

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, April 9, 2013
TIME: 1:30 —3:30 p.m.
PLACE: 301 Senate Office Building

MEMBERS: Senator Simpson, Chair; Senator Thompson, Vice Chair; Senators Bradley, Hukill, Latvala, Smith, Soto, Stargel, and Thrasher

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION

Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.

Executive Director, Department of Economic Opportunity

1	Panuccio, Jesse (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 9 Nays 0

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

2	CS/SB 1410 Banking and Insurance / Simmons (Similar CS/CS/H 883)	Fire Safety and Prevention; Revising provisions relating to the authority of the State Fire Marshal; revising provisions relating to hearings, investigations, and recordkeeping duties and the authority of the State Fire Marshal; clarifying provisions relating to impersonating the State Fire Marshal, a firefighter, a firesafety inspector, or a volunteer firefighter, for which a criminal penalty is provided; providing penalties for rendering a fire protection system required by statute or by rule inoperative, etc. BI 04/02/2013 Fav/CS CA 04/09/2013 Fav/CS CJ	Fav/CS Yeas 9 Nays 0

3	CS/SB 1192 Health Policy / Grimsley	Provision of Health Care with Controlled Substances; Providing that regulation of the licensure, activity, and operation of clinics and health care facilities is preempted to the state; requiring a physician to consult the prescription drug monitoring program database before prescribing certain controlled substances; requiring that owners of pain-management clinics be licensed physicians; providing that regulation of the licensure, activity, and operation of pharmacies and pharmacists is preempted to the state; authorizing the prescription drug monitoring program to be funded by state funds and pharmaceutical company donations, etc. HP 03/20/2013 Fav/CS CA 04/09/2013 Fav/CS AP	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 9, 2013, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1808 Environmental Preservation and Conservation (Similar CS/H 7115)	Numeric Nutrient Criteria; Authorizing the Department of Environmental Protection to implement ss. 403.088 and 403.067, F.S., to control nutrient load in state waters; directing the department to remove rule 62-302.531(9), F.A.C., when the U.S. Environmental Protection Agency withdraws all federal numeric nutrient criteria rules in the state; directing the department to establish estuary specific numeric interpretations of the narrative nutrient criterion for total nitrogen, total phosphorus, and chlorophyll a for any estuary not already subject to department numeric nutrient criteria, etc. CA 04/09/2013 Fav/CS	Fav/CS Yeas 9 Nays 0
5	SB 1246 Bean (Identical H 853)	Public Retirement Plans; Providing that a consolidated government that has entered into an interlocal agreement to provide police protection services to a municipality within its boundaries is eligible to receive the premium taxes reported for the municipality under certain circumstances; authorizing the municipality receiving the police protection services to enact an ordinance levying the tax as provided by law, etc. GO 04/02/2013 Favorable CA 04/09/2013 Favorable AFT AP	Favorable Yeas 9 Nays 0
6	SB 1322 Gibson (Similar CS/H 411)	Children's Initiatives; Establishing the New Town Success Zone in Duval County and the Parramore Kidz Zone in Orange County; providing for the projects to be managed by corporations not for profit that are not subject to control, supervision, or direction by any department of the state; requiring designated children's initiatives to assist in the creation of community-based service networks and programming that provides certain services for children and families residing in disadvantaged areas of the state, etc. CF 04/01/2013 Favorable CA 04/09/2013 Favorable AP	Favorable Yeas 8 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 9, 2013, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 582 Commerce and Tourism / Galvano (Similar CS/H 357)	Manufacturing Development; Establishing the Manufacturing Competitiveness Act; authorizing local governments to establish a local manufacturing development program that provides for master development approval for certain sites; requiring the Department of Economic Opportunity to develop a model ordinance containing specified information and provisions; requiring participating agencies to establish a manufacturing development coordinated approval process for certain manufacturers, etc. CM 04/01/2013 Fav/CS CA 04/09/2013 Favorable ATD AP	Favorable Yeas 9 Nays 0
8	CS/SB 300 Transportation / Detert (Similar H 7117)	Transportation Facility Designations; Providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers, etc. TR 04/02/2013 Fav/CS CA 04/09/2013 Favorable	Favorable Yeas 9 Nays 0
9	SB 684 Hays (Compare CS/H 307, CS/H 1017)	Preference in Award of State Contracts; Expanding provisions that require an agency, university, college, school district, or other political subdivision of the state to provide preferential consideration to a Florida business in awarding competitively bid contracts to purchase personal property to include the purchase of construction services; requiring counties and municipalities to provide such preferential consideration; providing that for specified competitive solicitations the authority to grant preference supersedes any local ordinance or regulation that restricts specified contractors from competing for an award based upon certain conditions, etc. GO 04/02/2013 Favorable CA 04/09/2013 Temporarily Postponed AP RC	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 9, 2013, 1:30 —3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	CS/SB 580 Regulated Industries / Hays (Compare CS/CS/CS/H 73, H 7119, CS/CS/S 436, S 596)	Homeowners' Associations; Providing grounds for disciplinary actions against community association managers; requiring associations to allow a member to use a portable device to make an electronic copy of the official records and prohibiting associations from charging a fee for such an electronic copy; requiring association directors to file with the association secretary written certification that they have read certain association documents, will uphold the documents, and will uphold their fiduciary responsibility to the members; prohibiting the levy of special assessments or an increase in assessments levied pursuant to the annual budget under certain circumstances, etc. RI 04/02/2013 Fav/CS CA 04/09/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0
11	SB 1784 Military and Veterans Affairs, Space, and Domestic Security (Similar H 7101)	Military Installations; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to acquire certain nonconservation lands to buffer a military installation against encroachment; authorizing the Department of Economic Opportunity to annually recommend nonconservation lands for acquisition through fee simple purchase or less-than-fee interest purchase to the board of trustees for the purpose of preventing the encroachment of military installations; requiring the board of trustees to also consider land acquisition recommendations of the Florida Defense Support Task Force, etc. EP 04/02/2013 Favorable CA 04/09/2013 Favorable	Favorable Yeas 9 Nays 0
12	SB 1840 Military and Veterans Affairs, Space, and Domestic Security (Similar H 7019)	Development Permits; Requiring counties and municipalities to attach certain disclaimers and include certain permit conditions when issuing development permits; requiring counties and municipalities to demonstrate that applicable permits have been obtained prior to development in mapped flood hazard areas, etc. CA 04/09/2013 Fav/CS RC	Fav/CS Yeas 9 Nays 0
13	SB 1480 Latvala (Identical H 1289)	Interlocal Agreements; Modifying the definition of "public agency" to include a public transit provider, etc. TR 04/02/2013 Favorable CA 04/09/2013 Favorable	Favorable Yeas 9 Nays 0

Other Related Meeting Documents

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 9, 2013, 1:30 —3:30 p.m.

The Florida Senate
**COMMITTEE RECOMMENDATION ON
EXECUTIVE APPOINTMENT**

COMMITTEE: Committee on Community Affairs
MEETING DATE: Tuesday, April 09, 2013
TIME: 1:30 —3:30 p.m.
PLACE: 301 Senate Office Building

TO: The Honorable Don Gaetz, President

FROM: Committee on Community Affairs

The committee was referred the following executive appointment subject to confirmation by the Senate:

Office: Executive Director, Department of Economic Opportunity

Appointee: Panuccio, Jesse

Term: 1/8/2013-Pleasure of Governor

After inquiry and due consideration, the committee recommends that the Senate **confirm** the aforesaid executive appointment made by the Governor.

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Jesse Panuccio
Executive Director, Department of Economic Opportunity

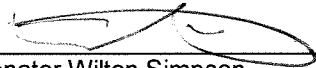
NOTICE OF HEARING

TO: Mr. Jesse Panuccio

YOU ARE HEREBY NOTIFIED that the Committee on Community Affairs of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, April 09, 2013, in 301 Senate Office Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 3rd day of April, 2013

Committee on Community Affairs



Senator Wilton Simpson
As Chair and by authority of the committee

cc: Members, Committee on Community Affairs
Office of the Sergeant at Arms

584

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

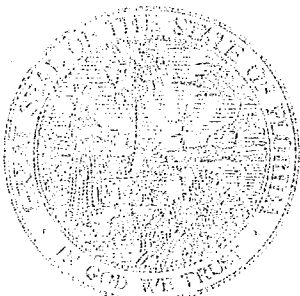
I, Ken Detzner, Secretary of State,
do hereby certify that

Jesse Panuccio

is duly appointed

**Executive Director,
Department of Economic Opportunity**

for a term beginning on the
Eighth day of January, A.D., 2013,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Thirtieth day of January, A.D., 2013.*

Ken Detzner

Secretary of State



3036

RICK SCOTT
GOVERNOR

RECEIVED
13 JAN 25 PM 2:27
DIVISION OF ELECTIONS
SECRETARY OF STATE

January 25, 2013

The Honorable Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have amended the following appointment under the provisions of Section 20.60, Florida Statutes:

Mr. Jesse M. Panuccio
107 East Madison Street
Suite 212
Tallahassee, Florida 32399

as Executive Director of the Department of Economic Opportunity, succeeding Hunting F. Deutsch, subject to confirmation by the Senate. This appointment is effective January 8, 2013, for a term ending at the pleasure of the Governor.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/jrp

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate. Please type or print in blue or black ink.

13 JAN 23 PM 2:46 1-18-13

DIVISION OF ELECTIONS
SECRETARY OF STATE

1. Name: Mr. Panuccio M.
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 107 East Madison Street Suite 212 Tallahassee
Street Office # City
FL 32399 (850) 245-7298
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 2050 Gardenbrook Lane Tallahassee Leon
Street City County
FL 32301 (850) 692-3179
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____
(optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
2050 Gardenbrook Lane	Tallahassee, FL	Feb. 2011	Present
1200 N. Veitch St.	Arlington, VA	Oct. 2007	Jan. 2011

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
1200 N. Veitch St.	Arlington, VA	Oct. 2007	Jan. 2011
480 N. Wall Street	Salt Lake City, UT	Aug. 2006	Aug. 2007
44 Martin Street	Cambridge, MA	Aug. 2004	May 2006*
Harvard Law School	Cambridge, MA	Aug. 2003	May 2004*
(See attached)			

5. Date of Birth: Nov. 1, 1980 Place of Birth: New Jersey

6. Social Security Number: _____

7. Driver License Num: _____ sving State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain _____

Questionnaire for Senate Confirmation (attachment)

Continuation of Question #4.(B)

Duke University Durham, NC Jan. 2003 – May 2003*
Hotel At. George Student Housing NYC, NY Jan. 2002 – June 2002
GW University Washington, DC Summer 2002

*During summers between school years (college & law), I lived in various locations, but cannot recall each of these temporary addresses. The locations were in Pompano Beach, FL; Montgomery, AL; and Washington, D.C.

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 2011

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Leon

B. Current Party Affiliation: Republican

12. Education

A. High School: Morris Hills High School, Rockaway, NJ
(Name and Location)

Year Graduated: 1999

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Duke University	1999-2003	BA
Harvard Law School	2003-2006	JD

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☐ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
I received a speeding ticket in Virginia on 4/2/00, but my records do not reflect the amount of the fine, so I cannot definitively answer "yes" or "no" to this question as worded. Other than the speeding ticket, the answer is "no."			

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
DEO, Tallahassee, FL	Government	Executive Director	Jan. 2013 - present
EOG, Tallahassee, FL	Government	General Counsel	Mar. 2012 - Jan. 2013
EOG, Tallahassee, FL	Government	Deputy General Counsel	Feb. 2011 - Mar. 2012
Cooper & Kirk, PLLC	Law Firm	Associate	2007 - 2011

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☒ No ☐
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
See answer to #15.		

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

During the last two years in the EOG legal office, I have gained a deep understanding of how state agencies function. Working closely with the Governor has also allowed me to understand and appreciate his vision for a government that is transparent, accountable, and efficient. In addition, because DEO is chiefly a compliance and monitoring agency, my background as an attorney will serve me well in this position.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

My BA is in Public Policy. I also have a JD.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

N/A

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
General Counsel, EOG	Mar. 2012	N/A	State
Deputy General Counsel, EOG	Feb. 2011	N/A	State

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date

Nature of Violation

Disposition

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒ If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate
Title & Number

Original
Issue Date

Issuing Authority

Disciplinary Action/Date

Law License

10/20/2006

FL Supreme Court

N/A

<u>License/Certificate</u> <u>Title & Number</u>	<u>Original</u> <u>Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

Name of Business

Your Relationship to Business

Business' Relationship to Agency

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Note that I am presently submitting a "lobbyist" registration to the extent that it is required of the Executive Director of DEO.	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
David Thompson			
Charlie Trippe			
Michael Sevi			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Florida Bar	651 E. Jefferson St., Tallahassee, FL 32301	Member	10/06 - present*
Federalist Society	1015 18th St., NW, DC 20036	Member	2003 - present
Republican Nat'l Lawyers Assn	POB 18965, DC 20036	Member	2004 & intermittent
Life University Bd. of Trustees	1269 Barclay Cir, Marietta, GA 30060		2009 - present

* Membership in the Florida Bar is required by law in order to practice law in the state of Florida.

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

CERTIFICATION

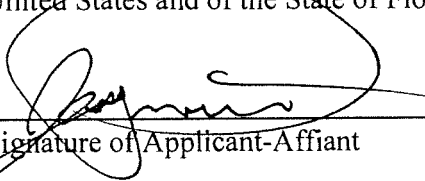
STATE OF FLORIDA
COUNTY OF Leon

RECEIVED
13 JAN 23 PM 3:20
DIVISION OF ELECTIONS
SECRETARY OF STATE

Before me, the undersigned Notary Public of Florida, personally appeared

Jesse Panuccio

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

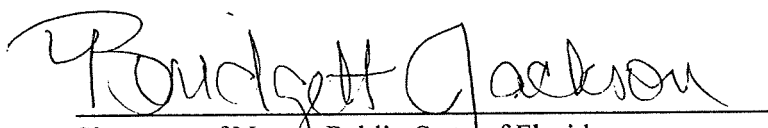

Signature of Applicant-Affiant

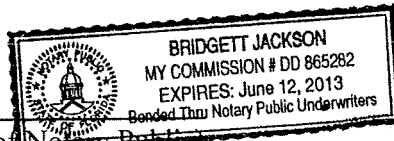
Sworn to and subscribed before me this

22nd

day of

January 2013


Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires:

June 12, 2013

Personally Known ☐ OR

Produced Identification ☒

Type of Identification Produced

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Confirmation

Bill Number n/a
(if applicable)

Name Jesse Panuccio

Amendment Barcode n/a
(if applicable)

Job Title Director, DEO

Address 107 E. Madison St
Street

Phone (850) 245-7153

Tallahassee FL 32399
City State Zip

E-mail jesse.panuccio@deo.mylorida.com

Speaking: ☐ For ☐ Against ☐ Information

Representing DEO

Appearing at request of Chair: ☒ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Jesse Panuccio

ANSWER: I do.
Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Community Affairs

DATE: April 9, 2013



445222

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with directory and title amendments)

Between lines 1694 and 1695
insert:

(15) (a) For one-story or two-story structures that are less than 10,000 square feet, whose occupancy is defined in the Florida Building Code and the Florida Fire Prevention Code as business or mercantile, a fire official shall enforce the wall fire-rating provisions for occupancy separation as defined in the Florida Building Code.

(b) A farming or ranching structure, as part of an operation that employs fewer than 25 full-time equivalent



445222

workers, calculated as cumulative hours worked divided by 40 hours, which is not used by the public for direct sales or as an educational outreach facility, is exempt from the Florida Fire Prevention Code, including the national codes and Life Safety Code incorporated by reference. This paragraph does not include structures used for residential or assembly occupancies, as defined in the Florida Fire Prevention Code.

=====
D I R E C T O R Y C L A U S E A M E N D M E N T =====

And the directory clause is amended as follows:

Delete lines 1561 - 1562

and insert:

subsections (2), (4), (7), (9), (10), and (12) through (15) of that section are amended, and a new subsection (15) is added to that section, to read:

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

And the title is amended as follows:

Between lines 118 and 119

insert:

requiring fire officials to enforce Florida Building Code provisions for occupancy separation for certain structures with certain occupancies; exempting certain farming and ranching structures from the code;



809420

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 1919 - 1921
and insert:
or life safety ~~lifesafety~~. Before ~~Prior to~~ applying the minimum
firesafety code to an existing building, the local fire official
shall determine that a threat to lifesafety or property exists.



392558

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Substitute for Amendment (809420)

Delete lines 1919 - 1929
and insert:
or life safety ~~lifesafety~~. Prior to applying the minimum
firesafety code to an existing building, the local fire official
shall determine that a threat to lifesafety or property exists.
If a threat to lifesafety or property exists, the fire official
shall apply the applicable firesafety code for existing
buildings to the extent practical to assure a reasonable degree
of lifesafety and safety of property or the fire official shall
fashion a reasonable alternative which affords an equivalent



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13 degree of lifesafety and safety of property. The decision of the
14 local fire official may be appealed to the local



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 630 - 2371
and insert:
systems.

(b) "Contractor II" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service water sprinkler systems, water spray systems, foam-water sprinkler systems, foam -water spray systems, standpipes, combination standpipes and sprinkler risers, all piping that is an integral part of the system beginning at the point of service



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as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems.

(c) "Contractor III" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide ~~CO2~~ systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.

(d) "Contractor IV" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings. A Contractor IV is limited to the scope of practice specified in NFPA 13D.

(e) "Contractor V" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

The definitions in this subsection may ~~must~~ not be construed to include ~~fire-protection~~ engineers or architects and do not limit



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or prohibit a licensed fire protection engineer or architect with fire protection design experience from designing any type of fire protection system. A distinction is made between system design concepts prepared by the design professional and system layout as defined in this section and typically prepared by the contractor. However, a person ~~persons~~ certified as a Contractor I, Contractor II, or Contractor IV under this chapter may design fire protection systems of 49 or fewer sprinklers, and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition, or deletion of not more than 49 sprinklers, notwithstanding the size of the existing fire sprinkler system. A person certified as a Contractor I, Contractor II, or Contractor IV may design a fire protection system the scope of which complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers. Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer.

(4) "Department" means the Department of Financial Services.

