectively deliver essential services such as police, fire, and water and sewer.[29] Presently, in addition to seeking out appropriate levels of essential services, annexation is often used by a developer to find the most favorable laws and regulations for a development or by a municipality to increase its tax base.[30]

There are three threshold requirements to annex land: the annexed land must be unincorporated, contiguous, and compact.[31] "Contiguous" is defined to mean a substantial part of a boundary of

[25] Section 380.115, F.S.
[26] Section 163.3164(42), F.S
[27] Florida Department of Economic Opportunity, Sector Planning Program, available at http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/sector-planning-program (last visited February 20, 2016).
[28] Section 171.031(1), F.S.
[29] Alison Yurko, *A Practical Perspective About Annexation in Florida*, 25 Stetson L. Rev. 699 (1996).
[30] *Id.*
[31] Section 171.043, F.S. Section 171.042, F.S., lays out many "prerequisites to annexation."

the territory sought to be annexed by a municipality is coterminous with a part of the boundary of the municipality.[32] "Compactness" means a concentration of a piece of property in a single area and precludes any action which would create enclaves (discussed below), pockets, or finger areas in serpentine patterns.[33]

Assuming the land to be annexed is contiguous and compact, there are two primary methods of annexation procedures—involuntary and voluntary—and one exceptional method—expedited annexation of certain enclaves.[34] An enclave is any unincorporated improved or developed area lying within a single municipality, or surrounded by a single municipality and a manmade or natural obstacle that permits traffic to enter the unincorporated area only through the municipality.[35]

Enclaves can create significant problems in planning, growth management, and service delivery, and s. 171.046, F.S., provides that it is the policy of the state to eliminate enclaves. In order to expedite the annexation of enclaves of 10 acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may annex an enclave:

- By interlocal agreement with the county; or
- With fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.[36]

Tax Increment Financing

Community redevelopment agencies (CRAs) are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).[37] The TIF mechanism requires taxing authorities to annually appropriate an amount to the redevelopment trust fund by January 1 each year. This revenue is used to pay debt service on bonds issued to finance redevelopment projects in accordance with a redevelopment plan.[38] The incremental revenue amount is calculated annually as 95 percent of the difference between:

- The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and
- The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with

[32] Section 171.031(11), F.S.
[33] Section 171.031(12), F.S.
[34] Section 171.046, F.S.
[35] Section 171.031(13), F.S.
[36] Section 171.046, F.S.
[37] Through tax increment financing, a baseline tax amount is chosen, and then in future years, any taxes generated above that baseline amount are transferred into the trust fund. Section 163.387, F.S.
[38] Section 163.387(1)(a), F.S.

the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

The idea is that as the time period of the CRA increases, the property values within the CRA increase, and in turn the tax increment revenue increases, which is then available to repay public infrastructure and redevelopment costs of the CRA. Tax increment revenues can be used when they are related to development in the designated redevelopment area.[39]

TIF Limitations and Exemptions

CRAs created before July 1, 2002, appropriate tax increment revenues to the redevelopment trust fund for a period not exceeding 30 years, unless the community redevelopment plan is amended. For CRAs created after July 1, 2002, the taxing authorities make the annual appropriation for a period not to exceed 40 years after the fiscal year in which the plan is approved or adopted.[40] The following taxing authorities are exempt from paying the incremental revenues:

- A special district that levies ad valorem taxes on taxable real property in more than one county;
- A special district for which ad valorem taxes are the sole available source of revenue the district has the authority to levy at the time the ordinance is adopted;
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984;
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority;
- A water management district created under s. 373.069, F.S.; and
- A special district specifically made exempt by the local governing body that created the CRA, if the exemption is made in accordance with the requirements of s. 163.387(2)(d), F.S., which include a public hearing, public notice, and an interlocal agreement.[41]

In addition to CRAs, TIF is allowed for conservation lands and transportation projects.[42]

Areas of Critical State Concern

State law provides that the state land planning agency (DEO) may from time to time recommend to the Administration Commission specific areas of critical state concern.[43] In its recommendation, DEO must include the following:

- Recommendations with respect to the purchase of lands situated within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Act of 1972;
- Any report or recommendation of a resource planning and management committee appointed pursuant to s. 380.054, F.S.;

[39] Harry M. Hipler, *Tax Increment Financing in Florida: A Tool for Local Government Revitalization, Renewal, and Redevelopment*, Fla. Bar J., Volume 81, No. 7 (July/August 2007).
[40] Section 163.387(2)(a), F.S.
[41] Section 163.387(2)(c), F.S.
[42] Sections 259.042, F.S. and 163.3182, F.S.
[43] Section 380.05(1), F.S.

- The dangers that would result from uncontrolled or inadequate development of the area and the advantages that would be achieved from the development of the area in a coordinated manner;
- A detailed boundary description of the proposed area;
- Specific principles for guiding development within the area;
- An inventory of lands owned by the state, federal, county, and municipal governments within the proposed area;
- A list of the state agencies with programs that affect the purpose of the designation; and
- Actions which the local government and state and regional agencies must accomplish in order to implement the principles for guiding development.[44]

An area of critical state concern may only be designated for the following types of areas:
- An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance;
- An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment.[45]

There are currently four areas of critical state concern: the Big Cypress Area; the Green Swamp Area; the Florida Keys Area; and the Apalachicola Bay Area.[46]

State Land Development Regulations and Comprehensive Plan Amendments

Local governments within each area of critical state concern must abide by certain requirements when adopting land development regulations and amending their comprehensive plans. However, such requirements vary for each area.

Apalachicola Area

The land planning requirements for the Apalachicola Area differ most from the other three areas; namely, the Apalachicola Area is the only area in which the Administration Commission must approve its land development regulations.

Specifically, any land development regulation or element of a local comprehensive plan in the Apalachicola Bay Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon the approval thereof by the Administration Commission.[47]

Also, DEO, after consulting with the appropriate local government, may, from time to time, recommend the enactment, amendment, or rescission of a land development regulation or

[44] *Id*.
[45] Section 380.05(2), F.S.
[46] Sections 380.055, 380.0551, 380.0552, and 380.0555, F.S.
[47] Section 380.0555(9), F.S.

element of a comprehensive plan.[48] Within 45 days following the receipt of such recommendation by DEO or enactment, amendment, or rescission by a local government, the Administration Commission must reject the recommendation, enactment, amendment, or rescission or accept it with or without modification and adopt, by rule, any changes.[49] Any such local land development regulation or comprehensive plan or part of such regulation or plan may be adopted by the Administration Commission if it finds that it is in compliance with the principles for guiding development.[50]

County Government Meeting Authority

The Florida Constitution provides non-charter counties the power of self-government as is provided by general or special law.[51] The legislative and governing body of a non-charter county has the power to carry on county government to the extent not inconsistent with general or special law.[52] Non-charter counties are further authorized to hold special and regular meetings at "any appropriate public place in the county," after giving proper public notice.[53] Charter counties have all powers of local self-government not inconsistent with general law or special law.[54] These provisions give charter and non-charter counties the authority to hold joint meetings with cities at any place within the county.

Municipal Government Meeting Authority

In 2014, the Legislature authorized the governing body of a municipality to hold a joint meeting outside its borders with the governing body of the county where the municipality is located when there are matters of mutual interest between the two bodies. The governing body of a municipality may also meet in another municipality to discuss or act upon matters of mutual interest. The time and place of the meetings must be prescribed by ordinance or resolution.[55]

The time and place of a joint meeting must be noticed, as provided for by ordinance or resolution.

Joint meetings between the governing bodies of cities and counties are common practice across the state. Counties currently do not have the ability to hold a joint meeting outside their jurisdiction.

III. Effect of Proposed Changes:

Section 1 amends s. 125.001, F.S., to add that a county governing board may hold joint public meetings with the governing body or bodies of one or more adjacent municipalities or counties to consider multi-jurisdictional issues at any appropriate public place within the jurisdiction of any participating municipality or county upon the giving of due public notice within the jurisdiction

[48] *Id*.
[49] *Id*.
[50] *Id*.
[51] Fla. Const. art. VIII, s. 1(f).
[52] Section 125.01, F.S.
[53] Section 125.001, F.S.
[54] Fla. Const. art VIII, s. 1(g).
[55] Chapter 2014-14, Laws of Fla.

of all participating entities. To participate in the joint public meeting, the governing body of a county or municipality must first pass a resolution authorizing such participation. Official votes may not be taken at the joint public meeting, and the meeting may not take the place of any public hearing required by law.

Section 2 creates s. 125.045(6), F.S., to allow the governing body of a county to designate specific tax increment areas, not to exceed 300 acres, to employ tax increment financing for the purpose of funding economic development activities, and infrastructure projects which directly benefit the tax increment area. The funds may not be used for construction of buildings used solely for commercial or retail purposes within the TIF area. The Florida Department of Transportation (FDOT) or the Florida Turnpike Enterprise may not impose any fee on a commercial or retail development within a TIF area to fund any transportation infrastructure improvement. The governing body must administer a separate reserve account for the deposit of tax increment revenues. The tax increment authorized must be determined annually and be the amount equal to a maximum of 95 percent of the difference between:

- The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and
- The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area, as shown upon the most recent assessment roll used in connection with the taxation of such property by the county, before establishment of the tax increment area.

Section 3 amends s. 163.3184, F.S., to:

- Clarify that a development subject to the review process under s. 380.06(30), F.S., must follow the state coordinated review process in s. 163.3184(4), F.S.;
- Provide that recommended orders submitted under s. 163.3184(5)(e), F.S., become final orders 90 days after issuance unless all parties agree to a time extension in writing or the state land planning agency acts pursuant to s. 163.3184(5)(e)1. or 2., F.S.;
- Provide that absent written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission must issue a final order within 45 days after the issuance of the recommended order; and
- Provide that if the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days after the issuance of the recommended order. If the agency fails to do so, the recommended order becomes final.

Section 4 amends s. 163.3245, F.S., to decrease the minimum acreage threshold for a sector plan from 15,000 to 5,000 acres.

Section 5 amends s. 171.046, F.S., to change the acreage threshold for the expedited annexation of enclaves from 10 acres to 110 acres.

Section 6 amends s. 380.0555, F.S., to replace the Administration Commission with DEO as the reviewing entity for modifications to plans and regulations within the Apalachicola Bay Area of

Critical State Concern. DEO shall review the proposed change to determine if it complies with the principles for guiding development specified in 380.0555(7), F.S., and must approve or reject the requested change as provided in s. 380.05, F.S.

Section 7 amends s. 380.06, F.S., to:

- Provide that a person does not lose his or her right to proceed with a development authorized as a DRI if a change is made to the development that only has the effect of reducing height, density, or intensity of the development from that originally approved.
- Allow parties to amend an essentially built out agreement between the developer, state land planning agency, and the local government without the submission, review, or approval of a notification of proposed change pursuant to s. 380.06(19), F.S. For the purposes of this paragraph, a DRI is essentially built out even if the developer is not in compliance with the reporting requirement. Additionally, one approved land use may be exchanged for another approved land use in developing the unbuilt land uses specified in the agreement. Before the issuance of a building permit pursuant to this exchange, the developer must demonstrate to the local government that the exchange ratio will not result in an increased impact to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. For developments previously determined to impact strategic intermodal facilities as defined in s. 339.63, F.S., the local government shall consult with FDOT before approving the exchange.
- Provide that when any proposed change to a previously approved DRI or development order condition exceeds criteria in s. 380.06(19)(b), F.S., it will constitute a substantial deviation and will be subject to further DRI review through the notice of proposed change process.
- Provide that a phase date extension is not a substantial deviation if the state land planning agency, in consultation with the regional planning council and with the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.
- Clarify that a proposed development that is consistent with the existing comprehensive plan is not required to undergo review pursuant to the state coordinated review process for comprehensive plan amendments. This does not apply to amendments to a development order governing an existing DRI.

Section 8 amends s. 380.0651, F.S., to provide that aggregation review is not triggered when newly acquired lands comprise an area that is less than or equal to 10 percent of the total acreage that is subject to the existing DRI development order, if these lands were acquired subsequent to the development of an existing DRI.

Section 9 amends s. 380.115, F.S., to clarify the right of rescission of existing DRI orders. A development that elects to rescind a development order will be governed by the provisions of s. 380.115, F.S.

Section 10 provides that the bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to the Department of Economic Opportunity, the bill is likely to have a minimal, but indeterminate, fiscal impact due to a reduction in the number and types of situations that result in DRI amendments or extensive review of amendments.[56]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.001, 125.045, 163.3184, 163.3245, 171.046, 380.0555, 380.06, 380.0651, and 380.115.

[56] Department of Economic Opportunity, *Senate Bill 1190 Agency Legislative Bill Analysis* (Jan. 12, 2016) (on file with the Senate Committee on Community Affairs).

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 Rules on February 29, 2016:

- Adds that a county governing board may hold joint public meetings with the governing body or bodies of one or more adjacent municipalities or counties to consider multi-jurisdictional issues at any appropriate public place within the jurisdiction of any participating municipality or county upon the giving of due public notice within the jurisdiction of all participating entities;
- Allows the governing body of a county to designate specific tax increment areas, not exceeding 300 acres, to employ tax increment financing to fund economic development activities, and infrastructure projects that directly benefit the tax increment area;
- Replaces the Administration Commission with DEO as the reviewing entity for plan amendments and rezoning in the Apalachicola Bay Area of Critical State Concern;
- Provides that a DRI is essentially built out if developers are in compliance with the development order but not all the reporting requirements; and
- Adds a required consultation with FDOT when modifying essentially built out agreements in a manner that may impact strategic intermodal facilities.

CS by Community Affairs on January 26, 2016:

- Removes the 30 day requirement on the state land planning agency for final action on recommended orders;
- States that a recommended order becomes a final order 90 days after issuance unless the state has acted under subparagraph 1 or 2, or all parties consent to an extension;
- Adds that after an ALJ recommends an amendment be found not in compliance, the Administration Commission shall issue a final order within 45 days;
- Adds that after an ALJ recommends an amendment be found in compliance, the state land planning agency shall issue a final order within 45 days, and if it fails to do so, the recommended order shall become final;
- Changes the acreage threshold for the expedited annexation of enclaves from 10 acres to 110 acres;
- Provides that developers can exchange one approved land use for another for an essentially built out project if a resolution is adopted and the developer demonstrates the exchange will not result in an increase in any impacts to public facilities;
- Removes the rebuttable presumption for substantial deviations; and
- Adds a provision allowing a governing body of a county to employ tax increment financing to be used to fund economic development activities within the tax increment area. The increment may not exceed 95 percent of the difference in ad valorem taxes as provided in s. 163.387(1)(a), F.S.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (6) is added to section 125.045, Florida Statutes, to read:

125.045 County economic development powers.—

(6) The governing body of a county may designate specific areas, not to exceed 300 acres, to employ tax increment financing for the purposes of this section. For any tax

increment area created pursuant to this section, the governing body of a county shall administer a separate reserve account for the deposit of tax increment revenues. Tax increment revenues, including the proceeds of any revenue bonds secured by, and repaid with, such tax increment revenues, shall be used to fund economic development activities, as referenced in this section, and infrastructure projects which directly benefit the tax increment area, including traffic, transportation and mobility improvements, water and wastewater facilities, utility and site improvements and environmental protection. The funds may not be used for the construction of buildings used solely for retail purposes within the tax increment area. The tax increment authorized under this section shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and

(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area, as shown upon the most recent assessment roll used in connection with the taxation of such property by the county, before establishment of the tax increment area.

Section 2. Paragraph (c) of subsection (2), paragraph (e) of subsection (5), and paragraph (d) of subsection (7) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development that is subject to the state coordinated review process ~~qualifies as a development of regional impact~~ pursuant to s. 380.06; or are new plans for newly incorporated municipalities adopted pursuant to s. 163.3167 must ~~shall~~ follow the state coordinated review process in subsection (4).

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

3. The recommended order submitted under this paragraph becomes a final order 90 days after issuance unless the state land planning agency acts as provided in subparagraph 1. or subparagraph 2., or all parties consent in writing to an extension of the 90-day period.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(d) For a case following the procedures under this subsection, absent a showing of extraordinary circumstances or written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission shall issue a final order~~, in a case proceeding under subsection (5),~~ within 45 days after the issuance of the recommended order~~, unless the parties agree in writing to a longer time~~. If the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days after the issuance of the recommended order. If the state land planning agency fails to timely issue a final order, the recommended order finding the amendment to be in compliance immediately becomes final.

Section 3. Subsection (1) of section 163.3245, Florida Statutes, is amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further

support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at least 5,000 ~~15,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

Section 4. Subsection (2) of section 171.046, Florida Statutes, is amended to read:

171.046 Annexation of enclaves.—

(2) In order to expedite the annexation of enclaves of 110 ~~10~~ acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may:

(a) Annex an enclave by interlocal agreement with the county having jurisdiction of the enclave; or

(b) Annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.

Section 5. Subsection (5), paragraph (b) of subsection (8),

and subsection (9) of section 380.0555, Florida Statutes, are amended to read:

380.0555 Apalachicola Bay Area; protection and designation as area of critical state concern.—

(5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section 380.05(1)-(5) ~~(6)~~, (8), (9), ~~-~~(12), (15), (17), and (21), shall not apply to the area designated by this act for so long as the designation remains in effect. Except as otherwise provided in this act, s. 380.045 shall not apply to the area designated by this act. All other provisions of this chapter shall apply, including ss. 380.07 and 380.11, except that the "local development regulations" in s. 380.05(13) shall include the regulations set forth in subsection (8) for purposes of s. 380.05(13), and the plan or plans submitted pursuant to s. 380.05(14) shall be submitted no later than February 1, 1986. All or part of the area designated by this act may be redesignated pursuant to s. 380.05 as if it had been initially designated pursuant to that section.

(8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT REGULATIONS.—

(b) *Conflicting regulations.*—In the event of any inconsistency between subparagraph (a)1. and subparagraphs (a)2.-11., subparagraph (a)1. shall control. Further, in the event of any inconsistency between subsection (7) and paragraph (a) of this subsection and a development order issued pursuant to s. 380.06, which has become final prior to June 18, 1985, or between subsection (7) and paragraph (a) and an amendment to a final development order, which amendment has been requested prior to April 2, 1985, the development order or amendment

thereto shall control. However, any modification to paragraph (a) enacted by a local government and approved by the state land planning agency ~~Administration Commission~~ pursuant to subsection (9) may provide whether it shall control over an inconsistent provision of a development order or amendment thereto. A development order or any amendment thereto referred to in this paragraph shall not be subject to approval by the state land planning agency ~~Administration Commission~~ pursuant to subsection (9).

(9) MODIFICATION TO PLANS AND REGULATIONS.—Any land development regulation or element of a local comprehensive plan in the Apalachicola Bay Area may be enacted, amended, or rescinded by a local government, but the enactment, amendment, or rescission becomes effective only upon the approval thereof by the state land planning agency ~~Administration Commission~~. The state land planning agency shall review the proposed change to determine if it complies with the principles for guiding development specified in subsection (7) and must approve or reject the requested change as provided in s. 380.05. Further, the state land planning agency, after consulting with the appropriate local government, may, from time to time, recommend the enactment, amendment, or rescission of a land development regulation or element of a comprehensive plan. Within 45 days following the receipt of such recommendation by the state land planning agency or enactment, amendment, or rescission by a local government the commission shall reject the recommendation, enactment, amendment, or rescission or accept it with or without modification and adopt, by rule, any changes. Any such local land development regulation or comprehensive plan or part of

such regulation or plan may be adopted by the commission if it finds that it is in compliance with the principles for guiding development.

Section 6. Subsection (14), paragraph (g) of subsection (15), paragraphs (b) and (e) of subsection (19), and subsection (30) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development is ~~shall be~~ approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

(a) The development is consistent with the local comprehensive plan and local land development regulations.~~;~~

(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~; and~~

(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).

However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development, and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer

may proceed as provided in s. 163.3167(5).

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(g) A local government may ~~shall~~ not issue a permit ~~permits~~ for a development subsequent to the buildout date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after ~~subsequent to~~ the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or

4. The project has been determined to be an essentially built out ~~built-out~~ development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government

comprehensive plan and land development regulations ~~or subject to a modified development-of-regional-impact analysis~~. The parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of ~~As used in~~ this paragraph, a ~~an "essentially built-out"~~ development of regional impact is essentially built out, if ~~means~~:

a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date or reporting requirements; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

The single-family residential portions of a development may be considered "essentially built out" if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a

development may be considered "essentially built out" if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use specified in the agreement. Before issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code. For developments previously determined to impact strategic intermodal facilities as defined in s. 339.63, the local government shall consult with the Department of Transportation before approving the exchange.

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the ~~following~~ criteria in subparagraphs 1.-11. constitutes ~~shall constitute~~ a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review through the notice of proposed change process under this subsection. ~~without the necessity for a finding of same by the local government:~~

1. An increase in the number of parking spaces at an

attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before ~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median

purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for

preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area’s economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph

(f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads which do not affect external access points.

e. Changes to the building design or orientation which stay approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, if there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

l. A phase date extension, if the state land planning agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

m.~~l.~~ Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that does not create the likelihood of any additional regional impact.


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This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m. ~~l.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph 2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-

regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~.~~

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development otherwise subject to the review requirements of this section shall be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with

the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 7. Paragraph (c) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply ~~are applicable~~:

1. Developments that ~~which~~ are otherwise subject to aggregation with a development of regional impact which has received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.

3. Completion of any development that has been vested

pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were authorized to commence development before ~~prior to~~ September 1, 1988, and could not have been required to be aggregated under the law existing before ~~prior to~~ that date.

5. Any development that qualifies for an exemption under s. 380.06(29).

6. Newly acquired lands intended for development in coordination with developed and existing development of regional impact are not subject to aggregation if such newly acquired lands comprise an area equal to, or less than, 10 percent of the total acreage subject to an existing development-of-regional-impact development order.

Section 8. Subsection (1) of section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order pursuant to s. 380.06~~,~~ but is no longer required to undergo development-of-regional-impact

review by operation of a change in the guidelines and standards, a development that ~~or~~ has reduced its size below the thresholds specified in s. 380.0651, ~~or~~ a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects to rescind the development order are ~~shall be~~ governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order must ~~shall~~ be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are ~~shall be~~ doubled and all other criteria are ~~shall be~~ increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as provided in ~~by~~ ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if ~~provided~~ such permit or authorization is subject to enforcement through administrative or judicial remedies.

Section 9. This act shall take effect July 1, 2016.

========== 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 growth management; amending s. 125.045, F.S.; authorizing the governing body of a county to employ tax increment financing in certain areas; requiring the governing body of a county to administer a separate reserve account for tax increment areas for the deposit of tax increment revenues; requiring that tax increment revenues be used to fund only certain activities and projects that directly benefit the tax increment area; specifying requirements for a tax increment; amending s. 163.3184, F.S.; specifying that certain developments must follow the state coordinated review process; providing timeframes within which the Division of Administrative Hearings must transmit certain recommended orders to the Administration Commission; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing a procedure for issuing a final order if the state land planning agency fails to take action; amending s. 163.3245, F.S.; revising the acreage thresholds for sector plans; amending s. 171.046, F.S.; revising the size of

an enclave that a municipality may annex on an expedited basis; amending s. 380.0555, F.S.; revising the applicability of certain requirements and restrictions relating to areas of critical state concern to the Apalachicola Bay Area; providing that such areas may not be recommended for resignation for a certain time period; specifying that the state land planning agency, rather than the Administration Commission, shall approve modifications to certain local plans and regulations in the Apalachicola Bay Area; providing standards for such review; amending s. 380.06, F.S.; authorizing certain changes to approved developments of regional impact; authorizing parties to amend certain development agreements without submittal, review, or approval of a notification of proposed change; revising the meaning of the term "essentially built out" as it relates to such amendments; providing criteria under which one approved land use may be submitted for another approved land use in certain land development agreements under certain circumstances; requiring the local government to consult with the Department of Transportation before approving such exchanges under certain circumstances; specifying that certain proposed changes to certain developments are a substantial deviation; specifying that such developments must undergo further development-of-regional-impact review; providing that certain phase date extensions to amend a development order are not

substantial deviations under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state-coordinated review process; amending s. 380.0651, F.S.; providing that lands acquired for development are not subject to aggregation under certain circumstances; amending s. 380.115, F.S.; providing the procedures to be used by a development that elects to rescind a development order; providing an effective date.

913352

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Amendment to Amendment (810490) (with title amendment)

Delete lines 8 - 36
and insert:
(6)(a) The governing body of a county may designate specific tax increment areas, not to exceed 300 acres, to employ tax increment financing for the purposes of this section. The governing body of the county shall administer a separate reserve account to deposit tax increment revenues for each tax increment

913352

area created pursuant to this subsection.

(b) Tax increment revenues, including the proceeds of any revenue bonds secured by, and repaid with, such tax increment revenues, shall be used to fund economic development activities, as referenced in this section, and the following infrastructure projects and expenditures, when such projects and expenditures directly benefit the tax increment area:

1. Wetland mitigation credits.

2. Public roadways, including fill, grading, road surface, curbs, gutters, and roadway drainage.

3. Reworked public roadways, including fill, grading, road surface, curbs, gutters, and roadway drainage.

4. Site lighting on public property, including roadway lighting and safety lighting.

5. Pedestrian walkways that connect development within the tax increment area to public areas.

6. Mass transit facilities.

7. Off-site highway interchanges, on and off ramps, lane additions, lane widening, reconfigurations, and related highway improvements, such as lighting, striping, and traffic management equipment and systems.

8. Off-site roadway and bridge improvements, including intersections, lane additions, lane widening, reconfigurations, and related improvements, such as lighting, striping, and traffic management equipment and systems.

9. Off-site preparation costs, including grading, excavation, and related costs.

10. Underground utility connection preparation costs, including sanitary sewer, water, power, and communications

913352

utilities.

11. Off-site stormwater management system and retention structures.

Such funds may not be used for the construction of buildings used solely for commercial or retail purposes within the tax increment area.

(c) The tax increment authorized under this section shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and

2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area as shown upon the most recent assessment roll used in connection with the taxation of such property by the county before the establishment of the tax increment area.

(d) The Department of Transportation or the Florida Turnpike Enterprise may not impose any fee on, or require any contribution from, a commercial or retail development within a tax increment finance area to fund, or assist in funding, any transportation infrastructure improvement.

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

And the title is amended as follows:

Delete lines 606 - 607

and insert:

directly benefit the tax increment area; specifying determination requirements for a tax increment; prohibiting the Department of Transportation or the Florida Turnpike Enterprise from imposing certain fees on or requiring certain contributions from a commercial or retail development within a tax increment finance area; amending s.

144428

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Substitute for Amendment (913352) (with title amendment)

Delete lines 8 - 36
and insert:
(6)(a) The governing body of a county may designate specific tax increment areas, not to exceed 300 acres, to employ tax increment financing for the purposes of this section. The governing body of the county shall administer a separate reserve account to deposit tax increment revenues for each tax increment

144428

area created pursuant to this subsection.

(b) Tax increment revenues, including the proceeds of any revenue bonds secured by, and repaid with, such tax increment revenues, shall be used to fund economic development activities, as referenced in this section, and the following infrastructure projects and expenditures, when such projects and expenditures directly benefit the tax increment area:

1. Wetland mitigation credits.

2. Public roadways, including fill, grading, road surface, curbs, gutters, and roadway drainage.

3. Reworked public roadways, including fill, grading, road surface, curbs, gutters, and roadway drainage.

4. Site lighting on public property, including roadway lighting and safety lighting.

5. Pedestrian walkways that connect development within the tax increment area to public areas.

6. Mass transit facilities.

7. Off-site highway interchanges, on and off ramps, lane additions, lane widening, reconfigurations, and related highway improvements, such as lighting, striping, and traffic management equipment and systems.

8. Off-site roadway and bridge improvements, including intersections, lane additions, lane widening, reconfigurations, and related improvements, such as lighting, striping, and traffic management equipment and systems.

9. Off-site preparation costs, including grading, excavation, and related costs.

10. Underground utility connection preparation costs, including sanitary sewer, water, power, gas, and communications

144428

utilities.

11. Off-site stormwater management system and retention structures.

Such funds may not be used for the construction of buildings used solely for commercial or retail purposes within the tax increment area.

(c) The tax increment authorized under this section shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and

2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area as shown upon the most recent assessment roll used in connection with the taxation of such property by the county before the establishment of the tax increment area.

(d) The Department of Transportation or the Florida Turnpike Enterprise may not impose any fee on, or require any contribution from, a commercial or retail development within a tax increment finance area to fund, or assist in funding, any transportation infrastructure improvement.

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

And the title is amended as follows:

144428

Delete lines 606 - 607

and insert:

directly benefit the tax increment area; specifying determination requirements for a tax increment; prohibiting the Department of Transportation or the Florida Turnpike Enterprise from imposing certain fees on or requiring certain contributions from a commercial or retail development within a tax increment finance area; amending s.

970916

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Amendment to Amendment (810490) (with title amendment)

Between lines 88 and 89
insert:

Section 3. Section 163.3204, Florida Statutes, is amended to read:

163.3204 Cooperation by state and regional agencies and local governments.—

(1) The state land planning agency and any ad hoc working

970916

groups appointed by the department and all state and regional agencies involved in the administration and implementation of the Community Planning Act shall cooperate and work with units of local government in the preparation and adoption of comprehensive plans, or elements or portions thereof, and of local land development regulations.

(2) The governing body of a county may hold joint meetings with the governing body of one or more municipalities or the governing body of another county, or counties, to receive and discuss matters regarding land development, economic development, or any other matter of mutual interest. For matters in which statutory provisions require a public hearing before action by the governing body of a county or municipality, any joint meeting held pursuant to this subsection does not replace the required public hearing on such matter within the jurisdiction of each of the individual governing bodies. Notwithstanding s. 125.001, the joint meeting may be held at an appropriate public place within the boundaries of any adjacent municipality or county as prescribed by ordinance or resolution, and upon due public notice.

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

And the title is amended as follows:

Delete line 617

and insert:

agency fails to take action; amending s. 163.3204, F.S.; authorizing local governments to hold joint meetings to discuss matters of mutual interest upon due public notice; providing that such joint meetings

970916

do not replace public hearings under certain circumstances; authorizing such joint meetings to be held at specified public places under certain circumstances; amending s. 163.3245,

222796

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Amendment to Amendment (810490) (with title amendment)

Delete lines 207 - 214
and insert:
However, a local government may approve a change to a development of regional impact provided that the approved change has the effect of reducing building height, density, or intensity of the originally approved development; is a change that is contemplated by the development order; or clarifies

222796

existing development order language. Such approval shall not affect rights, as protected by s. 163.3167(5), to complete the development with the approved change. This provision is also not intended to limit the scope of changes which may be recognized as minor or not otherwise deviating from the general development scheme as authorized by the development of regional impact development order. The approved revised development order shall retain the same protection as afforded by s. 163.3167(5) to the original development order.

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

And the title is amended as follows:

Delete line 632

and insert:

developments of regional impact; specifying that such changes maintain certain protections; authorizing parties

524390

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Amendment to Amendment (810490) (with title amendment)

Before line 5
insert:
Section 1. Section 125.001, Florida Statutes, is amended to read:
125.001 Board meetings; notice.—
(1) Upon the giving of due public notice, regular and special meetings of the board may be held at any appropriate

524390

public place in the county.

(2) The board may hold joint public meetings with the governing body or bodies of one or more adjacent municipalities or counties to consider multi-jurisdictional issues at any appropriate public place within the jurisdiction of any participating municipality or county upon the giving of due public notice within the jurisdiction of all participating municipalities or counties.

(a) To participate in the joint public meeting, the governing body of a county or municipality must first pass a resolution authorizing such participation.

(b) Official votes may not be taken at the joint public meeting.

(c) The joint public meeting may not take the place of any public hearing required by law.

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

And the title is amended as follows:

Delete line 598

and insert:

An act relating to growth management; amending s. 125.001 , F.S.; authorizing local governments to hold joint public meetings to discuss matters of mutual interest upon certain conditions; prohibiting official votes from being taken at such meetings; specifying that such meetings may not take the place of certain required hearings; amending s.

519826

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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The Committee on Rules (Diaz de la Portilla) recommended the following:

Senate Amendment to Amendment (810490) (with title amendment)

Delete lines 8 - 36
and insert:
(6)(a) The governing body of a county may designate specific tax increment areas, not to exceed 300 acres, to employ tax increment financing for the purposes of this section. The governing body of the county shall administer a separate reserve account to deposit tax increment revenues for each tax increment

519826

area created pursuant to this subsection.

(b) Tax increment revenues, including the proceeds of any revenue bonds secured by, and repaid with, such tax increment revenues, shall be used to fund economic development activities, as referenced in this section, and the following infrastructure projects and expenditures, when such projects and expenditures directly benefit the tax increment area:

1. Wetland mitigation credits.

2. Public roadways, including fill, grading, road surface, curbs, gutters, and roadway drainage.

3. Reworked public roadways, including fill, grading, road surface, curbs, gutters, and roadway drainage.

4. Site lighting on public property, including roadway lighting and safety lighting.

5. Pedestrian walkways that connect development within the tax increment area to public areas.

6. Mass transit facilities.

7. Off-site highway interchanges, on and off ramps, lane additions, lane widening, reconfigurations, and related highway improvements, such as lighting, striping, and traffic management equipment and systems.

8. Off-site roadway and bridge improvements, including intersections, lane additions, lane widening, reconfigurations, and related improvements, such as lighting, striping, and traffic management equipment and systems.

9. Off-site preparation costs, including grading, excavation, and related costs.

10. Underground utility connection preparation costs, including sanitary sewer, water, power, gas, and communications

519826

utilities.

11. Off-site stormwater management system and retention structures.

Such funds may not be used for the construction of buildings used solely for commercial or retail purposes within the tax increment area.

(c) The tax increment authorized under this section shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

1. The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and

2. The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area as shown upon the most recent assessment roll used in connection with the taxation of such property by the county before the establishment of the tax increment area.

(d) The Department of Transportation or the Florida Turnpike Enterprise may not impose any fee on, or require any contribution from, a commercial or retail development within a tax increment finance area to fund, or assist in funding, any transportation infrastructure improvement.

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

And the title is amended as follows:

519826

Delete lines 606 - 607

and insert:

directly benefit the tax increment area; specifying determination requirements for a tax increment; prohibiting the Department of Transportation or the Florida Turnpike Enterprise from imposing certain fees on or requiring certain contributions from a commercial or retail development within a tax increment finance area; amending s.

By the Committee on Community Affairs; and Senator Diaz de la Portilla

578-02633-16 20161190c1

A bill to be entitled

An act relating to growth management; amending s. 125.045, F.S.; authorizing the governing body of a county to employ tax increment financing; requiring the governing body of a county to administer a separate reserve account for tax increment areas for the deposit of tax increment revenues; requiring that tax increment revenues be used to fund certain activities and projects which directly benefit the tax increment area; specifying requirements for a tax increment; amending s. 163.3184, F.S.; specifying that certain developments must follow the state coordinated review process; providing timeframes within which the Division of Administrative Hearings must transmit certain recommended orders to the Administration Commission; establishing deadlines for the state land planning agency to take action on recommended orders relating to certain plan amendments; providing a procedure for issuing a final order if the state land planning agency fails to take action; amending s. 163.3245, F.S.; revising the acreage thresholds for sector plans; amending s. 171.046, F.S.; revising the size of an enclave that a municipality may annex on an expedited basis; amending s. 380.06, F.S.; authorizing certain changes to approved developments of regional impact; authorizing parties to amend certain development agreements without submittal, review, or approval of a notification of proposed change; providing criteria under which one approved land use may be submitted for another approved land use in certain land development agreements under certain

578-02633-16 20161190c1

circumstances; specifying that certain proposed changes to certain developments are a substantial deviation; specifying that such developments must undergo further development-of-regional-impact review; providing that certain phase date extensions to amend a development order are not substantial deviations under certain circumstances; specifying conditions under which certain proposed developments are not required to undergo the state-coordinated review process; amending s. 380.0651, F.S.; providing that lands acquired for development are not subject to aggregation under certain circumstances; amending s. 380.115, F.S.; providing the procedures to be used by a development that elects to rescind a development order; providing an effective date.

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

Section 1. Subsection (6) is added to section 125.045, Florida Statutes, to read:

125.045 County economic development powers.—

(6) The governing body of a county may employ tax increment financing for the purposes of this section. For any tax increment area created pursuant to this section, the governing body of a county shall administer a separate reserve account for the deposit of tax increment revenues. Tax increment revenues, including the proceeds of any revenue bonds secured by, and repaid with, such tax increment revenues, shall be used to fund economic development activities and projects which directly

benefit the tax increment area. The tax increment authorized under this section shall be determined annually and shall be the amount equal to a maximum of 95 percent of the difference between:

(a) The amount of ad valorem taxes levied each year by the county, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of the tax increment area; and

(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for the county, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the tax increment area, as shown upon the most recent assessment roll used in connection with the taxation of such property by the county, before establishment of the tax increment area.

Section 2. Paragraph (c) of subsection (2), paragraph (e) of subsection (5), and paragraph (d) of subsection (7) of section 163.3184, Florida Statutes, are amended to read:

163.3184 Process for adoption of comprehensive plan or plan amendment.—

(2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

(c) Plan amendments that are in an area of critical state concern designated pursuant to s. 380.05; propose a rural land stewardship area pursuant to s. 163.3248; propose a sector plan pursuant to s. 163.3245 or an amendment to an adopted sector plan; update a comprehensive plan based on an evaluation and appraisal pursuant to s. 163.3191; propose a development that is subject to the state coordinated review process ~~qualifies as a development of regional impact~~ pursuant to s. 380.06; or are new

plans for newly incorporated municipalities adopted pursuant to s. 163.3167 must ~~shall~~ follow the state coordinated review process in subsection (4).

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(e) If the administrative law judge recommends that the amendment be found in compliance, the judge shall submit the recommended order to the state land planning agency.

1. If the state land planning agency determines that the plan amendment should be found not in compliance, the agency shall make every effort to refer the recommended order and its determination expeditiously to the Administration Commission for final agency action, but at a minimum within the time period provided by s. 120.569.

2. If the state land planning agency determines that the plan amendment should be found in compliance, the agency shall make every effort to enter its final order expeditiously, but at a minimum within the time period provided by s. 120.569.

3. The recommended order submitted under this paragraph becomes a final order 90 days after issuance unless the state land planning agency acts as provided in subparagraph 1. or subparagraph 2., or all parties consent in writing to an extension of the 90-day period.

(7) MEDIATION AND EXPEDITIOUS RESOLUTION.—

(d) For a case following the procedures under this subsection, absent a showing of extraordinary circumstances or written consent of the parties, if the administrative law judge recommends that the amendment be found not in compliance, the Administration Commission shall issue a final order~~, in a case~~

~~proceeding under subsection (5),~~ within 45 days after the issuance of the recommended order~~, unless the parties agree in writing to a longer time~~. If the administrative law judge recommends that the amendment be found in compliance, the state land planning agency shall issue a final order within 45 days after the issuance of the recommended order. If the state land planning agency fails to timely issue a final order, the recommended order finding the amendment to be in compliance immediately becomes final.

Section 3. Subsection (1) of section 163.3245, Florida Statutes, is amended to read:

163.3245 Sector plans.—

(1) In recognition of the benefits of long-range planning for specific areas, local governments or combinations of local governments may adopt into their comprehensive plans a sector plan in accordance with this section. This section is intended to promote and encourage long-term planning for conservation, development, and agriculture on a landscape scale; to further support innovative and flexible planning and development strategies, and the purposes of this part and part I of chapter 380; to facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors; and to avoid duplication of effort in terms of the level of data and analysis required for a development of regional impact, while ensuring the adequate mitigation of impacts to applicable regional resources and facilities, including those within the jurisdiction of other local governments, as would otherwise be provided. Sector plans are intended for substantial geographic areas that include at

least 5,000 ~~15,000~~ acres of one or more local governmental jurisdictions and are to emphasize urban form and protection of regionally significant resources and public facilities. A sector plan may not be adopted in an area of critical state concern.

Section 4. Subsection (2) of section 171.046, Florida Statutes, is amended to read:

171.046 Annexation of enclaves.—

(2) In order to expedite the annexation of enclaves of 110 ~~10~~ acres or less into the most appropriate incorporated jurisdiction, based upon existing or proposed service provision arrangements, a municipality may:

(a) Annex an enclave by interlocal agreement with the county having jurisdiction of the enclave; or

(b) Annex an enclave with fewer than 25 registered voters by municipal ordinance when the annexation is approved in a referendum by at least 60 percent of the registered voters who reside in the enclave.

Section 5. Subsection (14), paragraph (g) of subsection (15), paragraphs (b) and (e) of subsection (19), and subsection (30) of section 380.06, Florida Statutes, are amended to read:

380.06 Developments of regional impact.—

(14) CRITERIA OUTSIDE AREAS OF CRITICAL STATE CONCERN.—If the development is not located in an area of critical state concern, in considering whether the development is ~~shall be~~ approved, denied, or approved subject to conditions, restrictions, or limitations, the local government shall consider whether, and the extent to which:

(a) The development is consistent with the local comprehensive plan and local land development regulations.;

(b) The development is consistent with the report and recommendations of the regional planning agency submitted pursuant to subsection (12).~~; and~~

(c) The development is consistent with the State Comprehensive Plan. In consistency determinations, the plan shall be construed and applied in accordance with s. 187.101(3).

However, a local government may approve a change to a development authorized as a development of regional impact if the change has the effect of reducing the originally approved height, density, or intensity of the development, and if the revised development would have been consistent with the comprehensive plan in effect when the development was originally approved. If the revised development is approved, the developer may proceed as provided in s. 163.3167(5).

(15) LOCAL GOVERNMENT DEVELOPMENT ORDER.—

(g) A local government may ~~shall~~ not issue a permit ~~permits~~ for a development subsequent to the buildout date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) after ~~subsequent to~~ the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with ~~the provisions of~~ subsection (26);

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with

all applicable terms and conditions of the development order except the buildout date, and the amount of proposed development that remains to be built is less than 40 percent of any applicable development-of-regional-impact threshold; or

4. The project has been determined to be an essentially built out ~~built-out~~ development of regional impact through an agreement executed by the developer, the state land planning agency, and the local government, in accordance with s. 380.032, which will establish the terms and conditions under which the development may be continued. If the project is determined to be essentially built out, development may proceed pursuant to the s. 380.032 agreement after the termination or expiration date contained in the development order without further development-of-regional-impact review subject to the local government comprehensive plan and land development regulations ~~or subject to a modified development-of-regional-impact analysis~~. The parties may amend the agreement without submission, review, or approval of a notification of proposed change pursuant to subsection (19). For the purposes of ~~As used in~~ this paragraph, a ~~an "essentially built-out"~~ development of regional impact is essentially built out, if ~~means~~:

a. The developers are in compliance with all applicable terms and conditions of the development order except the buildout date; and

b.(I) The amount of development that remains to be built is less than the substantial deviation threshold specified in paragraph (19)(b) for each individual land use category, or, for a multiuse development, the sum total of all unbuilt land uses as a percentage of the applicable substantial deviation

threshold is equal to or less than 100 percent; or

(II) The state land planning agency and the local government have agreed in writing that the amount of development to be built does not create the likelihood of any additional regional impact not previously reviewed.

The single-family residential portions of a development may be considered "essentially built out" if all of the workforce housing obligations and all of the infrastructure and horizontal development have been completed, at least 50 percent of the dwelling units have been completed, and more than 80 percent of the lots have been conveyed to third-party individual lot owners or to individual builders who own no more than 40 lots at the time of the determination. The mobile home park portions of a development may be considered "essentially built out" if all the infrastructure and horizontal development has been completed, and at least 50 percent of the lots are leased to individual mobile home owners. In order to accommodate changing market demands and achieve maximum land use efficiency in an essentially built out project, when a developer is building out a project, a local government, without the concurrence of the state land planning agency, may adopt a resolution authorizing the developer to exchange one approved land use for another approved land use specified in the agreement. Before issuance of a building permit pursuant to an exchange, the developer must demonstrate to the local government that the exchange ratio will not result in a net increase in impacts to public facilities and will meet all applicable requirements of the comprehensive plan and land development code.

(19) SUBSTANTIAL DEVIATIONS.—

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the ~~following~~ criteria in subparagraphs 1.-11. constitutes ~~shall constitute~~ a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review through the notice of proposed change process under this subsection. ~~without the necessity for a finding of same by the local government:~~

1. An increase in the number of parking spaces at an attraction or recreational facility by 15 percent or 500 spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 15 percent or 1,500 spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25 percent lengthening of an existing runway, or a 25 percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

3. An increase in land area for office development by 15 percent or an increase of gross floor area of office development by 15 percent or 100,000 gross square feet, whichever is greater.

4. An increase in the number of dwelling units by 10 percent or 55 dwelling units, whichever is greater.

5. An increase in the number of dwelling units by 50 percent or 200 units, whichever is greater, provided that 15 percent of the proposed additional dwelling units are dedicated to affordable workforce housing, subject to a recorded land use

restriction that shall be for a period of not less than 20 years and that includes resale provisions to ensure long-term affordability for income-eligible homeowners and renters and provisions for the workforce housing to be commenced before ~~prior to~~ the completion of 50 percent of the market rate dwelling. For purposes of this subparagraph, the term "affordable workforce housing" means housing that is affordable to a person who earns less than 120 percent of the area median income, or less than 140 percent of the area median income if located in a county in which the median purchase price for a single-family existing home exceeds the statewide median purchase price of a single-family existing home. For purposes of this subparagraph, the term "statewide median purchase price of a single-family existing home" means the statewide purchase price as determined in the Florida Sales Report, Single-Family Existing Homes, released each January by the Florida Association of Realtors and the University of Florida Real Estate Research Center.

6. An increase in commercial development by 60,000 square feet of gross floor area or of parking spaces provided for customers for 425 cars or a 10 percent increase, whichever is greater.

7. An increase in a recreational vehicle park area by 10 percent or 110 vehicle spaces, whichever is less.

8. A decrease in the area set aside for open space of 5 percent or 20 acres, whichever is less.

9. A proposed increase to an approved multiuse development of regional impact where the sum of the increases of each land use as a percentage of the applicable substantial deviation

criteria is equal to or exceeds 110 percent. The percentage of any decrease in the amount of open space shall be treated as an increase for purposes of determining when 110 percent has been reached or exceeded.

10. A 15 percent increase in the number of external vehicle trips generated by the development above that which was projected during the original development-of-regional-impact review.

11. Any change that would result in development of any area which was specifically set aside in the application for development approval or in the development order for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, any species protected by 16 U.S.C. ss. 668a-668d, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State. The refinement of the boundaries and configuration of such areas shall be considered under sub-subparagraph (e)2.j.

The substantial deviation numerical standards in subparagraphs 3., 6., and 9., excluding residential uses, and in subparagraph 10., are increased by 100 percent for a project certified under s. 403.973 which creates jobs and meets criteria established by the Department of Economic Opportunity as to its impact on an area's economy, employment, and prevailing wage and skill levels. The substantial deviation numerical standards in subparagraphs 3., 4., 5., 6., 9., and 10. are increased by 50 percent for a project located wholly within an urban infill and

redevelopment area designated on the applicable adopted local comprehensive plan future land use map and not located within the coastal high hazard area.

(e)1. Except for a development order rendered pursuant to subsection (22) or subsection (25), a proposed change to a development order which individually or cumulatively with any previous change is less than any numerical criterion contained in subparagraphs (b)1.-10. and does not exceed any other criterion, or which involves an extension of the buildout date of a development, or any phase thereof, of less than 5 years is not subject to the public hearing requirements of subparagraph (f)3., and is not subject to a determination pursuant to subparagraph (f)5. Notice of the proposed change shall be made to the regional planning council and the state land planning agency. Such notice must include a description of previous individual changes made to the development, including changes previously approved by the local government, and must include appropriate amendments to the development order.

2. The following changes, individually or cumulatively with any previous changes, are not substantial deviations:

a. Changes in the name of the project, developer, owner, or monitoring official.

b. Changes to a setback which do not affect noise buffers, environmental protection or mitigation areas, or archaeological or historical resources.

c. Changes to minimum lot sizes.

d. Changes in the configuration of internal roads which do not affect external access points.

e. Changes to the building design or orientation which stay

approximately within the approved area designated for such building and parking lot, and which do not affect historical buildings designated as significant by the Division of Historical Resources of the Department of State.

f. Changes to increase the acreage in the development, if no development is proposed on the acreage to be added.

g. Changes to eliminate an approved land use, if there are no additional regional impacts.

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, if these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)11. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this sub-subparagraph, the survey, habitat evaluation, or assessment must occur before the time that a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

k. Changes that do not increase the number of external peak hour trips and do not reduce open space and conserved areas within the project except as otherwise permitted by sub-subparagraph j.

l. A phase date extension, if the state land planning

agency, in consultation with the regional planning council and subject to the written concurrence of the Department of Transportation, agrees that the traffic impact is not significant and adverse under applicable state agency rules.

m.~~l.~~ Any other change that the state land planning agency, in consultation with the regional planning council, agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-l. ~~a.-k.~~ and that does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but requires an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the public, the local government shall either deny the application for amendment or adopt an amendment to the development order which approves the application with or without conditions. Following adoption, the local government shall render to the state land planning agency the amendment to the development order. The state land planning agency may appeal, pursuant to s. 380.07(3), the amendment to the development order if the amendment involves sub-subparagraph g., sub-subparagraph h., sub-subparagraph j., sub-subparagraph k., or sub-subparagraph m. ~~l.~~ and if the agency believes that the change creates a reasonable likelihood of new or additional regional impacts.

3. Except for the change authorized by sub-subparagraph

2.f., any addition of land not previously reviewed or any change not specified in paragraph (b) or paragraph (c) shall be presumed to create a substantial deviation. This presumption may be rebutted by clear and convincing evidence.

4. Any submittal of a proposed change to a previously approved development must include a description of individual changes previously made to the development, including changes previously approved by the local government. The local government shall consider the previous and current proposed changes in deciding whether such changes cumulatively constitute a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence:~~.~~

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

b. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c) and (d) and residential use.

6. If a local government agrees to a proposed change, a change in the transportation proportionate share calculation and mitigation plan in an adopted development order as a result of

recalculation of the proportionate share contribution meeting the requirements of s. 163.3180(5)(h) in effect as of the date of such change shall be presumed not to create a substantial deviation. For purposes of this subsection, the proposed change in the proportionate share calculation or mitigation plan may not be considered an additional regional transportation impact.

(30) ~~NEW~~ PROPOSED DEVELOPMENTS.—A ~~new~~ proposed development otherwise subject to the review requirements of this section shall be approved by a local government pursuant to s. 163.3184(4) in lieu of proceeding in accordance with this section. However, if the proposed development is consistent with the comprehensive plan as provided in s. 163.3194(3)(b), the development is not required to undergo review pursuant to s. 163.3184(4) or this section. This subsection does not apply to amendments to a development order governing an existing development of regional impact.

Section 6. Paragraph (c) of subsection (4) of section 380.0651, Florida Statutes, is amended to read:

380.0651 Statewide guidelines and standards.—

(4) Two or more developments, represented by their owners or developers to be separate developments, shall be aggregated and treated as a single development under this chapter when they are determined to be part of a unified plan of development and are physically proximate to one other.

(c) Aggregation is not applicable when the following circumstances and provisions of this chapter apply ~~are applicable~~:

1. Developments that ~~which~~ are otherwise subject to aggregation with a development of regional impact which has

received approval through the issuance of a final development order may ~~shall~~ not be aggregated with the approved development of regional impact. However, ~~nothing contained in~~ this subparagraph does not ~~shall~~ preclude the state land planning agency from evaluating an allegedly separate development as a substantial deviation pursuant to s. 380.06(19) or as an independent development of regional impact.

2. Two or more developments, each of which is independently a development of regional impact that has or will obtain a development order pursuant to s. 380.06.

3. Completion of any development that has been vested pursuant to s. 380.05 or s. 380.06, including vested rights arising out of agreements entered into with the state land planning agency for purposes of resolving vested rights issues. Development-of-regional-impact review of additions to vested developments of regional impact shall not include review of the impacts resulting from the vested portions of the development.

4. The developments sought to be aggregated were authorized to commence development before ~~prior to~~ September 1, 1988, and could not have been required to be aggregated under the law existing before ~~prior to~~ that date.

5. Any development that qualifies for an exemption under s. 380.06(29).

6. Newly acquired lands intended for development in coordination with developed and existing development of regional impact are not subject to aggregation if such newly acquired lands comprise an area equal to, or less than, 10 percent of the total acreage subject to an existing development-of-regional-impact development order.

Section 7. Subsection (1) of section 380.115, Florida Statutes, is amended to read:

380.115 Vested rights and duties; effect of size reduction, changes in guidelines and standards.—

(1) A change in a development-of-regional-impact guideline and standard does not abridge or modify any vested or other right or any duty or obligation pursuant to any development order or agreement that is applicable to a development of regional impact. A development that has received a development-of-regional-impact development order pursuant to s. 380.06~~,~~ but is no longer required to undergo development-of-regional-impact review by operation of a change in the guidelines and standards, a development that ~~or~~ has reduced its size below the thresholds specified in s. 380.0651, ~~or~~ a development that is exempt pursuant to s. 380.06(24) or (29), or a development that elects to rescind the development order are ~~shall be~~ governed by the following procedures:

(a) The development shall continue to be governed by the development-of-regional-impact development order and may be completed in reliance upon and pursuant to the development order unless the developer or landowner has followed the procedures for rescission in paragraph (b). Any proposed changes to those developments which continue to be governed by a development order must ~~shall~~ be approved pursuant to s. 380.06(19) as it existed before a change in the development-of-regional-impact guidelines and standards, except that all percentage criteria are ~~shall be~~ doubled and all other criteria are ~~shall be~~ increased by 10 percent. The development-of-regional-impact development order may be enforced by the local government as

provided in ~~by~~ ss. 380.06(17) and 380.11.