(5) "Division" means the Division of State Fire Marshal within the Department of Financial Services.

(6) "Explosives" means any chemical compound or mixture that has the property of yielding readily to combustion or oxidation upon the application of heat, flame, or shock and is capable of producing an explosion and is commonly used for that purpose, including but not limited to dynamite, nitroglycerin,



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trinitrotoluene, ammonium nitrate when combined with other ingredients to form an explosive mixture, blasting caps, and detonators; but the term does not include cartridges for firearms or fireworks as defined in chapter 791.

(7)(a) "Fire equipment dealer Class A" means a licensed fire equipment dealer whose business is limited to servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers and conducting hydrostatic tests on all types of fire extinguishers.

(b) "Fire equipment dealer Class B" means a licensed fire equipment dealer whose business is limited to servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, including recharging carbon dioxide units and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

(c) "Fire equipment dealer Class C" means a licensed fire equipment dealer whose business is limited to servicing, recharging, repairing, installing, or inspecting all types of fire extinguishers, except recharging carbon dioxide units, and conducting hydrostatic tests on all types of fire extinguishers, except carbon dioxide units.

(d) "Fire equipment dealer Class D" means a licensed fire equipment dealer whose business is limited to servicing, recharging, repairing, installing, hydrotesting, or inspecting of all types of preengineered fire extinguishing systems.

(8) A "Fire extinguisher" means ~~is~~ a cylinder that:

(a) Is portable and can be carried or is on wheels.

(b) Is manually operated.

(c) May use a variety of extinguishing agents that are



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expelled under pressure.

(d) Is rechargeable or nonrechargeable.

(e) Is installed, serviced, repaired, recharged, inspected, and hydrotested according to applicable procedures of the manufacturer, standards of the National Fire Protection Association, and the Code of Federal Regulations.

(f) Is listed by a nationally recognized testing laboratory.

(9) "Firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division under s. 633.408.

(10) "Fire service support personnel" means an individual who does not hold a current and valid certificate issued by the division and who may only perform support services.

(11)(9) A "Fire hydrant" means ~~is~~ a connection to a water main, elevated water tank, or other source of water for the purpose of supplying water to a fire hose or other fire protection apparatus for fire suppression operations. The term does not include a fire protection system.

(12)(10) A "Fire protection system" means ~~is~~ a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire. Such systems include, but are not limited to, water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, carbon dioxide ~~CO2~~ systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems used for fire protection use. Such systems also include any overhead and underground fire



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mains, fire hydrants and hydrant mains, standpipes and hoses connected to sprinkler systems, sprinkler tank heaters, air lines, thermal systems used in connection with fire sprinkler systems, and tanks and pumps connected to fire sprinkler systems.

(13) ~~(11)~~ A "Firesafety inspector" means is an individual who holds a current and valid Fire Safety Inspector Certificate of Compliance issued ~~certified~~ by the ~~division~~ ~~State Fire Marshal~~ under s. 633.216 ~~s. 633.081~~ who is officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis on behalf of the state or any county, municipality, or special district with fire safety responsibilities.

(14) "Fire service provider" means a municipality or county, the state, or any political subdivision of the state, including authorities and special districts, employing firefighters or utilizing volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.

(15) ~~(12)~~ "Handling" means touching, holding, taking up, moving, controlling, or otherwise affecting with the hand or by any other agency.

~~(13) (a) For the purposes of s. 633.085(1), the term "high hazard occupancy" means any building or structure:~~

~~1. That contains combustible or explosive matter or flammable conditions dangerous to the safety of life or property.~~



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- ~~2. In which persons receive educational instruction.~~
~~3. In which persons reside, excluding private dwellings.~~
~~4. Containing three or more floor levels.~~

~~Such buildings or structures include, but are not limited to, all hospitals and residential health care facilities, nursing homes and other adult care facilities, correctional or detention facilities, public schools, public lodging establishments, migrant labor camps, residential child care facilities, and self-service gasoline stations.~~

~~(b) For the purposes of this subsection, the term "high-hazard occupancy" does not include any residential condominium where the declaration of condominium or the bylaws provide that the rental of units shall not be permitted for less than 90 days.~~

~~(16)~~ (14) "Highway" means every way or place of whatever nature within the state open to the use of the public, as a matter of right, for purposes of vehicular traffic and includes public streets, alleys, roadways, or driveways upon grounds of colleges, universities, and institutions and other ways open to travel by the public, notwithstanding that the same have been temporarily closed for the purpose of construction, reconstruction, maintenance, or repair. The term does not include a roadway or driveway upon grounds owned by a private person.

(17) "Hot zone" means the area immediately around an incident where serious threat of harm exists, which includes the collapse zone for a structure fire.

~~(18)~~ (15) "Keeping" means possessing, holding, retaining,



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maintaining, or having habitually in stock for sale.

(19)~~(16)~~ "Layout" ~~as used in this chapter~~ means the layout of risers, cross mains, branch lines, sprinkler heads, sizing of pipe, hanger locations, and hydraulic calculations in accordance with the design concepts established through ~~the provisions of~~ the Responsibility Rules adopted by the Board of Professional Engineers.

(20)~~(17)~~ "Manufacture" means the compounding, combining, producing, or making of anything or the working of anything by hand, by machinery, or by any other agency into forms suitable for use.

(21)~~(18)~~ A "Minimum firesafety standard" means ~~is~~ a requirement or group of requirements adopted pursuant to s. 633.208 ~~633.025~~ by a county, municipality, or special district with firesafety responsibilities, or by the State Fire Marshal pursuant to s. 394.879, for the protection of life and property from loss by fire which shall be met, as a minimum, by every occupancy, facility, building, structure, premises, device, or activity to which it applies.

(22) "Minimum Standards Course" means training of at least 360 hours as prescribed by rule adopted by the division which is required to obtain a Firefighter Certificate of Compliance under s. 633.408.

(23)~~(19)~~ "Motor vehicle" means any device propelled by power other than muscular power in, upon, or by which any individual ~~person~~ or property is or may be transported or drawn upon a highway, except a device moved or used exclusively upon stationary rails or tracks.

(24)~~(20)~~ "Point-of-service" means the point at which the



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underground piping for a fire protection system as defined in this section using water as the extinguishing agent becomes used exclusively for the fire protection system.

~~(25)-(21)~~(a) A "Preengineered system" means ~~is~~ a fire suppression system which:

1. Uses any of a variety of extinguishing agents.
2. Is designed to protect specific hazards.
3. Must be installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association (NFPA) standards. Only those chapters within the National Fire Protection Association standards which ~~that~~ pertain to servicing, recharging, repairing, installing, hydrotesting, or inspecting any type of preengineered fire extinguishing system may be used.
4. Must be installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.
5. Must be listed by a nationally recognized testing laboratory.

(b) Preengineered systems consist of and include all of the components and parts providing fire suppression protection, but do not include the equipment being protected, and may incorporate special nozzles, flow rates, methods of application, pressurization levels, and quantities of agents designed by the manufacturer for specific hazards.

~~(26)-(22)~~ "Private carrier" means a ~~any~~ motor vehicle, aircraft, or vessel operating intrastate in which there is identity of ownership between freight and carrier.



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(27)~~(23)~~ "Sale" means the act of selling; the act whereby the ownership of property is transferred from one person to another for a sum of money or, loosely, for any consideration. The term includes the delivery of merchandise with or without consideration.

(28)~~(24)~~ "Special state firesafety inspector" means an individual officially assigned to the duties of conducting firesafety inspections required by law on behalf of or by an agency of the state having authority for inspections other than the division ~~of State Fire Marshal~~.

(29)~~(25)~~ A "Sprinkler system" means ~~is~~ a type of fire protection system, ~~either~~ manual or automatic, using water as an extinguishing agent and installed in accordance with applicable National Fire Protection Association standards.

(30)~~(26)~~ "Storing" means accumulating, laying away, or depositing for preservation or as a reserve fund in a store, warehouse, or other source from which supplies may be drawn or within which they may be deposited. The term is limited in meaning and application to storage having a direct relationship to transportation.

(31) "Support services" means those activities that a fire service provider has trained an individual to perform safely outside the hot zone of an emergency scene, including pulling hoses, opening and closing fire hydrants, driving and operating apparatus, carrying tools, carrying or moving equipment, directing traffic, manning a resource pool, or similar activities.

(32) "Suspension" means the temporary withdrawal of a license, certificate, or permit issued pursuant to this chapter.



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(33)(27) "Transportation" means the conveying or carrying of property from one place to another by motor vehicle (except a motor vehicle subject to ~~the provisions of~~ s. 316.302), aircraft, or vessel, subject to such limitations as are set forth in s. 552.12, in which only the motor vehicles, aircraft, or vessels of the Armed Forces and other federal agencies are specifically exempted.

(34)(28) A "Uniform firesafety standard" means ~~is~~ a requirement or group of requirements for the protection of life and property from loss by fire which shall be met by every building and structure specified in s. 633.206 ~~633.022(1)~~, and is not ~~neither~~ weakened or ~~nor~~ exceeded by law, rule, or ordinance of any other state agency or political subdivision or county, municipality, or special district with firesafety responsibilities.

(35)(29) "Use" means application, employment; that enjoyment of property which consists of its employment, occupation, exercise, or practice.

(36) "Volunteer firefighter" means an individual who holds a current and valid Volunteer Firefighter Certificate of Completion issued by the division under s. 633.408.

Section 3. Section 633.01, Florida Statutes, is transferred and renumbered as section 633.104, Florida Statutes, subsections (1), (3), (5), (6), and (7) of that section are amended, and subsections (8) and (9) are added to that section, to read:

633.104 ~~633.01~~ State Fire Marshal; authority; ~~powers and~~ duties; rules.—

(1) The Chief Financial Officer is designated as "State Fire Marshal." The State Fire Marshal has authority to adopt



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rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of this chapter conferring powers or duties upon the department.~~ Rules must ~~shall~~ be in substantial conformity with generally accepted standards of firesafety; must ~~shall~~ take into consideration the direct supervision of children in nonresidential child care facilities; and must ~~shall~~ balance and temper the need of the State Fire Marshal to protect all Floridians from fire hazards with the social and economic inconveniences that may be caused or created by the rules. The department shall adopt the Florida Fire Prevention Code ~~and the Life Safety Code.~~

(3) The State Fire Marshal shall establish by rule guidelines and procedures for quadrennial ~~triennial~~ renewal of firesafety inspector requirements for certification.

(5) It is the intent of the Legislature that there are to be no conflicting requirements between the Florida Fire Prevention Code ~~and the Life Safety Code authorized by this chapter and the provisions of the Florida Building Code or~~ conflicts in their enforcement and interpretation. Potential conflicts shall be resolved through coordination and cooperation of the State Fire Marshal and the Florida Building Commission as provided by this chapter and part IV of chapter 553.

(6) Only the State Fire Marshal may issue, and, when requested in writing by any substantially affected person or a local enforcing agency, the State Fire Marshal shall issue declaratory statements pursuant to s. 120.565 relating to the Florida Fire Prevention Code ~~and the Life Safety Code.~~

(7) The State Fire Marshal, in consultation with the Department of Education, shall adopt and administer rules



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prescribing standards for the safety and health of occupants of educational and ancillary facilities pursuant to ss. 633.206 ~~633.022~~, 1013.12, 1013.37, and 1013.371. In addition, in any county, municipality, or special district that does not employ or appoint a firesafety inspector certified under s. 633.216 ~~633.081~~, the State Fire Marshal shall assume the duties of the local county, municipality, or independent special fire control district as defined in s. 191.003 with respect to firesafety inspections of educational property required under s. 1013.12(3)(b), and the State Fire Marshal may take necessary corrective action as authorized under s. 1013.12(7).

(8) The State Fire Marshal or her or his duly appointed hearing officer may administer oaths and take testimony about all matters within the jurisdiction of this chapter. Chapter 120 governs hearings conducted by or on behalf of the State Fire Marshal.

(9) The State Fire Marshal may contract with any qualified public entity or private company in accordance with chapter 287 to provide examinations for any applicant for any examination administered under the jurisdiction of the State Fire Marshal. The State Fire Marshal may direct payments from each applicant for each examination directly to such contracted entity or company.

Section 4. Section 633.163, Florida Statutes, is transferred, renumbered as section 633.106, Florida Statutes, and amended to read:

633.106 ~~633.163~~ State Fire Marshal; disciplinary authority; administrative fine and probation in lieu of suspension, revocation, or refusal to issue a license, permit, or



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certificate.-

(1) The State Fire Marshal may deny, suspend, or revoke the license, certificate, or permit of any individual who does not meet the qualifications established by, or who violates any provision under, this chapter or any rule authorized by this chapter.

(2)~~(1)~~ If the State Fire Marshal finds that one or more grounds exist for the suspension, revocation, or refusal to issue, renew, or continue any license, certificate, or permit issued under this chapter, the State Fire Marshal may, in its discretion, in lieu of the suspension, revocation, or refusal to issue, renew, or continue, and, except on a second offense or when the suspension, revocation, or refusal to issue, renew, or continue is mandatory, impose upon the licensee, certificateholder, or permittee one or more of the following:

(a) An administrative fine not to exceed \$1,000 for each violation, and not to exceed a total of \$10,000 in any one proceeding.

(b) Probation for a period not to exceed 2 years, as specified by the State Fire Marshal in her or his order.

(3)~~(2)~~ The State Fire Marshal may allow the licensee, certificateholder, or permittee a reasonable period, not to exceed 30 days, within which to pay to the State Fire Marshal the amount of the fine. If the licensee, certificateholder, or permittee fails to pay the administrative fine in its entirety to the State Fire Marshal within such period, the license, permit, or certificate shall stand suspended until payment of the administrative fine.

(4) As a condition to probation or in connection therewith,



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the State Fire Marshal may specify in her or his order reasonable terms and conditions to be fulfilled by the probationer during the probation period. If during the probation period the State Fire Marshal has good cause to believe that the probationer has violated any of the terms and conditions, she or he shall suspend, revoke, or refuse to issue, renew, or continue the license, certificate, or permit of the probationer, as upon the original ground or grounds referred to in subsection (2).

Section 5. Section 633.15, Florida Statutes, is transferred and renumbered as section 633.108, Florida Statutes.

Section 6. Section 633.101, Florida Statutes, is transferred, renumbered as section 633.112, Florida Statutes, and amended to read:

633.112 ~~633.101~~ State Fire Marshal; hearings; investigations; recordkeeping and reports; subpoenas of witnesses; orders of circuit court investigatory powers of State Fire Marshal; costs of service and witness fees.-

(1) The State Fire Marshal may in his or her discretion take or cause to be taken the testimony on oath of a person ~~all persons~~ whom he or she believes to be cognizant of any facts in relation to matters under investigation.

(2) If the State Fire Marshal is ~~shall be~~ of the opinion that there is sufficient evidence to charge a ~~any~~ person with an offense, he or she must ~~shall~~ cause the arrest of such person and must ~~shall~~ furnish to the prosecuting officer of any court having jurisdiction of the ~~said~~ offense all information obtained by him or her, including a copy of all pertinent and material testimony taken, together with the names and addresses of all witnesses. In the conduct of such investigations, the State Fire



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419 Marshal may request such assistance as may reasonably be given
420 by such prosecuting officers and other local officials.

421 (3) The State Fire Marshal may summon and compel the
422 attendance of witnesses before him or her to testify in relation
423 to any matter ~~manner~~ which is, by ~~the provisions of this~~
424 chapter, a subject of inquiry and investigation, and he or she
425 may require the production of any book, paper, or document
426 deemed pertinent thereto by him or her, and may seize furniture
427 and other personal property to be held for evidence.

428 (4) A person ~~All persons~~ so summoned and so testifying
429 shall be entitled to the same witness fees and mileage as
430 provided for witnesses testifying in the circuit courts of this
431 state, and officers serving subpoenas or orders of the State
432 Fire Marshal shall be paid in like manner for like services in
433 such courts, from the funds herein provided.

434 (5) Any agent designated by the State Fire Marshal for such
435 purposes, may hold hearings, sign and issue subpoenas,
436 administer oaths, examine witnesses, receive evidence, and
437 require by subpoena the attendance and testimony of witnesses
438 and the production of such accounts, records, memoranda, or
439 other evidence, as may be material for the determination of any
440 complaint or conducting any inquiry or investigation under this
441 chapter. In the case of disobedience to a subpoena, the State
442 Fire Marshal or her or his agent may invoke the aid of any court
443 of competent jurisdiction in requiring the attendance and
444 testimony of witnesses and the production of accounts, records,
445 memoranda, or other evidence and any such court may in case of
446 refusal to obey a subpoena issued to a person, issue an order
447 requiring the person to appear before the State Fire Marshal's



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agent or produce accounts, records, memoranda, or other evidence, as so ordered, or to give evidence touching any matter pertinent to any complaint or the subject of any inquiry or investigation, and any failure to obey such order of the court shall be punished by the court as contempt.

(6) Upon request, the State Fire Marshal shall investigate the cause, origin, and circumstances of fires and explosions occurring in this state wherein property has been damaged or destroyed and there is probable cause to believe that the fire or explosion was the result of carelessness or design.

(a) Any time a fire or explosion has occurred which results in property damage or destruction in any municipality, county, or special district having an organized fire department, any local fire official whose intent is to request the State Fire Marshal to perform an investigation shall make or shall cause to be made an initial investigation of the circumstances surrounding the cause and origin of the fire or explosion. Law enforcement officers may conduct such initial investigation.

(b) If the fire or explosion occurs in a municipality, county, or special district that does not have an organized fire department or designated arson investigations unit within its law enforcement providers, the municipality, county, or special district may request the State Fire Marshal to conduct the initial investigation.

(c) The division shall adopt rules to assist local fire officials and law enforcement officers in determining the established responsibilities with respect to the initial or preliminary assessment of fire and explosion scenes, and the determination of whether probable cause exists to refer such



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477 scenes to the State Fire Marshal for an investigation.

478 Section 7. Section 633.111, Florida Statutes, is
479 transferred, renumbered as subsections (7) and (8) of section
480 633.112, Florida Statutes, and amended to read:

481 633.112 State Fire Marshal; hearings; investigations;
482 recordkeeping and reports; subpoenas of witnesses; orders of
483 circuit court investigatory powers of State Fire Marshal; costs
484 of service and witness fees.—

485 (7) The State Fire Marshal shall keep ~~in her or his office~~
486 a record of all fires and explosions occurring in this state
487 upon which she or he had caused an investigation to be made and
488 all facts concerning the same. These records, obtained or
489 prepared by the State Fire Marshal pursuant to her or his
490 investigation, include documents, papers, letters, maps,
491 diagrams, tapes, photographs, films, sound recordings, and
492 evidence. These records are confidential and exempt from the
493 provisions of s. 119.07(1) until the investigation is completed
494 or ceases to be active. For purposes of this section, an
495 investigation is considered "active" while such investigation is
496 being conducted by the department with a reasonable, good faith
497 belief that it may lead to the filing of administrative, civil,
498 or criminal proceedings. An investigation does not cease to be
499 active if the department is proceeding with reasonable dispatch,
500 and there is a good faith belief that action may be initiated by
501 the department or other administrative or law enforcement
502 agency. Further, these documents, papers, letters, maps,
503 diagrams, tapes, photographs, films, sound recordings, and
504 evidence relative to the subject of an investigation shall not
505 be subject to subpoena until the investigation is completed or



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ceases to be active, unless the State Fire Marshal consents.
These records shall be made daily from the reports furnished the
State Fire Marshal by her or his agents or others.

(8) Whenever the State Fire Marshal releases an
investigative report, any person requesting a copy of the report
shall pay in advance, and the State Fire Marshal shall collect
in advance, notwithstanding the provisions of s. 624.501(19) (a)
and (b), a fee of \$10 for the copy of the report, which fee
shall be deposited into the Insurance Regulatory Trust Fund. The
State Fire Marshal may release the report without charge to any
state attorney or to any law enforcement agency or fire
department assisting in the investigation.

Section 8. Section 633.02, Florida Statutes, is
transferred, renumbered as section 633.114, Florida Statutes,
and amended to read:

633.114 ~~633.02~~ State Fire Marshal agents ~~Agents; authority;~~
~~powers and duties; compensation.-~~

(1) The State Fire Marshal shall appoint such agents as may
be necessary to carry out effectively ~~the provisions of this~~
chapter, who shall be reimbursed for travel expenses as provided
in s. 112.061, in addition to their salary, when traveling or
making investigations in the performance of their duties. Such
agents shall be at all times under the direction and control of
the State Fire Marshal, who shall fix their compensation, and
all orders shall be issued in the State Fire Marshal's name and
by her or his authority.

(2) The authority given the State Fire Marshal under this
chapter may be exercised by her or his agents, individually or
in conjunction with any other state or local official charged



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with similar responsibilities.

Section 9. Section 633.14, Florida Statutes, is transferred and renumbered as section 633.116, Florida Statutes.

Section 10. Section 633.121, Florida Statutes, is transferred, renumbered as section 633.118, Florida Statutes, and amended to read:

633.118 ~~633.121~~ Persons authorized to enforce laws and rules of State Fire Marshal.—The chiefs of county, municipal, and special-district fire service providers ~~departments~~; other fire service provider ~~department~~ personnel designated by their respective chiefs; and personnel designated by local governments having no organized fire service providers ~~departments~~ are authorized to enforce this chapter law and all rules prescribed by the State Fire Marshal within their respective jurisdictions. Such personnel acting under the authority of this section shall be ~~deemed to be~~ agents of their respective jurisdictions, not agents of the State Fire Marshal.

Section 11. Section 633.151, Florida Statutes, is transferred, renumbered as section 633.122, Florida Statutes, and amended to read:

633.122 ~~633.151~~ Impersonating State Fire Marshal, firefighter ~~firefighters~~, volunteer firefighter, or firesafety inspector; criminal penalties.—A person who falsely assumes or pretends to be the State Fire Marshal, an agent of the division ~~of State Fire Marshal~~, a firefighter ~~as defined in s. 112.81~~, a volunteer firefighter, or a firesafety inspector by identifying herself or himself as the State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or a firesafety inspector by wearing a uniform or presenting or



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displaying a badge as credentials that would cause a reasonable person to believe that she or he is a State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or firesafety inspector commits ~~and who acts as such to require a person to aid or assist him or her in any matter relating to the duties of the State Fire Marshal, an agent of the division, a firefighter, or a firesafety inspector is guilty of a felony~~ of the third degree, punishable as provided in ss. 775.082 and 775.083 or, if the impersonation occurs during the commission of a separate felony by that person, commits ~~is guilty of a felony~~ of the first degree, punishable as provided in ss. 775.082 and 775.083.

Section 12. Section 633.171, Florida Statutes, is transferred and renumbered as section 633.124, Florida Statutes, and subsections (1) and (2) and paragraph (b) of subsection (3) of that section are amended, to read:

633.124 ~~633.171~~ Penalty for violation of law, rule, or order to cease and desist or for failure to comply with corrective order.—

(1) ~~A~~ Any person who violates any provision of this chapter ~~law~~, any order or rule of the State Fire Marshal, or any order to cease and desist or to correct conditions issued under this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, to intentionally or willfully:

(a) Render a fire protection system, fire extinguisher, or preengineered system required by statute or by rule inoperative



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except while ~~during such time as~~ the fire protection system,
fire extinguisher, or preengineered system is being serviced,
hydrotested, tested, repaired, or recharged, except pursuant to
court order.

(b) Obliterate the serial number on a fire extinguisher for
purposes of falsifying service records.

(c) Improperly service, recharge, repair, hydrotest, test,
or inspect a fire extinguisher or preengineered system.

(d) Use the license, certificate, or permit ~~number~~ of
another person.

(e) Hold a license, certificate, or permit and allow
another person to use the license, certificate, or ~~said~~ permit
~~number.~~

(f) Use, or allow ~~permit~~ the use of, any license,
certificate, or permit by any individual or organization other
than the one to whom the license, certificate, or permit is
issued.

(3)

(b) A person who initiates a pyrotechnic display within any
structure commits a felony of the third degree, punishable as
provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1. The structure has a fire protection system installed in
compliance with s. 633.334 ~~633.065~~.

2. The owner of the structure has authorized in writing the
pyrotechnic display.

3. If the local jurisdiction requires a permit for the use
of a pyrotechnic display in an occupied structure, such permit
has been obtained and all conditions of the permit complied with
or, if the local jurisdiction does not require a permit for the



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use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2001 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 13. Section 633.175, Florida Statutes, is transferred and renumbered as section 633.126, Florida Statutes, and subsections (1), (2), (3), (6), and (9) of that section are amended, to read:

633.126 ~~633.175~~ Investigation of fraudulent insurance claims and crimes; immunity of insurance companies supplying information.—

(1) (a) As used in this section, the term "consultant" means any individual or entity, or employee of the individual or entity, retained by an insurer to assist in the investigation of a fire, explosion, or suspected fraudulent insurance act.

(b) The State Fire Marshal or an agent appointed pursuant to s. 633.114 ~~633.02~~, any law enforcement officer as defined in s. 111.065, any law enforcement officer of a federal agency, or any fire service provider ~~department~~ official who is engaged in the investigation of a fire or explosion loss may request any insurance company or its agent, adjuster, employee, or attorney, investigating a claim under an insurance policy or contract with respect to a fire or explosion to release any information whatsoever in the possession of the insurance company or its agent, adjuster, employee, or attorney relative to a loss from that fire or explosion. The insurance company shall release the available information to and cooperate with any official authorized to request such information pursuant to this section.



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The information shall include, but shall not be limited to:

1.~~(a)~~ Any insurance policy relevant to a loss under investigation and any application for such a policy.

2.~~(b)~~ Any policy premium payment records.

3.~~(c)~~ The records, reports, and all material pertaining to any previous claims made by the insured with the reporting company.

4.~~(d)~~ Material relating to the investigation of the loss, including statements of a ~~any~~ person, proof of loss, and other relevant evidence.

5.~~(e)~~ Memoranda, notes, and correspondence relating to the investigation of the loss in the possession of the insurance company or its agents, adjusters, employees, or attorneys.

(2) If an insurance company has reason to suspect that a fire or explosion loss to its insured's real or personal property was caused by intentional ~~incendiary~~ means, the company shall notify the State Fire Marshal and shall furnish her or him with all material acquired by the company during ~~the course of~~ its investigation. The State Fire Marshal may adopt rules to implement this subsection.

(3) In the absence of fraud, bad faith, or malice, a ~~no~~ representative of or consultant to an insurance company or of the National Insurance Crime Bureau employed to adjust or investigate losses caused by fire or explosion ~~is not~~ ~~shall be~~ liable for damages in a civil action for furnishing information concerning fires or explosion suspected to be other than accidental to investigators employed by other insurance companies or the National Insurance Crime Bureau.

(6) The actions of an insurance company or of its agents,



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employees, adjusters, consultants, or attorneys, in complying with the statutory obligation of this section may not ~~shall in no way~~ be construed by a court as a waiver or abandonment of any privilege or confidentiality of attorney work product, attorney-client communication, or such other privilege or immunity as is provided by law.

(9) ~~A Any~~ person who willfully violates ~~the provisions of~~ this section commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 14. Section 633.45, Florida Statutes, is transferred, renumbered as section 633.128, Florida Statutes, and amended to read:

633.128 ~~633.45~~ Division of State Fire Marshal; powers, duties.—

(1) The division shall:

(a) Establish, by rule, uniform minimum standards for the ~~employment and~~ training of firefighters and volunteer firefighters.

(b) Establish, by rule, minimum curriculum requirements and criteria used to approve education or training providers, including for schools operated by or for any fire service provider, employing agency for the specific purpose of training individuals seeking to become a firefighter ~~recruits or volunteer firefighter firefighters~~.

(c) Specify, by rule, standards for the approval, denial of approval, probation, suspension, and revocation of approval of education or training providers and facilities for training firefighters and volunteer firefighters ~~Approve institutions, instructors, and facilities for school operation by or for any~~



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~~employing agency for the specific purpose of training
firefighters and firefighter recruits.~~

(d) Specify, by rule, standards for the certification,
denial of certification, probation, and revocation of
certification for instructors, approval, denial of approval,
~~probation, and revocation of approval of institutions,~~
~~instructors, and facilities for training firefighters and~~
~~firefighter recruits;~~ including a rule requiring each ~~that an~~
instructor to ~~must~~ complete 40 hours of continuing education
every 4 ~~3~~ years in order to maintain her or his certification
~~the approval of the department.~~

(e) Issue certificates of competency to persons who, by
reason of experience and completion of basic inservice training,
advanced education, or specialized training, are especially
qualified for particular aspects or classes of firefighting
~~firefighter~~ duties.

(f) Establish, by rule, minimum training qualifications for
persons serving as firesafety coordinators for their respective
departments of state government and certify ~~all~~ persons who
satisfy such qualifications.

(g) Establish a uniform lesson plan to be followed by
firesafety instructors in the training of state employees in
firesafety and emergency evacuation procedures.

(h) Have complete jurisdiction over, and complete
management and control of, the Florida State Fire College and be
invested with full power and authority to make all rules ~~and~~
~~regulations~~ necessary for the governance of the said
institution.

(i) Appoint a superintendent of the Florida State Fire



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College and such other instructors, experimental helpers, and laborers as may be necessary and remove the same as in the division's ~~its~~ judgment and discretion may be best, fix their compensation, and provide for their payment.

(j) Have full management, possession, and control of the lands, buildings, structures, and property belonging to the Florida State Fire College.

(k) Provide for the courses of study and curriculum of the Florida State Fire College.

(l) Make rules ~~and regulations~~ for the admission of trainees to the Florida State Fire College.

(m) Visit and inspect the Florida State Fire College ~~and every department thereof~~ and provide for the proper keeping of accounts and records thereof.

(n) Make and prepare all necessary budgets of expenditures for the enlargement, proper furnishing, maintenance, support, and conduct of the Florida State Fire College.

(o) Select and purchase all property, furniture, fixtures, and paraphernalia necessary for the Florida State Fire College.

(p) Build, construct, change, enlarge, repair, and maintain any and all buildings or structures of the Florida State Fire College that may at any time be necessary for the ~~said~~ institution and purchase and acquire all lands and property necessary for same, of every nature and description whatsoever.

(q) Care for and maintain the Florida State Fire College and do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the ~~said~~ institution, necessary or requisite to carry out fully the purpose of this chapter ~~act~~ and for raising it to, and



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maintaining it at, the proper efficiency and standard as
required in and by part IV ~~the provisions of ss. 633.43-633.49.~~

(r) Issue a license, certificate, or permit of a specific
class to an individual who successfully completes the training,
education, and examination required under this chapter or by
rule for such class of license, certificate, or permit.

(2) The division, subject to the limitations and
restrictions ~~elsewhere herein~~ imposed in this chapter, may:

(a) Adopt rules ~~and regulations~~ for the administration of
this chapter ~~ss. 633.30-633.49~~ pursuant to chapter 120.

(b) Adopt a seal and alter the same at its pleasure.

(c) Sue and be sued.

(d) Acquire any real or personal property by purchase,
gift, or donation, and have water rights.

(e) Exercise the right of eminent domain to acquire any
property and lands necessary to the establishment, operation,
and expansion of the Florida State Fire College.

(f) Make contracts and execute necessary or convenient
instruments.

(g) Undertake by contract or contracts, or by its own agent
and employees, and otherwise than by contract, any project or
projects, and operate and maintain such projects.

(h) Accept grants of money, materials, or property of any
kind from a federal agency, private agency, county,
municipality, ~~city, town~~, corporation, partnership, or
individual upon such terms and conditions as the grantor may
impose.

(i) Perform all acts and do all things necessary or
convenient to carry out the powers granted herein and the



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purposes of this chapter ~~ss. 633.30-633.49~~.

(3) The title to all property referred to in part IV ~~ss. 633.43-633.49~~, however acquired, shall be vested in the department and shall only be transferred and conveyed by it.

Section 15. Section 633.132, Florida Statutes, is created to read:

633.132 Fees.—

(1) The division shall collect in advance the following fees that it deems necessary to be charged:

(a) Pursuant to part III of this chapter:

1. Contractor certificate initial application: \$300 for each class of certificate.

2. Contractor biennial renewal fee: \$150 for each class of certificate.

3. Contractor permit initial application fee: \$100 for each class of permit.

4. Contractor permit biennial renewal fee: \$50 for each class of permit.

5. Contractor examination or reexamination fee: \$100 for each class of certificate.

6. Fire equipment dealer license:

a. Class A: \$250.

b. Class B: \$150.

c. Class C: \$150.

d. Class D: \$200.

7. Fire equipment dealer or contractor application and renewal fee for an inactive license: \$75.

8. Fire equipment dealer license or permit exam or reexamination: \$50.



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9. Reinspection fee for a dealer equipment inspection conducted by the State Fire Marshal under s. 633.304(1): \$50 for each reinspection.

10. Permit for a portable fire extinguisher installer/repairer/inspector: \$90.

11. Permit for a preengineered fire extinguishing system installer/repairer/inspector: \$120.

12. Conversion of a fire equipment dealer's license to a different category: \$10 for each permit and license.

(b) Pursuant to part IV of this chapter:

1. Certificate of compliance: \$30.

2. Certificate of competency: \$30.

3. Renewal fee for a certificate of compliance, competency, or instruction: \$15.

(c) Duplicate or change of address for any license, permit, or certificate: \$10.

(2) All moneys collected by the State Fire Marshal pursuant to this chapter shall be deposited into the Insurance Regulatory Trust Fund.

Section 16. Section 633.39, Florida Statutes, is transferred and renumbered as section 633.134, Florida Statutes.

Section 17. Section 633.115, Florida Statutes, is transferred, renumbered as section 633.136, Florida Statutes, and amended to read:

633.136 ~~633.115~~ Fire and Emergency Incident Information Reporting Program; duties; fire reports.—

(1) (a) The Fire and Emergency Incident Information Reporting Program is created within the division of ~~State Fire Marshal~~. The program shall:



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854 1. Establish and maintain an electronic communication
855 system capable of transmitting fire and emergency incident
856 information to and between fire protection agencies.

857 2. Initiate a Fire and Emergency Incident Information
858 Reporting System that shall be responsible for:

859 a. Receiving fire and emergency incident information from
860 fire protection agencies.

861 b. Preparing and disseminating annual reports to the
862 Governor, the President of the Senate, the Speaker of the House
863 of Representatives, fire protection agencies, and, upon request,
864 the public. Each report shall include, but not be limited to,
865 the information listed in the National Fire Incident Reporting
866 System.

867 c. Upon request, providing other states and federal
868 agencies with fire and emergency incident data of this state.

869 3. Adopt rules to effectively and efficiently implement,
870 administer, manage, maintain, and use the Fire and Emergency
871 Incident Information Reporting Program. The rules shall be
872 considered minimum requirements and shall not preclude a fire
873 protection agency from implementing its own requirements which
874 ~~may shall~~ not conflict with the rules of the division of ~~State~~
875 ~~Fire Marshal~~.

876 4. By rule, establish procedures and a format for each fire
877 protection agency to voluntarily monitor its records and submit
878 reports to the program.

879 5. Establish an electronic information database that ~~which~~
880 is accessible and searchable by fire protection agencies.

881 (b) The division ~~of State Fire Marshal~~ shall consult with
882 the Florida Forest Service of the Department of Agriculture and



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Consumer Services and the State Surgeon General of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the division ~~of State Fire Marshal~~. The panel shall advise, review, and recommend to the State Fire Marshal with respect to the requirements of this section. The membership of the panel shall consist of the following 15 members:

(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.402 ~~633.31~~.

(b) One member from the Florida Forest Service of the Department of Agriculture and Consumer Services, appointed by the director of the Florida Forest Service.

(c) One member from the Department of Health, appointed by the State Surgeon General.

(3) For the purpose of this section, the term "fire protection agency" shall be defined by rule by the division ~~of State Fire Marshal~~.

Section 18. Section 633.138, Florida Statutes, is created to read:

633.138 Notice of change of address of record; notice of felony actions.—

(1) Any individual issued a license, permit, or certificate under this chapter shall notify the division in writing of any changes to her or his current mailing address, e-mail address, and place of practice as specified in rule adopted by the



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912 division.