(b) If requested by the developer or landowner, the development-of-regional-impact development order shall be rescinded by the local government having jurisdiction upon a showing that all required mitigation related to the amount of development that existed on the date of rescission has been completed or will be completed under an existing permit or equivalent authorization issued by a governmental agency as defined in s. 380.031(6), if ~~provided~~ such permit or authorization is subject to enforcement through administrative or judicial remedies.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

SB 1190
Bill Number (if applicable)

Topic GROWTH MANAGEMENT

810490
Amendment Barcode (if applicable)

Name CHARLES PATTISON

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing 1000 FRIENDS OF FLORIDA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

1190
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Growth Management

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

CS 1190
Bill Number (if applicable)

Topic Growth Management

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 The Howard Group; The Villages

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)

2/29/16
Meeting Date

1190
Bill Number (if applicable)

Bill as Amended
Amendment Barcode (if applicable)

Topic _____

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Speaking: ☑ For ☐ Against ☐ Information

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

Representing Association of Florida Community Developers

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 Rules

BILL:	CS/SB 1322
INTRODUCER:	Appropriations Committee (Recommended by Appropriations Subcommittee on Criminal and Civil Justice); and Senator Latvala
SUBJECT:	Juvenile Detention Costs
DATE:	February 26, 2016 REVISED: 03/01/16

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Sadberry	ACJ	**Recommend: Fav/CS**
2.	Clodfelter	Kynoch	AP	**Fav/CS**
3.	Clodfelter	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1322 creates a new cost sharing methodology for calculating the shared county and state financial obligations for juvenile detention that reduces the amount that will be paid by counties that are not fiscally constrained (non-fiscally constrained counties) compared to current law. The bill requires non-fiscally constrained counties to pay a total of $42.5 million for detention care costs in Fiscal Year 2016-2017, and requires the state to pay the remaining costs. In subsequent years, the bill requires each non-fiscally constrained county and the state to each pay 50 percent of the total costs of providing detention care in the county. The bill continues current law requiring the state to pay all costs for providing detention care for fiscally constrained counties and juveniles residing out of state.

The bill eliminates "final court disposition" as the demarcation between county and state financial obligations for juvenile detention, replacing it with a cost sharing relationship based on actual costs and county utilization.

The Department of Juvenile Justice (DJJ) indicates that the total required payments for non-fiscally constrained counties in Fiscal Year 2015-2016 is $54.3 million. The bill's provision for non-fiscally constrained counties to pay a total of $42.5 million in shared detention costs for Fiscal Year 2016-2017 will make the counties responsible for paying $11.8 million less than in Fiscal Year 2015-2016. The DJJ estimates that it will need an appropriation of $10.5 million in general revenue funds above the amount appropriated for juvenile detention care in Senate

Bill 2500, the Senate proposed 2016-2017 General Appropriations Bill, to offset the bill's reduction in the counties' payments for Fiscal Year 2016-2017. For Fiscal Year 2017-2018, when the total costs for detention care for non-fiscally constrained counties will be split equally between the state and those counties, the DJJ estimates that it will need an appropriation of $7.9 million more in general revenue funds above the amount appropriated for juvenile detention care in SB 2500. The amount for subsequent years should be similar, with adjustments for variances in costs.

The bill takes effect upon becoming a law.

II. Present Situation:

The DJJ operates a statewide secure detention system for youth who are charged with committing delinquent acts. The detention care process begins when the DJJ receives custody of a juvenile from a law enforcement agency which has taken the juvenile into custody:

- Upon assuming custody, the DJJ decides whether to place the juvenile in detention care as provided in s. 985.25, F.S., based upon an assessment of risk as provided in s. 985.245, F.S.
- If the DJJ places the juvenile in detention care, a court hearing must be held within 24 hours of the time that the juvenile was taken into custody. At the hearing, the court considers a number of factors to determine whether the juvenile should be kept in continued detention. Section 985.255, F.S., provides these factors, which include current offenses, prior history, legal status, and aggravating or mitigating factors.
- If the court orders the juvenile to be held in secure detention, the detention cannot extend beyond 48 hours unless the court holds another hearing and finds in writing that continued detention is necessary to protect the victim from injury.
- The juvenile may be held in detention until a disposition hearing is held to determine whether the juvenile committed a delinquent act and, if necessary, until the juvenile is sentenced.[1]
- A juvenile who is adjudicated delinquent may be kept in detention for a limited time while awaiting placement in a residential commitment program.[2]

The detention program provides 24-hour care and supervision to juveniles in physically secure facilities, with educational programming provided by individual school districts. The DJJ detention staff transports detained youth to and from court and residential commitment facilities.

Currently, the DJJ operates secure detention facilities in 21 counties with a total of more than 1,300 beds. During Fiscal Year 2014-2015, the DJJ served a total of 15,580 individual youth in secure detention facilities. Marion County, Polk County, and Seminole County operate their own detention centers.

[1] Section 985.26, F.S., provides that pre-hearing detention care is limited to 21 days unless the court has commenced an adjudicatory hearing in good faith. For certain serious offenses, the time may be extended to 30 days before an adjudicatory hearing is commenced. There are also provisions for continued detention beyond these limits to account for continuances granted by the court. In such cases, the court must hold a hearing at the end of every 72 hour period to determine whether continued detention is appropriate and whether further continuance of the hearing is needed.

[2] Sections 985.26 and 985.27, F.S., govern the length of time that a juvenile may be held in detention care after an adjudication of delinquency.

In 2004, the Legislature enacted s. 985.686, F.S., requiring joint financial participation by the state and counties in the provision of juvenile detention. The statute made counties responsible for pre-dispositional detention costs and the DJJ responsible for post-dispositional detention costs, costs for detention care in fiscally constrained counties,[3] and costs for out-of-state youth. Historically, the counties were held responsible for 74 percent of detention costs and the state was responsible for 26 percent. The DJJ's apportionment of costs has been a source of administrative litigation by counties.

In June 2013, the First District Court of Appeal (DCA) affirmed an administrative law judge's order invalidating rules that the DJJ had promulgated in 2010 to clarify the state and the counties' responsibilities. According to the order, the rules at issue shifted a greater responsibility for costs to the counties than was required by the relevant statute. The opinion had the effect of significantly decreasing the counties' fiscal responsibility and increasing the state's financial responsibility.[4]

Administrative petitions have been filed to contest reconciliations for fiscal years since 2008-2009. The DJJ initially entered into stipulations relating to Fiscal Years 2009-2010, 2010-2011, and 2011-2012. These stipulations included all detention after violations of probation as solely in the state's share of costs. However, the DJJ subsequently determined the statute required that counties should pay for the costs of new law violations of probation and the state would pay for the costs of other violations of probation. In May 2014, the DJJ promulgated new rules to implement its understanding of the sharing of costs in accordance with the statute.[5] The Florida Association of Counties and a number of individual counties filed administrative challenges to the new rule.[6] In April 2015, the Division of Administrative Hearings (DOAH) upheld the DJJ's interpretation of "final court disposition" and other significant sections of the proposed rule.[7] The decision is currently on appeal in the First DCA.[8]

In 2014 and 2015, a number of counties ceased to pay, or paid a reduced portion, of their share of the costs of detention costs due to their dispute concerning the DJJ's billing. The Implementing Bill for the Fiscal Year 2015-2016 General Appropriations Act included a requirement for the DJJ to notify the Department of Revenue (DOR) when counties don't pay their share of the costs, and for the DOR to transfer funds from the counties revenue sharing accounts to the DJJ to make up any shortfall.[9] Volusia County has not paid its Fiscal Year 2015-2016 share, and

[3] The term "fiscally constrained county" is currently defined to mean "a county within a rural area of opportunity as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than $5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1. Currently, 29 counties are considered fiscally constrained. Prior to 2014, the definition referred to a "rural area of critical economic concern" rather than a "rural area of opportunity," but included the same criteria.

[4] *Dep't of Juvenile Justice v. Okaloosa County*, 113 So.3d 1074 (Fla. 1st DCA 2013).

[5] Rules 63G-1.011, 63G-1.013, 63G-1.016, and 63G-1.017, Florida Rules of Administrative Procedure.

[6] The petitioners were: Volusia County (Case No. 14-2799RP); Broward County (Case No. 14-2800RP); Orange County (Case No. 14-4512RP); and the Florida Association Of Counties and Alachua, Bay, Brevard, Charlotte, Collier, Escambia, Flagler, Hernando, Hillsborough, Lake, Lee, Leon, Manatee, Martin, Nassau, Okaloosa, Palm Beach, Pinellas, Santa Rosa, Sarasota, St. Johns, St. Lucie, and Walton counties (Case No. 14-2801RP). Duval County Jacksonville intervened in all the petitions.

[7] DOAH Final Order in Case Nos. 14-2799RP, 14-2800RP, 14-2801RP and 14-4512RP (April 22, 2015), available at https://www.doah.state.fl.us/ROS/2014/14002799.pdf (last visited February 8, 2016).

[8] Volusia County v. Department of Juvenile Justice, Case No. 1D15-2298 (Fla. 1st District Court of Appeal).

[9] Section 38 of ch. 2015-222, Laws of Florida.

Manatee and Okaloosa counties have made partial payments. These counties have file administrative petition challenging the revenue recovery provision in the DOAH[10], and a number of other counties have filed complaints in circuit court.[11]

III. Effect of Proposed Changes:

Section 1 amends s. 985.686, F.S., relating to shared county and state responsibility for juvenile detention. It adds the term "total shared detention costs" and defines it to mean:

> The amount of funds expended by the department for the costs of detention care for the prior fiscal year. This amount is including the most recent actual certify forward amounts minus any funds it expends on detention care for juveniles residing in fiscally constrained counties or out of state.

For Fiscal Year 2016-2017, the bill requires non-fiscally constrained counties to pay a total of $42.5 million, with each county paying its percentage share of detention use. A county's percentage share of that amount is determined by dividing the number of juvenile detention days for juveniles residing in that county in the most recently completed 12-month period by the total number of detention days for juveniles in all non-fiscally constrained counties during that time period. The bill requires that the DJJ calculate and provide each county with its percentage share by June 1, 2016. Each county is then required to pay its percentage share in 12 equal payments on the first of each month, beginning on July 1, 2016. The state is required to pay the remaining actual costs of detention care.

In Fiscal Year 2015-2016, non-fiscally constrained counties will pay a total of $54.3 million annually. Thus, the bill will reduce the total payment for non-fiscally constrained counties by approximately $11.8 million in Fiscal Year 2016-2017, as compared to what those counties will pay in Fiscal Year 2015-2016.

Beginning in Fiscal Year 2017-2018, the bill will require non-fiscally constrained counties to annually pay a total of 50 percent of total shared detention costs for the prior fiscal year. The bill requires the DJJ to provide each non-fiscally constrained county with its annual percentage share (based upon "the most recently completed 12-month period") of total shared detention costs by June 1, 2017 for Fiscal Year 2017-2018 and each successive fiscal year thereafter. Beginning July 1, non-fiscally constrained counties must make payments in 12 equal installments to the DJJ on the first day of each month of the fiscal year.

The bill continues current law requiring the state to pay the costs of detention in fiscally constrained counties, and codifies current practice by which the state pays detention costs for juveniles who are not residents of Florida. The bill also requires the state to pay all costs of

[10] The administrative petitions are Case No. 15-6458 (Okaloosa County and Manatee County) and Case No. 15-6459 (Volusia County) and are set for hearing on February 19, 2016.

[11] The following counties are plaintiffs in civil complaints that include challenges to the revenue recovery provision: Alachua, Bay, Charlotte, Collier, Hillsborough, Manatee, Marion, Martin, Nassau, Okaloosa, Polk, St. Lucie, and Walton. The cases were all filed in the Circuit Court for the Second Judicial Circuit in and for Leon County and have been consolidated into *Charlotte County, Florida et al. v. Daly*, Case No. 2014 CA 1885 (Fla. 2d Judicial Circuit).

detention care for juveniles housed in state detention centers in counties that provide their own detention care.

Finally, this section of the bill deletes a statutory provision that requires the DOR and the counties to provide technical assistance to the DJJ in order to develop the most cost effective means of collecting payments.

Section 2 amends s. 985.6015(2), F.S., to remove references to predisposition juvenile detention.

Section 3 amends s. 985.688(11), F.S., to remove references to preadjudication detention and preadjudication detention care.

Section 4 provides that the bill will take effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DJJ indicates that the total required payments for non-fiscally constrained counties in Fiscal Year 2015-2016 is $54.3 million.

Under CS/SB 1322, the provision for non-fiscally constrained counties to pay a total of $42.5 million in shared detention costs for Fiscal Year 2016-2017 will make the counties responsible for paying $11.8 million less than in Fiscal Year 2015-2016. The DJJ estimates that it will need an appropriation of $10.5 million in general revenue funds above the amount appropriated for juvenile detention care in Senate Bill 2500, the Senate

2016-2017 General Appropriations Bill, to be able to offset the bill's reduction in the counties' payments for Fiscal Year 2016-2017.

For Fiscal Year 2017-2018, when the total costs for detention care for non-fiscally constrained counties will be split equally between the state and those counties, the DJJ estimates that it will need an appropriation of $7.9 million more in general revenue funds above the amount appropriated for juvenile detention care in SB 2500. The amount for subsequent years should be similar, with adjustments for variances in costs. The table below illustrates the current situation and the effect of the bill on cost sharing:

Effect of SB 1332 on Juvenile Detention Cost Sharing

Fiscal Year	Estimated Total Costs (non-fiscally constrained counties)	State Contribution	State Percentage	Estimated Increase in State Contribution above Fiscal Year 2015-2016	Estimated new GR Needed above SB 2500 Funding	County Share	County Percentage	Difference in County Share as compared to Fiscal Year 2015-2016
2015-2016	$91.5 mil	$37.2 mil	40.70%	N/A	N/A	$54.3 mil	59.30%	N/A
2016-2017	$91.5 mil	$49.0 mil	53.60%	$11.8 mil	$8.8 mil	$42.5 mil	46.40%	(11.8 mil)
2017-2018	$92.8 mil	$46.4 mil	50.00%	$ 9.2 mil	$6.2 mil	$46.4 mil	50.00%	(7.9 mil)

VI. Technical Deficiencies:

- Consideration should be given to amending lines 32-33 to read: "This amount includes the amount of funds certified forward during that fiscal year, but does not include any funds expended or certified forward for detention care for juveniles residing in fiscally constrained counties."
- On line 48, the word "actual" should be deleted to be consistent with the wording on lines 66-67 pertaining to the state paying the remaining costs of detention care.
- On lines 42 and 57-58, consideration should be given to amending the phrase "the most recently completed 12-month period" to allow sufficient time for the department to obtain detention data and calculate each county's annual share of detention days. For example, if the notice is required by June 1, the phrase could be "the 12-month period that ended on the previous April 30."
- The bill implies that the DJJ will provide each county with the total shared detention costs, but does not specify a due date for doing so. For Fiscal Year 2017-2018 and thereafter, it is impractical for the DJJ to be able to provide each county with the total shared detention costs necessary for the county to pay the first installment of its annual percentage share of total shared detention costs on July 1 of each year. Total shared detention costs are based on costs for the prior fiscal year, which ends on the day before the payments are due. Therefore, consideration should be given to requiring that the DJJ provide the total shared detention costs by July 15 and that each county's first payment be due on August 1 of each year. However, this will require adjustment of the payment schedule for Fiscal Year 2016-2017 so that there is not a gap in the requirement to make a payment each month.
- On line 57, the word "in" included in the phrase "in the most recently" should be replaced by "for" to be consistent with the wording of the phrase on lines 41-42.
- On line 79, the word "in" before the word "counties" should be replaced by "who are from." Generally, a juvenile is detained in the state detention center that serves the county in which he or she is taken into custody. The state detention center may not be in the same county

where the child is taken into custody. It is the juvenile's county of residence, and not the county in which the state detention center is located, that determines whether the state pays all costs of detention care for the juvenile.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 985.686, Florida Statutes, and makes conforming amendments to sections 985.6015 and 985.688, 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 Appropriations on February 25, 2016:
The committee substitute:

- Provides that non-fiscally constrained counties will pay a proportionate share of total shared detention costs for the prior fiscal year, rather than the prior calendar year.
- Provides that the percentage share of detention days will be based on the most recently completed 12-month period, rather than the prior calendar year.
- Adds conforming amendments to ss. 985.6015 and 985.688, F.S.

B. Amendments:

None.

By the Committee on Appropriations; and Senator Latvala

576-04204-16 20161322c1

A bill to be entitled

An act relating to juvenile detention costs; amending s. 985.686, F.S.; defining a term; revising the annual contributions by certain counties for the costs of detention care for juveniles; revising the methodology by which the Department of Juvenile Justice determines the percentage share for each county; requiring the state to pay all costs of detention care for juveniles residing out of state and for juveniles residing in state detention centers in counties that provide their own detention care for juveniles; deleting a requirement that the Department of Revenue and the counties provide certain technical assistance to the Department of Juvenile Justice; revising the applicability of specified provisions; amending ss. 985.6015 and 985.688, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraph (c) is added to subsection (2) of section 985.686, Florida Statutes, present subsections (9) and (11) of that section are redesignated as subsections (8) and (10), respectively, and subsections (3) through (7) and present subsections (8) and (10) of that section are amended, to read:

985.686 Shared county and state responsibility for juvenile detention.—

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

(c) "Total shared detention costs" means the amount of funds expended by the department for the costs of detention care for the prior fiscal year. This amount is including the most recent actual certify forward amounts minus any funds it expends

576-04204-16 20161322c1

on detention care for juveniles residing in fiscally constrained counties or out of state.

(3)(a) For the 2016-2017 fiscal year, each county that is not a fiscally constrained county shall pay to the department its annual percentage share of $42.5 million. By June 1, 2016, the department shall calculate and provide to each such county its annual percentage share by dividing the total number of detention days for juveniles residing in that county for the most recently completed 12-month period by the total number of detention days for juveniles in all counties that are not fiscally constrained counties during the same period. Beginning July 1, 2016, each county shall pay to the department its annual percentage share of $42.5 million, which shall be paid in 12 equal payments due on the first day of each month. The state shall pay the remaining actual costs of detention care. This paragraph expires June 30, 2017.

(b) For the 2017-2018 fiscal year, and each fiscal year thereafter, each county that is not a fiscally constrained county shall pay its annual percentage share of 50 percent of the total shared detention costs for the prior fiscal year. By June 1, 2017, and each year thereafter, the department shall calculate and provide to each such county its annual percentage share by dividing the total number of detention days for juveniles residing in that county in the most recently completed 12-month period by the total number of detention days for juveniles in all counties that are not fiscally constrained counties during the same period. The annual percentage share of each county that is not a fiscally constrained county must be multiplied by 50 percent of the total shared detention costs to

determine that county's share of detention costs. Beginning July 1, each county shall pay to the department its share of detention costs, which shall be paid in 12 equal payments due on the first day of each month. The state shall pay the remaining costs of detention care ~~Each county shall pay the costs of providing detention care, exclusive of the costs of any preadjudicatory nonmedical educational or therapeutic services and $2.5 million provided for additional medical and mental health care at the detention centers, for juveniles for the period of time prior to final court disposition. The department shall develop an accounts payable system to allocate costs that are payable by the counties.~~

(4) ~~Notwithstanding subsection (3),~~ The state shall pay all costs of detention care for juveniles residing in ~~for which~~ a fiscally constrained county and for juveniles residing out of state. The state shall pay all costs of detention care for juveniles housed in state detention centers in counties that provide their own detention care for juveniles ~~would otherwise be billed~~.

~~(a) By October 1, 2004, the department shall develop a methodology for determining the amount of each fiscally constrained county's costs of detention care for juveniles, for the period of time prior to final court disposition, which must be paid by the state. At a minimum, this methodology must consider the difference between the amount appropriated to the department for offsetting the costs associated with the assignment of juvenile pretrial detention expenses to the fiscally constrained county and the total estimated costs to the fiscally constrained county, for the fiscal year, of detention care for juveniles for the period of time prior to final court disposition.~~

~~(b) Subject to legislative appropriation and based on the methodology developed under paragraph (a), the department shall provide funding to offset the costs to fiscally constrained counties of detention care for juveniles for the period of time prior to final court disposition. If county matching funds are required by the department to eliminate the difference calculated under paragraph (a) or the difference between the actual costs of the fiscally constrained counties and the amount appropriated in small county grants for use in mitigating such costs, that match amount must be allocated proportionately among all fiscally constrained counties.~~

(5) Each county that is not a fiscally constrained county shall incorporate into its annual county budget sufficient funds to pay its annual percentage share of 50 percent of the total shared detention costs ~~of detention care for juveniles who reside in that county for the period of time prior to final court disposition. This amount shall be based upon the prior use of secure detention for juveniles who are residents of that county, as calculated by the department. Each county shall pay the estimated costs at the beginning of each month. Any difference between the estimated costs and actual costs shall be reconciled at the end of the state fiscal year~~.

(6) Funds paid by the counties to the department pursuant to this section must be deposited ~~Each county shall pay to the department for deposit~~ into the Shared County/State Juvenile Detention Trust Fund ~~its share of the county's total costs for juvenile detention, based upon calculations published by the~~

~~department with input from the counties~~.

(7) The department ~~of Juvenile Justice~~ shall determine each quarter whether the counties ~~of this state~~ are remitting funds as required ~~to the department their share of the costs of detention as required~~ by this section.

~~(8) The Department of Revenue and the counties shall provide technical assistance as necessary to the Department of Juvenile Justice in order to develop the most cost-effective means of collection.~~

(9)~~(10)~~ This section does not apply to a ~~any~~ county that provides detention care for ~~preadjudicated~~ juveniles or that contracts with another county to provide detention care for ~~preadjudicated~~ juveniles.

Section 2. Subsection (2) of section 985.6015, Florida Statutes, is amended to read:

985.6015 Shared County/State Juvenile Detention Trust Fund.—

(2) The fund is established for use as a depository for funds to be used for the costs of ~~predisposition~~ juvenile detention. Moneys credited to the trust fund shall consist of funds from the counties' share of the costs for ~~predisposition~~ juvenile detention.

Section 3. Paragraph (a) of subsection (11) of section 985.688, Florida Statutes, is amended to read:

985.688 Administering county and municipal delinquency programs and facilities.—

(11)(a) Notwithstanding the provisions of this section, a county is in compliance with this section if:

1. The county provides the full cost for ~~preadjudication~~

detention for juveniles;

2. The county authorizes the county sheriff, any other county jail operator, or a contracted provider located inside or outside the county to provide ~~preadjudication~~ detention care for juveniles;

3. The county sheriff or other county jail operator is accredited by the Florida Corrections Accreditation Commission or American Correctional Association; and

4. The facility is inspected annually and meets the Florida Model Jail Standards.

Section 4. This act shall take effect upon becoming a law.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-29-16
Meeting Date

1322
Bill Number (if applicable)

Topic JUVENILE JUSTICE

Amendment Barcode (if applicable)

Name LISA HURLEY

Job Title LEGISLATIVE AFFAIRS DIRECTOR

Address 100 N. MONROE ST
Street

Phone

TAL — 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 ASSOCIATION OF COUNTIES

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)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

SB 1322
Bill Number (if applicable)

Topic Juvenile Detention Costs

Amendment Barcode (if applicable)

Name Carol Bracy

Job Title Consultant

Address 403 East Park Avenue
Street

Phone 850.577.0444

Tallahassee FL 32301
City *State* *Zip*

Email carol@ballardfl.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Martin County Board of County Commissioners

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)

2/29/16
Meeting Date

1322
Bill Number (if applicable)

Topic SB 1322

Amendment Barcode (if applicable)

Name Nicole Fogarty

Job Title Legislative Affairs Director

Address 2300 Virginia Ave
Street

Ft. Pierce FL 34982
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing St. Lucie County Board of County Commissioners

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

2-29-16 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 1322

Meeting Date *Bill Number (if applicable)*

Topic Juvenile Detention Cost Share *Amendment Barcode (if applicable)*

Name Christina K. Daly

Job Title Secretary

Address 2737 Centerview Drive Phone 717-2716

Street

Tallahassee, FL 32399 Email christy.daly@djj.state.fl.us

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information Waive Speaking: ☒ In Support ☐ Against

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

Representing Department of Juvenile Justice

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)

2/29/16
Meeting Date

1322
Bill Number (if applicable)

Topic DJJ Detention Costs

Amendment Barcode (if applicable)

Name Cari Roth

Job Title

Address 215 S. Monroe Suite 815
Street

Phone 850/999-4100

Email croth@deanmead.com

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Charlotte, Manatee & Pinellas Counties

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)

1/29/16
Meeting Date

1322
Bill Number (if applicable)

Topic DJJ Cost Share Legislation

Amendment Barcode (if applicable)

Name Commissioner Georgia Hiller

Job Title Commissioner of Collier County

Address 3299 Tamiami Trail, East Suite 200
Street

Phone

Naples, FL 34112
City *State* *Zip*

Email Georgia.Hiller@CollierGov.Net

Speaking: [X] For [ ] Against [ ] Information

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

Representing

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-29-16
Meeting Date

1322
Bill Number (if applicable)

Topic DJJ

Amendment Barcode (if applicable)

Name Emily [redacted] Buckley

Job Title Gov. Affairs Manager

Address 215 S Monroe St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 425 7807

Email ebuckley@joneswalker.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Palm Beach County

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

2/29/16
Meeting Date

SB 1322
Bill Number (if applicable)

Topic Juv Detention

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise DR.
Street

Largo Fla, 33773
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Pinellas County Florida Government Corruption

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)

2/29/16
Meeting Date

1322
Bill Number (if applicable)

Topic DSJJ

Amendment Barcode (if applicable)

Name Jim Taylor

Job Title Intergovernmental Affairs Manager

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Hillsborough County

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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 Rules

BILL:	SB 7076
INTRODUCER:	Ethics and Elections Committee
SUBJECT:	Legislature
DATE:	February 26, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Carlton	Roberts		**EE Submitted as Committee Bill**
1.	Carlton	Phelps	RC	**Favorable**

I. Summary:

SB 7076 requires the Legislature to convene in Regular Session on January 9, 2018.

II. Present Situation:

The time to convene the 60-day Regular Session[1] of the Legislature is prescribed by the State Constitution. Specifically, Subsection (b) of Section 3 of Article III of the State Constitution provides:

> A regular session of the legislature shall convene on the first Tuesday after the first Monday in March of each odd-numbered year, and on the first Tuesday after the first Monday in March, or such other date as may be fixed by law, of each even-numbered year.[2]

Currently, there is no law fixing the date for the Regular Session to convene in even numbered years. Rather, Chapter 2014-106, Laws of Florida, set January 12, 2016, as the date to convene the 2016 Regular Session. That law applies only to the 2016 Regular Session. The 2018 Regular Session of the Legislature would begin on March 6, 2018, unless changed by law.