913 (2) Notwithstanding any other provision of law, delivery by
914 regular mail or e-mail to a licensee, permittee, or
915 certificateholder, using the last known mailing address or e-
916 mail address on record with the division, constitutes adequate
917 and sufficient notice to the licensee, permittee, or
918 certificateholder of any official communication by the division.

919 (3) Any individual issued a license, permit, or certificate
920 under this chapter shall notify the division in writing within
921 30 days after pleading guilty or nolo contendere to, or being
922 convicted or found guilty of, any felony or a crime punishable
923 by imprisonment of 1 year or more under the law of the United
924 States or of any state thereof, or under the law of any other
925 country, without regard to whether a judgment of conviction has
926 been entered by the court having jurisdiction of the case.

927 Section 19. Section 633.042, Florida Statutes, is
928 transferred and renumbered as section 633.142, Florida Statutes,
929 and subsection (11) of that section is amended, to read:

930 633.142 ~~633.042~~ Reduced Cigarette Ignition Propensity
931 Standard and Firefighter Protection Act; preemption.

932 (11) PREEMPTION.—

933 (a) This section shall be repealed if a federal reduced
934 cigarette ignition propensity standard that preempts this
935 section is adopted and becomes effective.

936 (b) Notwithstanding any other provision of law, local
937 governmental units of this state may not enact or enforce any
938 ordinance or other local law or rule conflicting with, or
939 preempted by, any provision of this act or any policy of this
940 state expressed by this act, whether that policy be expressed by



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inclusion of a provision in this act or by exclusion of that subject from this act.

Section 20. The Division of Law Revision and Information is requested to create part II of chapter 633, Florida Statutes, consisting of sections 633.202, 633.204, 633.206, 633.208, 633.212, 633.214, 633.216, 633.218, 633.222, 633.224, 633.226, and 633.228, Florida Statutes, to be entitled "Fire Safety and Prevention."

Section 21. Section 633.0215, Florida Statutes, is transferred and renumbered as section 633.202, Florida Statutes, and subsections (2), (4), (7), (9), (10), and (12) through (15) of that section are amended, to read:

633.202 ~~633.0215~~ Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may ~~shall~~ not adopt a building, mechanical, or plumbing code. The State Fire Marshal shall adopt the current edition of the Life Safety Code, NFPA Pamphlet ~~Pamphlet~~ 101, current editions, by reference. The State Fire Marshal may modify the selected codes and standards as needed to accommodate the specific needs of the state. Standards or criteria in the selected codes shall be similarly incorporated by reference. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions that address uniform firesafety standards as established in s. 633.206 ~~633.022~~. The State Fire Marshal shall incorporate within sections of the Florida Fire Prevention Code provisions addressing regional and local concerns and variations.

(4) The State Fire Marshal shall update, by rule adopted



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pursuant to ss. 120.536(1) and 120.54, the Florida Fire Prevention Code every 3 years. Once initially adopted and subsequently updated, the Florida Fire Prevention Code ~~and the Life Safety Code~~ shall be adopted for use statewide without adoptions by local governments. When updating the Florida Fire Prevention Code ~~and the most recent edition of the Life Safety Code~~, the State Fire Marshal shall consider changes made by the national model fire codes incorporated into the Florida Fire Prevention Code, the State Fire Marshal's own interpretations, declaratory statements, appellate decisions, and approved statewide and local technical amendments.

(7) Any local amendment adopted by a local government must strengthen the Fire Prevention Code requirements of the minimum firesafety code.

(9) The State Fire Marshal shall make rules that implement this section and ss. 633.104 and 633.208 ~~633.01 and 633.025~~ for the purpose of accomplishing the objectives set forth in those sections.

(10) Notwithstanding other provisions of this chapter, if a county or a municipality within that county adopts an ordinance providing for a local amendment to the Florida Fire Prevention Code and that amendment provides a higher level of protection to the public than the level specified in the Florida Fire Prevention Code, the local amendment becomes effective without approval of the State Fire Marshal and is not rescinded pursuant to ~~the provisions of~~ this section, provided that the ordinance meets one or more of the following criteria:

(a) The local authority has adopted, by ordinance, a fire service facilities and operation plan that outlines goals and



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objectives for related equipment, personnel, and capital improvement needs of the local authority related to the specific amendment for the next 5 years;

(b) The local authority has adopted, by ordinance, a provision requiring proportionate reduction in, or rebate or waivers of, impact or other fees or assessments levied on buildings that are built or modified in compliance with the more stringent firesafety standards required by the local amendment; or

(c) The local authority has adopted, by ordinance, a growth management plan that requires buildings and structures to be equipped with more stringent firesafety requirements required by the local amendment when these firesafety requirements are used as the basis for planning infrastructure development, uses, or housing densities.

Except as provided in s. 633.206 ~~633.022~~, the local appeals process shall be the venue if there is a dispute between parties affected by the provisions of the more stringent local firesafety amendment adopted as part of the Florida Fire Prevention Code pursuant to the authority in this subsection. Local amendments adopted pursuant to this subsection shall be deemed local or regional variations and published as such in the Florida Fire Prevention Code. The act of publishing locally adopted firesafety amendments to the Florida Fire Prevention Code may ~~shall~~ not be construed to mean that the State Fire Marshal approves or denies the authenticity or appropriateness of the locally adopted firesafety provision, and the burden of protecting the local firesafety amendment remains solely with



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the adopting local governmental authority.

~~(12) Notwithstanding other provisions of this section, the State Fire Marshal shall study the use of managed, facilities-based, voice-over-Internet-protocol telephone service for monitoring fire alarm signals. If the study determines that voice-over-Internet-protocol telephone service technology provides a level of protection equivalent to that required by NFPA 72: National Fire Alarm Code, the State Fire Marshal shall initiate rulemaking pursuant to ss. 120.536(1) and 120.54 by December 1, 2008, to allow the use of this technology as an additional method of monitoring fire alarm systems.~~

(12) ~~(13)~~ (a) The State Fire Marshal shall issue an expedited declaratory statement relating to interpretations of ~~provisions~~ of the Florida Fire Prevention Code according to the following guidelines:

1. The declaratory statement shall be rendered in accordance with s. 120.565, except that a final decision must be issued by the State Fire Marshal within 45 days after the division's receipt of a petition seeking an expedited declaratory statement. The State Fire Marshal shall give notice of the petition and the expedited declaratory statement or the denial of the petition in the next available issue of the Florida Administrative Register ~~Weekly~~ after the petition is filed and after the statement or denial is rendered.

2. The petitioner must be the owner of the disputed project or the owner's representative.

3. The petition for an expedited declaratory statement must be:

a. Related to an active project that is under construction



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or must have been submitted for a permit.

b. The subject of a written notice citing a specific provision of the Florida Fire Prevention Code which is in dispute.

c. Limited to a single question that is capable of being answered with a "yes" or "no" response.

(b) A petition for a declaratory statement which does not meet all of the requirements of this subsection must be denied without prejudice. This subsection does not affect the right of the petitioner as a substantially affected person to seek a declaratory statement under s. 633.104(6) ~~633.01(6)~~.

(13) ~~(14)~~ A condominium, cooperative, or multifamily residential building that is less than four stories in height and has an exterior corridor providing a means of egress is exempt from installing a manual fire alarm system as required in s. 9.6 of the most recent edition of the Life Safety Code adopted in the Florida Fire Prevention Code. ~~This is intended to clarify existing law.~~

(14) ~~(15)~~ The Legislature finds that the electronic filing of construction plans will increase governmental efficiency, reduce costs, and increase timeliness of processing permits. If the fire code administrator or fire official provides for electronic filing, any construction plans, drawings, specifications, reports, final documents, or documents prepared or issued by a licensee may be dated and electronically signed and sealed by the licensee in accordance with part I of chapter 668, and may be transmitted electronically to the fire code administrator or fire official for approval.

Section 22. Section 633.72, Florida Statutes, is



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transferred, renumbered as section 633.204, Florida Statutes,
and amended to read:

633.204 ~~633.72~~ Florida Fire Code Advisory Council.—

(1) There is created within the department the Florida Fire Code Advisory Council with 11 members appointed by the State Fire Marshal. The council shall advise and recommend to the State Fire Marshal changes to and interpretation of the uniform firesafety standards adopted under s. 633.206 ~~633.022~~, the Florida Fire Prevention Code, and those portions of the Florida Fire Prevention Code that have the effect of conflicting with building construction standards that are adopted pursuant to ss. 633.202 and 633.206 ~~633.0215~~ and ~~633.022~~. The members of the council shall represent the following groups and professions:

(a) One member shall be the State Fire Marshal, or his or her designated appointee who shall be an administrative employee of the marshal.†

(b) One member shall be an administrative officer from a fire department representing a municipality, ~~or~~ a county, or a special district selected from a list of persons submitted by the Florida Fire Chiefs Association.†

(c) One member shall be an architect licensed in the state selected from a list of persons submitted by the Florida Association/American Institute of Architects.†

(d) One member shall be an engineer with fire protection design experience registered to practice in the state selected from a list of persons submitted by the Florida Engineering Society.†

(e) One member shall be an administrative officer from a building department of a county or municipality selected from a



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list of persons submitted by the Building Officials Association of Florida.~~†~~

(f) One member shall be a contractor licensed in the state selected from a list submitted by the Florida Home Builders Association.~~†~~

(g) One member shall be a Florida ~~certified~~ firefighter selected from a list submitted by the Florida Professional Firefighters' Association.~~†~~

(h) One member shall be a Florida certified firesafety ~~municipal fire~~ inspector selected from a list submitted by the Florida Fire Marshals' and Inspectors' ~~Marshal's~~ Association.~~†~~

(i) One member shall be selected from a list submitted by the Department of Education.~~†~~

(j) One member shall be selected from a list submitted by the Chancellor of the State University System.~~†~~ ~~and~~

(k) One member shall be representative of the general public.

(2) The State Fire Marshal and the Florida Building Commission shall coordinate efforts to provide consistency between the Florida Building Code and the Florida Fire Prevention Code ~~and the Life Safety Code~~.

(3) The council shall meet at least semiannually to advise the State Fire Marshal's Office on matters subject to this section.

(4) The council may review proposed changes to the Florida Fire Prevention Code and the uniform firesafety standards pursuant to s. 633.202(4).

(5)~~(3)~~ The council and Florida Building Commission shall cooperate through joint representation and coordination of codes



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and standards to resolve conflicts in their development,
updating, and interpretation.

(6)~~(4)~~ Each appointee shall serve a 4-year term. No member shall serve more than two consecutive terms. A ~~No~~ member of the council may not shall be paid a salary as such member, but each shall receive travel and expense reimbursement as provided in s. 112.061.

Section 23. Section 633.022, Florida Statutes, is transferred and renumbered as section 633.206, Florida Statutes, and subsection (1) and paragraph (a) of subsection (4) of that section are amended, to read:

633.206 ~~633.022~~ Uniform firesafety standards.—The Legislature hereby determines that to protect the public health, safety, and welfare it is necessary to provide for firesafety standards governing the construction and utilization of certain buildings and structures. The Legislature further determines that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.

(1) The department shall establish uniform firesafety standards that apply to:

(a) All new, existing, and proposed state-owned and state-leased buildings.

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments,



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elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

(4) (a) Notwithstanding any provision of law to the contrary, each nursing home licensed under part II of chapter 400 shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with s. 9 of National Fire Protection Association, Inc., Life Safety Code, no later than December 31, 2010. ~~A nursing home licensee shall submit complete sprinkler construction documents to the Agency for Health Care Administration for review by December 31, 2008, and the licensee must gain final approval to start construction from the agency by June 30, 2009. The agency shall grant a 6-month extension to a nursing home licensee if the completion and submission of the sprinkler construction documents are contingent upon the approval of the application for the loan guarantee program authorized under s. 633.0245. In such case,~~



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~~the agency may extend the deadline for final approval to begin construction beyond June 30, 2009, but the deadline may not be extended beyond December 31, 2009.~~

Section 24. Section 633.025, Florida Statutes, is transferred, renumbered as section 633.208, Florida Statutes, and amended to read:

633.208 ~~633.025~~ Minimum firesafety standards.—

(1) The Florida Fire Prevention Code ~~and the Life Safety Code~~ adopted by the State Fire Marshal, which shall operate in conjunction with the Florida Building Code, shall be deemed adopted by each municipality, county, and special district with firesafety responsibilities. The minimum firesafety codes do ~~shall~~ not apply to buildings and structures subject to the uniform firesafety standards under s. 633.206 ~~633.022~~ and buildings and structures subject to the minimum firesafety standards adopted pursuant to s. 394.879.

(2) Pursuant to subsection (1), each municipality, county, and special district with firesafety responsibilities shall enforce the Florida Fire Prevention Code ~~and the Life Safety Code~~ as the minimum firesafety code required by this section.

~~(3) The most current edition of the National Fire Protection Association (NFPA) 101, Life Safety Code, adopted by the State Fire Marshal, shall be deemed to be adopted by each municipality, county, and special district with firesafety responsibilities as part of the minimum firesafety code.~~

(3) ~~(4)~~ Such code ~~codes~~ shall be a minimum code ~~codes~~ and a municipality, county, or special district with firesafety responsibilities may adopt more stringent firesafety standards, subject to the requirements of this subsection. Such county,



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municipality, or special district may establish alternative requirements to those requirements which are required under the minimum firesafety standards on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in a level of protection to life, safety, or property equal to or greater than the applicable minimum firesafety standards. For the purpose of this subsection, the term "historic" means that the building or structure is listed on the National Register of Historic Places of the United States Department of the Interior.

(a) The local governing body shall determine, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, if there is a need to strengthen the requirements of the minimum firesafety code adopted by such governing body. The determination must be based upon a review of local conditions by the local governing body, which review demonstrates that local conditions justify more stringent requirements than those specified in the minimum firesafety code for the protection of life and property or justify requirements that meet special situations arising from historic, geographic, or unusual conditions.

(b) Such additional requirements may ~~shall~~ not be discriminatory as to materials, products, or construction techniques of demonstrated capabilities.

(c) Paragraphs (a) and (b) apply solely to the local enforcing agency's adoption of requirements more stringent than those specified in the Florida Fire Prevention Code and the Life Safety Code that have the effect of amending building



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construction standards. Upon request, the enforcing agency must
~~shall~~ provide a person making application for a building permit,
or any state agency or board with construction-related
regulation responsibilities, a listing of all such requirements
and codes.

(d) A local government which adopts amendments to the
minimum firesafety code must provide a procedure by which the
validity of such amendments may be challenged by any
substantially affected party to test the amendment's compliance
with ~~the provisions of~~ this section.

1. Unless the local government agrees to stay enforcement
of the amendment, or other good cause is shown, the challenging
party shall be entitled to a hearing on the challenge within 45
days.

2. For purposes of such challenge, the burden of proof
shall be on the challenging party, but the amendment may ~~shall~~
not be presumed to be valid or invalid.

This subsection gives local government the authority to
establish firesafety codes that exceed the Florida Fire
Prevention Code ~~minimum firesafety codes and standards~~ adopted
by the State Fire Marshal. The Legislature intends that local
government give proper public notice and hold public hearings
before adopting more stringent firesafety codes ~~and standards~~. A
substantially affected person may appeal, to the department, the
local government's resolution of the challenge, and the
department shall determine if the amendment complies with this
section. Actions of the department are subject to judicial
review pursuant to s. 120.68. The department shall consider



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reports of the Florida Building Commission, pursuant to part IV of chapter 553, when evaluating building code enforcement.

(4)~~(5)~~ The new building or structure provisions enumerated within the Florida Fire Prevention Code ~~firesafety code~~ adopted pursuant to this section shall apply only to buildings or structures for which the building permit is issued on or after the effective date of the current edition of the Florida Fire Prevention Code ~~this act~~. Subject to ~~the provisions of~~ subsection (5) ~~(6)~~, the existing building or structure provisions enumerated within the ~~firesafety code~~ adopted pursuant to this section shall apply to buildings or structures for which the building permit was issued or the building or structure was constructed before ~~prior to~~ the effective date of this act.

(5)~~(6)~~ With regard to existing buildings, the Legislature recognizes that it is not always practical to apply any or all of the provisions of the Florida Fire Prevention Code ~~minimum firesafety code~~ and that physical limitations may require disproportionate effort or expense with little increase in fire or life safety ~~lifesafety~~. Prior to applying the minimum ~~firesafety code~~ to an existing building, the local fire official shall determine that a threat to ~~lifesafety~~ or property exists. If a threat to ~~lifesafety~~ or property exists, the fire official shall apply the applicable ~~firesafety code~~ for existing buildings to the extent practical to assure a reasonable degree of ~~lifesafety~~ and safety of property or the fire official shall fashion a reasonable alternative which affords an equivalent degree of ~~lifesafety~~ and safety of property. The decision of the local fire official may be appealed to the local administrative



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board described in s. 553.73.

(6)~~(7)~~ Nothing herein shall preclude a municipality, county, or special district from requiring a structure to be maintained in accordance with the Florida Fire Prevention Code ~~applicable firesafety code~~.

(7)~~(8)~~ Electrically operated single station smoke detectors required for residential buildings are not required to be interconnected within individual living units in all buildings having direct access to the outside from each living unit and having three stories or less. This subsection does not apply to any residential building required to have a manual or an automatic fire alarm system.

(8)~~(9)~~ The provisions of the Life Safety Code, as contained in the Florida Fire Prevention Code, do shall not apply to newly constructed one-family and two-family dwellings. However, fire sprinkler protection may be permitted by local government in lieu of other fire protection-related development requirements for such structures. While local governments may adopt fire sprinkler requirements for one- and two-family dwellings under this subsection, it is the intent of the Legislature that the economic consequences of the fire sprinkler mandate on home owners be studied before the enactment of such a requirement. After the effective date of this act, any local government that desires to adopt a fire sprinkler requirement on one- or two-family dwellings must prepare an economic cost and benefit report that analyzes the application of fire sprinklers to one- or two-family dwellings or any proposed residential subdivision. The report must consider the tradeoffs and specific cost savings and benefits of fire sprinklers for future owners of property.



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The report must include an assessment of the cost savings from any reduced or eliminated impact fees if applicable, the reduction in special fire district tax, insurance fees, and other taxes or fees imposed, and the waiver of certain infrastructure requirements including the reduction of roadway widths, the reduction of water line sizes, increased fire hydrant spacing, increased dead-end roadway length and a reduction in cul-de-sac sizes relative to the costs from fire sprinkling. A failure to prepare an economic report shall result in the invalidation of the fire sprinkler requirement to any one- or two-family dwelling or any proposed subdivision. In addition, a local jurisdiction or utility may not charge any additional fee, above what is charged to a non-fire sprinklered dwelling, on the basis that a one- or two-family dwelling unit is protected by a fire sprinkler system.

(9)~~(10)~~ Before imposing a fire sprinkler requirement on any one- or two-family dwelling, a local government must provide the owner of any one- or two-family dwelling a letter documenting specific infrastructure or other tax or fee allowances and waivers that are listed in but not limited to those described in subsection (8) ~~(9)~~ for the dwelling. The documentation must show that the cost savings reasonably approximate the cost of the purchase and installation of a fire protection system.

(10)~~(11)~~ Notwithstanding ~~the provisions of~~ subsection (8) ~~(9)~~, a property owner may ~~shall~~ not be required to install fire sprinklers in any residential property based upon the use of such property as a rental property or any change in or reclassification of the property's primary use to a rental property.



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Section 25. Section 633.026, Florida Statutes, is transferred, renumbered as section 633.212, Florida Statutes, and amended to read:

633.212 ~~633.026~~ Legislative intent; informal interpretations of the Florida Fire Prevention Code.—It is the intent of the Legislature that the Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost-effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations. It is the further intent of the Legislature that such processes provide for the expeditious resolution of the issues presented and that the resulting interpretation of such issues be published on the website of the division ~~of State Fire Marshal~~.

(1) The division ~~of State Fire Marshal~~ shall by rule establish an informal process of rendering nonbinding interpretations of the Florida Fire Prevention Code. The division ~~of State Fire Marshal~~ may contract with and refer interpretive issues to a third party, selected based upon cost effectiveness, quality of services to be performed, and other performance-based criteria, which has experience in interpreting and enforcing the Florida Fire Prevention Code. It is the intent of the Legislature that the division ~~of State Fire Marshal~~ establish a Fire Code Interpretation Committee composed of seven persons and seven alternates, equally representing each area of the state, to which a party can pose questions regarding the interpretation of the Florida Fire Prevention Code provisions.



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The alternate member may respond to a nonbinding interpretation if the member notifies the Fire Code Interpretation Committee that he or she is unable to respond.

(2) Each member and alternate member of the Fire Code Interpretation Committee must be certified as a firesafety inspector pursuant to s. 633.216(2) ~~633.081(2)~~ and must have a minimum of 5 years of experience interpreting and enforcing the Florida Fire Prevention Code ~~and the Life Safety Code~~. Each member and alternate member must be approved by the division ~~of State Fire Marshal~~ and deemed by the division to have met these requirements for at least 30 days before participating in a review of a nonbinding interpretation.

(3) Each nonbinding interpretation of code provisions must be provided within 15 ~~10~~ business days after receipt of a request for interpretation. The response period established in this subsection may be waived only with the written consent of the party requesting the nonbinding interpretation and the division ~~of State Fire Marshal~~. Nonbinding interpretations shall be advisory only and nonbinding on the parties or the State Fire Marshal.

(4) In order to administer this section, the division ~~of State Fire Marshal~~ shall charge a fee for nonbinding interpretations. The fee may not exceed \$150 for each request for a review or interpretation. The division may authorize payment of fees directly to the nonprofit organization under contract pursuant to subsection (1).

(5) A party requesting a nonbinding interpretation who disagrees with the interpretation issued under this section may apply for a declaratory statement ~~formal interpretation~~ from the



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State Fire Marshal pursuant to s. 633.104(6) ~~633.01(6)~~.

(6) The division ~~of State Fire Marshal~~ shall issue or cause to be issued a nonbinding interpretation of the Florida Fire Prevention Code pursuant to this section when requested to do so upon submission of a petition by a fire official or by the owner or owner's representative or the contractor or contractor's representative of a project in dispute. The division shall adopt a petition form by rule, and the petition form must be published on the State Fire Marshal's website. The form must ~~shall~~, at a minimum, require:

(a) The name and address of the local fire official, including the address of the county, municipality, or special district.

(b) The name and address of the owner or owner's representative or the contractor or contractor's representative.

(c) A statement of the specific sections of the Florida Fire Prevention Code being interpreted by the local fire official.

(d) An explanation of how the petitioner's substantial interests are being affected by the local interpretation of the Florida Fire Prevention Code.

(e) A statement of the interpretation of the specific sections of the Florida Fire Prevention Code by the local fire official.

(f) A statement of the interpretation that the petitioner contends should be given to the specific sections of the Florida Fire Prevention Code and a statement supporting the petitioner's interpretation.

(g) A single question that is capable of being answered



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with a "yes" or "no" response.

(7) Upon receipt of a petition that meets the requirements of subsection (6), the division ~~of State Fire Marshal~~ shall immediately provide copies of the petition to the Fire Code Interpretation Committee, and shall publish the petition and any response submitted by the local fire official on the State Fire Marshal's website.

(8) The committee shall conduct proceedings as necessary to resolve the issues and give due regard to the petition, the facts of the matter at issue, specific code sections cited, and any statutory implications affecting the Florida Fire Prevention Code. The committee shall issue an interpretation regarding the provisions of the Florida Fire Prevention Code within 15 ~~10~~ days after the filing of a petition. The committee shall issue an interpretation based upon the Florida Fire Prevention Code or, if the code is ambiguous, the intent of the code. The committee's interpretation shall be provided to the petitioner and shall include a notice that if the petitioner disagrees with the interpretation, the petitioner may file a request for a declaratory statement ~~formal interpretation~~ by the State Fire Marshal under s. 633.104(6) ~~633.01(6)~~. The committee's interpretation shall be provided to the State Fire Marshal, and the division shall publish the declaratory statement ~~interpretation~~ on the State Fire Marshal's website and in the Florida Administrative Register ~~Weekly~~.

Section 26. Section 633.052, Florida Statutes, is transferred and renumbered as section 633.214, Florida Statutes, and paragraphs (a) and (b) of subsection (1), paragraph (d) of subsection (2), and subsections (3) and (4) of that section are



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amended, to read:

633.214 ~~633.052~~ Ordinances relating to firesafety;
definitions; penalties.—

(1) As used in this section:

(a) A "firesafety inspector" is an individual certified by the division ~~of State Fire Marshal~~, officially assigned the duties of conducting firesafety inspections of buildings and facilities on a recurring or regular basis, investigating civil infractions relating to firesafety, and issuing citations pursuant to this section on behalf of the state or any county, municipality, or special district with firesafety responsibilities.

(b) "Citation" means a written notice, issued only after a written warning has been previously issued and a minimum time period of 45 days, except for major structural changes, which may be corrected within an extended adequate period of time, from the date of the issuance of the warning whereby the party warned may correct the alleged violation, issued to a person by a firesafety inspector, that the firesafety inspector has probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. The citation must ~~shall~~ contain:

1. The date and time of issuance.
2. The name and address of the person.
3. The date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The Florida Fire Prevention Code ordinance violated.
6. The name and authority of the firesafety inspector



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officer.

7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

8. The applicable civil penalty if the person elects to contest the citation.

9. The applicable civil penalty if the person elects not to contest the citation.

10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, then she or he shall be deemed to have waived her or his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(2) A county or municipality that has created a code enforcement board or special magistrate system pursuant to chapter 162 may enforce firesafety code violations as provided in chapter 162. The governing body of a county or municipality which has not created a code enforcement board or special magistrate system for firesafety under chapter 162 may ~~is authorized to~~ enact ordinances relating to firesafety codes, which ordinances shall provide:

(d) For the issuance of a citation by an officer who has probable cause to believe that a person has committed a violation of an ordinance relating to firesafety or the Florida Fire Prevention Code.

(3) A person ~~Any person~~ who willfully refuses to sign and accept a citation issued by a firesafety inspector commits ~~shall be guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.



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(4) ~~Nothing contained in~~ This section does not shall prevent any county, ~~or~~ municipality, or special district from enacting any ordinance relating to firesafety codes which is identical to ~~the provisions of~~ this chapter or any state law, except as to penalty; however, a ~~no~~ county, ~~or~~ municipal, or special district ordinance relating to firesafety codes may not shall conflict with ~~the provisions of~~ this chapter or any other state law.

Section 27. Section 633.081, Florida Statutes, is transferred and renumbered as section 633.216, Florida Statutes, a new subsection (6) is added to that section, and present subsections (1) and (2), paragraph (c) of subsection (3), and subsections (4) through (9) of that section are amended, to read:

633.216 ~~633.081~~ Inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.—The State Fire Marshal and her or his agents or persons authorized to enforce laws and rules of the State Fire Marshal shall, at any reasonable hour, when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted ~~promulgated~~ thereunder, or a minimum firesafety code adopted by the State Fire Marshal or a local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted ~~promulgated~~ thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals which are located on or within the premises of any such building or structure.

(1) Each county, municipality, and special district that



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has firesafety enforcement responsibilities shall employ or contract with a firesafety inspector. Except as provided in s. 633.312(2) and (3) ~~633.082(2)~~, the firesafety inspector must conduct all firesafety inspections that are required by law. The governing body of a county, municipality, or special district that has firesafety enforcement responsibilities may provide a schedule of fees to pay only the costs of inspections conducted pursuant to this subsection and related administrative expenses. Two or more counties, municipalities, or special districts that have firesafety enforcement responsibilities may jointly employ or contract with a firesafety inspector.

(2) Except as provided in s. 633.312(2) ~~633.082(2)~~, every firesafety inspection conducted pursuant to state or local firesafety requirements shall be by a person certified as having met the inspection training requirements set by the State Fire Marshal. Such person shall meet the requirements of s. 633.412(1) (a) - (d), and:

~~(a) Be a high school graduate or the equivalent as determined by the department;~~

~~(b) Not have been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States, or of any state thereof, which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases;~~

~~(c) Have her or his fingerprints on file with the department or with an agency designated by the department;~~

~~(d) Have good moral character as determined by the department;~~



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~~(e) Be at least 18 years of age;~~

~~(f)~~ Have satisfactorily completed the firesafety inspector certification examination as prescribed by division rule ~~the department~~; and

(b) ~~(g)~~ 1. Have satisfactorily completed, as determined by division rule ~~the department~~, a firesafety inspector training program of at least ~~not less than~~ 200 hours established by the department and administered by education or training providers ~~agencies and institutions~~ approved by the department for the purpose of providing basic certification training for firesafety inspectors; or

2. Have received ~~in another state~~ training in another state which is determined by the division ~~department~~ to be at least equivalent to that required by the department for approved firesafety inspector education and training programs in this state.

(3)

(c) 1. To be certified as a firesafety inspector under this section, a ~~any~~ person who:

a. Is a special state firesafety inspector on July 1, 2011, and who does not have 5 years of experience as a special state firesafety inspector as of July 1, 2011; or

b. Has 5 years of experience as a special state firesafety inspector but has failed the examination taken as provided in paragraph (2) (a) ~~(2) (f)~~, must take an additional 80 hours of the courses described in paragraph (2) (b) ~~(2) (g)~~.

2. After successfully completing the courses described in this paragraph, such person may take the firesafety inspection examination as provided in paragraph (2) (a) ~~(2) (f)~~, if such



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examination is taken before July 1, 2013.

3. Upon passing the examination, the person shall be certified as a firesafety inspector as provided in this section.

4. A person who fails the course of study or the examination described in this paragraph may not perform any firesafety inspection required by law on or after July 1, 2013.

(4) A firefighter certified pursuant to s. 633.408 ~~633.35~~ may conduct firesafety inspections, under the supervision of a certified firesafety inspector, while on duty as a member of a fire department company conducting inservice firesafety inspections without being certified as a firesafety inspector, if such firefighter has satisfactorily completed an inservice fire department company inspector training program of at least 24 hours' duration as provided by rule of the department.

(5) Every firesafety inspector certificate is valid for a period of 4 ~~3~~ years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal as established under this chapter or by rule adopted under this chapter, which must ~~shall~~ include completion of at least 54 ~~40~~ hours during the preceding 4-year ~~3-year~~ period of continuing education as required by the rule of the department or, in lieu thereof, successful passage of an examination as established by the department.

(6) A previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division.

(7) ~~(6)~~ The State Fire Marshal may deny, refuse to renew, suspend, or revoke the certificate of a firesafety inspector if



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the State Fire Marshal finds that any of the following grounds exist:

(a) Any cause for which issuance of a certificate could have been refused had it then existed and been known to the division ~~State Fire Marshal~~.

(b) Violation of this chapter or any rule or order of the State Fire Marshal.

(c) Falsification of records relating to the certificate.

~~(d) Having been found guilty of or having pleaded guilty or nolo contendere to a felony, whether or not a judgment of conviction has been entered.~~

(d) ~~(e)~~ Failure to meet any of the renewal requirements.

~~(f) Having been convicted of a crime in any jurisdiction which directly relates to the practice of fire code inspection, plan review, or administration.~~

(e) ~~(g)~~ Making or filing a report or record that the certificateholder knows to be false, or knowingly inducing another to file a false report or record, or knowingly failing to file a report or record required by state or local law, or knowingly impeding or obstructing such filing, or knowingly inducing another person to impede or obstruct such filing.

(f) ~~(h)~~ Failing to properly enforce applicable fire codes or permit requirements within this state which the certificateholder knows are applicable by committing willful misconduct, gross negligence, gross misconduct, repeated negligence, or negligence resulting in a significant danger to life or property.

(g) ~~(i)~~ Accepting labor, services, or materials at no charge or at a noncompetitive rate from a ~~any~~ person who performs work



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that is under the enforcement authority of the certificateholder and who is not an immediate family member of the certificateholder. For the purpose of this paragraph, the term "immediate family member" means a spouse, child, parent, sibling, grandparent, aunt, uncle, or first cousin of the person or the person's spouse or a ~~any~~ person who resides in the primary residence of the certificateholder.

(8) ~~(7)~~ The division of ~~State Fire Marshal~~ and the Florida Building Code Administrators and Inspectors Board, established pursuant to s. 468.605, shall enter into a reciprocity agreement to facilitate joint recognition of continuing education recertification hours for certificateholders licensed under s. 468.609 and firesafety inspectors certified under subsection (2).

(9) ~~(8)~~ The State Fire Marshal shall develop by rule an advanced training and certification program for firesafety inspectors having fire code management responsibilities. The program must be consistent with the appropriate provisions of NFPA 1037, or similar standards adopted by the division, and establish minimum training, education, and experience levels for firesafety inspectors having fire code management responsibilities.

(10) ~~(9)~~ The department shall provide by rule for the certification of firesafety inspectors and Fire Code Administrators.

Section 28. Section 633.085, Florida Statutes, is transferred and renumbered as section 633.218, Florida Statutes, paragraph (a) of subsection (1) and subsections (2) through (5) of that section are amended, and paragraphs (e) and (f) are



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added to subsection (1) of that section, to read:

633.218 ~~633.085~~ Inspections of state buildings and premises; tests of firesafety equipment; building plans to be approved.—

(1) (a) It is the duty of the State Fire Marshal and her or his agents to inspect, or cause to be inspected, each state-owned building on a recurring basis established by rule, and to ensure that high-hazard occupancies are inspected at least annually, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or endanger life from fire and any violation of the firesafety standards for state-owned buildings, ~~the provisions of this chapter, or the rules or regulations adopted and promulgated pursuant hereto.~~ The State Fire Marshal shall, within 7 days following an inspection, submit a report of such inspection to the head of the ~~department of state~~ agency ~~government~~ responsible for the building.

(e) For purposes of this section:

1.a. The term "high-hazard occupancy" means any building or structure:

(I) That contains combustible or explosive matter or flammable conditions dangerous to the safety of life or property;

(II) At which persons receive educational instruction;

(III) At which persons reside, excluding private dwellings;
or

(IV) Containing three or more floor levels.

b. As used in this subparagraph, the phrase "building or structure":



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(I) Includes, but is not limited to, all hospitals and residential health care facilities, nursing homes and other adult care facilities, correctional or detention facilities, public schools, public lodging establishments, migrant labor camps, residential child care facilities, and self-service gasoline stations.

(II) Does not include any residential condominium where the declaration of condominium or the bylaws provide that the rental of units shall not be permitted for less than 90 days.

2. The term "state-owned building," includes private correctional facilities as defined under s. 944.710(3).

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

And the title is amended as follows:

Delete line 33

and insert:

issuance of subpoenas; requiring the State Fire Marshal to investigate certain fires and explosions under certain circumstances; transferring, renumbering, and



922782

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 3531 - 3532
and insert:

(g) Volunteer Firefighter Certificate of Completion.-A
Volunteer Firefighter Certificate of Completion may be awarded
to a person who



454126

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 4792 - 4827.

Between lines 4834 and 4835

insert:

Section 101. Section 633.167, Florida Statutes, is repealed.

Between lines 4844 and 4845

insert:

Section 109. Section 633.517, Florida Statutes, is repealed.