III. Effect of Proposed Changes:

SB 7076 requires the Legislature to convene in Regular Session on January 9, 2018.

The bill takes effect upon becoming law.

[1] The length of the Regular Session is prescribed in Article III, s. 3(d), Florida Constitution.
[2] Article III, s. 3(b), Florida Constitution.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill would require the Legislature to enact the state budget 8 weeks earlier than otherwise would be required. Staff has been unable to find any statutory conflict with this earlier start date. However, the Governor is required to submit a copy of his or her recommended balanced budget[3] for the state at least 30 days before the scheduled annual legislative session, unless a later date is requested and approved in writing by the President of the Senate and the Speaker of the House of Representatives. This bill will require the submission of the Governor's budget several weeks earlier than usual. Additionally, revenue estimates for the projected budget would be based on data further removed from the beginning of the fiscal year.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

[3] Section 216.162(1), F.S.

IX. Additional Information:

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

None.

B. Amendments:

None.

By the Committee on Ethics and Elections

582-03694-16 20167076__

A bill to be entitled

An act relating to the Legislature; fixing the date for convening the 2018 Regular Session of the Legislature; providing an effective date.

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

Section 1. In accordance with subsection (b) of Section 3 of Article III of the State Constitution, and in lieu of the date fixed therein, the 2018 Regular Session of the Legislature shall convene on January 9, 2018.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/2016
Meeting Date

Topic _____ Bill Number 7076 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SB 1412
INTRODUCER:	Senator Simmons
SUBJECT:	Conditions of Pretrial Release
DATE:	February 26, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAloon	Cibula	JU	**Favorable**
2.	Cellon	Cannon	CJ	**Favorable**
3.	McAloon	Phelps	RC	**Favorable**

I. Summary:

SB 1412 clarifies that courts have the discretion to issue an order of no contact to a person on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim. Existing law could be read to require a court to issue an order of no contact to every person who is released on pretrial release if there is a victim in the case.

II. Present Situation:

Conditions of Pretrial Release

Section 903.047, F.S., governs the conditions of pretrial release. The conditions include refraining from criminal activity, refraining from contact with the victim, and complying with any other condition imposed.[1] The requirement that a defendant refrain from contact with the victim is implemented through a no contact order. This order includes prohibitions on communicating with the victim, having physical or violent contact with the victim or other named person or his or her property, being within 500 feet of the victim's residence, or being within 500 feet of the victim's place of employment.[2]

A person who fails to comply with the conditions of pretrial release, if the original arrest was for an act of domestic violence, commits a first degree misdemeanor.[3] The statute currently requires that the defendant receive a copy of the order of no contact before he or she is released from custody on pretrial release. The order is effective immediately upon issuance and enforceable for the duration of the pretrial release or until modified by the court.

[1] Section 903.047, F.S.
[2] Section 903.047(1)(b), F.S.
[3] Section 741.29(6), F.S.

2015 No Contact Legislation

Most of the current language of s. 903.047(1)(b), F.S., was enacted through the passage of SB 342 during the 2015 Legislative Session. The 2015 language is italicized below:

> **903.047 Conditions of pretrial release.—**
> (1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant *must*:
> (a) Refrain from criminal activity of any kind.
> (b) Refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure. *An order of no contact is effective immediately and enforceable for the duration of the pretrial release or until it is modified by the court. The defendant shall receive a copy of the order of no contact which specifies the applicable prohibited acts before the defendant is released from custody on pretrial release. As used in this section, unless otherwise specified by the court, the term "no contact" includes the following prohibited acts:*
> *1. Communicating orally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person, with the victim or any other person named in the order. ...*
> *2. Having physical or violent contact with the victim or other named person or his or her property.*
> *3. Being within 500 feet of the victim's or other named person's residence, even if the defendant and the victim or other named person share the residence.*
> *4. Being within 500 feet of the victim's or other named person's vehicle, place of employment, or a specified place frequented regularly by such person.*

The 2015 bill analysis indicates that the intent of SB 342 was to define the basic restrictions imposed on a defendant through a no contact order.[4] The analysis also states the requirement that the order be "effective immediately" was intended to prevent a detainee from making harassing phone calls to a victim while in jail awaiting a pretrial release.

There is no mention in the bill analysis that the bill created statutorily-*mandated* court orders. However, it is *possible* to read existing law as *requiring* a court to enter an order of no contact for all cases for which there is a victim and to serve the defendant with the order before release from jail.

No Contact Condition of Release Case Law – Notice to Defendant Required

In *Pilgore v. State*, the District Court of Appeal held that evidence was insufficient to establish that the defendant was informed of the no contact condition of his pretrial release.[5] Pilgore had been arrested for beating his wife and was released on bond with the condition of having no contact with the victim pursuant to s. 903.047, F.S.[6] Subsequently, Pilgore made contact with the

[4] CS/CS/CS/SB 342, Bill Analysis and Fiscal Impact Statement on No Contact Orders (2015).
[5] *Pilgore v. State*, 876 So. 2d 591 (Fla. 5th DCA 2004).
[6] *Id.* at 591-92.

victim and was charged with violation of a condition of pretrial release pursuant to s. 741.29, F.S.[7]

The *Pilgore* court found the statute requires the imposition of the no contact condition to be proven by substantial competent evidence in order to convict the person of the crime.[8] The statute requires the court to impose the no contact condition on a person charged with domestic violence, but it does not create a presumption the defendant knows that he or she is to have no contact.[9]

In 2008, the Fifth DCA again held that the state had the burden to prove the defendant received adequate notice of his pretrial no contact condition. In *Sheppard v. State*, the court stated "the state has the burden of proving, by substantial, competent evidence, that the condition was imposed on a defendant charged with domestic violence."[10] The court went on to quote its decision in *Pilgore* to state there is no presumption that the defendant knows that he or she is to have no contact.[11]

Therefore, in order to be convicted of violating a no contact order by a person who was arrested for domestic violence, the state must prove by substantial competent evidence the defendant received constructive notice of the no contact condition laid out in s. 903.047, F.S. It cannot be presumed the defendant is on notice of the no contact condition.

III. Effect of Proposed Changes:

This bill clarifies that courts have the *discretion* to issue an order of no contact to a person on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim. It is possible that existing law could be read to *require* a court to issue an order of no contact to every person who is released on pretrial release if there is a victim in the case.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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[7] *Id.* at 592.
[8] *Id*.
[9] *Id*.
[10] *Sheppard v. State*, 974 So. 2d 529, 530 (Fla. 5th DCA 2008).
[11] *Id.* at 530.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill may result in a reduction in judicial workloads if it reduces the number of no contact orders issued.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends 903.047 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Simmons

10-01560-16 20161412__

A bill to be entitled

An act relating to conditions of pretrial release; amending s. 903.047, F.S.; requiring that a defendant be notified in writing if a court issues an order of no contact rather than receive a copy of the order; providing an effective date.

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

Section 1. Subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.—

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant must:

(a) Refrain from criminal activity of any kind.

(b) Refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure. If a court issues an order of no contact, the order is effective immediately and enforceable for the duration of the pretrial release or until it is modified by the court. The defendant shall be notified in writing before he or she is released from custody on pretrial release ~~receive a copy~~ of the order of no contact, which notification must specify ~~specifies~~ the applicable prohibited acts ~~before the defendant is released from custody on pretrial release~~. As used in this section, unless otherwise specified by the court, the term "no contact" includes the following prohibited acts:

1. Communicating orally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person, with the victim or any other person named in the order. If the victim and

10-01560-16 20161412__

the defendant have children in common, at the request of the defendant, the court may designate an appropriate third person to contact the victim for the sole purpose of facilitating the defendant's contact with the children. However, this subparagraph does not prohibit an attorney for the defendant, consistent with rules regulating The Florida Bar, from communicating with any person protected by the no contact order for lawful purposes.

2. Having physical or violent contact with the victim or other named person or his or her property.

3. Being within 500 feet of the victim's or other named person's residence, even if the defendant and the victim or other named person share the residence.

4. Being within 500 feet of the victim's or other named person's vehicle, place of employment, or a specified place frequented regularly by such person.

(c) Comply with all conditions of pretrial release.

Section 2. This act shall take effect July 1, 2016.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

29 Feb 16
Meeting Date

1412
Bill Number (if applicable)

Topic Pretrial Release

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title Pres & CEO

Address 204 S. Monroe
Street

Tall FL 32301
City *State* *Zip*

Phone 577.3032

Email barney@smartjusticealliance.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Fla. Smart Justice Alliance

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)

2/29/2016
Meeting Date

1412
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Pretrial Release

Name Sheldon Gusky

Job Title Executive Director

Address 103 North Gadsden Street
Street

Tallahassee | Florida | 32301
City | *State* | *Zip*

Phone 850.488.6850

Email sgusky@flpda.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

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 Rules

BILL:	CS/SB 460
INTRODUCER:	Rules Committee; and Senator Bradley and others
SUBJECT:	Medical Use of Cannabis
DATE:	March 1, 2016 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	**Favorable**
2.	Clodfelter	Sadberry	ACJ	**Recommend: Favorable**
3.	Pace	Hrdlicka	FP	**Favorable**
4.	Stovall	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 460 expands the regulatory structure relating to dispensing low-THC cannabis and authorizes approved dispensing organizations to cultivate and dispense medical cannabis to eligible patients as defined under the Right to Try Act. The bill defines medical cannabis to include all parts of the cannabis plant that is dispensed only from a dispensing organization for medical use by an eligible patient and includes medical cannabis within the definition of an investigational drug, biological product, or device under the Right to Try Act.

Under the Right to Try Act, an eligible patient is defined as a person who has a terminal condition that is not considered by the treating physician to be reversible, and without life-sustaining procedures the condition will result in death within one year if the condition runs its normal course.

The bill preserves the authorization for the five approved dispensing organizations to continue operations in compliance with law. The bill also provides for the applicant that received the highest aggregate score in the evaluation process and other challengers that have received a final determination from the Division of Administrative Hearing, the Department of Health, or a court of competent jurisdiction that it was entitled to be a dispensing organization to operate as a dispensing organization. The bill provides that a new dispensing organization may operate within the same region with an approved dispensing organization, as applicable.

The bill may result in increased sales tax revenue from new sales of medical cannabis, if it is not determined to be exempt from sales tax. However, it is likely that the fiscal impact would be insignificant due to eligibility restrictions in the Right to Try Act.

The act takes effect upon becoming a law.

II. Present Situation:

Treatment of Marijuana in Florida

Florida law defines cannabis as "all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin,"[1] and places it, along with other sources of THC, on the list of Schedule I controlled substances.[2] The definition excludes "low-THC cannabis" as defined in s. 381.986, F.S., if manufactured, possessed, sold, purchased, delivered, distributed, or dispensed in conformance with that section.

Schedule I controlled substances are substances that have a high potential for abuse and no currently accepted medical use in the United States.[3] As a Schedule I controlled substance, possession and trafficking of cannabis carry criminal penalties that vary from a first degree misdemeanor[4] up to a first degree felony with a mandatory minimum sentence of 15 years in state prison and a $200,000 fine.[5] Paraphernalia[6] that is sold, manufactured, used, or possessed with the intent to be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance, is also prohibited and carries criminal penalties ranging from a first degree misdemeanor to a third degree felony.[7]

Medical Marijuana in Florida: the Compassionate Medical Cannabis Act of 2014

Patient Treatment with Low-THC Cannabis

The Compassionate Medical Cannabis Act of 2014[8] (act) legalized a low tetrahydrocannabinol (THC) and high cannabidiol (CBD) form of cannabis (low-THC cannabis)[9] for medical use[10] by

[1] Section 893.02(3), F.S.
[2] Section 893.03(1)(c)7. and 37., F.S.
[3] Section 893.03(1), F.S.
[4] This penalty is applicable to possession or delivery of less than 20 grams of cannabis. *See* s. 893.13(3) and (6)(b), F.S.
[5] Trafficking in more than 25 pounds, or 300 plants, of cannabis is a first degree felony with a mandatory minimum sentence that varies from 3 to 15 years in state prison depending on the quantity of the cannabis possessed, sold, etc. *See* s. 893.135(1)(a), F.S.
[6] Section 893.145, F.S.
[7] Section 893.147, F.S.
[8] Chapter 2014-157, L.O.F., and s. 381.986, F.S.
[9] Section 381.986(b), F.S., defines "low-THC cannabis," as the dried flowers of the plant *Cannabis* which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight, or the seeds, resin, or any compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.
[10] Section 381.986(1)(c), F.S., defines "medical use" as administration of the ordered amount of low-THC cannabis; and the term does not include the possession, use, or administration by smoking, or the transfer of low-THC cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative. Section 381.986(1)(e),

patients suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms. The act provides that a Florida licensed allopathic or osteopathic physician who has completed the required training[11] and has examined and is treating such a patient may order low-THC cannabis for that patient to treat such disease, disorder, or condition or to alleviate its symptoms, if no other satisfactory alternative treatment options exist for that patient. In order for a physician to order low-THC cannabis for a patient, all of the following conditions must apply:

- The patient is a permanent resident of Florida;
- The physician determines that the risks of ordering low-THC cannabis are reasonable in light of the potential benefit for that patient;[12]
- The physician registers as the orderer of low-THC cannabis for the patient on the compassionate use registry (registry) maintained by the DOH and updates the registry to reflect the contents of the order;
- The physician maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis;
- The physician submits the patient treatment plan quarterly to the University of Florida College of Pharmacy (UFCP) for research on the safety and efficacy of low-THC cannabis on patients; and
- The physician obtains the voluntary informed consent of the patient or the patient's legal guardian to treatment with low-THC cannabis after sufficiently explaining the current state of knowledge in the medical community about the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects.[13]

The act creates exceptions to existing law to allow qualified patients[14] and their legal representatives to purchase, acquire, and possess low-THC cannabis (up to the amount ordered) for that patient's medical use; and to allow dispensing organizations (DO) and their owners, managers, and employees to acquire, possess, cultivate, and dispose of excess product in reasonable quantities to produce low-THC cannabis and to possess, process, and dispense low-THC cannabis. DOs and their owners, managers, and employees are not subject to licensure and regulation under ch. 465, F.S., relating to pharmacies.[15]

F.S., defines "smoking" as burning or igniting a substance and inhaling the smoke; smoking does not include the use of a vaporizer.

[11] Section 381.986(4), F.S., requires such physicians to successfully complete an 8-hour course and examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses the clinical indications for the appropriate use of low-THC cannabis, appropriate delivery mechanisms, contraindications for such use, and the state and federal laws governing its ordering, dispensing, and processing.

[12] If a patient is younger than 18 years of age, a second physician must concur with this determination, and such determination must be documented in the patient's medical record.

[13] Section 381.986(2), F.S.

[14] Section 381.986(1)(d), F.S., defines a "qualified patient" as a Florida resident who has been added by a physician licensed under ch. 458, F.S., or ch. 459, F.S., to the compassionate use registry to receive low-THC cannabis from a DO.

[15] Section 381.986(7), F.S.

Dispensing Organizations under the Act

On November 23, 2015, the Department of Health (DOH) approved a DO in each of the following five regions as required by the act: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida.[16] In order to be approved as a DO, an applicant must possess a certificate of registration issued by the Department of Agriculture and Consumer Services (DACS) for the cultivation of more than 400,000 plants, be operated by a nurseryman, and have been operating as a registered nursery in this state for at least 30 continuous years. Applicants are also required to demonstrate:

- The technical and technological ability to cultivate and produce low-THC cannabis;
- The ability to secure the premises, resources, and personnel necessary to operate as a DO;
- The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances;
- An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department;
- The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department;
- That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. 435.04, F.S; and
- The employment of a medical director, who must be a physician and have successfully completed a course and examination that encompasses appropriate safety procedures and knowledge of low-THC cannabis.[17]

An approved DO must post a $5 million performance bond within 10 business days of approval. The DOH is authorized to charge an initial application fee and a licensure renewal fee, but is not authorized to charge an initial licensure fee.[18] An approved DO must maintain all approval criteria at all times.[19]

Beginning on July 7, 2014, the DOH held several rule workshops[20] to write and adopt rules implementing the provisions of s. 381.986, F.S., and the DOH put forward a proposed rule on September 9, 2014.[21] This proposed rule was challenged by multiple organizations involved in the rulemaking workshops and was found to be an invalid exercise of delegated legislative authority by an administrative law judge on November 14, 2014.[22] Afterward, the DOH held a negotiated rulemaking workshop in February of 2015, which resulted in a new proposed rule

[16] Section 381.986(5)(b), F.S. A map of the dispensing regions and approved dispensing organizations is available on the DOH website at: http://www.floridahealth.gov/_media/ocu/compassionate-dispensing-org-map.pdf (last visited Jan. 14, 2016).
[17] *Id.*
[18] *Id.*
[19] Section 381.986(6), F.S.
[20] An audio recording of the rule development workshops is available on the DOH website at: http://www.floridahealth.gov/programs-and-services/office-of-compassionate-use/rulemaking/index.html (last visited Jan. 14, 2016).
[21] Proposed Rule ch. 64-4, F.A.C., ID 14941024, (Aug. 14, 2014) and changed, ID 15040352, (Sept. 9, 2014).
[22] Tornello Landscape Corp. v. DOH, Case No. 14-4547RP; Fl. Medical Cannabis Assoc. v. DOH, Case No. 14-4517RP; Plants of Ruskin, Inc. v. DOH, Case No. 14-4299RP; Costa Farms, LLC v. DOH, Case No. 14-4296RP (Fla. DOAH 2014). A copy of each Final Order is available on the Division of Administrative Hearings website.

being published on February 6, 2015.[23] The new proposed rule was also challenged on, among other things, the DOH's statement of estimated regulatory costs and the DOH's conclusion that the rule will not require legislative ratification. Hearings were held on April 23 and 24, 2015, and a final order was issued on May 27, 2015, which found the rule to be valid.[24] The rules took effect June 17, 2015, and the DOH held an application period for DO approval which ended on July 8, 2015. The five approved DOs were selected from 28 applications that were submitted.[25]

Several unsuccessful applicants challenged the DOH's selection of the five DOs to the Division of Administrative Hearings (DOAH). Two challenges have been dismissed and these DOAH cases are closed. As of February 6, 2016, the southeast has no outstanding challenges. Four applicants are challenging the selection in the southwest region, three applicants are challenging the selection in the central region, two petitioners are challenging the selection in the northeast region, and one challenger remains in the northwest region.[26]

The Compassionate Use Registry

The act requires the DOH to create a secure, electronic, and online registry for the registration of physicians and patients and for the verification of patient orders by DOs, which is accessible to law enforcement.[27] The registry must allow DOs to record the dispensing of low-THC cannabis, and must prevent an active registration of a patient by multiple physicians. Physicians must register qualified patients with the registry and DOs are required to verify that the patient has an active registration in the registry, that the order presented matches the order contents as recorded in the registry, and that the order has not already been filled before dispensing any low-THC cannabis. DOs are also required to record in the registry the date, time, quantity, and form of low-THC cannabis dispensed.[28] The DOH has indicated that the registry is built and ready to move to the operational phase.[29]

The Office of Compassionate Use and Research on Low-THC Cannabis

The DOH was required to establish the Office of Compassionate Use under the direction of the deputy state health officer to administer the act.[30] The Office of Compassionate Use is authorized to enhance access to investigational new drugs for Florida patients through approved clinical treatment plans or studies by:

- Creating a network of state universities and medical centers recognized for demonstrating excellence in patient-centered coordinated care for persons undergoing cancer treatment and therapy in this state;[31]

[23] Proposed Rule ch. 64-4, ID 15645147, (Feb. 2, 2015).
[24] Baywood Nurseries Co., Inc. v. DOH, Case No. 15-1694RP (Fla. DOAH 2015).
[25] Information about the applications and the approved DOs is available on the DOH, Office of Compassionate Use, Resources website, available at: http://www.floridahealth.gov/programs-and-services/office-of-compassionate-use/resources/index.html (last visited Jan. 18, 2016).
[26] Email from the Department of Health, dated February 5, 2016, on file with the Senate Health Policy Committee.
[27] Section 381.986(5)(a), F.S.
[28] Section 381.986(6), F.S.
[29] Conversation of Health Policy Committee staff with Jennifer Tschetter, Chief of Staff (DOH) (March 20, 2015).
[30] Section 385.212, F.S.
[31] *See* s. 381.925, F.S.

- Making any necessary application to the United States Food and Drug Administration (FDA) or a pharmaceutical manufacturer to facilitate enhanced access to compassionate use for Florida patients; and
- Entering into agreements necessary to facilitate enhanced access to compassionate use for Florida patients.[32]

The act includes several provisions related to research on low-THC cannabis and cannabidiol including:

- Requiring physicians to submit quarterly patient treatment plans to the UFCP for research on the safety and efficacy of low-THC cannabis;[33]
- Authorizing state universities to perform research on cannabidiol and low-THC cannabis and exempting them from the provisions in ch. 893, F.S., for the purposes of such research;[34] and
- Appropriating $1 million to the James and Esther King Biomedical Research Program for research on cannabidiol and its effects on intractable childhood epilepsy.[35]

Medical Marijuana in Florida: The Necessity Defense

Despite the fact that the use, possession, and sale of marijuana are prohibited by state law, Florida courts have found that circumstances can necessitate medical use of marijuana and circumvent the application of criminal penalties. The necessity defense was successfully applied in a marijuana possession case in *Jenks v. State* where the First District Court of Appeal found that "section 893.03 does not preclude the defense of medical necessity" for the use of marijuana if the defendant:

- Did not intentionally bring about the circumstance which precipitated the unlawful act;
- Could not accomplish the same objective using a less offensive alternative available; and
- The evil sought to be avoided was more heinous than the unlawful act.[36]

In the cited case, the defendants, a married couple, were suffering from uncontrollable nausea due to AIDS treatment and had testimony from their physician that he could find no effective alternative treatment. Under these facts, the court found that the defendants met the criteria to qualify for the necessity defense and ordered an acquittal of the charges of cultivating cannabis and possession of drug paraphernalia.

Medical Marijuana Laws in Other States

Currently, 23 states, the District of Columbia, and Guam have some form of law that permits the use of marijuana for medicinal purposes.[37] These laws vary widely in detail but most are similar

[32] Section 385.212, F.S.
[33] Section 381.986(2)(e), F.S.
[34] Section 385.211, F.S.
[35] Chapter 2014-157, L.O.F.
[36] *Jenks v. State*, 582 So.2d 676, 679 (Fla. 1st DCA 1991), *review denied*, 589 So.2d 292 (Fla. 1991).
[37] These states include: Alaska, Arizona, California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, and Washington. California was the first to establish a medical marijuana program in 1996 and New York was the most recent state to pass medical marijuana legislation in June 2014. Seventeen states allow limited access to marijuana products (low-THC and/or high CBD-cannabidiol). Alabama, Florida, Georgia, Iowa, Kentucky, Louisiana,

in that they touch on several recurring themes. For example, most state laws require an identification card and registry for patients and caregivers to use medical marijuana; require the patient to receive certification from up to two physicians that the patient has a qualifying condition before the patient may use medical marijuana; allow a patient to designate a caregiver who can possess the medical marijuana and assist the patient in using the medical marijuana; and provide general restrictions on how medical marijuana can be obtained (self-cultivated or from a dispensary) and where it can be used.[38]

Of the 17 states with low-THC cannabis laws similar to s. 381.986, F.S., most specify that the use of such low-THC cannabis is reserved for patients with epileptic or seizure disorders. Florida allows the treatment of cancer and Georgia allows the treatment of end stage cancer and other specified conditions. Additionally, the definition of law-THC cannabis differs from state to state. The THC level allowed range from as high as below 5 percent to less than 0.3 percent; most states restrict the level of THC to below 1 percent. CBD levels are generally required to be high, with most states requiring at least 10 percent.[39]

Interaction with the Federal Government

The Federal Controlled Substances Act lists marijuana as a Schedule 1 drug and provides no exceptions for medical uses.[40] Possession, manufacture, and distribution of marijuana is a crime under federal law.[41] Although a state's medical marijuana laws protect patients from prosecution for the legitimate use of marijuana under state law, state medical marijuana laws do not protect individuals from prosecution under federal law.

In 2013, the United States Department of Justice (USDOJ) issued statements indicating that the federal government would not pursue cases for low-level drug crimes, leaving such prosecutions largely up to state authorities. The U.S. Attorney General issued a statement that the USDOJ was changing policy such that individuals "who have committed low-level, nonviolent drug offenses, who have no ties to large-scale organizations, gangs, or cartels, will no longer be charged with offenses that impose draconian mandatory minimum sentences… [and] would instead receive sentences better suited to their individual conduct…"[42] Further, the USDOJ issued a memorandum clarifying that the department considers small-scale marijuana use to be a state matter which states may choose to punish and certain operations adhering to state laws legalizing marijuana in conjunction with robust state regulatory systems would be far less likely to come under federal scrutiny.[43] In addition, a rider in recent appropriations acts and continuing

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Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Utah, Virginia, Wisconsin, and Wyoming. National Conference of State Legislatures, *State Medical Marijuana Laws*, (Jan. 8, 2016), available at: http://www.ncsl.org/research/health/state-medical-marijuana-laws.aspx (last visited Jan. 13, 2016).

[38] Analysis by Senate Health Policy committee staff of s*upra* note 36.

[39] *Supra* note 36.

[40] 21 U.S.C. s. 812

[41] The punishments vary depending on the amount of marijuana and the intent with which the marijuana is possessed. *See* 21 U.S.C ss. 841-865.

[42] USDOJ, *Smart on Crime: Reforming the Criminal Justice System for the 21st Century*, (Aug. 2013), p. 3, available at: http://www.justice.gov/ag/smart-on-crime.pdf (last visited on Jan. 13, 2016).