454126

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

And the title is amended as follows:

Delete lines 537 - 574

and insert:

made in the act; repealing s. 633.024, F.S., relating to legislative findings and intent with respect to ensuring effective fire protection of vulnerable nursing home residents, the expedited retrofit of existing nursing homes through a limited state loan guarantee, and funding thereof; repealing s. 633.0245, F.S., relating to the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program; repealing s. 633.03, F.S., relating to investigations of fire and reports; repealing s. 633.0421, F.S., relating to preemption of the reduced cigarette ignition propensity standard by the state; repealing s. 633.13, F.S., relating to the authority of State Fire Marshal agents; repealing s. 633.167, F.S., relating to the authority of the State Fire Marshal to place certain persons on probation; repealing s. 633.18, F.S., relating to hearings and investigations by the State Fire Marshal; repealing s. 633.30, F.S., relating to definitions with respect to standards for firefighting; repealing s. 633.32, F.S., relating to organization, meetings, quorum, compensation, and seal of the Firefighters Employment, Standards, and Training Council; repealing s. 633.33, F.S., relating to special powers of the Firefighters Employment, Standards, and Training Council in connection with the



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employment and training of firefighters; repealing s.
633.37, F.S., relating to payment of tuition at
approved training programs by the employing agency;
repealing s. 633.445, F.S., relating to the State Fire
Marshal Scholarship Grant Program; repealing s.
633.46, F.S., relating to authority of the Division of
State Fire Marshal to fix and collect admission fees
and other fees it deems necessary to be charged for
training; repealing s. 633.514, F.S., relating to
Florida Fire Safety Board duties, meetings, officers,
quorum, and compensation; repealing s. 633.517, F.S.;
relating to the authority of the State Fire Marshal to
adopt rules, administer oaths, and take testimony;
repealing s. 633.524, F.S.,

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2013

Meeting Date

Topic SB 1410

Bill Number SB1410
(if applicable)

Name Elizabeth Boyd

Amendment Barcode _____
(if applicable)

Job Title Deputy Director of Legislative Affairs

Address 400 S Monroe
Street

Phone 850-413-2829

Tallahassee FL
City State Zip

E-mail elizabeth.boyd@myfloridafco.com

Speaking: ☒ For ☐ Against ☐ Information

Representing CFO's office

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)

April 9, 2013

Meeting Date

Topic Fire Safety and Prevention

Bill Number CS/SB 1410

Name Cam Fentriss

Amendment Barcode 911036
(if applicable)

Job Title Legislative Counsel

Address 1400 Village Square Boulevard, Number 3-243

Phone 850-222-2772

Street

Tallahassee, Florida 32312

City

State

Zip

E-mail afentriss@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Association of Plumbing Heating Cooling Contractors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: April 2, 2013

I respectfully request that **Senate Bill 1410**, relating to Fire Safety and Prevention, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons", with a stylized flourish at the end.

Senator David Simmons
Florida Senate, District 10

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1410

INTRODUCER: Community Affairs Committee; Banking and Insurance Committee; and Senator Simmons

SUBJECT: Fire Safety and Prevention

DATE: April 10, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow/Burgess	Burgess	BI	Fav/CS
2.	Toman	Yeatman	CA	Fav/CS
3.			CJ	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 1410 makes changes to Chapter 633, F.S., Fire Prevention and Control, which is administered by the Division of State Fire Marshal within the Florida Department of Financial Services. The bill:

- Revises provisions relating to the authority of the State Fire Marshal.
- Removes references to the Life Safety Code.
- Revises the renewal period for firesafety inspector certification from 3 years to 4.
- Revises provisions relating to the disciplinary authority of the State Fire Marshal.
- Authorizes the State Fire Marshal to deny, suspend, or revoke the licenses of certain persons.
- Provides terms and conditions of probation.
- Revises provisions relating to hearings, investigations, and recordkeeping duties and the authority of the State Fire Marshal.
- Requires the State Fire Marshal, upon the request of certain local fire or local government officials, to investigate and keep records on all fires or explosions in the state. The local entity shall make an initial investigation of the incident.

- Revises provisions relating to the authority of agents of the State Fire Marshal.
- Clarifies provisions relating to impersonating the State Fire Marshal, a firefighter, a firesafety inspector, or a volunteer firefighter, for which a criminal penalty is provided.
- Provides penalties for rendering a fire protection system inoperative.
- Provides penalties for using a certificate issued to another person.
- Defines the term “consultant.”
- Revises provisions to include investigation of explosions in fraudulent insurance claim investigations.
- Authorizes the State Fire Marshal to adopt rules to implement provisions relating to an insurance company’s investigation of a suspected explosion by intentional means.
- Clarifies and revises the powers and duties of the Division of State Fire Marshal (division).
- Requires the division to establish by rule uniform minimum standards for the employment and training of firefighters and volunteer firefighters.
- Requires the division to establish by rule minimum curriculum requirements and criteria for the approval of education or training providers.
- Requires the division to specify by rule standards for the approval, denial of approval, probation, suspension, and revocation of approval of education or training providers and facilities for training firefighters and volunteer firefighters.
- Requires the division to specify by rule standards for the certification, denial of certification, probation, and revocation of certification for instructors.
- Requires the division to establish by rule minimum training qualifications for persons serving as specified firesafety coordinators.
- Requires the division to issue specified licenses, certificates, and permits.
- Requires notification for change of address of a licensee, permittee, or certificateholder.
- Requires notification of any felony actions against, a licensee, permittee, or certificateholder.
- Revises applicability of uniform firesafety standards and removes obsolete provisions.
- Revises how alternate members of the nonbinding Fire Code Interpretation Committee present interpretations and extends the length of time for providing an interpretation.
- Revises terminology to provide for declaratory statements rather than formal interpretations in nonbinding interpretations by the division regarding the Florida Fire Prevention Code.
- Provides that a special district may enact any ordinance relating to firesafety codes that is identical to ch. 633, F.S., or any state law, except as to penalties.
- Clarifies persons authorized to inspect buildings and structures.
- Revises requirements of persons conducting firesafety inspections.
- Increases from 3 to 4 the number of years a fire safety inspector certificate is valid.
- Increases the continuing education requirements for a fire safety inspector certificate from 40 hours to 54 hours.
- Requires repeat training for firesafety inspectors whose certification has lapsed for 8 years.
- Revises grounds for denial, refusal to renew, suspension, or revocation of a firesafety inspector certificate.
- Requires the department to provide by rule for the certification of Fire Code Administrators.
- Make changes relating to inspection of state buildings and premises.
- Defines the terms “high-hazard occupancy” and “state-owned building.”
- Provides for the identification of state-owned buildings or state-leased buildings or space.

- Authorizes, rather than requires, the State Fire Marshal or agents thereof to conduct performance tests on any electronic fire warning and smoke detection system, and any pressurized air-handling unit, in any state-owned building or state-leased building or space on a recurring basis.
- Requires the State Fire Marshal or agents thereof to ensure that fire drills are conducted in all high-hazard state-owned buildings or high-hazard state-leased occupancies at least annually.
- Requires that all new construction or renovation, alteration, or change of occupancy of any existing, state-owned building or state-leased building or space comply with uniform firesafety standards.
- Authorizes the division to inspect state-owned buildings and spaces and state-leased buildings and spaces as necessary before occupancy or during construction, renovation, or alteration to ascertain compliance with uniform firesafety standards.
- Requires the division to issue orders to cease construction, renovation, or alteration, or to preclude occupancy, of a state-owned or state-leased building or space for noncompliance.
- Authorizes the Florida Fire Safety Board to review complaints and make recommendations.
- Provides for the election of officers, quorum, and compensation of the board and requires the board to adopt a seal.
- Revises the provisions relating to fire equipment dealers who wish to withdraw a previously filed halon equipment exemption affidavit.
- Provides conditions that an applicant for a license of any class who has facilities located outside the state must meet in order to obtain a required equipment inspection.
- Provides for the adoption of rules with respect to the establishment and calculation of inspection costs.
- Revises and clarifies provisions that exclude from licensure, for a specified period, applicants having a previous criminal conviction and defines the term “convicted.”
- Provides conditions under which a licensed fire equipment dealer may apply to convert the license currently held to a higher or lower licensing category.
- Provides a procedure for an applicant who passes an examination for licensure or permit but fails to meet remaining qualifications within 1 year after the application date.
- Revises provisions that authorize the State Fire Marshal to suspend a fire protection system contractor’s or permittee’s certificate.
- Deletes provisions authorizing revocation of a certificate for no more than 5 years.
- Provides for an additional member of the Firefighters Employment, Standards, and Training council to be added from the Florida Forest Service.
- Provides for organization of the council, meetings, quorum, compensation, and adoption of a seal.
- Provides for special powers of the council in connection with the employment and training of firefighters.
- Specifies classes of certification awarded by the division and authorizes the division to establish specified additional certificates by rule.
- Revises provisions relating to firefighter and volunteer firefighter training and certification.
- Requires the division to establish by rule specified courses and course examinations.
- Provides that courses may only be administered by specified education or training providers and taught by certified instructors.

- Revises provisions with respect to payment of training costs and payment of tuition for attendance at approved courses.
- Provides requirements for issuance by the division of a firefighter and volunteer firefighter certificate of compliance.
- Authorizes the division to issue a Special Certificate of Compliance and provides requirements and limitations with respect thereto.
- Provides procedures and requirements for reexamination after failure of an examination.
- Increases the required number of hours of the structural fire training program from 40 to 54 hours.
- Provides for a Forestry Certificate of Compliance and prescribes the rights, privileges, and benefits thereof.
- Revises provisions relating to disqualifying offenses and provides requirements of the division with respect to suspension or revocation of a firefighter certificate.
- Revises provisions relating to retention of certification as a firefighter and defines the term “active.”
- Prohibits a fire service provider from employing an individual as a firefighter or supervisor of firefighters and from retaining the services of an individual volunteering as a firefighter or a supervisor of firefighters without required certification.
- Requires a fire service provider to make a diligent effort to determine possession of required certification prior to employing or retaining an individual for specified services.
- Defines the terms “diligent effort” and “employ.”
- Requires a fire service provider to notify the division of specified hirings, retentions, terminations, decisions not to retain a firefighter, and determinations of failure to meet certain requirements.
- Authorizes the division to conduct site visits to fire departments to monitor compliance.
- Requires the State Fire Marshal to determine, and adopt by rule, course work or degrees that represent the best practices toward supplemental compensation goals.
- Specifies that supplemental compensation shall be paid to qualifying full-time employees of a fire service provider.
- Specifies that policy guidelines be adopted by rule, classifying the division as a fire service provider responsible for the payment of supplemental compensation to full-time firefighters employed by the division.
- Provides conditions for permanent revocation of certification, prospective application of such provisions, and retroactive application with respect to specified convictions.
- Revises provisions relating to revocation of certification.
- Provides requirements with respect to application for certification.
- Revises definitions of “firefighter employee,” “firefighter employer,” and “firefighter place of employment.”
- Revises provisions that require the division to make studies, investigations, inspections, and inquiries with respect to firefighter employee injuries, illnesses, safety-based complaints, or line-of-duty deaths in firefighter employee places of employment.
- Authorizes the division to adopt by rule procedures for conducting inspections and inquiries of firefighter employers and further authorizes the division to enter premises to investigate compliance; also provides criminal penalties.
- Revises definitions of the terms “safe” and “safety.”

- Revises provisions relating to required safety inspections and clarifies that the division may not assess penalties as a result of such inspections.
- Requires firefighter employers to submit a plan for the correction of noncompliance issues to the division for approval in accordance with division rule.
- Provides procedure if a plan is not submitted, does not provide corrective actions, is incomplete, or is not implemented.
- Provides for workplace safety committees and coordinators, including mandatory negotiations during collective bargaining.
- Provides for compensation of the workplace safety committee.
- Authorizes the cancellation of an insurance plan due to noncompliance.
- Prescribes additional administrative penalties for firefighter employers for violation of, or refusal to comply with, part V of ch. 633, F.S., and provides for location of hearings.
- Clarifies requirements from which private firefighter employers are exempt.
- Eliminates a prerequisite to exemption for specified firefighter employers.
- Requires reinspection after specified noncompliance.
- Removes provisions that exclude from employment for a specified period an applicant for employment with a fire department who has a prior felony conviction.
- Revises provisions relating to adjustments in payments of accidental death benefits for firefighters.
- Repeals the retrofit of existing nursing homes through the State Fire Marshal Nursing Home Fire Protection Loan Guarantee Program.
- Repeals the State Fire Marshal Scholarship Grant Program.

The bill substantially amends and or renumbers the following sections of the Florida Statutes: 112.011, 112.1815, 112.191, 112.81, 119.071, 120.541, 120.80, 121.0515, 125.01, 125.01045, 125.56, 166.0446, 175.032, 175.121, 196.081, 218.23, 252.515, 255.45, 258.0145, 281.02, 384.287, 395.0163, 400.232, 400.915, 429.41, 429.44, 429.73, 447.203, 468.602, 468.609, 489.103, 489.105, 496.404, 509.032, 513.05, 553.73, 553.77, 553.79, 590.02, 627.4107, 633.01, 633.02, 633.021, 633.0215, 633.022, 633.025, 633.026, 633.027, 633.042, 633.052, 633.061, 633.065, 633.071, 633.081, 633.082, 633.083, 633.085, 633.101, 633.111, 633.115, 633.121, 633.14, 633.15, 633.151, 633.161, 633.162, 633.163, 633.171, 633.175, 633.31, 633.34, 633.35, 633.351, 633.352, 633.353, 633.38, 633.382, 633.39, 633.41, 633.42, 633.43, 633.44, 633.45, 633.46, 633.461, 633.47, 633.48, 633.49, 633.50, 633.511, 633.521, 633.527, 633.531, 633.534, 633.537, 633.539, 633.541, 633.547, 633.549, 633.551, 633.554, 633.557, 633.60, 633.70, 633.701, 633.702, 633.72, 633.801, 633.802, 633.803, 633.805, 633.806, 633.807, 633.809, 633.811, 633.812, 633.814, 633.816, 633.817, 633.818, 633.821, 893.13, 934.03, 943.61.1002.33, 1002.34, 1013.12, 1013.38.

The bill creates the following sections of the Florida Statutes: 633.132, 633.138, 633.406.

The bill repeals the following sections of the Florida Statutes: 633.024, 633.0245, 633.03, 633.0421, 633.13, 633.167, 633.18, 633.30, 633.32, 633.33, 633.37, 633.445, 633.46, 633.514, 633.517, 633.524, 633.804, 633.808, 633.810, 633.813, 633.815, 633.819, 633.820.

II. Present Situation:

Division of the State Fire Marshal (State Fire Marshal)

State law on fire prevention and control is provided in Chapter 633, F.S. Section 633.01, F.S., designates the Chief Financial Officer (CFO) as the State Fire Marshal, operating through the Division of the State Fire Marshal.¹ Pursuant to this authority, the State Fire Marshal regulates, trains, and certifies fire service personnel; investigates the causes of fires; enforces arson laws; regulates the installation of fire equipment; conducts firesafety inspections of state property; develops firesafety standards; provides facilities for the analysis of fire debris; and operates the Florida State Fire College. Additionally, the State Fire Marshal adopts by rule the Florida Fire Prevention Code, which contains or references all firesafety laws and rules regarding public and private buildings.²

The Division of the State Fire Marshal (Division) consists of the following four bureaus: fire and arson investigations, fire standards and training, forensic fire and explosives analysis, and fire prevention. The Florida State Fire College, part of the Bureau of Fire Standards and Training, trains over 6,000 students per year. The Inspections Section, under the Bureau of Fire Prevention, annually inspects more than 14,000 state-owned buildings and facilities. Over 1.8 million fire and emergency reports are collected every year. These reports are entered into a database to form the basis for the State Fire Marshal's annual report.³

Definition of Terms

Under current law s. 633.021, F.S., defines the following terms:

- “Certificate” means a certificate of competency issued by the State Fire Marshal.⁴
- “Certification” means the act of obtaining or holding a certificate of competency from the State Fire Marshal.⁵
- “High-hazard occupancy” means any building or structure:
 - That contains combustible or explosive matter or flammable conditions dangerous to the safety of life or property.
 - In which persons receive educational instruction.
 - In which persons reside, excluding private dwellings.
 - Containing three or more floor levels.

Such buildings or structures include, but are not limited to, all hospitals and residential health care facilities, nursing homes and other adult care facilities, correctional or detention facilities, public schools, public lodging establishments, migrant labor camps, residential child care facilities, and self-service gasoline stations.⁶

NFPA 101 Life Safety Code

¹ The head of the Department of Financial Services (DFS) is the Chief Financial Officer. The Division of State Fire Marshal is located within the DFS.

² Section 633.0215(1), F.S.

³ Division of State Fire Marshal, *State Fire Marshal Website*, available at <http://www.myfloridacfo.com/sfm/> (last visited Apr 6, 2013).

⁴ Section 633.021(2), F.S.

⁵ Section 633.021(3), F.S.

⁶ Section 633.021(13)(a), F.S.

The National Fire Protection Association publishes the NFPA 101 Life Safety Code. The Life Safety Code is used to protect people based on building construction, protection, and occupancy features that minimize the effects of fire and related hazards, and covers life safety in both new and existing structures.⁷ Under current law the State Fire Marshal must adopt the Life Safety Code.⁸ The current Florida Fire Prevention Code and the Life Safety Code incorporates the NFPA 101 Life Safety Code as adopted by the State Fire Marshal.⁹

Suspension, Revocation and Fines

Under current law, if the State Fire Marshal finds that one or more grounds exist for the suspension or revocation of any license, certificate, or permit issued by the division, the State Fire Marshal may, in its discretion for first time offenders, in lieu of the suspension or revocation, impose upon the licensee or permittee an administrative fine not to exceed \$1,000 for each violation, and not to exceed a total of \$10,000 in any one proceeding.¹⁰ The State Fire Marshal may allow the licensee, certificateholder, or permittee a reasonable period, not to exceed 30 days, within which to pay to the State Fire Marshal the amount of the fine. If the licensee, certificateholder, or permittee fails to pay the administrative fine in its entirety to the State Fire Marshal within such period, the license, permit, or certificate shall stand suspended until payment of the administrative fine has been made.¹¹

Investigation of Fires and Reports

Under current law, the State Fire Marshal shall investigate the cause, origin, and circumstances of every fire occurring in this state wherein property has been damaged or destroyed where there is probable cause to believe that the fire was the result of carelessness or design. Report of all such investigations shall be made on approved forms to be furnished by the fire marshal.¹²

State Fire Marshal Agents - Authority

Under current law the authority of the State Fire Marshal may be exercised by his or her agents, either individually or in conjunction with any other state or local official charged with similar responsibilities.¹³

Impersonating State Fire Marshal

Under current law a person who falsely assumes or pretends to be the State Fire Marshal, an agent of the Division, a firefighter or a firesafety inspector and who acts as such to require a person to aid or assist him or her in any matter relating to the duties of the State Fire Marshal

⁷National Fire Protection Association, *List of NFPA Codes & Standards*, available at <http://www.nfpa.org/aboutthecodes> (last visited Apr. 6, 2013).

⁸ Section 633.0215(2), F.S.

⁹ Section 633.01(1), F.S.

¹⁰ Section 633.163(1), F.S.

¹¹ Section 633.163(2), F.S.

¹² Section 633.03, F.S.