[43] USDOJ Memorandum for all U.S. Attorneys, *"Guidance Regarding Marijuana Enforcement,"* (August 29, 2013), available at: http://www.justice.gov/iso/opa/resources/3052013829132756857467.pdf (last visited Jan. 13, 2016).

resolutions has prohibited the USDOJ from using appropriated funds to prevent specified states (including Florida) from implementing the states own medical marijuana laws.[44]

The Florida Right to Try Act

Section 499.0295, F.S., creates the Right to Try Act which allows drug manufacturers to make investigational drugs, biological products, or devices[45] (experimental treatment) available to an eligible patient (with or without compensation). The Right to Try Act defines an "eligible patient" as a person who meets all of the following requirements:

- Has a terminal condition[46] attested to by that patient's physician and confirmed by a second independent specialist physician;
- Has considered all other treatment options for that condition currently approved by the FDA;
- Has given written informed consent for the use of an experimental treatment, which must include:
  - An explanation of the currently approved products and treatment for the patient's condition;
  - An attestation that the patient concurs with his or her physician in believing that all currently approved products and treatments are unlikely to prolong the patient's life;
  - Identification of the specific experimental treatment the patient is seeking to use;
  - A realistic description of the most likely outcomes of using the experimental treatment;
  - A statement that the patient's health plan or third-party administrator and physician are not obligated to pay for care or treatment consequent to the use of the experimental treatment unless required to do so by law or contract;
  - A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins such treatment and that hospice care may be reinstated once the treatment ends if the patient meets hospice eligibility requirements; and
  - A statement that the patient understands that he or she is liable for all expenses consequent to the use of the experimental treatment and that the liability extends to the patient's estate unless otherwise stated in the contract;[47]
- Has documentation from his or her treating physician that the patient meets the above requirements.[48]

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[44] *See* s. 542, Pub. L. No. 114-113 (Consolidated Appropriations Act, 2016). A recent court order by the U.S. District Court for the Northern District of California recently held that a similar provision in the previous appropriations act (s. 538, Pub. L. No. 113-235) does not prohibit the USDOJ from enforcing violations of *federal* marijuana laws by individuals or businesses who are complying with state medical marijuana laws. U.S. v. Marin Alliance for Medical Marijuana and Shaw, Order re: Motion to Dissolve Permanent Injunction, No. C 98-00086 CB, (Oct. 19, 2015), available at http://www.scribd.com/doc/286089509/US-vs-Marin-Alliance-for-Medical-Marijuana#scribd (last visited Jan. 13, 2016).

[45] Section 499.0295(2)(b), F.S. defines "investigational drug, biological product, or device" as a drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the FDA and remains under investigation in a clinical trial approved by the FDA.

[46] Section 499.0295(2)(c), F.S. defines "terminal condition" as a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible even with the administration of available treatment options currently approved by FDA, and, without the administration of life-sustaining procedures, will result in death within 1 year after diagnosis if the condition runs its normal course.

[47] Section 499.0295(2)(d), F.S.

[48] Section 499.0295(2)(a), F.S.

The Right to Try Act prescribes how the eligible patient's use of the experimental treatment may impact certain third parties including that:

- A health plan, third party administrator, or governmental agency may, but is not required to, provide coverage for the costs of such treatment;[49]
- A hospital or health care facility is not required to provide new or additional services unless such services are approved by that hospital or health care facility;[50]
- The patient's heirs are not liable for any outstanding debt related to the patient's use of such treatment if the patient dies while undergoing such treatment;[51]
- A licensing board and a state entity responsible for Medicare certification may not revoke, fail to renew, suspend, or take other action against a physician's license based solely on the physician's recommendations to an eligible patient regarding access to treatment under the Right to Try Act;[52] and
- The Right to Try Act does not create a private cause of action:
  - Against the manufacturer of the experimental treatment;
  - Against a person or entity involved in the care of an eligible patient who is using the experimental treatment; or
  - For any harm to the patient that is the result of the use of the experimental treatment if the manufacturer or other person or entity complies in good faith with the terms of Right to Try Act and exercises reasonable care.[53]

III. Effect of Proposed Changes:

The bill amends s. 381.986, F.S., relating to the compassionate use of low-THC cannabis and s. 499.0295, F.S., the Right to Try Act, to allow the ordering by physicians and dispensing by DOs of medical cannabis for eligible patients. The bill strengthens the regulatory structure for the cultivation and dispensing of low-THC cannabis and includes cultivation and dispensing of medical cannabis in that regulatory structure.

Section 1 amends s. 381.986, F.S., relating to compassionate use of low-THC cannabis or medical cannabis.

Definitions

The bill defines the following new terms:

- "Cannabis delivery device" means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis or medical cannabis into the human body.
- "Independent testing laboratory" means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a DO.
- "Legal representative" means the qualified patient's:
  - Parent,

[49] Section 499.0295(4), F.S.
[50] Section 499.029(5), F.S.
[51] Section 499.0295(6), F.S.
[52] Section 499.0295(7), F.S.
[53] Section 499.0295(8), F.S.

  - Legal guardian acting pursuant to a court's authorization as required under s. 744.3215(4), F.S.,
  - Health care surrogate acting pursuant to the qualified patient's written consent or a court's authorization as required under s. 765.113, F.S., or
  - An individual who is authorized under a power of attorney to make health care decisions on behalf of the qualified patient.
- "Medical cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a DO for medical use by an eligible patient as defined in the Right to Try Act.

Existing definitions are modified as follows:
- "Dispensing organization" is amended to also provide for the approval by the DOH to transport low-THC cannabis and to cultivate, process, transport, and dispense medical cannabis pursuant to this law.
- "Medical use" now includes medical cannabis and has been modified to exclude the use or administration of low-THC cannabis or medical cannabis:
  - On any form of public transportation,
  - In any public place,
  - In a qualified patient's place of employment, if restricted by his or her employer,
  - In a correctional institution,
  - On the grounds of a preschool, primary school, or secondary school, or
  - On a school bus or in a vehicle, aircraft, or motorboat.[54]
- "Qualified patient" is expanded to include a resident of this state who has been added to the compassionate use registry by a physician licensed under the medical practice act or the osteopathic medical practice act to receive medical cannabis from a dispensing organization.

Physician Ordering and Penalties

A physician who holds an unrestricted license under the Florida Medical Practice Act or the Florida Osteopathic Medical Practice Act is authorized to order:
- Low-THC cannabis, if no other satisfactory alternative treatment options exist, to treat a qualified patient
  - Suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent medical spasms or
  - To alleviate symptoms of such disease, disorder, or condition.
- Medical cannabis to treat an eligible patient.
- A cannabis delivery device for the medical use of low-THC cannabis or medical cannabis.

In addition to the Florida licensure requirement, the physician must:
- Have treated the patient for at least three months immediately preceding the patient's registration in the compassionate use registry.

[54] A patient who uses medical cannabis and a patient's legal representative who administers medical cannabis in or on an excluded place commits a first degree misdemeanor.

- Have successfully completed the 8-hour course and examination relating to the clinical indications for the appropriate use of low-THC cannabis and medical cannabis, appropriate cannabis delivery devices, contraindications for such use, and relevant state and federal laws governing the ordering, dispensing, and possessing of these substances and devices. Successful completion of the course and examination are required for each biennial license renewal.
- Have determined that the risks of treating the patient with low-THC cannabis or medical cannabis are reasonable in light of the potential benefit to the patient. If the patient is younger than 18 years of age, a second physician must concur with this determination.
- Have obtained a voluntary written informed consent from the patient or the patient's legal representative.[55]
- Have registered as the orderer of low-THC cannabis or medical cannabis for the patient on the compassionate use registry.
- Record the amount of low-THC cannabis or medical cannabis ordered for the patient for up to a 45-day supply and the cannabis delivery device needed for the medical use of the ordered low-THC cannabis or medical cannabis. Updates to this order must be recorded in the registry within seven days after any change.
- Maintain a patient treatment plan, which must be submitted quarterly to the University of Florida, College of Pharmacy for research purposes.

The bill no longer requires the patient to be a *permanent* resident of this state prior to the physician ordering low-THC medical cannabis.

The ordering physician may not be a medical director or employed by a DO. A physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a DO is subject to licensure disciplinary action.

The bill adds that a physician commits a first degree misdemeanor if he or she orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition as defined under the Right to Try Act, similar to the existing provision relating to ordering low-THC cannabis.

Unlawful Action by Patients

A person who fraudulently represents that he or she has a terminal condition to a physician for the purpose of being ordered medical cannabis or a cannabis delivery device commits a first degree misdemeanor.

An eligible patient who uses medical cannabis, or a patient's legal representative who administers medical cannabis in or on a place excluded within the definition of medical use commits a first degree misdemeanor.

The bill provides that this law does not exempt a person from being prosecuted for a criminal offense related to impairment or intoxication resulting from the medical use of low-THC

[55] The contents of the information in the informed consent differ for the ordering of low-THC cannabis or medical cannabis.

cannabis or medical cannabis or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

Department of Health Responsibilities

The bill expands the compassionate use registry that is maintained by the DOH to include the registration of the patient's legal representative and to record the ordering of medical cannabis and a cannabis delivery device.

Upon the registration of 250,000 active qualified patients in the compassionate use registry, the DOH is authorized to approve additional DOs, at least one of which is an applicant that is a recognized class member of *Pigford v. Glickman* or *In Re Black Farmers Litigation*[56] and a member of the Black Farmers and Agriculturalists Association. The new DOs must meet the requirements set out for approval of the initial five DOs, except for the requirements that an applicant must possess a valid certificate of registration issued by the DACS which is issued for the cultivation of more than 400,000 plants, be operated by a nurseryman, and have been operated as a registered nursery in this state for at least 30 continuous years.

The bill requires the DOH to monitor physician registration and ordering of medical cannabis or a cannabis delivery device for ordering practices that could facilitate the unlawful diversion or misuse of medical cannabis or a cannabis delivery device and take disciplinary action as indicated. This provision currently applies to monitoring physician activities with respect to low-THC cannabis.

The DOH is authorized to conduct announced or unannounced inspections of DOs and is required to inspect upon receiving a complaint. The DOH is also required to inspect a DO at least every two years to evaluate the DO's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices. The DOH may enter into interagency agreements with the DACS, the Department of Business and professional Regulation, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, and the Agency for Health Care Administration to conduct inspections or perform other responsibilities assigned to the DOH in this bill.

The bill requires the DOH to list all approved DOs, qualified ordering physicians, and medical directors on its website.

The bill authorizes the DOH to issue and renew registration cards, for a fee, to patients and their legal representations, as well as a process for revoking the registration and requiring the card to be returned. The bill provides content and other specifications for the registration card, including but not limited to, a color photograph of the holder and that the card be resistant to counterfeiting or tampering.

The bill authorizes the DOH to impose fines in an amount not to exceed $10,000 on a DO and suspend, revoke, or refuse to renew a DO's approval for specified violations.

[56] *Pigford v. Glickman*, 182 F.R.D. 82 (D.D.C. 1999) or *In Re Black Farmers Litig.*, 856 F. Supp 2d 1(D.D.C. 2011).

The DOH is authorized to adopt rules necessary to implement this bill.

Dispensing Organization Requirements and Authorizations

The bill authorizes:

- The five approved DOs to also cultivate and dispense medical cannabis pursuant to this bill. This authority will also extend to any additional DOs that are authorized.
- A reduction in the amount of the performance bond that a DO must maintain from $5 million to $2 million when the DO begins serving at least 1,000 qualified patients.
- A DO to engage in wholesale purchases and sales of low-THC cannabis or medical cannabis from and to other DOs.
- A DO to use pesticides that the DOH has determined can be safely applied to plants intended for human consumption and prohibits the use of pesticides designated as restricted-use pesticides.[57]

The bill strengthens the regulation of DOs with respect to growing, processing packaging, labeling, dispensing, and transporting low-THC cannabis or medical cannabis as well as the general security of the facility. More specifically, the bill requires a DO to:

- Grow and process low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from any other plant.
- Inspect seeds and growing plants for certain harmful plant pests, notify the DACS within ten days after a determination that a plant is infested or infected, and implement phytosanitary policies and procedures, if applicable.
- Perform fumigation or treatment of plants, or remove and destroy infested or infected plants.[58]
- Test processed low-THC cannabis and medical cannabis before dispensing:
  - For low-THC cannabis, that it meets the definition of low-THC cannabis,
  - For both medical cannabis and low-THC cannabis, that it is safe for human consumption and free from contaminants that are unsafe for human consumption, and
  - Verify test results and provide for two DO employees to sign the results.
- Retain records of all testing and two processed samples from each homogenous batch of cannabis and low-THC cannabis for at least nine months.
- Contract with an independent testing laboratory to perform audits on the DO's standard operating procedures, testing records, and samples; and provide the results to the DOH.
- Package low-THC or medical cannabis in compliance with the United States Poison Prevention Packaging Act and in a receptacle that has a firmly affixed and legible label with specified information.

[57] Section 487.042, F.S., authorizes the DACS to designate by rule a pesticide, or a pesticide applied under certain conditions or for a certain purpose, as a "restricted-use pesticide" if the pesticide, when applied in accordance with its directions for use, warnings, and cautions, for uses for which it is registered or for one or more such uses, or in accordance with a widespread and commonly recognized practice, may generally cause, without additional regulatory restrictions, unreasonable adverse effects on the environment or injury to the applicator or other persons

[58] The fumigation, treatment, removal or destruction is to be done in accordance with ch. 581, F.S., relating to plant industry under regulatory authority of the DACS.

- Require the employee who dispenses the low-THC cannabis, medical cannabis, or a cannabis delivery device to enter his or her name or unique employee identifier into the compassionate use registry when dispensing.
- Verify the patient or patient's legal representative has an active registration in the registry and holds a valid and active registration card.
- Verify in the registry that a physician has ordered the low-THC cannabis, medical cannabis, or a specific type of a cannabis delivery device for the patient and the order has not already been filled.
- Record in the registry the date, time, quantity, and form of low-THC or medical cannabis and the type of cannabis delivery device dispensed.
- Restrict the sale of other substances, such as alcohol or illicit drug-related products, other than physician-ordered cannabis delivery devices.
- Maintain a fully operational security alarm system with specified features or a video surveillance system with specified features.
- Ensure the DO's outdoor premises have sufficient lighting from dusk until dawn.
- Maintain a department-approved tracking system that accounts for key events including when seeds are planted, when plants are harvested and destroyed, and when low-THC cannabis or medical cannabis is transported, sold, stolen, diverted, or lost.
- Restrict dispensing from its premises between the hours of 9:00 p.m. and 7:00 a.m.; however other activities and delivery to a qualified patient may occur 24 hours each day.
- Maintain low-THC cannabis or medical cannabis in a secured, locked room or vault.
- Require at least two employees or two contracted security personnel to be on the premises at all times.
- Require employees and visitors to wear identification badges or passes.
- Implement an alcohol and drug-free workplace policy.
- Report to local law enforcement any theft, diversion, or loss of low-THC cannabis or medical cannabis within 24 hours of discovery.
- Ensure the safe transport of low-THC cannabis or medical cannabis by maintaining a transportation manifest, using only vehicles in good working order, securing low-THC cannabis or medical cannabis in a separate compartment or container within the vehicle, requiring at least two persons in the vehicle when transporting and at least one person while the low-THC cannabis or medical cannabis is being delivered, and providing specific safety and security training to the employees.

The bill also requires the medical director of each DO to hold an active, unrestricted license as a physician under the Florida Medical Practice Act or the Florida Osteopathic Medical Act.

Preemption

The bill preempts to the state all matters regarding the regulation of the cultivation and processing of low-THC cannabis or medical cannabis.

Local government may determine by ordinance the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations. A municipality may govern dispensing facilities located within its

boundaries and a county may govern dispensing facilities located within the unincorporated areas of that county.

Protections from Other Law

The bill provides protection from ss. 893.013, 893.135, 893.147, F.S.,[59] under the Florida Comprehensive Drug Abuse Prevention and Control Act, or any other law, subject to the requirements of this bill to:

- A qualified patient and his or her legal representative to purchase and possess for the patient's medical use up to the amount of low-THC cannabis or medical cannabis ordered for the patient, but not more than a 45-day supply, and a cannabis delivery device ordered for the patient.
- An approved DO and its owners, managers, and employees to manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of reasonable quantities of low-THC cannabis, medical cannabis, or a cannabis delivery device.
- An approved independent testing laboratory to possess, test, transport, and lawfully dispose of low-THC cannabis or medical cannabis as provided by DOH rule.

An approved DO and its owners, manager, and employees are exempt from licensure or regulation under the Florida Pharmacy Act or the Florida Drug, Devices, and Cosmetic Act for activities related to low-THC cannabis, medical cannabis, or a cannabis delivery device.

The bill provides that an approved DO that continues to meet the requirements for approval is presumed to be registered with the DOH and to meet the rules adopted by the DOH or its successor agency for the purpose of dispensing low-THC cannabis or medical cannabis under Florida law. Furthermore, the authority provided to a DO under the Right to Try Act does not impair the approval of a DO.

Section 2 amends s. 499.0295, F.S., relating to experimental treatments for terminal conditions to include within the definition of "investigational drug, biological product, or device" medical cannabis that is manufactured and sold by a DO. A DO is defined under this section of law by referring to the DOH-approved DO under s. 381.986, F.S.

The bill authorizes, upon a physician's order pursuant to s. 381.986, a DO to provide medical cannabis or a cannabis delivery device to an eligible patient.

Section 3 creates an undesignated section of law to address the uncertainty surrounding the challenges to the DOH selection process. The bill ensures that the five approved DOs may continue operating as a DO in compliance with law. The bill requires the DOH to approve as a dispensing organization an applicant that received the highest aggregate score through the department's evaluation process, notwithstanding any prior determination by the DOH that the applicant failed to meet the requirements of s. 381.986, F.S., and for this DO to comply with the bond requirement and other applicable rule requirements.

[59] Specifically, the bill exempts patients from s. 893.13, F.S., related to unauthorized selling, purchasing, manufacturing, and possessing of controlled substances; s. 893.135, F.S., related to trafficking in controlled substances; and s. 893.147, F.S., related to the use, manufacture, possession, and sale of drug paraphernalia.

The bill also provides that if the DOAH, the DOH, or a court of competent jurisdiction makes a final determination that an applicant was entitled to be a DO, that both this DO and currently approved DOs may both operate in the same region.

The bill preserves the ability of the DOH to enforce the rules relating to the compassionate use of low-THC cannabis.

The bill also clarifies that these provisions in this section of the bill do not apply to the three new DOs that will be approved when the compassionate use registry reaches 250,000 active qualified patients.

Section 4. The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The state may see increased sales tax revenue from new sales of medical cannabis that would be generated under the provisions of the bill, if determined taxable. However, it is likely that the fiscal impact would be insignificant due to eligibility restrictions in the Right to Try Act.

B. Private Sector Impact:

The bill may have a positive fiscal impact on approved DOs that may see new sales generated by an increased number of patients to whom they may sell medical cannabis as well as on any newly authorized DOs.

C. Government Sector Impact:

See Tax/Fee Issues.

VI. Technical Deficiencies:

Line 804 requires the DOH to grant approval as a DO to an applicant that meets certain requirements but was not previously approved by the DOH within 10 days before the effective date of this act. Until the act goes into effect, the DOH is not authorized to grant this approval since existing law has no similar provision.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.986 and 499.0295.

The bill creates an undesignated section of 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 Rules on February 29, 2016:

- Creates definitions for cannabis delivery device, independent testing laboratory, legal representative, medical cannabis, and modifies the definition of medical use;
- Adds medical cannabis for the treatment of eligible patients to the regulatory structure for low-THC cannabis;
- Enhances the regulatory structure for and oversight of dispensing organizations and physician ordering;
- Authorizes, when 250,000 active qualified patient registrations are in the compassionate use registry, the approval of three additional dispensing organizations, at least one of which must be a class member of specified litigation and meet other conditions;
- Provides for state preemption of matters pertaining to cultivation and processing, and local determination on the number and location of dispensing facilities;
- Preserves the status and ongoing operations of the approved dispensing organizations; and
- Provides authorization for certain challengers to the evaluation and selection process to operate as dispensing organizations.

B. Amendments:

None.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
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02/23/2016 12:41 PM	.	
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Senator Bradley moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 381.986, Florida Statutes, is amended to read:

381.986 Compassionate use of low-THC and medical cannabis.—

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

(a) "Cannabis delivery device" means an object used, intended for use, or designed for use in preparing, storing, ingesting, inhaling, or otherwise introducing low-THC cannabis

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or medical cannabis into the human body.

(b) ~~(a)~~ "Dispensing organization" means an organization approved by the department to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to this section.

(c) "Independent testing laboratory" means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

(d) "Legal representative" means the qualified patient's parent, legal guardian acting pursuant to a court's authorization as required under s. 744.3215(4), health care surrogate acting pursuant to the qualified patient's written consent or a court's authorization as required under s. 765.113, or an individual who is authorized under a power of attorney to make health care decisions on behalf of the qualified patient.

(e) ~~(b)~~ "Low-THC cannabis" means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

(f) "Medical cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a dispensing organization for medical use by an eligible patient

as defined in s. 499.0295.

(g) ~~(c)~~ "Medical use" means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

1. Possession, use, or administration of low-THC cannabis or medical cannabis by smoking.

2. ~~The term also does not include the~~ Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative on behalf of the qualified patient.

3. Use or administration of low-THC cannabis or medical cannabis:

a. On any form of public transportation.

b. In any public place.

c. In a qualified patient's place of employment, if restricted by his or her employer.

d. In a state correctional institution as defined in s. 944.02 or a correctional institution as defined in s. 944.241.

e. On the grounds of a preschool, primary school, or secondary school.

f. On a school bus or in a vehicle, aircraft, or motorboat.

(h) ~~(d)~~ "Qualified patient" means a resident of this state who has been added to the compassionate use registry by a physician licensed under chapter 458 or chapter 459 to receive low-THC cannabis or medical cannabis from a dispensing organization.

(i) ~~(e)~~ "Smoking" means burning or igniting a substance and inhaling the smoke. Smoking does not include the use of a

vaporizer.

(2) PHYSICIAN ORDERING. ~~Effective January 1, 2015,~~ A physician is authorized to order ~~licensed under chapter 458 or chapter 459 who has examined and is treating a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms may order for the patient's medical use~~ low-THC cannabis to treat a qualified patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms; order low-THC cannabis ~~such disease, disorder, or condition or~~ to alleviate symptoms of such disease, disorder, or condition, if no other satisfactory alternative treatment options exist for the qualified ~~that~~ patient; order medical cannabis to treat an eligible patient as defined in s. 499.0295; or order a cannabis delivery device for the medical use of low-THC cannabis or medical cannabis, only if the physician ~~and all of the following conditions apply~~:

(a) Holds an active, unrestricted license as a physician under chapter 458 or an osteopathic physician under chapter 459;

(b) Has treated the patient for at least 3 months immediately preceding the patient's registration in the compassionate use registry;

(c) Has successfully completed the course and examination required under paragraph (4)(a);

~~(a) The patient is a permanent resident of this state.~~

(d) ~~(b)~~ Has determined ~~The physician determines~~ that the risks of treating the patient with ~~ordering~~ low-THC cannabis or medical cannabis are reasonable in light of the potential benefit to the ~~for that~~ patient. If a patient is younger than 18

years of age, a second physician must concur with this determination, and such determination must be documented in the patient's medical record; ~~.~~

(e) ~~(c) The physician~~ Registers as the orderer of low-THC cannabis or medical cannabis for the named patient on the compassionate use registry maintained by the department and updates the registry to reflect the contents of the order, including the amount of low-THC cannabis or medical cannabis that will provide the patient with not more than a 45-day supply and a cannabis delivery device needed by the patient for the medical use of low-THC cannabis or medical cannabis. The physician must also update the registry within 7 days after any change is made to the original order to reflect the change. The physician shall deactivate the registration of the patient and the patient's legal representative ~~patient's registration~~ when treatment is discontinued; ~~.~~

(f) ~~(d) The physician~~ Maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis or medical cannabis; ~~.~~

(g) ~~(e) The physician~~ Submits the patient treatment plan quarterly to the University of Florida College of Pharmacy for research on the safety and efficacy of low-THC cannabis and medical cannabis on patients; ~~.~~

(h) ~~(f) The physician~~ Obtains the voluntary written informed consent of the patient or the patient's legal representative ~~guardian~~ to treatment with low-THC cannabis after sufficiently explaining the current state of knowledge in the medical

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community of the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects;

(i) Obtains written informed consent as defined in and required under s. 499.0295, if the physician is ordering medical cannabis for an eligible patient pursuant to that section; and

(j) Is not a medical director employed by a dispensing organization.

(3) PENALTIES.—

(a) A physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the physician orders low-THC cannabis for a patient without a reasonable belief that the patient is suffering from:

1. Cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be treated with low-THC cannabis; or

2. Symptoms of cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be alleviated with low-THC cannabis.

(b) A physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the physician orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition as defined in s. 499.0295.

(c) ~~(b)~~ A ~~Any~~ person who fraudulently represents that he or she has cancer, ~~or~~ a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms, or a terminal condition to a physician for the purpose

of being ordered low-THC cannabis, medical cannabis, or a cannabis delivery device by such physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) An eligible patient as defined in s. 499.0295 who uses medical cannabis, and such patient's legal representative who administers medical cannabis, in plain view of or in a place open to the general public, on the grounds of a school, or in a school bus, vehicle, aircraft, or motorboat commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a dispensing organization related to the ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device is subject to disciplinary action under the applicable practice act and s. 456.072(1)(n).

(4) PHYSICIAN EDUCATION.—

(a) Before ordering low-THC cannabis, medical cannabis, or a cannabis delivery device for medical use by a patient in this state, the appropriate board shall require the ordering physician ~~licensed under chapter 458 or chapter 459~~ to successfully complete an 8-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses the clinical indications for the appropriate use of low-THC cannabis and medical cannabis, the appropriate cannabis delivery devices ~~mechanisms~~, the contraindications for such use, and ~~as well as~~ the relevant state and federal laws governing the ordering,


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dispensing, and possessing of these substances and devices ~~this substance~~. The ~~first~~ course and examination shall ~~be presented by October 1, 2014, and shall~~ be administered at least annually ~~thereafter~~. Successful completion of the course may be used by a physician to satisfy 8 hours of the continuing medical education requirements required by his or her respective board for licensure renewal. This course may be offered in a distance learning format.

(b) The appropriate board shall require the medical director of each dispensing organization to hold an active, unrestricted license as a physician under chapter 458 or as an osteopathic physician under chapter 459 and ~~approved under subsection (5) to~~ successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses appropriate safety procedures and knowledge of low-THC cannabis, medical cannabis, and cannabis delivery devices.

(c) Successful completion of the course and examination specified in paragraph (a) is required for every physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device each time such physician renews his or her license. In addition, successful completion of the course and examination specified in paragraph (b) is required for the medical director of each dispensing organization each time such physician renews his or her license.

(d) A physician who fails to comply with this subsection and who orders low-THC cannabis, medical cannabis, or a cannabis delivery device may be subject to disciplinary action under the applicable practice act and under s. 456.072(1)(k).

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(5) DUTIES OF THE DEPARTMENT. ~~By January 1, 2015,~~ The department shall:

(a) Create and maintain a secure, electronic, and online compassionate use registry for the registration of physicians, ~~and~~ patients, and the legal representatives of patients as provided under this section. The registry must be accessible to law enforcement agencies and to a dispensing organization ~~in order~~ to verify the authorization of a patient or a patient's legal representative to possess ~~patient authorization for~~ low-THC cannabis, medical cannabis, or a cannabis delivery device and record the low-THC cannabis, medical cannabis, or cannabis delivery device dispensed. The registry must prevent an active registration of a patient by multiple physicians.