¹³ Section 633.13, F.S.

commits a felony of the third degree. If the impersonation occurs during the commission of a separate felony by that person, the impersonator shall be charged with a felony of the first degree.¹⁴

Tampering

Under current law¹⁵ it is a misdemeanor of the first degree to intentionally or willfully:

- Render a fire extinguisher or preengineered system required by statute or by rule inoperative except during such time as the extinguisher or preengineered system is being serviced, hydrotested, tested, repaired, or recharged, except pursuant to court order.
- Obliterate the serial number on a fire extinguisher for purposes of falsifying service records.
- Improperly service, recharge, repair, hydrotest, test, or inspect a fire extinguisher or preengineered system.
- Use the license or permit number of another person.
- Hold a permit and allow another person to use said permit number.
- Use, or permit the use of, any license by any individual or organization other than the one to whom the license is issued.

Investigation of Fraudulent Insurance Claims

Under current law the State Fire Marshal, their agents, or any fire department official engaged in the investigation of a fire loss may request any insurance company investigating a claim under an insurance policy or contract with respect to a fire to release any information whatsoever in the possession of the insurance company relative to a loss from that fire. The insurance company shall release the available information to and cooperate with any official authorized to request such information.¹⁶ If an insurance company has reason to suspect that a fire loss to its insured's real or personal property was caused by incendiary means, the company shall notify the State Fire Marshal and shall furnish her or him with all material acquired by the company during the course of its investigation.¹⁷

¹⁴ Section 633.151, F.S.

¹⁵ Section 633.171(2), F.S.

¹⁶ Section 633.175(1), F.S.

¹⁷ Section 633.175(2), F.S.

Fees; Insurance Regulatory Trust Fund

Under current laws:¹⁸

The initial application fee for each class of certificate is \$300.

The biennial renewal fee for each class of certificate is \$150.

The initial application fee for the permit classification is \$100.

The biennial renewal fee for the permit classification is \$50.

The fee for certificates issued as duplicates or to reflect a change of address is \$15.

The fee for each examination or reexamination for each class of certificate is \$100.

The fee for a Class A fire suppression equipment license is \$250.

The fee for a Class B and C fire suppression equipment license is \$150.

The fee for a Class D fire suppression equipment license is \$200.

The fee for certificates issued as duplicates or to reflect a change of address is \$10.

All moneys collected by the State Fire Marshal are deposited in the Insurance Regulatory Trust Fund,¹⁹ which is administered by the Office of Insurance Regulation of the Financial Services Commission, and is administratively housed in the Department of Financial Services. The Insurance Regulatory Trust Fund provides funding for the regulation of the insurance and fire protection industries. The sources of revenues to the trust fund come from license fees, fines and taxes collected from the insurance and fire protection industries.²⁰

Examination Providers

Under current law the State Fire Marshal may enter into a contract with any qualified public entity or private company in accordance with chapter 287 to provide examinations for any applicant for any examination administered under the jurisdiction of the State Fire Marshal. The State Fire Marshal may direct payments from each applicant for each examination directly to such contracted entity or company.²¹

The Florida Fire Code Advisory Council

The Council is housed at the Department of Financial Services and consists of 11 members appointed by the State Fire Marshal. Each appointee serves a 4-year term but no member can serve more than two consecutive terms. The Council advises and recommends to the State Fire Marshal changes to and interpretation of the uniform firesafety standards, the Florida Fire Prevention Code, and those portions of the Florida Fire Prevention Code that have the effect of conflicting with building construction standards of the Florida Building Code. The members of the Council must represent the following groups and professions:

¹⁸ Section 633.524(1), F.S., and s. 633.061, F.S.

¹⁹ Section 633.524(2), F.S.,

²⁰ Section 624.523, F.S.

²¹ Section 633.524(3), F.S.

- one member shall be the State Fire Marshal, or his or her designated appointee who shall be an administrative employee of the marshal,
- one member shall be an administrative officer from a fire department representing a municipality or a county selected from a list of persons submitted by the Florida Fire Chiefs Association,
- one member shall be an architect licensed in the state selected from a list of persons submitted by the Florida Association/American Institute of Architects,
- one member shall be an engineer with fire protection design experience registered to practice in the state selected from a list of persons submitted by the Florida Engineering Society,
- one member shall be an administrative officer from a building department of a county or municipality selected from a list of persons submitted by the Building Officials Association of Florida,
- one member shall be a contractor licensed in the state selected from a list submitted by the Florida Home Builders Association,
- one member shall be a Florida certified firefighter selected from a list submitted by the Florida Professional Firefighters' Association,
- one member shall be a Florida certified municipal fire inspector selected from a list submitted by the Florida Fire Marshal's Association,
- one member shall be selected from a list submitted by the Department of Education,
- one member shall be selected from a list submitted by the Chancellor of the State University System, and
- one member shall be a representative of the general public.²²

Firesafety Inspector Certificate

Under current law every firesafety inspector certificate is valid for 3 years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal, which shall include completion of at least 40 hours during the preceding 3-year period of continuing education as required by the rule of the department or, in lieu thereof, successful passage of an examination as established by the department.²³

Fire Equipment Dealer License - Reexamination

Under current law a fire equipment dealer applicant who fails the examination may take it 3 more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and successfully complete a prescribed training course approved by the State Fire College or an equivalent course approved by the State Fire Marshal. An applicant may not submit a new application within 6 months after the date of his or her last reexamination.²⁴

5 Year Limit on Revocation

²² Section 633.72(1), F.S.

²³ Section 633.081(5), F.S.

²⁴ Section 633.061(4)(d), F.S.

Under s. 633.547(3)(b), F.S., the State Fire Marshal may revoke a fire protection system contractor certificate for a period not to exceed 5 years.

Firefighters Employment, Standards, and Training Council

The Council is housed at the Department of Financial Services and consists of 13 members: Two members are fire chiefs appointed by the Florida Fire Chiefs Association, two members are firefighters who are not officers, appointed by the Florida Professional Firefighters Association, two members are firefighter officers who are not fire chiefs, appointed by the State Fire Marshal, one member appointed by the Florida League of Cities, one member appointed by the Florida Association of Counties, one member appointed by the Florida Association of Special Districts, one member appointed by the Florida Fire Marshal's Association, and one member appointed by the State Fire Marshal, and one member are a director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal. To be eligible for appointment as a fire chief member, firefighter officer member, firefighter member, or a director or instructor of a state-certified firefighting facility, a person shall have had at least 4 years' experience in the firefighting profession. The remaining member, who shall be appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government. Members serve only as long as they continue to meet the criteria under which they were appointed, or unless a member has failed to appear at three consecutive and properly noticed meetings unless excused by the chair.²⁵ Members are appointed for 4-year terms and in no event shall a member serve more than two consecutive terms. Any vacancy shall be filled in the manner of the original appointment for the remaining time of the term.²⁶

Under current law the Council shall have the power to consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire or the scene of an incident related to the provision of emergency services to which a firefighter responds, and the development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of firefighter employment, fire science, fire technology, fire administration, and all allied and supporting fields.²⁷

Criminal History

Under current law a firefighter applicant cannot have been convicted of a felony or of a misdemeanor directly related to the position of employment sought, nor have pled nolo contendere to any charge of a felony. If an applicant has been convicted of a felony, such applicant must be in compliance with s. 112.011(2)(b), F.S. If an applicant has been convicted of a misdemeanor directly related to the position of employment sought, such applicant shall be excluded from employment for a period of 4 years after expiration of sentence. If the sentence is suspended or adjudication is withheld in a felony charge or in a misdemeanor directly related to

²⁵ Section 633.31(1), F.S.

²⁶ Section 633.31(2), F.S.

²⁷ Section 633.33(4), F.S.

the position or employment sought and a period of probation is imposed, the applicant must have been released from probation.²⁸

Supplemental Income for Firefighters

Every firefighter is entitled to supplemental compensation from the employing agency when specified circumstances are met.²⁹ The Firefighters' Supplemental Compensation Trust Fund, created under the Department of Revenue, provides the funds necessary for the supplemental compensation.³⁰ The Firefighters' Supplemental Compensation Trust Fund is funded by certain amounts appropriated from the Police and Firefighter's Premium Tax Trust Fund.³¹

The amount of supplemental compensation for a firefighter is determined as follows:

- Fifty dollars is paid monthly to a firefighter who receives an associate degree from a college, if the degree is applicable to fire department duties;
- One hundred and ten dollars is paid monthly to a firefighter who receives a bachelor's degree from a college or university, regardless of whether the firefighter earned an associate degree earlier, if the bachelor's degree is applicable to fire department duties.

Florida State Fire College

The stated purpose of the Florida State Fire College is:³²

- To provide firefighters with professional instruction and training in firefighting, fire prevention, and emergency operations.
- To develop new methods and practices for firefighting and fire prevention.
- To assist the state and local governments in their investigation and determination of the causes of fires.
- To provide facilities for testing firefighting equipment.
- To disseminate information on fires, firefighting and fire prevention to fire departments and others interested persons.
- To do such other things necessary for the promotion of public safety in the field of fire hazards and fire prevention work.

Current law requires that, in performing its duties related to the Florida State Fire College, the division must:³³

- Enter into agreements with school districts, community colleges, junior colleges, or universities, as necessary to perform its duties;
- Approve appropriate budget requests for the fire college educational program;

²⁸ Section 633.34(2), F.S.

²⁹ Section 633.382, F.S.

³⁰ Section 633.382(4)(c), F.S.

³¹ *Id.*

³² Section 633.44, F.S.

³³ Section 633.50, F.S.

- Prepare a legislative budget request for the Florida State Fire College education program;
- Implement procedures to obtain appropriate entitlement funds from federal and state grants; and
- Develop a staffing and funding formula for the Florida State Fire College.

Frequency of Work-Related Injuries

Current law requires the division to develop a process to identify firefighter employers whose firefighters have a high frequency or severity of work-related injuries.³⁴ This process includes:

- Performing safety inspections of the facilities and operations; and
- The development of safety and health programs.

A firefighter employer identified as having a high frequency or severity of work-related injuries must implement a safety and health program developed by the division. The division cannot assess a penalty based on the results of a safety inspection, except the insurer or self-insurance fund can cancel the contract or terminate any discount that had been granted. Insurers shall distribute such safety and health programs to the firefighter employers so identified by the division. A firefighter employer can submit its own program in lieu of using the program developed by the division, subject to approval by the division.

Disqualification from Public Employment Based on Criminal Conviction

Generally, a person cannot be disqualified from public employment solely because of a prior conviction for a crime, unless the crime was a felony or first-degree misdemeanor and directly related to the position of employment. The general application of this provision, however, does not apply to firefighters. A person applying to become a firefighter who has a prior felony conviction shall be excluded from employment for a period of 4 years after the expiration of the sentence, or until the person has received a full pardon or has had his or her civil rights restored.

Legislative Ratification of Agency Rules

Current law provides that if the adverse impact or regulatory costs of a rule exceed specified criteria, the rule shall be submitted to the President of the Senate and Speaker of the House of Representatives at least 30 days before the next legislative session, and the rule is not effective until ratified by the Legislature.³⁵ These provisions do not apply to the adoption of emergency rules or federal standards.

When multiple bills that pass in the same session affect the same statutory provision in inconsistent and irreconcilable ways, the version that is most strongly supported by legislative intent is placed in the text, and a footnote is inserted setting out the alternative text and explaining the conflict.³⁶

³⁴ Section 633.809, F.S.

³⁵ Section 120.541(3), F.S.

³⁶ See, the Preface to Florida Statutes: “STATUTORY CONSTRUCTION: Multiple acts in the same section affecting a statutory provision.”

In 2011, the legislature passed CS/CS/CS/HB 993 and HB 7239, which amended s. 120.541(4), F.S.³⁷ In addition, the legislature passed CS/CS/CS/HB 849, which also amended s. 120.541(4), F.S., by providing that emergency rules would be subject to legislative ratification.³⁸ Further, that bill provided that triennial updates and amendments to the Florida Building Code and triennial updates and amendments to the Florida Fire Prevention Code would be exempt from legislative ratification. The provisions of CS/CS/CS/HB 993 and HB 7239 were incorporated into statutory text, but the provisions of CS/CS/CS/HB 849 were put in footnote 1 of that section.

Property Tax Exemptions

In 2012, the legislature passed CS/HB 95, titled the “Fallen Heroes Family Tax Relief Act.” The CS provided an exemption from property tax on a homestead owned by a surviving spouse of a first responder who died in the line of duty. The CS defined a first responder to be a law enforcement officer, a correctional officer, a firefighter, or an emergency medical technician or paramedic. The effect of the act becoming law was contingent upon House Joint Resolution 93 being approved by Florida voters in the general election in November 2012. As a result, the current 2012 F.S. contain the provisions of CS/HB 95 as a footnote. Subsequent to the publication of the 2012 F.S., the text of Joint Resolution 93 was passed as an amendment to the Florida Constitution.

III. Effect of Proposed Changes:

Section 1 requests the Division of Law Revision and Information to create part 1 of chapter 633, Florida Statutes, consisting of sections 633.102, 633.104, 633.106, 633.108, 633.112, 633.114, 633.116, 633.118, 633.122, 633.124, 633.126, 633.128, 633.132, 633.134, 633.136, and 633.138, F.S., to be entitled “General Provisions.”

Section 2 rennumbers current s. 633.021, F.S., to become s. 633.102, F.S., incorporates language from s. 633.30, F.S., makes technical changes in regards to drafting, removes definitions for certificate, certification, and high hazard occupancy and adds definitions for:

- “Department” means the Department of Financial Services.
- “Division” means the Division of State Fire Marshal within the Department of Financial Services.
- “Firefighter” means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division.
- “Fire service support personnel” means an individual who does not hold a current and valid certificate issued by the division and who may only perform support services.
- “Fire service provider” means a municipality or county, the state, or any political subdivision of the state, including authorities and special districts, employing firefighters or utilizing volunteer firefighters to provide fire extinguishment or fire prevention services for the protection of life and property. The term includes any organization under contract or other agreement with such entity to provide such services.

³⁷ See, s. 2, ch. 2011-225, L.O.F.

³⁸ See, s. 1, ch. 2011-222, L.O.F.

- “Hot zone” means the area immediately around an incident where serious threat of harm exists, which includes the collapse zone for a structure fire.
- “Minimum Standards Course” means training of at least 360 hours as prescribed by rule adopted by the division which is required to obtain a Firefighter Certificate of Compliance.
- “Support services” means those activities that a fire service provider has trained an individual to perform safely outside the hot zone of an emergency scene, including pulling hoses, opening and closing fire hydrants, driving and operating apparatus, carrying tools, carrying or moving equipment, directing traffic, manning a resource pool, or similar activities.
- “Suspension” means the temporary withdrawal of a license, certificate, or permit issued pursuant to this chapter.
- “Volunteer firefighter” means an individual who holds a current and valid Volunteer Firefighter Certificate of Completion issued by the division.

The bill also clarifies a Contractor IV is limited to the scope of practice specified in NFPA 13D.

Section 3 renumbers current s. 633.01, F.S., to become s. 633.104, F.S., requires the State Fire Marshal establish by rule guidelines and procedures for a 4-year renewal of firesafety inspector certification. The bill removes references to the Life Safety Code which is incorporated in the Florida Fire Prevention Code. It incorporates s. 633.517(2), F.S., allowing the State Fire Marshal or her or his duly appointed hearing officer may administer oaths and take testimony about all matters within the jurisdiction of this chapter. Chapter 120 shall govern hearings conducted by or on behalf of the State Fire Marshal. The bill incorporates s. 633.524(3), F.S., allowing that the State Fire Marshal may contract with any qualified public entity or private company in accordance with chapter 287 to provide examinations for any applicant for any examination administered under the jurisdiction of the State Fire Marshal. The State Fire Marshal may direct payments from each applicant for each examination directly to such contracted entity or company. The bill also makes technical changes in regards to drafting.

Section 4 renumbers current s. 633.163, F.S., to become s. 633.106, F.S., inserts current language granting the State Fire Marshal the authority to deny, suspend, or revoke the license, certificate, or permit of any individual who does not meet the qualifications established by, or who violates any provision under this chapter or any rule authorized by this chapter. The bill inserts current language found in s. 633.167, F.S., regarding probationary periods as well as the ability of the State Fire Marshal to impose a fine not to exceed \$1,000 per violation. It allows the State Fire Marshal to set terms and conditions and to take disciplinary action for any violations of such terms and also makes technical changes in regards to drafting.

Section 5 renumbers current s. 633.15, F.S., to become s. 633.108, F.S.

Section 6 renumbers current s. 633.101, F.S., to become s. 633.112, F.S., incorporates language found in ss. 633.03, F.S., and 633.18, F.S., additionally the bill requires the State Fire Marshal, upon the request of certain local fire or local government officials, to investigate the cause, origin, and circumstances of every fire or explosion occurring in this state. The local entity shall make an initial investigation of the incident based upon department-adopted rules for such preliminary investigations. Reports of such investigations shall be made on approved forms to be furnished by the State Fire Marshal. The bill also makes technical changes in regards to drafting.

Section 7 renumbers current s. 633.111, F.S., to become s. 633.112, F.S., requires the State Fire Marshal to keep records of all explosions in the state.

Section 8 renumbers current s. 633.02, F.S., to become s. 633.114, F.S., incorporates s. 633.13, F.S., with regards to authorization for agents of the State Fire Marshal to investigate individually or in conjunction with any other state or local official charged with similar responsibilities.

Section 9 renumbers current s. 633.14, F.S., to become s. 633.116, F.S.

Section 10 renumbers current s. 633.121, F.S., to become s. 633.118, F.S., replaces the term “fire department” with “fire service providers” and makes technical changes in regards to drafting.

Section 11 renumbers current s. 633.151, F.S., to become s. 633.122, F.S., includes the impersonation of a “volunteer firefighter” when impersonating oneself as the State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or a firesafety inspector by wearing a uniform or presenting or displaying a badge as credentials that would cause a reasonable person to believe that the impersonator is a State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or firesafety inspector. The current penalties committed for impersonating those listed above are a felony of the third degree, punishable as provided in ss. 775.082 and 775.083, F.S., or, if the impersonation occurs during the commission of a separate felony by that person, commits a felony of the first degree, punishable as provided in ss. 775.082 and 775.083, F.S. Also makes technical changes in regards to drafting.