(b) Authorize the establishment of five dispensing organizations to ensure reasonable statewide accessibility and availability as necessary for patients registered in the compassionate use registry and who are ordered low-THC cannabis, medical cannabis, or a cannabis delivery device under this section, one in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida. The department shall develop an application form and impose an initial application and biennial renewal fee that is sufficient to cover the costs of administering this section. An applicant for approval as a dispensing organization must be able to demonstrate:

1. The technical and technological ability to cultivate and produce low-THC cannabis. The applicant must possess a valid certificate of registration issued by the Department of Agriculture and Consumer Services pursuant to s. 581.131 that is

issued for the cultivation of more than 400,000 plants, be operated by a nurseryman as defined in s. 581.011, and have been operated as a registered nursery in this state for at least 30 continuous years.

2. The ability to secure the premises, resources, and personnel necessary to operate as a dispensing organization.

3. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.

4. An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department.

5. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department. Upon approval, the applicant must post a $5 million performance bond. However, upon a dispensing organization's serving at least 1,000 qualified patients, the dispensing organization is only required to maintain a $2 million performance bond.

6. That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. 435.04.

7. The employment of a medical director ~~who is a physician licensed under chapter 458 or chapter 459~~ to supervise the activities of the dispensing organization.

(c) Upon the registration of 250,000 qualified patients in the compassionate use registry, approve three additional dispensing organizations, which must meet the requirements of

subparagraphs (b)2.-7. for such approval.

(d) Allow a dispensing organization to make a wholesale purchase of low-THC cannabis or medical cannabis from, or a distribution of low-THC cannabis or medical cannabis to, another dispensing organization.

(e) ~~(c)~~ Monitor physician registration and ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device for ordering practices that could facilitate unlawful diversion or misuse of low-THC cannabis, medical cannabis, or a cannabis delivery device and take disciplinary action as indicated.

~~(d) Adopt rules necessary to implement this section.~~

(6) DISPENSING ORGANIZATION.—An approved dispensing organization must, at all times, ~~shall~~ maintain compliance with the criteria demonstrated for selection and approval as a dispensing organization under subsection (5) and the criteria required in this subsection ~~at all times~~.

(a) When growing low-THC cannabis or medical cannabis, a dispensing organization:

1. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. 487.042.

2. Must grow and process low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from any other plant.

3. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural interests of the state, notify the Department of Agriculture and

Consumer Services within 10 calendar days after a determination that a plant is infested or infected by such plant pest, and implement and maintain phytosanitary policies and procedures.

4. Must perform fumigation or treatment of plants, or the removal and destruction of infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

(b) When processing low-THC cannabis or medical cannabis, a dispensing organization must:

1. Process the low-THC cannabis or medical cannabis in an enclosure separate from other plants or products.

2. Test the processed low-THC cannabis and medical cannabis before they are dispensed. Results must be verified and signed by two dispensing organization employees. Before dispensing low-THC cannabis, the dispensing organization must determine that the test results indicate that the low-THC cannabis meets the definition of low-THC cannabis and, for medical cannabis and low-THC cannabis, that all medical cannabis and low-THC cannabis is safe for human consumption and free from contaminants that are unsafe for human consumption. The dispensing organization must retain records of all testing and samples of each homogenous batch of cannabis and low-THC cannabis for at least 9 months. The dispensing organization must contract with an independent testing laboratory to perform audits on the dispensing organization's standard operating procedures, testing records, and samples and provide the results to the department to confirm that the low-THC cannabis or medical cannabis meets the requirements of this section and that the medical cannabis and low-THC cannabis is safe for human consumption.

3. Package the low-THC cannabis or medical cannabis in

compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

4. Package the low-THC cannabis or medical cannabis in a receptacle that has a firmly affixed and legible label stating the following information:

a. A statement that the low-THC cannabis or medical cannabis meets the requirements of subparagraph 2.;

b. The name of the dispensing organization from which the medical cannabis or low-THC cannabis originates; and

c. The batch number and harvest number from which the medical cannabis or low-THC cannabis originates.

5. Reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of testing pursuant to the audit required under subparagraph 2.

(c) When dispensing low-THC cannabis, medical cannabis, or a cannabis delivery device, a dispensing organization:

1. May not dispense more than a 45-day supply of low-THC cannabis or medical cannabis to a patient or the patient's legal representative.

2. Must have the dispensing organization's employee who dispenses the low-THC cannabis, medical cannabis, or a cannabis delivery device enter into the compassionate use registry his or her name or unique employee identifier.

3. Must verify in the compassionate use registry that a physician has ordered the low-THC cannabis, medical cannabis, or a specific type of a cannabis delivery device for the patient.

4. May not dispense or sell any other type of cannabis, alcohol, or illicit drug-related product, including pipes, bongs, or wrapping papers, other than a physician-ordered

cannabis delivery device required for the medical use of low-THC cannabis or medical cannabis, while dispensing low-THC cannabis or medical cannabis.

5. Must ~~Before dispensing low-THC cannabis to a qualified patient, the dispensing organization shall~~ verify that the patient has an active registration in the compassionate use registry, the patient or patient's legal representative holds a valid and active registration card, the order presented matches the order contents as recorded in the registry, and the order has not already been filled.

6. Must, upon dispensing the low-THC cannabis, medical cannabis, or cannabis delivery device, ~~the dispensing organization shall~~ record in the registry the date, time, quantity, and form of low-THC cannabis or medical cannabis dispensed and the type of cannabis delivery device dispensed.

(d) To ensure the safety and security of its premises and any off-site storage facilities, and to maintain adequate controls against the diversion, theft, and loss of low-THC cannabis, medical cannabis, or cannabis delivery devices, a dispensing organization shall:

1.a. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors; pressure switches; and duress, panic, and hold-up alarms; or

b. Maintain a video surveillance system that records continuously 24 hours each day and meets at least one of the following criteria:

(I) Cameras are fixed in a place that allows for the clear identification of persons and activities in controlled areas of

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the premises. Controlled areas include grow rooms, processing rooms, storage rooms, disposal rooms or areas, and point-of-sale rooms;

(II) Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points;

(III) Recorded images must clearly and accurately display the time and date; or

(IV) Retain video surveillance recordings for a minimum of 45 days or longer upon the request of a law enforcement agency.

2. Ensure that the organization's outdoor premises have sufficient lighting from dusk until dawn.

3. Establish and maintain a tracking system approved by the department that traces the low-THC cannabis or medical cannabis from seed to sale. The tracking system shall include notification of key events as determined by the department, including when cannabis seeds are planted, when cannabis plants are harvested and destroyed, and when low-THC cannabis or medical cannabis is transported, sold, stolen, diverted, or lost.

4. Not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.

5. Store low-THC cannabis or medical cannabis in a secured, locked room or a vault.

6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the

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premises at all times.

7. Require each employee to wear a photo identification badge at all times while on the premises.

8. Require each visitor to wear a visitor's pass at all times while on the premises.

9. Implement an alcohol and drug-free workplace policy.

10. Report to local law enforcement within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of low-THC cannabis or medical cannabis.

(e) To ensure the safe transport of low-THC cannabis or medical cannabis to dispensing organization facilities, independent testing laboratories, or patients, the dispensing organization must:

1. Maintain a transportation manifest, which must be retained for at least 1 year.

2. Ensure only vehicles in good working order are used to transport low-THC cannabis or medical cannabis.

3. Lock low-THC cannabis or medical cannabis in a separate compartment or container within the vehicle.

4. Require at least two persons to be in a vehicle transporting low-THC cannabis or medical cannabis, and require at least one person to remain in the vehicle while the low-THC cannabis or medical cannabis is being delivered.

5. Provide specific safety and security training to employees transporting or delivering low-THC cannabis or medical cannabis.

(7) DEPARTMENT AUTHORITY AND RESPONSIBILITIES.—

(a) The department may conduct announced or unannounced inspections of dispensing organizations to determine compliance

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with this section or rules adopted pursuant to this section.

(b) The department shall inspect a dispensing organization upon complaint or notice provided to the department that the dispensing organization has dispensed low-THC cannabis or medical cannabis containing any mold, bacteria, or other contaminant that may cause or has caused an adverse effect to human health or the environment.

(c) The department shall conduct at least a biennial inspection of each dispensing organization to evaluate the dispensing organization's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The department may enter into interagency agreements with the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, and the Agency for Health Care Administration, and such agencies are authorized to enter into an interagency agreement with the department, to conduct inspections or perform other responsibilities assigned to the department under this section.

(e) The department must make a list of all approved dispensing organizations and qualified ordering physicians and medical directors publicly available on its website.

(f) The department may establish a system for issuing and renewing registration cards for patients and their legal representatives, establish the circumstances under which the cards may be revoked by or must be returned to the department, and establish fees to implement such system. The department must

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require, at a minimum, the registration cards to:

1. Provide the name, address, and date of birth of the patient or legal representative.

2. Have a full-face, passport-type, color photograph of the patient or legal representative taken within the 90 days immediately preceding registration.

3. Identify whether the cardholder is a patient or legal representative.

4. List a unique numeric identifier for the patient or legal representative that is matched to the identifier used for such person in the department's compassionate use registry.

5. Provide the expiration date, which shall be 1 year after the date of the physician's initial order of low-THC cannabis or medical cannabis.

6. For the legal representative, provide the name and unique numeric identifier of the patient that the legal representative is assisting.

7. Be resistant to counterfeiting or tampering.

(g) The department may impose reasonable fines not to exceed $10,000 on a dispensing organization for any of the following violations:

1. Violating this section, s. 499.0295, or department rule.

2. Failing to maintain qualifications for approval.

3. Endangering the health, safety, or security of a qualified patient.

4. Improperly disclosing personal and confidential information of the qualified patient.

5. Attempting to procure dispensing organization approval by bribery, fraudulent misrepresentation, or extortion.

6. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the business of a dispensing organization.

7. Making or filing a report or record that the dispensing organization knows to be false.

8. Willfully failing to maintain a record required by this section or department rule.

9. Willfully impeding or obstructing an employee or agent of the department in the furtherance of his or her official duties.

10. Engaging in fraud or deceit, negligence, incompetence, or misconduct in the business practices of a dispensing organization.

11. Making misleading, deceptive, or fraudulent representations in or related to the business practices of a dispensing organization.

12. Having a license or the authority to engage in any regulated profession, occupation, or business that is related to the business practices of a dispensing organization suspended, revoked, or otherwise acted against by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law.

13. Violating a lawful order of the department or an agency of the state, or failing to comply with a lawfully issued subpoena of the department or an agency of the state.

(h) The department may suspend, revoke, or refuse to renew a dispensing organization’s approval if a dispensing organization commits any of the violations in paragraph (g).

(i) The department shall renew the approval of a dispensing organization biennially if the dispensing organization meets the requirements of this section and pays the biennial renewal fee.

(j) The department may adopt rules necessary to implement this section.

(8) PREEMPTION.—

(a) All matters regarding the regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations are preempted to the state.

(b) A municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries. A county may determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county.

(9) ~~(7)~~ EXCEPTIONS TO OTHER LAWS.—

(a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, a qualified patient and the qualified patient's legal representative may purchase and possess for the patient's medical use up to the amount of low-THC cannabis or medical cannabis ordered for the patient, but not more than a 45-day supply, and a cannabis delivery device ordered for the patient.

(b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of

this section, an approved dispensing organization and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device. For purposes of this subsection, the terms "manufacture," "possession," "deliver," "distribute," and "dispense" have the same meanings as provided in s. 893.02.

(c) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved independent testing laboratory may possess, test, transport, and lawfully dispose of low-THC cannabis or medical cannabis as provided by department rule.

(d) ~~(c)~~ An approved dispensing organization and its owners, managers, and employees are not subject to licensure or regulation under chapter 465 or chapter 499 for manufacturing, possessing, selling, delivering, distributing, dispensing, or lawfully disposing of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device.

(e) An approved dispensing organization that continues to meet the requirements for approval is presumed to be registered with the department and to meet the regulations adopted by the department or its successor agency for the purpose of dispensing medical cannabis or low-THC cannabis under state law. Additionally, the authority provided to a dispensing organization in s. 499.0295 does not impair the approval of a dispensing organization.

(f) This subsection does not preclude a person from being

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prosecuted for a criminal offense related to impairment or intoxication resulting from the medical use of low-THC cannabis or medical cannabis or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

Section 2. Subsections (2) and (3) of section 499.0295, Florida Statutes, are amended to read:

499.0295 Experimental treatments for terminal conditions.—

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

(a) "Dispensing organization" means an organization approved by the Department of Health under s. 381.986(5) to cultivate, process, transport, and dispense low-THC cannabis, medical cannabis, and cannabis delivery devices.

(b) ~~(a)~~ "Eligible patient" means a person who:

1. Has a terminal condition that is attested to by the patient's physician and confirmed by a second independent evaluation by a board-certified physician in an appropriate specialty for that condition;

2. Has considered all other treatment options for the terminal condition currently approved by the United States Food and Drug Administration;

3. Has given written informed consent for the use of an investigational drug, biological product, or device; and

4. Has documentation from his or her treating physician that the patient meets the requirements of this paragraph.

(c) ~~(b)~~ "Investigational drug, biological product, or device" means:

1. A drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not

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been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration; or

2. Medical cannabis that is manufactured and sold by a dispensing organization.

(d) ~~(c)~~ "Terminal condition" means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible even with the administration of available treatment options currently approved by the United States Food and Drug Administration, and, without the administration of life-sustaining procedures, will result in death within 1 year after diagnosis if the condition runs its normal course.

(e) ~~(d)~~ "Written informed consent" means a document that is signed by a patient, a parent of a minor patient, a court-appointed guardian for a patient, or a health care surrogate designated by a patient and includes:

1. An explanation of the currently approved products and treatments for the patient's terminal condition.

2. An attestation that the patient concurs with his or her physician in believing that all currently approved products and treatments are unlikely to prolong the patient's life.

3. Identification of the specific investigational drug, biological product, or device that the patient is seeking to use.

4. A realistic description of the most likely outcomes of using the investigational drug, biological product, or device. The description shall include the possibility that new,

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unanticipated, different, or worse symptoms might result and death could be hastened by the proposed treatment. The description shall be based on the physician's knowledge of the proposed treatment for the patient's terminal condition.

5. A statement that the patient's health plan or third-party administrator and physician are not obligated to pay for care or treatment consequent to the use of the investigational drug, biological product, or device unless required to do so by law or contract.

6. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if the treatment ends and the patient meets hospice eligibility requirements.

7. A statement that the patient understands he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that liability extends to the patient's estate, unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

(3) Upon the request of an eligible patient, a manufacturer may, or upon a physician's order pursuant to s. 381.986, a dispensing organization may:

(a) Make its investigational drug, biological product, or device available under this section.

(b) Provide an investigational drug, biological product, ~~or~~ device, or cannabis delivery device as defined in s. 381.986 to an eligible patient without receiving compensation.

(c) Require an eligible patient to pay the costs of, or the

costs associated with, the manufacture of the investigational drug, biological product, ~~or~~ device, or cannabis delivery device as defined in s. 381.986.

Section 3. (1) Notwithstanding s. 381.986(5)(b), Florida Statutes, a dispensing organization that receives notice from the Department of Health that it is approved as a region's dispensing organization; posts a $5 million performance bond in compliance with rule 64-4.002(5)(e), Florida Administrative Code; meets the requirements of and requests cultivation authorization pursuant to rule 64-4.005(2), Florida Administrative Code; and expends at least $100,000 to fulfill its legal obligations as a dispensing organization shall be granted cultivation authorization by the Department of Health and is authorized to operate as a dispensing organization for the full term of its original approval and all subsequent renewals pursuant to s. 381.986, Florida Statutes.

(2) An action taken before or after the effective date of this section by the Division of Administrative Hearings, the Department of Health, or a court of competent jurisdiction which has the effect of approving, pursuant to s. 381.986(5)(b), Florida Statutes, a dispensing organization that does not meet the criteria of subsection (1) does not impair an authorization granted pursuant to subsection (1) to a dispensing organization meeting the criteria of subsection (1). During the operations of any dispensing organization that meets the criteria of subsection (1), the Department of Health may enforce rule 64-4.005, Florida Administrative Code, as filed on June 17, 2015.

Section 4. This act shall take effect upon becoming a law.

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708 ================ T I T L E A M E N D M E N T ================
709 And the title is amended as follows:
710 Delete everything before the enacting clause
711 and insert:
712 A bill to be entitled
713 An act relating to the medical use of cannabis;
714 amending s. 381.986, F.S.; providing and revising
715 definitions; revising requirements for physicians
716 ordering low-THC cannabis; providing requirements for
717 physicians ordering medical cannabis; providing
718 penalties; providing that a physician who orders low-
719 THC cannabis or medical cannabis and receives related
720 compensation from a dispensing organization is subject
721 to disciplinary action; revising requirements relating
722 to physician education; requiring the Department of
723 Health to include legal representative information in
724 its online compassionate use registry; revising
725 requirements for dispensing organizations; revising
726 duties and responsibilities of the department;
727 revising standards to be met and maintained by
728 dispensing organizations; authorizing an independent
729 testing laboratory and its employees to possess, test,
730 transport, and lawfully dispose of low-THC cannabis or
731 medical cannabis under certain circumstances;
732 exempting an approved dispensing organization and
733 related persons from the Florida Drug and Cosmetic
734 Act; providing applicability; amending s. 499.0295,
735 F.S.; defining the term “dispensing organization”;
736 revising the definition of the term “investigational

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drug, biological product, or device”; authorizing certain manufacturers to dispense cannabis delivery devices; authorizing certain dispensing organizations to provide low-THC cannabis, medical cannabis, and cannabis delivery devices to eligible patients; providing for dispensing organizations meeting specified criteria to be granted authorization to cultivate certain cannabis and operate as dispensing organizations; providing applicability; providing an effective date.

701276

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Richter) recommended the following:

Senate Amendment to Amendment (369986)

Delete line 273
and insert:
subparagraphs (b)2.-7., and demonstrate the technical and technological ability to cultivate and produce low-THC cannabis.

767616

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
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The Committee on Rules (Latvala) recommended the following:

Senate Amendment to Amendment (369986)

Delete line 329
and insert:
and low-THC cannabis is safe for human consumption. The dispensing organization must also contract with the independent testing laboratory to test the low-THC cannabis for microbes, mold, pesticides, fertilizers, harmful chemicals, and toxins.

836270

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment to Amendment (369986)

Between lines 443 and 444
insert:
(f) A dispensing organization shall annually provide to the department:
1. The name, address, and date of birth of each of the dispensing organization's current employees who will participate in the operations of the dispensing organization; and
2. Proof that all employees of the dispensing organization have passed a level 2 background screening pursuant to chapter

836270

435 within the prior year.

697494

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

Senate Amendment to Amendment (369986)

Delete lines 270 - 273
and insert:
(c) The department shall award dispensing licenses to all qualified nurseries that timely submitted applications pursuant to paragraph (b) on or before the July 8, 2015, application deadline established by the department and were found to have satisfied the requirements of Part II of the department's Application for Low-THC Cannabis Dispensing Organization Approval. The department shall also award 5 additional licenses


697494

to new applicants that can demonstrate the technical and technological ability to cultivate and produce low-THC cannabis. The additional licenses shall be awarded without regard to the requirements of paragraph (b). An applicant that applied in more than one region or that is corporately affiliated with another applicant or licenseholder, may only receive one license. For purposes of this paragraph, the term "corporately affiliated" means applicants that are related to each other in a significant way or that have a legal affiliations with any owner, investor, or related party of the other applicant. The department shall notify qualifying nurseries of the award of a dispensing license within 10 days after the effective date of this law. The department's award of such licenses is final and is not subject to legal challenge by third parties pursuant to chapter 120.

127736

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

Senate Amendment to Amendment (369986)

Delete lines 270 - 273

and insert:

(c) Upon the registration of 15,000 qualified patients in the compassionate use registry, approve five additional dispensing organizations, which must meet the requirements of subparagraphs (b)2.-7. for such approval. The solicitation of applicants must occur within 30 days after the qualified patient totals are met, and the applicants will have 15 calendar days to submit their applications to the department. The department

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shall score the bids and award the new licenses within 90 calendar days after the closing date. Any challenge to the department's award is governed by s. 120.57(3). A license may not be awarded to any applicant that holds a current license or that is corporately affiliated with another applicant or license holder, or whose owner, investor, or related party is corporately affiliated with another applicant or license holder.

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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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The Committee on Rules (Galvano) recommended the following:

Senate Substitute for Amendment (369986) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 381.986, Florida Statutes, is amended to read:

381.986 Compassionate use of low-THC and medical cannabis.—

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

(a) "Cannabis delivery device" means an object used, intended for use, or designed for use in preparing, storing,

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ingesting, inhaling, or otherwise introducing low-THC cannabis or medical cannabis into the human body.

(b) ~~(a)~~ "Dispensing organization" means an organization approved by the department to cultivate, process, transport, and dispense low-THC cannabis or medical cannabis pursuant to this section.

(c) "Independent testing laboratory" means a laboratory, including the managers, employees, or contractors of the laboratory, which has no direct or indirect interest in a dispensing organization.

(d) "Legal representative" means the qualified patient's parent, legal guardian acting pursuant to a court's authorization as required under s. 744.3215(4), health care surrogate acting pursuant to the qualified patient's written consent or a court's authorization as required under s. 765.113, or an individual who is authorized under a power of attorney to make health care decisions on behalf of the qualified patient.

(e) ~~(b)~~ "Low-THC cannabis" means a plant of the genus *Cannabis*, the dried flowers of which contain 0.8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin that is dispensed only from a dispensing organization.

(f) "Medical cannabis" means all parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, sale, derivative, mixture, or preparation of the plant or its seeds or resin that is dispensed only from a

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dispensing organization for medical use by an eligible patient as defined in s. 499.0295.

(g) ~~(c)~~ "Medical use" means administration of the ordered amount of low-THC cannabis or medical cannabis. The term does not include the:

1. Possession, use, or administration of low-THC cannabis or medical cannabis by smoking.

2. ~~The term also does not include the~~ Transfer of low-THC cannabis or medical cannabis to a person other than the qualified patient for whom it was ordered or the qualified patient's legal representative on behalf of the qualified patient.

3. Use or administration of low-THC cannabis or medical cannabis:

a. On any form of public transportation.

b. In any public place.

c. In a qualified patient's place of employment, if restricted by his or her employer.

d. In a state correctional institution as defined in s. 944.02 or a correctional institution as defined in s. 944.241.

e. On the grounds of a preschool, primary school, or secondary school.

f. On a school bus or in a vehicle, aircraft, or motorboat.

(h) ~~(d)~~ "Qualified patient" means a resident of this state who has been added to the compassionate use registry by a physician licensed under chapter 458 or chapter 459 to receive low-THC cannabis or medical cannabis from a dispensing organization.

(i) ~~(e)~~ "Smoking" means burning or igniting a substance and

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inhaling the smoke. Smoking does not include the use of a vaporizer.

(2) PHYSICIAN ORDERING. ~~Effective January 1, 2015,~~ A physician is authorized to order ~~licensed under chapter 458 or chapter 459 who has examined and is treating a patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms may order for the patient's medical use~~ low-THC cannabis to treat a qualified patient suffering from cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms; order low-THC cannabis ~~such disease, disorder, or condition or~~ to alleviate symptoms of such disease, disorder, or condition, if no other satisfactory alternative treatment options exist for the qualified ~~that~~ patient; order medical cannabis to treat an eligible patient as defined in s. 499.0295; or order a cannabis delivery device for the medical use of low-THC cannabis or medical cannabis, only if the physician ~~and all of the following conditions apply~~:

(a) Holds an active, unrestricted license as a physician under chapter 458 or an osteopathic physician under chapter 459;

(b) Has treated the patient for at least 3 months immediately preceding the patient's registration in the compassionate use registry;

(c) Has successfully completed the course and examination required under paragraph (4)(a);

~~(a) The patient is a permanent resident of this state.~~

(d) ~~(b)~~ Has determined ~~The physician determines~~ that the risks of treating the patient with ~~ordering~~ low-THC cannabis or medical cannabis are reasonable in light of the potential

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benefit to the ~~for that~~ patient. If a patient is younger than 18 years of age, a second physician must concur with this determination, and such determination must be documented in the patient's medical record;~~.~~

(e)~~(c) The physician~~ Registers as the orderer of low-THC cannabis or medical cannabis for the named patient on the compassionate use registry maintained by the department and updates the registry to reflect the contents of the order, including the amount of low-THC cannabis or medical cannabis that will provide the patient with not more than a 45-day supply and a cannabis delivery device needed by the patient for the medical use of low-THC cannabis or medical cannabis. The physician must also update the registry within 7 days after any change is made to the original order to reflect the change. The physician shall deactivate the registration of the patient and the patient's legal representative ~~patient's registration~~ when treatment is discontinued;~~.~~

(f)~~(d) The physician~~ Maintains a patient treatment plan that includes the dose, route of administration, planned duration, and monitoring of the patient's symptoms and other indicators of tolerance or reaction to the low-THC cannabis or medical cannabis;~~.~~

(g)~~(e) The physician~~ Submits the patient treatment plan quarterly to the University of Florida College of Pharmacy for research on the safety and efficacy of low-THC cannabis and medical cannabis on patients;~~.~~

(h)~~(f) The physician~~ Obtains the voluntary written informed consent of the patient or the patient's legal representative ~~guardian~~ to treatment with low-THC cannabis after sufficiently

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explaining the current state of knowledge in the medical community of the effectiveness of treatment of the patient's condition with low-THC cannabis, the medically acceptable alternatives, and the potential risks and side effects;

(i) Obtains written informed consent as defined in and required under s. 499.0295, if the physician is ordering medical cannabis for an eligible patient pursuant to that section; and

(j) Is not a medical director employed by a dispensing organization.

(3) PENALTIES.—

(a) A physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the physician orders low-THC cannabis for a patient without a reasonable belief that the patient is suffering from:

1. Cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be treated with low-THC cannabis; or

2. Symptoms of cancer or a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle spasms that can be alleviated with low-THC cannabis.

(b) A physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, if the physician orders medical cannabis for a patient without a reasonable belief that the patient has a terminal condition as defined in s. 499.0295.

(c) ~~(b)~~ A ~~Any~~ person who fraudulently represents that he or she has cancer, ~~or~~ a physical medical condition that chronically produces symptoms of seizures or severe and persistent muscle

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spasms, or a terminal condition to a physician for the purpose of being ordered low-THC cannabis, medical cannabis, or a cannabis delivery device by such physician commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(d) An eligible patient as defined in s. 499.0295 who uses medical cannabis, and such patient's legal representative who administers medical cannabis, in plain view of or in a place open to the general public, on the grounds of a school, or in a school bus, vehicle, aircraft, or motorboat, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(e) A physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device and receives compensation from a dispensing organization related to the ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device is subject to disciplinary action under the applicable practice act and s. 456.072(1)(n).

(4) PHYSICIAN EDUCATION.—

(a) Before ordering low-THC cannabis, medical cannabis, or a cannabis delivery device for medical use by a patient in this state, the appropriate board shall require the ordering physician ~~licensed under chapter 458 or chapter 459~~ to successfully complete an 8-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses the clinical indications for the appropriate use of low-THC cannabis and medical cannabis, the appropriate cannabis delivery devices ~~mechanisms~~, the contraindications for such use, and ~~as well as~~

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the relevant state and federal laws governing the ordering, dispensing, and possessing of these substances and devices ~~this substance~~. The ~~first~~ course and examination shall ~~be presented by October 1, 2014, and shall~~ be administered at least annually ~~thereafter~~. Successful completion of the course may be used by a physician to satisfy 8 hours of the continuing medical education requirements required by his or her respective board for licensure renewal. This course may be offered in a distance learning format.

(b) The appropriate board shall require the medical director of each dispensing organization to hold an active, unrestricted license as a physician under chapter 458 or as an osteopathic physician under chapter 459 and ~~approved under subsection (5) to~~ successfully complete a 2-hour course and subsequent examination offered by the Florida Medical Association or the Florida Osteopathic Medical Association that encompasses appropriate safety procedures and knowledge of low-THC cannabis, medical cannabis, and cannabis delivery devices.

(c) Successful completion of the course and examination specified in paragraph (a) is required for every physician who orders low-THC cannabis, medical cannabis, or a cannabis delivery device each time such physician renews his or her license. In addition, successful completion of the course and examination specified in paragraph (b) is required for the medical director of each dispensing organization each time such physician renews his or her license.

(d) A physician who fails to comply with this subsection and who orders low-THC cannabis, medical cannabis, or a cannabis delivery device may be subject to disciplinary action under the

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applicable practice act and under s. 456.072(1)(k).

(5) DUTIES OF THE DEPARTMENT. ~~By January 1, 2015,~~ The department shall:

(a) Create and maintain a secure, electronic, and online compassionate use registry for the registration of physicians, ~~and~~ patients, and the legal representatives of patients as provided under this section. The registry must be accessible to law enforcement agencies and to a dispensing organization ~~in order~~ to verify the authorization of a patient or a patient's legal representative to possess ~~patient authorization for~~ low-THC cannabis, medical cannabis, or a cannabis delivery device and record the low-THC cannabis, medical cannabis, or cannabis delivery device dispensed. The registry must prevent an active registration of a patient by multiple physicians.

(b) Authorize the establishment of five dispensing organizations to ensure reasonable statewide accessibility and availability as necessary for patients registered in the compassionate use registry and who are ordered low-THC cannabis, medical cannabis, or a cannabis delivery device under this section, one in each of the following regions: northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida. The department shall develop an application form and impose an initial application and biennial renewal fee that is sufficient to cover the costs of administering this section. An applicant for approval as a dispensing organization must be able to demonstrate:

1. The technical and technological ability to cultivate and produce low-THC cannabis. The applicant must possess a valid certificate of registration issued by the Department of

Agriculture and Consumer Services pursuant to s. 581.131 that is issued for the cultivation of more than 400,000 plants, be operated by a nurseryman as defined in s. 581.011, and have been operated as a registered nursery in this state for at least 30 continuous years.

2. The ability to secure the premises, resources, and personnel necessary to operate as a dispensing organization.

3. The ability to maintain accountability of all raw materials, finished products, and any byproducts to prevent diversion or unlawful access to or possession of these substances.

4. An infrastructure reasonably located to dispense low-THC cannabis to registered patients statewide or regionally as determined by the department.

5. The financial ability to maintain operations for the duration of the 2-year approval cycle, including the provision of certified financials to the department. Upon approval, the applicant must post a $5 million performance bond. However, upon a dispensing organization's serving at least 1,000 qualified patients, the dispensing organization is only required to maintain a $2 million performance bond.

6. That all owners and managers have been fingerprinted and have successfully passed a level 2 background screening pursuant to s. 435.04.

7. The employment of a medical director ~~who is a physician licensed under chapter 458 or chapter 459~~ to supervise the activities of the dispensing organization.

(c) Upon the registration of 250,000 active qualified patients in the compassionate use registry, approve three

dispensing organizations, which must meet the requirements of subparagraphs (b)2.-7. and demonstrate the technical and technological ability to cultivate and produce low-THC cannabis.

(d) Allow a dispensing organization to make a wholesale purchase of low-THC cannabis or medical cannabis from, or a distribution of low-THC cannabis or medical cannabis to, another dispensing organization.

(e) ~~(c)~~ Monitor physician registration and ordering of low-THC cannabis, medical cannabis, or a cannabis delivery device for ordering practices that could facilitate unlawful diversion or misuse of low-THC cannabis, medical cannabis, or a cannabis delivery device and take disciplinary action as indicated.

~~(d) Adopt rules necessary to implement this section.~~

(6) DISPENSING ORGANIZATION.—An approved dispensing organization must, at all times, ~~shall~~ maintain compliance with the criteria demonstrated for selection and approval as a dispensing organization under subsection (5) and the criteria required in this subsection ~~at all times~~.

(a) When growing low-THC cannabis or medical cannabis, a dispensing organization:

1. May use pesticides determined by the department, after consultation with the Department of Agriculture and Consumer Services, to be safely applied to plants intended for human consumption, but may not use pesticides designated as restricted-use pesticides pursuant to s. 487.042.

2. Must grow low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from any other plant.

3. Must inspect seeds and growing plants for plant pests that endanger or threaten the horticultural and agricultural

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interests of the state, notify the Department of Agriculture and Consumer Services within 10 calendar days after a determination that a plant is infested or infected by such plant pest, and implement and maintain phytosanitary policies and procedures.

4. Must perform fumigation or treatment of plants, or the removal and destruction of infested or infected plants, in accordance with chapter 581 and any rules adopted thereunder.

(b) When processing low-THC cannabis or medical cannabis, a dispensing organization must:

1. Process the low-THC cannabis or medical cannabis within an enclosed structure and in a room separate from other plants or products.

2. Test the processed low-THC cannabis and medical cannabis before they are dispensed. Results must be verified and signed by two dispensing organization employees. Before dispensing low-THC cannabis, the dispensing organization must determine that the test results indicate that the low-THC cannabis meets the definition of low-THC cannabis and, for medical cannabis and low-THC cannabis, that all medical cannabis and low-THC cannabis is safe for human consumption and free from contaminants that are unsafe for human consumption. The dispensing organization must retain records of all testing and samples of each homogenous batch of cannabis and low-THC cannabis for at least 9 months. The dispensing organization must contract with an independent testing laboratory to perform audits on the dispensing organization’s standard operating procedures, testing records, and samples and provide the results to the department to confirm that the low-THC cannabis or medical cannabis meets the requirements of this section and that the medical cannabis

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and low-THC cannabis is safe for human consumption.

3. Package the low-THC cannabis or medical cannabis in compliance with the United States Poison Prevention Packaging Act of 1970, 15 U.S.C. ss. 1471 et seq.

4. Package the low-THC cannabis or medical cannabis in a receptacle that has a firmly affixed and legible label stating the following information:

a. A statement that the low-THC cannabis or medical cannabis meets the requirements of subparagraph 2.;

b. The name of the dispensing organization from which the medical cannabis or low-THC cannabis originates; and

c. The batch number and harvest number from which the medical cannabis or low-THC cannabis originates.

5. Reserve two processed samples from each batch and retain such samples for at least 9 months for the purpose of testing pursuant to the audit required under subparagraph 2.

(c) When dispensing low-THC cannabis, medical cannabis, or a cannabis delivery device, a dispensing organization:

1. May not dispense more than a 45-day supply of low-THC cannabis or medical cannabis to a patient or the patient's legal representative.

2. Must have the dispensing organization's employee who dispenses the low-THC cannabis, medical cannabis, or a cannabis delivery device enter into the compassionate use registry his or her name or unique employee identifier.

3. Must verify in the compassionate use registry that a physician has ordered the low-THC cannabis, medical cannabis, or a specific type of a cannabis delivery device for the patient.

4. May not dispense or sell any other type of cannabis,

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alcohol, or illicit drug-related product, including pipes, bongs, or wrapping papers, other than a physician-ordered cannabis delivery device required for the medical use of low-THC cannabis or medical cannabis, while dispensing low-THC cannabis or medical cannabis.

5. Must ~~Before dispensing low-THC cannabis to a qualified patient, the dispensing organization shall~~ verify that the patient has an active registration in the compassionate use registry, the patient or patient's legal representative holds a valid and active registration card, the order presented matches the order contents as recorded in the registry, and the order has not already been filled.

6. Must, upon dispensing the low-THC cannabis, medical cannabis, or cannabis delivery device, ~~the dispensing organization shall~~ record in the registry the date, time, quantity, and form of low-THC cannabis or medical cannabis dispensed and the type of cannabis delivery device dispensed.

(d) To ensure the safety and security of its premises and any off-site storage facilities, and to maintain adequate controls against the diversion, theft, and loss of low-THC cannabis, medical cannabis, or cannabis delivery devices, a dispensing organization shall:

1.a. Maintain a fully operational security alarm system that secures all entry points and perimeter windows and is equipped with motion detectors; pressure switches; and duress, panic, and hold-up alarms; or

b. Maintain a video surveillance system that records continuously 24 hours each day and meets at least one of the following criteria:

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(I) Cameras are fixed in a place that allows for the clear identification of persons and activities in controlled areas of the premises. Controlled areas include grow rooms, processing rooms, storage rooms, disposal rooms or areas, and point-of-sale rooms;

(II) Cameras are fixed in entrances and exits to the premises, which shall record from both indoor and outdoor, or ingress and egress, vantage points;

(III) Recorded images must clearly and accurately display the time and date; or

(IV) Retain video surveillance recordings for a minimum of 45 days or longer upon the request of a law enforcement agency.

2. Ensure that the organization's outdoor premises have sufficient lighting from dusk until dawn.

3. Establish and maintain a tracking system approved by the department that traces the low-THC cannabis or medical cannabis from seed to sale. The tracking system shall include notification of key events as determined by the department, including when cannabis seeds are planted, when cannabis plants are harvested and destroyed, and when low-THC cannabis or medical cannabis is transported, sold, stolen, diverted, or lost.

4. Not dispense from its premises low-THC cannabis, medical cannabis, or a cannabis delivery device between the hours of 9 p.m. and 7 a.m., but may perform all other operations and deliver low-THC cannabis and medical cannabis to qualified patients 24 hours each day.

5. Store low-THC cannabis or medical cannabis in a secured, locked room or a vault.

6. Require at least two of its employees, or two employees of a security agency with whom it contracts, to be on the premises at all times.

7. Require each employee to wear a photo identification badge at all times while on the premises.

8. Require each visitor to wear a visitor's pass at all times while on the premises.

9. Implement an alcohol and drug-free workplace policy.

10. Report to local law enforcement within 24 hours after it is notified or becomes aware of the theft, diversion, or loss of low-THC cannabis or medical cannabis.

(e) To ensure the safe transport of low-THC cannabis or medical cannabis to dispensing organization facilities, independent testing laboratories, or patients, the dispensing organization must:

1. Maintain a transportation manifest, which must be retained for at least 1 year.

2. Ensure only vehicles in good working order are used to transport low-THC cannabis or medical cannabis.

3. Lock low-THC cannabis or medical cannabis in a separate compartment or container within the vehicle.

4. Require at least two persons to be in a vehicle transporting low-THC cannabis or medical cannabis, and require at least one person to remain in the vehicle while the low-THC cannabis or medical cannabis is being delivered.

5. Provide specific safety and security training to employees transporting or delivering low-THC cannabis or medical cannabis.

(7) DEPARTMENT AUTHORITY AND RESPONSIBILITIES.—

(a) The department may conduct announced or unannounced inspections of dispensing organizations to determine compliance with this section or rules adopted pursuant to this section.

(b) The department shall inspect a dispensing organization upon complaint or notice provided to the department that the dispensing organization has dispensed low-THC cannabis or medical cannabis containing any mold, bacteria, or other contaminant that may cause or has caused an adverse effect to human health or the environment.

(c) The department shall conduct at least a biennial inspection of each dispensing organization to evaluate the dispensing organization's records, personnel, equipment, processes, security measures, sanitation practices, and quality assurance practices.

(d) The department may enter into interagency agreements with the Department of Agriculture and Consumer Services, the Department of Business and Professional Regulation, the Department of Transportation, the Department of Highway Safety and Motor Vehicles, and the Agency for Health Care Administration, and such agencies are authorized to enter into an interagency agreement with the department, to conduct inspections or perform other responsibilities assigned to the department under this section.

(e) The department must make a list of all approved dispensing organizations and qualified ordering physicians and medical directors publicly available on its website.

(f) The department may establish a system for issuing and renewing registration cards for patients and their legal representatives, establish the circumstances under which the

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cards may be revoked by or must be returned to the department, and establish fees to implement such system. The department must require, at a minimum, the registration cards to:

1. Provide the name, address, and date of birth of the patient or legal representative.

2. Have a full-face, passport-type, color photograph of the patient or legal representative taken within the 90 days immediately preceding registration.

3. Identify whether the cardholder is a patient or legal representative.

4. List a unique numeric identifier for the patient or legal representative that is matched to the identifier used for such person in the department's compassionate use registry.

5. Provide the expiration date, which shall be 1 year after the date of the physician's initial order of low-THC cannabis or medical cannabis.

6. For the legal representative, provide the name and unique numeric identifier of the patient that the legal representative is assisting.

7. Be resistant to counterfeiting or tampering.

(g) The department may impose reasonable fines not to exceed $10,000 on a dispensing organization for any of the following violations:

1. Violating this section, s. 499.0295, or department rule.

2. Failing to maintain qualifications for approval.

3. Endangering the health, safety, or security of a qualified patient.

4. Improperly disclosing personal and confidential information of the qualified patient.

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5. Attempting to procure dispensing organization approval by bribery, fraudulent misrepresentation, or extortion.

6. Being convicted or found guilty of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which directly relates to the business of a dispensing organization.

7. Making or filing a report or record that the dispensing organization knows to be false.

8. Willfully failing to maintain a record required by this section or department rule.

9. Willfully impeding or obstructing an employee or agent of the department in the furtherance of his or her official duties.

10. Engaging in fraud or deceit, negligence, incompetence, or misconduct in the business practices of a dispensing organization.

11. Making misleading, deceptive, or fraudulent representations in or related to the business practices of a dispensing organization.

12. Having a license or the authority to engage in any regulated profession, occupation, or business that is related to the business practices of a dispensing organization suspended, revoked, or otherwise acted against by the licensing authority of any jurisdiction, including its agencies or subdivisions, for a violation that would constitute a violation under Florida law.

13. Violating a lawful order of the department or an agency of the state, or failing to comply with a lawfully issued subpoena of the department or an agency of the state.

(h) The department may suspend, revoke, or refuse to renew

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a dispensing organization's approval if a dispensing organization commits any of the violations in paragraph (g).

(i) The department shall renew the approval of a dispensing organization biennially if the dispensing organization meets the requirements of this section and pays the biennial renewal fee.

(j) The department may adopt rules necessary to implement this section.

(8) PREEMPTION.—

(a) All matters regarding the regulation of the cultivation and processing of medical cannabis or low-THC cannabis by dispensing organizations are preempted to the state.

(b) A municipality may determine by ordinance the criteria for the number and location of, and other permitting requirements that do not conflict with state law or department rule for, dispensing facilities of dispensing organizations located within its municipal boundaries. A county may determine by ordinance the criteria for the number, location, and other permitting requirements that do not conflict with state law or department rule for all dispensing facilities of dispensing organizations located within the unincorporated areas of that county.

(9) ~~(7)~~ EXCEPTIONS TO OTHER LAWS.—

(a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, a qualified patient and the qualified patient's legal representative may purchase and possess for the patient's medical use up to the amount of low-THC cannabis or medical cannabis ordered for the patient, but not more than a 45-day supply, and a cannabis delivery device ordered for the patient.

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(b) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved dispensing organization and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device. For purposes of this subsection, the terms "manufacture," "possession," "deliver," "distribute," and "dispense" have the same meanings as provided in s. 893.02.

(c) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved independent testing laboratory may possess, test, transport, and lawfully dispose of low-THC cannabis or medical cannabis as provided by department rule.

(d) ~~(c)~~ An approved dispensing organization and its owners, managers, and employees are not subject to licensure or regulation under chapter 465 or chapter 499 for manufacturing, possessing, selling, delivering, distributing, dispensing, or lawfully disposing of reasonable quantities, as established by department rule, of low-THC cannabis, medical cannabis, or a cannabis delivery device.

(e) An approved dispensing organization that continues to meet the requirements for approval is presumed to be registered with the department and to meet the regulations adopted by the department or its successor agency for the purpose of dispensing medical cannabis or low-THC cannabis under Florida law. Additionally, the authority provided to a dispensing organization in s. 499.0295 does not impair the approval of a

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dispensing organization.

(f) This subsection does not preclude a person from being prosecuted for a criminal offense related to impairment or intoxication resulting from the medical use of low-THC cannabis or medical cannabis or relieve a person from any requirement under law to submit to a breath, blood, urine, or other test to detect the presence of a controlled substance.

Section 2. Subsections (2) and (3) of section 499.0295, Florida Statutes, are amended to read:

499.0295 Experimental treatments for terminal conditions.—

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

(a) "Dispensing organization" means an organization approved by the Department of Health under s. 381.986(5) to cultivate, process, transport, and dispense low-THC cannabis, medical cannabis, and cannabis delivery devices.

(b) ~~(a)~~ "Eligible patient" means a person who:

1. Has a terminal condition that is attested to by the patient's physician and confirmed by a second independent evaluation by a board-certified physician in an appropriate specialty for that condition;

2. Has considered all other treatment options for the terminal condition currently approved by the United States Food and Drug Administration;

3. Has given written informed consent for the use of an investigational drug, biological product, or device; and

4. Has documentation from his or her treating physician that the patient meets the requirements of this paragraph.

(c) ~~(b)~~ "Investigational drug, biological product, or device" means:

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1. A drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration; or

2. Medical cannabis that is manufactured and sold by a dispensing organization.

(d) ~~(c)~~ "Terminal condition" means a progressive disease or medical or surgical condition that causes significant functional impairment, is not considered by a treating physician to be reversible even with the administration of available treatment options currently approved by the United States Food and Drug Administration, and, without the administration of life-sustaining procedures, will result in death within 1 year after diagnosis if the condition runs its normal course.

(e) ~~(d)~~ "Written informed consent" means a document that is signed by a patient, a parent of a minor patient, a court-appointed guardian for a patient, or a health care surrogate designated by a patient and includes:

1. An explanation of the currently approved products and treatments for the patient's terminal condition.

2. An attestation that the patient concurs with his or her physician in believing that all currently approved products and treatments are unlikely to prolong the patient's life.

3. Identification of the specific investigational drug, biological product, or device that the patient is seeking to use.

4. A realistic description of the most likely outcomes of

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using the investigational drug, biological product, or device. The description shall include the possibility that new, unanticipated, different, or worse symptoms might result and death could be hastened by the proposed treatment. The description shall be based on the physician's knowledge of the proposed treatment for the patient's terminal condition.

5. A statement that the patient's health plan or third-party administrator and physician are not obligated to pay for care or treatment consequent to the use of the investigational drug, biological product, or device unless required to do so by law or contract.

6. A statement that the patient's eligibility for hospice care may be withdrawn if the patient begins treatment with the investigational drug, biological product, or device and that hospice care may be reinstated if the treatment ends and the patient meets hospice eligibility requirements.

7. A statement that the patient understands he or she is liable for all expenses consequent to the use of the investigational drug, biological product, or device and that liability extends to the patient's estate, unless a contract between the patient and the manufacturer of the investigational drug, biological product, or device states otherwise.

(3) Upon the request of an eligible patient, a manufacturer may, or upon a physician's order pursuant to s. 381.986, a dispensing organization may:

(a) Make its investigational drug, biological product, or device available under this section.

(b) Provide an investigational drug, biological product, ~~or~~ device, or cannabis delivery device as defined in s. 381.986 to

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an eligible patient without receiving compensation.

(c) Require an eligible patient to pay the costs of, or the costs associated with, the manufacture of the investigational drug, biological product, ~~or~~ device, or cannabis delivery device as defined in s. 381.986.

Section 3. (1) Notwithstanding s. 381.986(5)(b), Florida Statutes, a dispensing organization that receives notice from the Department of Health that it is approved as a region's dispensing organization, posts a $5 million performance bond in compliance with rule 64-4.002(5)(e), Florida Administrative Code, meets the requirements of and requests cultivation authorization pursuant to rule 64-4.005(2), Florida Administrative Code, and expends at least $100,000 to fulfill its legal obligations as a dispensing organization; or any applicant that received the highest aggregate score through the department's evaluation process, notwithstanding any prior determination by the department that the applicant failed to meet the requirements of s. 381.986, Florida Statutes, must be granted cultivation authorization by the department and is approved to operate as a dispensing organization for the full term of its original approval and all subsequent renewals pursuant to s. 381.986, Florida Statutes. Any applicant that qualifies under this subsection that has not previously been approved as a dispensing organization by the department must be given approval as a dispensing organization by the department within 10 days before the effective date of this act, and within 10 days after receiving such approval must comply with the bond requirement in rule 64-4.002(5)(e), Florida Administrative Code, and must comply with all other applicable requirements of rule

808432

64-4, Florida Administrative Code.

(2) If an organization that does not meet the criteria of subsection (1) receives a final determination from the Division of Administrative Hearings, the Department of Health, or a court of competent jurisdiction that it was entitled to be a dispensing organization under s. 381.986, Florida Statutes, and applicable rules, such organization and an organization that meets the criteria of subsection (1) shall both be dispensing organizations in the same region. During the operations of any dispensing organization that meets the criteria in this section, the Department of Health may enforce rule 64-4.005, Florida Administrative Code, as filed on June 17, 2015.

(3) This section does not apply to s. 381.986 (5)(c), Florida Statutes.

Section 4. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to the medical use of cannabis; amending s. 381.986, F.S.; providing and revising definitions; revising requirements for physicians ordering low-THC cannabis, medical cannabis, or a cannabis delivery device; revising the information a physician must update on the registry; requiring a physician to update the registry within a specified timeframe; requiring a physician to obtain certain

808432

written consent; providing that a physician commits a misdemeanor of the first degree under certain circumstances; providing that an eligible patient who uses medical cannabis and such patient's legal representative who administers medical cannabis in specified locations commits a misdemeanor of the first degree; providing that a physician who orders low-THC cannabis or medical cannabis and receives related compensation from a dispensing organization is subject to disciplinary action; revising requirements relating to physician education; providing that the appropriate board must require the medical director of each dispensing organization to hold a certain license; revising the information that the Department of Health is required to include in its online compassionate use registry; revising performance bond requirements for certain dispensing organizations; requiring the department to approve three dispensing organizations under certain circumstances; providing requirements for the three dispensing organizations; requiring the department to allow a dispensing organization to make certain wholesale purchases from or distributions to another dispensing organization; revising standards to be met and maintained by dispensing organizations; authorizing dispensing organizations to use certain pesticides after consultation with the Department of Agriculture and Consumer Services; providing requirements for dispensing organizations when they are growing and processing low-THC cannabis or medical

808432

cannabis; requiring dispensing organizations to inspect seeds and growing plants for certain pests and perform certain fumigation and treatment of plants; providing that dispensing organizations may not dispense low-THC cannabis and medical cannabis unless they meet certain testing requirements; requiring dispensing organizations to maintain certain records; requiring dispensing organizations to contract with an independent testing laboratory to perform certain audits; providing packaging requirements for low-THC or medical cannabis; requiring dispensing organizations to retain certain samples for specified purposes; providing delivery requirements when dispensing low-THC cannabis and medical cannabis; providing certain safety and security requirements for dispensing organizations; providing certain safety and security requirements for transporting low-THC cannabis and medical cannabis; authorizing the department to conduct certain inspections; providing inspection requirements; authorizing the department to enter into certain interagency agreements; requiring the department to make certain information available on its website; authorizing the department to establish a system for issuing and renewing registration cards; providing requirements for the registration cards; authorizing the department to impose certain fines; authorizing the department to suspend, revoke, or refuse to renew a dispensing organization’s approval under certain circumstances;

808432

requiring the department to renew the dispensing organization biennially under certain conditions; providing applicability; authorizing an approved independent testing laboratory to possess, test, transport, and lawfully dispose of low-THC cannabis or medical cannabis by department rule ; providing that a dispensing organization is presumed to be registered with the department under certain circumstances; providing that a person is not precluded from certain criminal offenses under certain circumstances; amending s. 499.0295, F.S.; revising definitions; authorizing certain manufacturers to dispense cannabis delivery devices; requiring the department to authorize certain dispensing organizations or applicants to provide low-THC cannabis, medical cannabis, and cannabis delivery devices to eligible patients; providing for dispensing organizations or applicants meeting specified criteria to be granted authorization to cultivate certain cannabis and operate as dispensing organizations; requiring the department to grant approval as a dispensing organization by a specified date; authorizing two dispensing organizations in the same region under certain circumstances; authorizing the Department of Health to enforce certain rules; providing applicability; providing an effective date.

800924

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
02/29/2016	.	
	.	
	.	
	.	

The Committee on Rules (Soto) recommended the following:

Senate Amendment to Amendment (808432) (with title amendment)

Delete lines 709 - 719

and insert:

(2) To resolve the challenge raised in proceedings challenging the department's issuance of dispensing organization licenses pending as of February 24, 2016 before the Division of Administrative Hearings, and notwithstanding the five-license limit in s. 381.986(5)(b), Florida Statutes, the department shall issue four additional dispensing organization licenses.

800924

However, only one additional license may be issued in any region. During the operations of any dispensing organization that meets the criteria in subsection (1), the Department of Health may enforce rule 64-4.005, Florida Administrative Code, as filed on June 17, 2015.

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

And the title is amended as follows:

Delete lines 816 - 818

and insert:

organization by a specified date; requiring the department to issue four additional dispensing organization licenses subject to certain requirements to resolve certain challenges raised in certain proceedings; authorizing the Department of

816526

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
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	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment to Amendment (808432) (with title amendment)

Delete line 331
and insert:
and low-THC cannabis is safe for human consumption. The dispensing organization must also contract with the independent testing laboratory to test the low-THC cannabis for microbes, mold, pesticides, fertilizers, harmful chemicals, and toxins.

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

816526

And the title is amended as follows:

Delete line 775

and insert:

audits and testing; providing packaging requirements for low-THC

327944

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/29/2016	.	
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	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment to Amendment (808432) (with title amendment)

Between lines 445 and 446
insert:

(f) A dispensing organization shall annually provide to the department:

1. The name, address, and date of birth of each of the dispensing organization's current employees who will participate in the operations of the dispensing organization; and

2. Proof that all employees of the dispensing organization

327944

have passed a level 2 background screening pursuant to chapter 435 within the prior year.

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

And the title is amended as follows:

Delete line 783

and insert:

cannabis and medical cannabis; requiring a dispensing organization to annually provide certain information and proof to the department; authorizing the

196964

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2016	.	
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	.	
	.	

The Committee on Rules (Gibson) recommended the following:

Senate Amendment to Substitute Amendment (808432)

Delete line 273
and insert:
dispensing organizations, including, but not limited to, an applicant that is a recognized class member of *Pickford v. Glickman*, 182 F.R.D. 82 (D.D.C. 1999) or *In Re Black Farmers Litig.*, 856 F. Supp. 2d 1 (D.D.C. 2011) and a member of the Black Farmers and Agriculturalists Association, which must meet the requirements of

865028

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
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	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment (with title amendment)

Before line 16
insert:
Section 1. Subsection (6) of section 381.986, Florida Statutes, is amended to read:
381.986 Compassionate use of low-THC cannabis.—
(6) DISPENSING ORGANIZATION.—
(a) An approved dispensing organization shall maintain compliance with the criteria demonstrated for selection and approval as a dispensing organization under subsection (5) at

865028

all times. Before dispensing low-THC cannabis to a qualified patient, the dispensing organization shall verify that the patient has an active registration in the compassionate use registry, the order presented matches the order contents as recorded in the registry, and the order has not already been filled. Upon dispensing the low-THC cannabis, the dispensing organization shall record in the registry the date, time, quantity, and form of low-THC cannabis dispensed.

(b) The dispensing organization shall retain an independent testing laboratory to test the low-THC cannabis for microbes, mold, pesticides, fertilizers, harmful chemicals, and toxins. For purposes of this paragraph, the term "independent testing laboratory" means a laboratory, and the managers, employees, and contractors of the laboratory, which does not have a direct or indirect interest in, and is not owned by or affiliated with, a dispensing organization.

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to medical cannabis; amending s. 381.986, F.S.; requiring a low-THC cannabis dispensing organization to retain an independent testing laboratory to perform certain testing; defining the term "independent testing laboratory"; amending s. 499.0295, F.S.;

501268

LEGISLATIVE ACTION

Senate	.	House
Comm: OO	.	
02/29/2016	.	
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	.	
	.	

The Committee on Rules (Latvala) recommended the following:

Senate Amendment (with title amendment)

Before line 16
insert:
Section 1. Subsection (6) of section 381.986, Florida Statutes, is amended to read:
381.986 Compassionate use of low-THC cannabis.—
(6) DISPENSING ORGANIZATION.—
(a) An approved dispensing organization shall maintain compliance with the criteria demonstrated for selection and approval as a dispensing organization under subsection (5) at

501268

all times. Before dispensing low-THC cannabis to a qualified patient, the dispensing organization shall verify that the patient has an active registration in the compassionate use registry, the order presented matches the order contents as recorded in the registry, and the order has not already been filled. Upon dispensing the low-THC cannabis, the dispensing organization shall record in the registry the date, time, quantity, and form of low-THC cannabis dispensed.

(b) A dispensing organization shall provide on an annual basis to the department:

1. The name, address, and date of birth of each of the dispensing organization's current employees who will participate in the operations of the dispensing organization; and

2. Proof that all employees of the dispensing organization have passed a level 2 background screening pursuant to chapter 435 within the prior year.

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to medical use of cannabis; amending s. 381.986, F.S.; requiring low-THC cannabis dispensing organizations to provide certain information regarding its employees to the Department of Health; amending s. 499.0295, F.S.;

By Senator Bradley

7-00574A-16 2016460__

A bill to be entitled

An act relating to experimental treatments for terminal conditions; amending s. 499.0295, F.S.; revising the definition of the term "investigational drug, biological product, or device"; providing for eligible patients or their legal representatives to purchase and possess cannabis for medical use; authorizing certain licensed dispensing organizations to manufacture, possess, sell, deliver, distribute, dispense, and dispose of cannabis; exempting such organizations from specified laws; defining terms; providing applicability; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 499.0295, Florida Statutes, is amended, and subsection (10) is added to that section, to read:

499.0295 Experimental treatments for terminal conditions.—

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

(b) "Investigational drug, biological product, or device" means:

1. A drug, biological product, or device that has successfully completed phase 1 of a clinical trial but has not been approved for general use by the United States Food and Drug Administration and remains under investigation in a clinical trial approved by the United States Food and Drug Administration; or

2. Cannabis that is manufactured and sold by an approved dispensing organization as defined in s. 381.986.

(10)(a) Notwithstanding s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an eligible patient and the eligible patient's legal representative may purchase and possess cannabis for the patient's medical use.

(b) An eligible patient and the eligible patient's legal representative may obtain cannabis only from an approved dispensing organization as defined in s. 381.986.

(c) Notwithstanding s. 381.986, s. 893.13, s. 893.135, s. 893.147, or any other provision of law, but subject to the requirements of this section, an approved dispensing organization as defined in s. 381.986 and its owners, managers, and employees may manufacture, possess, sell, deliver, distribute, dispense, and lawfully dispose of cannabis.

(d) An approved dispensing organization as defined in s. 381.986 and its owners, managers, and employees are not subject to licensure or regulation under chapter 465 for manufacturing, possessing, selling, delivering, distributing, dispensing, or lawfully disposing of cannabis. As used in this subsection, the terms "manufacture," "possession," "deliver," "distribute," and "dispense" have the same meanings as provided in s. 893.02.

(e) This section does not impair the license of an approved dispensing organization under s. 381.986.

Section 2. This act shall take effect July 1, 2016.

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

460
Bill Number (if applicable)

Topic Medical use of Cannabis

800924
Amendment Barcode (if applicable)

Name Laura Donaldson

Job Title

Address 1101 W. Swann Ave
Street

Tampa, FL 33606
City *State* *Zip*

Phone 813-495-0575

Email laurajacksdonaldson@gmail.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Plants of Ruskin

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [X] 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)

2/29/16
Meeting Date

460
Bill Number (if applicable)

800924
Amendment Barcode (if applicable)

Topic CANNABIS

Name Louis Rotundo

Job Title

Address 302 Pinestraw Circle
Street

Phone 407-899-9361

Altamonte Springs 32714
City *State* *Zip*

Email LCR5002@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Fla Medical Cannabis Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

460
Bill Number (if applicable)

808432
Amendment Barcode (if applicable)

Topic Cannabis

Name Louis Rotundo

Job Title

Address 302 Pinestraw Circle
Street

Phone 407-698-8361

Altamonte Springs FL 32714
City *State* *Zip*

Email LCR5002@aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing FL Medical Cannabis Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

SB 460
Bill Number (if applicable)

808432
Amendment Barcode (if applicable)

Topic Experimental Treatments

Name Josephine Gonella-Krehl

Job Title Licensed Clinical Social Worker

Address 3784 Wentworth Way
Street

Tallahassee, FL. 32311
City *State* *Zip*

Phone 850-653-6928

Email JoKrehl@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Cannabis Action Network

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)

2/29/16
Meeting Date

460
Bill Number (if applicable)

808432
Amendment Barcode (if applicable)

Topic Medical Cannabis

Name Ron Watson

Job Title lobbyist

Address 3738 Mundon Way
Street
Tallahassee FL 32309
City *State* *Zip*

Phone 850 567-1202

Email Watson.Strategies@comcast.net

Speaking: [X] For [X] Against [ ] Information

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

Representing AHMed

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] 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)

2/29/2016
Meeting Date

Topic _____ Bill Number 460 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/29/16
Meeting Date

SB 460
Bill Number (if applicable)

Topic Termina / Conditions

Amendment Barcode (if applicable)

Name Greg Pound

Job Title

Address 9166 Sunrise DR.
Street

Largo Fla. 33773
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☒ Information

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

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/1/16
Meeting Date

460
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Keily Stiff

Job Title _____

Address 385 Beaver Lake Rd
Street

Tallahassee FL 32312
City *State* *Zip*

Phone 850 228 3929

Email keily10@me.com

Speaking: [X] For [ ] Against [ ] Information

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

Representing Constituent

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [ ] Yes [X] 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)

2/29/16
Meeting Date

460
Bill Number (if applicable)

Topic Medical Cannabis

Amendment Barcode (if applicable)

Name Louis Rotundo

Job Title

Address 302 Pinestraw Circle
Street

Phone 407-699-9361

Altamonte Springs FL 32714
City *State* *Zip*

Email LCR5002@Aol.com

Speaking: ☑ For ☐ Against ☐ Information

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

Representing Florida Medical Cannabis Association

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2.29.2016
Meeting Date

SB460
Bill Number (if applicable)

Topic MEDICAL MARIJUANA

Amendment Barcode (if applicable)

Name DENNIS DECKERHOFF

Job Title PARENT / PATIENT ADVOCATE

Address 5704 VICTOR BROWN TRAIL
Street

Phone 850-567-0405

TALLAHASSEE FL 32303
City *State* *Zip*

Email dennis@deckerhoff.com

Speaking: ☐ For ☐ Against ☑ Information

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

Representing BARRETT DECKERHOFF

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

JOINT COMMITTEE:
Joint Legislative Budget Commission, *Alternating Chair*

SENATOR TOM LEE
24th District

2/29/16

February 29, 2016

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

Dear Chair Simmons,

I respectfully request to be excused from the Senate Committee on Rules meeting on February 29, 2016 due to a previously scheduled meeting.

Thank you for your consideration.

Sincerely,

Tom Lee

Cc: John Phelps, 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

CourtSmart Tag Report

Room: EL 110 **Case No.:** **Type:**
Caption: Senate Rules Committee **Judge:**

Started: 2/29/2016 1:05:41 PM
Ends: 2/29/2016 4:57:11 PM Length: 03:51:31

1:05:42 PM Senator Simmons calls the meeting to order
1:05:53 PM roll call
1:06:18 PM quorum present
1:07:20 PM SB 1306 by Senator Grimsley
1:07:40 PM Senator Grimsley explains the bill
1:08:31 PM Senator Joyner with a question
1:08:37 PM Senator Grimsley responds
1:08:54 PM Martha DeCastro for Florida Hospital Association waives in support
1:09:14 PM Brian Pitt Justice 2 Jesus speaks
1:10:36 PM Senator Grimsley waives close on the bill
1:10:44 PM roll call SB 1306
1:10:59 PM SB 1306 reported favorable
1:11:27 PM SB 1036 by Senator Brandes
1:11:38 PM Senator Brandes explains the bill
1:13:22 PM Senator Joyner with a question
1:13:29 PM Senator Brandes responds
1:15:08 PM Senator Joyner with a follow up
1:15:32 PM Senator Brandes responds
1:15:48 PM Senator Joyner with a question
1:15:55 PM Senator Brandes responds
1:16:29 PM Senator Joyner with a question
1:17:45 PM Senator Brandes responds
1:18:13 PM Senator Joyner with a question
1:18:57 PM Senator Simmons responds
1:19:28 PM Senator Joyner responds
1:19:32 PM Senator Brandes responds
1:20:17 PM Senator Gaetz with a question
1:20:30 PM Senator Brandes responds
1:20:37 PM Senator Gaetz with a follow up question
1:20:45 PM Senator Brandes responds
1:21:28 PM Senator Gaetz with a question
1:22:02 PM Senator Brandes responds
1:22:36 PM Senator Gibson with a question
1:23:39 PM Senator Joyner with a question
1:25:10 PM Amendment 303146 by Senator Benacquisto
1:25:28 PM Senator Brandes explains the amendment
1:26:04 PM Senator Brandes waives close on amendment
1:26:13 PM Amendment adopted
1:26:18 PM Amendment 358012 by Senator Benacquisto
1:26:32 PM Senator Brandes explains the amendment
1:26:47 PM Senator Brandes waives close on the amendment
1:27:20 PM amendment adopted
1:27:29 PM Back on the bill as amended
1:27:37 PM Senator Negron with a question
1:28:03 PM Senator Brandes responds
1:28:26 PM Senator Negron with a follow up question
1:29:20 PM Senator Brandes responds
1:30:36 PM Senator Joyner with a question
1:30:46 PM Senator Brandes responds
1:30:53 PM Senator Gaetz with a question
1:31:32 PM Senator Brandes responds
1:32:15 PM Senator Gaetz with a follow up
1:32:38 PM Senator Brandes responds
1:33:12 PM Mark Delegal of State Farm Mutual Automobile Insurance speaks
1:34:28 PM Senator Soto with a question
1:34:39 PM Mr. Delegal responds
1:38:36 PM Senator Negron with a question
1:38:47 PM Mr. Delegal responds
1:39:21 PM Senator Negron with a question
1:39:33 PM Mr. Delegal responds
1:40:00 PM Senator Montford with a question
1:40:22 PM Mr. Delegal responds
1:41:12 PM Senator Montford with a follow up question
1:41:23 PM Mr. Delegal responds
1:41:45 PM Senator Gibson with a question
1:42:17 PM Mr. Delegal responds
1:42:57 PM Senator Gibson with a follow up question

1:43:48 PM Mr. Delegal responds
1:44:40 PM Brian Pitts Justice 2 Jesus speaks
1:46:37 PM Senator Negron makes a motion to tp bill
1:46:59 PM bill is tp
1:47:23 PM Motion to tp is withdrawn by Senator Negron
1:48:10 PM Senator Richter with a question
1:48:43 PM Senator Brandes responds
1:49:26 PM Amendment by Senator Negron taken up
1:49:49 PM Senator Negron waives close on amendment
1:50:03 PM Amendment adopted
1:50:15 PM Back on the bill as amended
1:50:25 PM Senator Joyner in debate
1:50:55 PM Senator Gibson in debate
1:52:16 PM Senator Brandes closes on the SB 1036
1:52:52 PM roll call
1:52:55 PM SB 1036 reported favorable
1:53:32 PM SB 1322 by Senator Latvala
1:53:38 PM Senator Latvala presents the bill
1:56:12 PM Lisa Hurley of Florida Association of Counties waives in support
1:56:24 PM Carol Bracy of Martin County Board of County Commissioners waives in support
1:56:33 PM Nicole Fogarty of St. Lucie County Board of County Commissioners waives in support
1:56:48 PM Christina Daley, Secretary
1:56:49 PM of Department of Juvenile Justice waives in support
1:56:59 PM Cari Roth of Charlotte, Manatee & Pinellas Counties waives in support
1:57:01 PM Georgia Hiller, Commissioner of Collier County waives in support
1:57:18 PM Emily Buckley of Palm Beach County waives in support
1:57:26 PM Greg Pound, Pinellas County Florida Government Corruption speaks
1:58:32 PM Jim Taylor Intergovernmental Affairs Manager waives in support
1:58:49 PM Senator Latvala waives close on the bill
1:58:56 PM roll call on SB 1322
1:59:03 PM SB 1322 reported favorable
1:59:31 PM Senator Simmons take the chair
1:59:51 PM SM 1710 by Senator Evers
2:00:01 PM Senator Evers explains the bill
2:01:23 PM Greg Pound, Pinellas County Florida Government Corruption speaks
2:02:39 PM Senator Evers waives close on the bill
2:02:56 PM roll call on SM 1710
2:03:04 PM SM 1710 reported favorable
2:03:42 PM SB 1298 by Senator Brandes
2:03:52 PM Senator Brandes explains the bill
2:04:46 PM Aimee Diaz Lyon, The Business Law Section of the Florida Bar waives in support
2:05:02 PM Carolyn Johnson of Florida Chamber of Commerce waives in support
2:05:11 PM Stephen Shiver of Caterpillor Corporation waives in support
2:05:24 PM Kim Somkes of Florida Bankers Association waives in support
2:05:37 PM Brian Pitts, Justice 2 Jesus speaks
2:07:25 PM Senator Brandes waives close on the bill
2:07:36 PM roll call on SB 1298
2:07:44 PM SB 1298 reported favorable
2:08:15 PM SB 408 by Senator Altman
2:08:30 PM Senator Altman explains the bill
2:09:33 PM Senator Altman also explains the late filed amendment
2:12:35 PM Senator Gibson with a question
2:13:03 PM Senator Altman responds
2:14:29 PM Senator Montford with a question
2:14:48 PM Senator Altman responds
2:15:32 PM Senator Montford with a follow up question
2:15:41 PM Senator Altman responds
2:16:01 PM Senator Benacquisto with a question
2:16:44 PM Senator Altman responds
2:16:57 PM Senator Gibson with a question
2:17:42 PM Senator Altman responds
2:18:05 PM Senator Soto in the Chair
2:18:47 PM Senator Gibson with a follow up question
2:19:16 PM Senator Altman responds
2:19:22 PM waive close on amendment
2:19:29 PM amendment adopted
2:19:32 PM Back on the bill as amended
2:19:51 PM Robert Hardwick, Chief of Police St. Augustine speaks
2:22:33 PM Senator Simmons take the chair
2:22:43 PM Senator Gibson with a question for Robert Hardwick
2:23:35 PM Mr. Hardwick responds
2:25:35 PM Michael McQuone of Florida Conference of Catholic Bishops waives in support
2:25:58 PM Sarah Carroll of the Florida Sheriffs Association speaks
2:29:43 PM Senator Negron with a question
2:29:55 PM Ms. Carroll responds
2:30:05 PM Senator Negron responds
2:30:13 PM Ms. Carroll responds
2:30:52 PM Senator Negron with a question

2:30:58 PM Ms. Carroll responds
2:31:16 PM Senator Negron responds
2:31:54 PM Senator Joyner with a question
2:32:13 PM Ms. Carroll responds
2:32:38 PM Sheldon Gusky of Florida Public Defender Association, Inc. waives in support
2:32:48 PM Lawrence Clermont of Florida PTA waives in support
2:32:59 PM Marty Cassini Broward County waives in support
2:33:22 PM Barney Bishop of Fla. Smart Justice Alliance speaks
2:37:10 PM Senator Joyner with a question
2:37:19 PM Barney Bishop responds
2:38:48 PM Senator Joyner responds
2:40:04 PM Barney Bishop responds
2:41:58 PM Marty Brinsko Florida Criminal Justice Collaborative speaks
2:44:28 PM Leah Wiley of DART waives in support
2:44:44 PM Christine Stockelman of Hillsborough Organization for Progress & Equality waives in support
2:45:05 PM Eugene Watson of DART waives in support
2:45:25 PM Rev. Lois Watson with DART waives in support
2:45:44 PM Jodie James of Florida Cannabis Action Network waives in support
2:45:56 PM Josephine Cannella Krehl of Families for Sensible Drug Policy speaks
2:46:46 PM Greg Pound speaks
2:47:42 PM Wansley Waltons Former Secretary DJJ speaks
2:49:04 PM Senator Latvala in debate
2:49:34 PM Senator Soto speaks
2:49:45 PM Senator Latvala debate
2:50:01 PM Senator Altman responds
2:50:32 PM Senator Soto in debate
2:51:29 PM Senator Montford in debate
2:53:58 PM Senator Negron in debate
2:54:47 PM Senator Altman closes on SB 408
2:57:11 PM roll call SB 408
2:57:17 PM SB 408 reported favorable
2:57:59 PM SM 600 by Senator Thompson
2:58:16 PM Senator Thompson explains the bill
2:59:10 PM Brian Pitts speaks
3:00:39 PM Senator Thompson closes on SM 600
3:01:27 PM roll call on SM 600
3:01:35 PM SM 600 reported favorable
3:02:19 PM SB 1432 by Senator Stargel
3:02:27 PM Chad Davis presents the bill
3:03:14 PM Chad Davis explains the amendment
3:03:57 PM Substitute amendment 349518
3:04:18 PM Senator Negron waives close on substitute amendment
3:04:27 PM amendment adopted
3:04:33 PM Back on the bill as amended
3:04:40 PM Marty Bowen Florida Assoc of Professional Process Servers waives in support
3:04:56 PM Chad Davis waives close on SB 1432
3:05:06 PM roll call on SB 1432
3:05:17 PM SB 1432 reported favorable
3:05:42 PM SB 1420 by Senator Bean
3:05:54 PM Senator Bean explains the bill
3:06:22 PM Senator Gibson with a question
3:06:54 PM Senator Bean responds
3:07:22 PM Senator Gibson with a follow up question
3:07:54 PM Senator Bean responds
3:08:33 PM Senator Joyner with a question
3:09:13 PM Senator Bean responds
3:09:52 PM Senator Joyner with a follow up question
3:10:52 PM Senator Bean responds
3:11:10 PM Barney Bishop waives in support
3:11:21 PM Brian Pitts waives in support
3:11:31 PM Greg Pound speaks
3:12:24 PM Senator Gibson in debate
3:13:50 PM Senator Joyner in debate
3:14:24 PM Senator Bean closes on SB 1420
3:15:12 PM roll call on SB 1420
3:15:19 PM SB 1420 reported favorable
3:16:07 PM SB 794 by Senator Ring
3:16:36 PM Senator Ring explains the bill
3:17:09 PM Senator Gibson with a question
3:17:32 PM Senator Ring responds
3:17:54 PM Senator Gibson with a follow up
3:18:18 PM Senator Ring responds
3:18:57 PM Senator Joyner with a question
3:19:12 PM Senator Ring responds
3:19:22 PM Greg Pound speaks
3:20:20 PM Senator Ring waives close on the bill
3:20:27 PM roll call on SB 794
3:20:38 PM SB 794 reported favorable

3:21:09 PM SB 1190 by Senator Diaz de la Portilla
3:21:20 PM Senator Diaz de la Portilla withdraws amendment
3:21:58 PM Senator Diaz de la Portilla explains 810490
3:25:24 PM amendment late filed 524390 taken up
3:25:47 PM Senator Diaz de la Portilla explains the amendment
3:27:13 PM Amendment adopted
3:27:21 PM amendment 519826 late file by Senator Diaz de la Portilla
3:27:40 PM explains the amendment
3:28:09 PM amendment 519826 adopted
3:28:27 PM back on delete all amendment as amended
3:28:51 PM Charles Patterson of 1000 Friends of Florida waives in support
3:29:24 PM Senator Diaz de la Portilla closes on amendment
3:29:39 PM Back on the bill as amended
3:30:07 PM Christoper Emmanual waives in support
3:30:16 PM Nancy Linnan of The Howard Group, The Villages waives in support
3:30:27 PM Gary Hunter of Association of Florida Community Developers waives in support
3:30:43 PM Senator Diaz de la Portilla closes on SB 1190
3:30:58 PM roll call on SB 1190
3:31:09 PM SB 1190 reported favorable
3:31:50 PM SB 7076 by Senator Richter
3:31:56 PM Senator Richter explains the bill
3:32:15 PM Brian Pitts speaks
3:33:16 PM Senator Richter waives close on the bill
3:33:24 PM roll call on SB 7076
3:33:33 PM SB 7076 reported favorable
3:33:59 PM Senator Soto takes the chair
3:34:04 PM Senator Simmons explains SB 1412
3:34:39 PM Barney Bishop Fla Smart Justice Alliance waives in support
3:34:58 PM Sheldon Guskey waives in support
3:35:08 PM Senator Simmons waives close on the bill
3:35:16 PM roll call SB 1412
3:35:22 PM SB 1412 reported favorable
3:35:52 PM Senator Simmons takes the chair
3:36:03 PM SB 7070 by Senator Altman
3:36:28 PM Margaret Sandrers explains the bill
3:37:13 PM Colleen Krepslekies of The Florida Dept. of Veterans Affairs waives in support
3:37:27 PM Brian Pitts waives in support
3:37:42 PM Margaret Sanders waives close on the bill
3:37:51 PM roll call on SB 7070
3:38:00 PM SB 7070 reported favorable
3:39:20 PM motion for time certain for voting at 4:55
3:40:33 PM Senator Latvala objects
3:41:23 PM roll call on motion
3:42:24 PM motion favorable
3:43:23 PM Senator Bradley explains SB 460
3:43:37 PM amendment 808432 explains the amendment
3:49:42 PM Senator Montford with a question
3:49:56 PM Senator Bradley responds
3:50:24 PM Senator Latvala with a question
3:50:44 PM Senator Bradley responds
3:52:45 PM Senator Latvala with a question
3:52:55 PM Senator Bradley responds
3:54:25 PM Senator Latvala with a series of questions
3:55:31 PM Senator Bradley responds
3:55:56 PM Senator Latvala with a question
3:57:26 PM Senator Bradley responds
3:58:54 PM Senator Latvala with a question
3:59:04 PM Senator Bradley responds
4:00:26 PM Senator Latvala with a question
4:00:33 PM Senator Bradley responds
4:01:03 PM Senator Latvala with a question
4:01:24 PM Senator Bradley responds
4:05:16 PM Senator Montford with a question
4:06:54 PM Senator Bradley responds
4:07:34 PM Senator Montford with a question
4:08:23 PM Senator Bradley responds
4:08:49 PM Senator Soto with a question
4:09:00 PM Senator Bradley responds
4:10:54 PM Senator Soto with a question
4:11:33 PM Senator Bradley responds
4:13:04 PM amendment 800924 late filed by Senator Soto
4:13:24 PM amendment considered
4:13:29 PM Senator Soto explains the amendment
4:14:21 PM Laura Donaldson of Plants of Ruskin speaks
4:15:19 PM Senator Latvala questions Senator Bradley
4:15:46 PM Senator Bradley responds
4:15:58 PM Senator Latvala with a question
4:16:47 PM Senator Latvala speaks

4:17:28 PM	Louis Rotundo Fla Medical Cannabis Association speaks
4:18:40 PM	Senator Latvala in debate
4:19:07 PM	Senator Soto responds
4:19:39 PM	Senator Bradley responds
4:20:10 PM	roll call amendment
4:20:38 PM	amendment 800924 reported not favorable
4:21:17 PM	816526 by Senator Latvala withdrawn
4:21:33 PM	327944 withdrawn
4:21:50 PM	amendment to amendment by Senator Gibson
4:22:12 PM	no objection to take up late filed amendment
4:22:21 PM	Senator Gibson explains amendment
4:23:24 PM	Senator Bradley responds
4:24:18 PM	Senator Joyner in debate
4:25:37 PM	Senator Gibson closes on late filed amendment
4:28:08 PM	roll call on amendment
4:28:30 PM	amendment passes
4:29:30 PM	back on amendment 808432 as amended
4:29:57 PM	Ron Watson of Alt Med speaks
4:30:18 PM	Josephine Connella Krehl speaks
4:31:22 PM	Louis Rotundo speaks
4:32:53 PM	back on the bill as amended
4:33:43 PM	Dennis Deckerhoff of Barrett Deckerhoff speaks
4:37:29 PM	Louis Rotundo waives in support
4:37:41 PM	Keily Stiff a constituent speaks
4:38:55 PM	Greg Pound speaks
4:39:03 PM	Brian Pitts speaks
4:39:44 PM	Senator Soto in debate
4:41:24 PM	Senator Gaetz in debate
4:43:46 PM	Senator Latvala in debate
4:46:31 PM	Senator Montford in debate
4:49:04 PM	Senator Gibson in debate
4:51:16 PM	Senator Joyner in debate
4:54:06 PM	Senator Bradley closes on the bill
4:55:20 PM	roll call on SB 460
4:55:38 PM	SB 460 reported favorable
4:56:11 PM	Senator Montford moves we adjourn
4:56:53 PM	meeting adjourned