Section 12 renumbers current s. 633.171, F.S., to become s. 633.124, F.S., includes penalties for rendering inoperative a “fire protection system” as well as penalties for the use of a certificate or permit issued to another person. Also makes technical changes in regards to drafting.

Section 13 renumbers current s. 633.175, F.S., to become s. 633.126, F.S., adds the term “consultant” which means any individual or entity, or employee of the individual or entity, retained by an insurer to assist in the investigation of a fire, explosion, or suspected fraudulent insurance act. In addition, explosions are added to the jurisdiction of the State Fire Marshal who may request any insurance company investigating a claim under an insurance policy or contract with respect to an explosion to release any information whatsoever in the possession of the insurance company relative to a loss from that explosion. The bill also makes technical changes in regards to drafting.

Section 14 renumbers current s. 633.45, F.S., to become s. 633.128, F.S., establishes by rule, uniform minimum standards for training volunteer firefighters, minimum curriculum requirements and criteria used by approve education or training providers as well as, standards for the approval, denial, probation, suspension, and revocation of an education or training provider and the facilities used for training. The bill increases from 3 years to 4 years the time an education instructor must complete their 40 hours of continuing education and also makes technical changes in regards to drafting.

Section 15 creates s. 633.132, F.S., which adds a \$10 fee for each permittee and licensee wanting to change their fire equipment dealer’s license to a different category. Per the department, such

requests currently result in a new application fee of \$150 to \$250 depending on license type. The bill also incorporates the fees listed in s. 633.061, F.S., except the fee for duplicate license or change of address which has been reduced from \$15 to \$10.

Section 16 renumbers current s. 633.39, F.S., to become s. 633.134, F.S.

Section 17 renumbers current s. 633.115, F.S., to become s. 633.136, F.S., makes technical changes when referencing the division as well as technical changes with regards to cross referencing other statutes and drafting.

Section 18 creates s. 633.138, F.S., which requires individuals issued a license, permit, or certificate under this chapter to notify the division in writing of any changes to her or his current mailing address, e-mail address, and or place of practice. Notwithstanding any other provision of law, delivery by regular mail or e-mail using the last known mailing address or e-mail address on record with the division, shall constitute adequate and sufficient notice on any official communication by the division. Furthermore, any individual issued a license, permit, or certificate under this chapter shall notify the division in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.

Section 19 renumbers current s. 633.042, F.S., to become s. 633.142, F.S., and adds language in s. 633.0421, F.S.

Section 20 requests the Division of Law Revision and Information to create part 1 of chapter 633, F.S., consisting of ss. 633.202, 633.204, 633.206, 633.208, 633.212, 633.214, 633.216, 633.218, 633.222, 633.224, 633.226, and 633.228, F.S., to be entitled “Fire Safety and Prevention.”

Section 21 renumbers current s. 633.0215, F.S., to become s. 633.202, F.S., requires the State Fire Marshal to adopt the current edition of the National Fire Protection Association’s Standard 1, the current edition of Life Safety Code and the current edition of NFPA 101. Removes obsolete language pertaining to a study and the adoption of rules for a voice-over-Internet-protocol telephone service. Per the department, such study has been completed and the rules have since been adopted. Makes technical changes with regards to cross referencing other statutes and drafting.

Section 22 renumbers current s. 633.72, F.S., to become s. 633.204, F.S., allows for the Florida Fire Chiefs Association’s member of the Council who is an administrative officer of a fire department to be a representative of a special district rather than only a representative of a county or municipality. Changes the name of the Florida Fire Marshals’ Association to the Florida Fire Marshals’ and Inspectors’ Association. Requires the council shall meet at least semiannually to advise the State Fire Marshal’s Office on matters subject to this section. Allows the council to review proposed changes to the Florida Fire Prevention Code and the uniform fire safety standards pursuant to s. 633.202(4), F.S. Makes technical changes with regards to cross referencing other statutes and drafting.

Section 23 renumbers current s. 633.022, F.S., to become s. 633.206, F.S., and removes an obsolete requirement that a nursing home licensee must submit complete sprinkler construction documentation to the Agency for Health Care Administration. The bill also makes technical changes with regards to cross referencing other statutes.

Section 24 renumbers current s. 633.025, F.S., to become s. 633.208, F.S., changes the term “minimum firesafety codes and standards” to “Florida Fire Prevention Code.” Makes technical changes with regards to cross referencing other statutes and drafting.

Section 25 renumbers current s. 633.026, F.S., to become s. 633.212, F.S., *revises how alternate members of the nonbinding Fire Code Interpretation Committee are called upon to respond when interpretations are requested, extends the length of time by which an interpretation must be provided, and provides for a yes/no question on the interpretation form. Also changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S., and changes the term “formal interpretation” to “declaratory statement” with regards to interpretation made by the division. Makes technical changes with regards to cross referencing other statutes and drafting.

Section 26 renumbers current s. 633.052, F.S., to become s. 633.214, F.S., changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S. The bill clarifies citations can be issued by a firesafety inspector for violations of the Florida Fire Prevention Code. Allows a “special district” to enact any ordinance relating to firesafety that is identical to the Florida Fire Prevention Code. Also makes technical changes with regards to drafting.

Section 27 renumbers current s. 633.081, F.S., to become s. 633.216, F.S., clarifies persons authorized to enforce laws and rules on behalf of the State Fire Marshal may conduct inspections. The bill cross references other statutes in regards to requirements for firesafety certification. Increases from 3 years to 4 the number of years an inspector certificate is valid as well as the number of years continuing education must be completed. The bill increases the continuing education requirements for a fire safety inspector certificate from 40 hours to 54 hours. Requires a previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division. The bill changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S., and makes other technical changes with regards to cross referencing other statutes and drafting.

Section 28 renumbers current s. 633.085, F.S., to become s. 633.218, F.S., includes the current definition of s. 633.021(13), F.S., for “high-hazard occupancy.” Applies the term “state-owned building” to include private correctional facilities as defined under s. 944.710(3), F.S. Requires a state-owned building or state-leased building or space shall be identified through use of the United States National Grid Coordinate System. The bill clarifies the uses of the terms “high-hazard occupancy” and “state-owned building” as they are applied to this section. Changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S., and makes technical changes with regards to drafting.

Section 29 renumbers current s. 633.027, F.S., to become s. 633.222, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 30 renumbers current s. 633.60, F.S., to become s. 633.224, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 31 renumbers current s. 633.557, F.S. to become s. 633.226, F.S.

Section 32 renumbers current s. 633.161, F.S., to become s. 633.228, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 33 requests the Division of Law Revision and Information to create part III of chapter 633, F.S., consisting of ss. 633.302, 633.304, 633.306, 633.308, 633.312, 633.314, 633.316, 633.318, 633.322, 633.324, 633.326, 633.328, 633.332, 633.334, 633.336, 633.338, 633.342, 633.344, 633.346, 633.348, and 633.3482, F.S., to be entitled “Fire Protection and Suppression.”

Section 34 renumbers current s. 633.511, F.S., to become s. 633.302, F.S., the bill incorporates all the language in s. 633.514, F.S., and makes technical changes with regards to cross referencing other statutes and drafting. Also changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S.

Section 35 renumbers current s. 633.061, F.S., to become s. 633.304, F.S., strikes the fees that have been moved into s. 633.132(1)(a)6, F.S. Requires fire equipment dealers who wish to withdraw their previously filed halon equipment exemption affidavit must notify the division in writing and obtain an inspection before installing, removing or servicing halon equipment. Increases from 2 years to 4 years the time a fire equipment dealer license may be inactive before being voided. Makes technical changes to the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S. Allows fire equipment dealer applicant’s with facilities outside of the state, instead of paying for an inspection completed by the division, can provide a notarized statement from a professional engineer licensed by the applicant’s state verifying the applicant possesses the equipment required for the class of license sought and that all such equipment is operable. The bill requires applicants of this section must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country. If an applicant has been convicted of any such crime, the applicant shall be excluded from licensure for a period of 4 years after expiration of sentence or final release by the Parole Commission unless the applicant receives a full pardon or has had her or his civil rights restored. Allows the procedure for which a fire equipment dealer can convert their license to a lower licensing category. Removes current restrictions on number reexaminations for a fire equipment license in a given year but requires an applicant who passes the exam has one year from the application date to complete the licensure requirements or else the applicant must reapply. The bill also makes technical changes with regards to drafting.

Section 36 renumbers current s. 633.065, F.S., to become s. 633.306, F.S., makes technical changes with regards to cross referencing other statutes.

Section 37 renumbers current s 633.071, F.S., to become s. 633.308, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 38 renumbers current s. 633.082, F.S., to become s. 633.312, F.S., makes technical changes with regards to cross referencing other statutes and clarifies the term “appropriate authority” in lieu of the terms “agency having jurisdiction” and “agency shall.”

Section 39 renumbers current s. 633.083, F.S., to become s. 633.314, F.S., makes technical changes with regards to drafting.

Section 40 renumbers current s 633.162, F.S., to become s. 633.316, F.S., makes technical changes with regards to cross referencing other statutes and drafting.

Section 41 renumbers current s. 633.521, F.S., to become s. 633.318, F.S., changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S. Makes other technical changes with regards to cross referencing other statutes and drafting.

Section 42 renumbers current s. 633.551, F.S., to become s. 633.322, F.S., allows a “special district” to regulate the work performed by contractors through a system of permits, plan approval, fees, and inspections which are designed to secure compliance with state and local building laws or to enforce other local laws. The bill also makes other technical changes with regards to drafting.

Section 43 renumbers current s. 633.527, F.S., to become s. 633.324, F.S.

Section 44 renumbers current s. 633.531, F.S., to become s. 633.326, F.S.

Section 45 renumbers current s. 633.534, F.S., to become s. 633.328, F.S., changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S., and makes other technical changes with regards to drafting.

Section 46 renumbers current s. 633.537, F.S., to become s. 633.332, F.S., and strikes the fee for renewal of an inactive license which has been moved into s. 633.132(1)(a)7, F.S. Also makes technical changes with regards to drafting.

Section 47 renumbers current s. 633.539, F.S., to become s. 633.334, F.S., and changes the name “division of State Fire Marshal” to the new definition term “division” created in s. 633.102(5), F.S. Allows a Contractor V to install the cross-connection backflow prevention device as defined on new installations following the engineer of record’s direction on the type and size of the device. Also, makes other technical changes with regards cross referencing other statutes.

Section 48 renumbers current s. 633.541, F.S., to become s. 633.336, F.S., and makes technical changes with regards to cross referencing other statutes and drafting.

Section 49 renumbers current s. 633.547, F.S., to become s. 633.338, F.S., and allows disciplinary actions taken by a “special district” to be reviewed by the State Fire Marshal to determine issuing additional disciplinary action. Clarifies the terms and conditions when the

State Fire Marshal suspends a license. The bill removes the restriction that the State Fire Marshal cannot revoke a license for more than 5 years. Makes other technical changes with regards to cross referencing other statutes and drafting.

Section 50 renumbers current s. 633.549, F.S., to become s. 633.342, F.S., and makes technical changes with regards to drafting.

Section 51 renumbers current s. 633.554, F.S., to become s. 633.344, F.S.

Section 52 renumbers section 633.70, F.S., to become s. 633.346, F.S., and makes technical changes with regards to cross referencing other statutes and drafting.

Section 53 renumbers current s. 633.701, F.S., to become s. 633.348, F.S.

Section 54 renumbers current s. 633.702, F.S., to become s. 633.3482, F.S., and makes technical changes with regards to drafting.

Section 55 requests the Division of Law Revision and Information to create part IV of chapter 633, F.S., consisting of ss. 633.402, 633.404, 633.406, 633.408, 633.412, 633.414, 633.416, 633.418, 633.422, 633.424, 633.426, 633.428, 633.432, 633.434, 633.436, 633.438, 633.442, and 633.444, F.S., to be entitled “Fire Standards and Training.”

Section 56 renumbers current s. 633.31, F.S., to become s. 633.402, F.S., and incorporates language in ss. 633.32 and 633.33, F.S. The bill adds a member to the Firefighters Employment, Standards, and Training Council who is to be an employee of the Florida Forest Service appointed by the director of the Florida Forest Service at the Department of Agriculture and Consumer Services. Removes the current authority under s 633.33(4), F.S., allowing the Council to consult and cooperate with any employing agency, university, college, community college, the Florida State Fire College, or other educational institution concerning the employment and safety of firefighters, including, but not limited to, the safety of firefighters while at the scene of a fire or the scene of an incident related to the provision of emergency services to which a firefighter responds, and the development of firefighter training schools and programs of courses of instruction, including, but not limited to, education and training in the areas of firefighter employment, fire science, fire technology, fire administration, and all allied and supporting fields. The bill makes technical changes with regards to drafting.

Section 57 renumbers current s. 633.42, F.S., to become s. 633.404, F.S., clarifies the term “a fire service provider” in lieu of “an employing agency,” and changes “department” to “division.”

Section 58 creates s. 633.406, F.S., by incorporating the “firefighter certificate of compliance,” the “special certificate of compliance” and the “forestry certificate of compliance” from s. 633.35, F.S., the “certificate of competency” from s. 633.021(2), F.S., and creates the “fire services instructor certificate” and “volunteer firefighter certificate.” Additionally, the bill allows that the division may establish by rule certificates and awards in recognition of special training or education received by an individual, authorizing that individual to perform specialized firefighting services or provide specialized firefighting instruction, such as hazardous materials and urban search and rescue.

Section 59 rennumbers current s. 633.35, F.S., to become s. 633.408, F.S., requires the division to establish by rule a Minimum Standards Course and course examination to provide the training required to obtain a firefighter certificate of compliance courses; course examinations to provide training required to obtain a volunteer firefighter certificate of completion or a special certificate of compliance; and courses to provide continuing training for firefighters and volunteer firefighters. Courses may only be administered by education or training providers approved by the division and taught by certified instructors. Allows but does not require a fire service provider to pay part or all of the costs of tuition for attendance at approved courses. Allows for firefighters from other states to be certified if the division determines their training meets the minimum training required under this section. The bill allows for an extension of the 6-month reexamination period based upon documented medical necessity. Also makes technical changes with regards to cross referencing other statutes and drafting.

Section 60 rennumbers current s. 633.34, F.S., to become s. 633.412, F.S., replaces the term “employment” with “certification,” and strengthens the requirement that an applicant cannot have been convicted of a misdemeanor relating to the certification or to perjury or false statements. Imposes a lifetime ban for licensure on anyone having been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state or under the law of any other country. The bill also imposes a new restriction, that an applicant cannot have been dishonorably discharged from the Armed Forces of the United States. Defines the term “convicted” to mean a finding of guilt or the acceptance of a plea of guilty or nolo contendere, in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case. Requires when the division suspends or revokes an individual’s certificate, the division must suspend or revoke all other certificates issued by the division.

Section 61 rennumbers current s. 633.352, F.S., to become s. 633.414, F.S., changes the time a certificate is valid from 3 years to 4, requires a minimum of 40 hours of training every 4 years, requires reexamination of the Minimum Standards Course within 6 months of the 4-year expiration, and also requires certificateholder must be active as a firefighter. Requires certified fire safety instructors to provide documentation that they taught a minimum of 40 hours every 4 years. Requires volunteer firefighters be active or successfully complete a minimum of 40 hours of training every 4 years. Defines the term “active” as being employed as a firefighter or providing service as a volunteer firefighter for a cumulative 6 months within a 4-year period. Applies the new 4-year certificate is applied to new applicants beginning July 1, 2013, and is prospectively applied among current certificateholder beginning July 1, 2014.

Section 62 rennumbers current s. 633.41, F.S., to become s. 633.416, F.S., and establishes standards for firefighter employment and volunteer firefighter service. The bill provides that a fire service provider:

- Can only hire someone with a Firefighter Certificate of Compliance to extinguish fires for the protection of life or property or supervise others to do so;
- Can only hire someone with a Firefighter Certificate of Compliance or Special Certificate of Compliance to serve as the administrative and command head; and

- Can only retain the services of someone volunteering to extinguish fires for the protection of life or property or to supervise others to do so if the person has Volunteer Firefighter Certificate of Completion.

The bill provides that the fire service provider must make a diligent effort to insure that all hires meet the specified certificate requirements, including contacting at least three of the applicant's previous employers and contacting the division to determine the applicant's certification status.

The bill provides that within 10 days the fire service provider must notify the division of: the hiring of a firefighter; the retention of a volunteer firefighter; the termination of employment of a firefighter; or of its decision not to retain a volunteer firefighter. The bill specifies the information that must be included in the fire service provider's notification to the division. If the fire service provider makes a determination that an applicant has not met the certification requirements, the fire service provider must notify the division within 10 days. The bill authorizes the division to conduct site visits to fire departments to insure compliance with the provisions of this section.

Section 63 renumbers current s. 633.38, F.S., to become s. 633.418, F.S., and changes references and other minor technical changes. Further, current law requires the division to prescribe curricula and standards for advanced and specialized training courses, but provides that these standards do not bind any employing agency as to the requirements it may have for promoting personnel. The bill exempts "fire service providers" from the standards, as opposed to the current term "employing agency."

Section 64 renumbers current s. 633.382, F.S., to become s. 633.422, F.S. The bill adds legislative intent recognizing the need for supplemental compensation for firefighters who pursue higher educational opportunities that directly relate to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect. The bill specifies that for the purposes of s. 633.422, F.S., division is to be considered a fire service provider responsible for payment of supplemental compensation to firefighters employed full-time by the division. The bill removes certain definitions.

Section 65 renumbers current s. 633.353, F.S., to become s. 633.424, F.S., and makes minor technical changes.

Section 66 renumbers current s. 633.351, F.S., to become s. 633.426, F.S., relating to disciplinary action and standards for revocation of certification. The bill defines "certificate" to mean any of the certificates issued under s. 633.406, F.S.³⁹ The bill provides that a person is not eligible to apply for a certificate if the individual has been:

- Convicted of a misdemeanor relating to the certification or to perjury or false statements;
- Convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of any other state, of United States, or of another country; or

³⁹ As identified in the description of newly created s. 633.406, F.S., the certificates that will be issued under that section include a Firefighter Certificate, a Fire Safety Inspector Certificate, a Forestry Certificate, a Fire Service Instructor Certificate, Certificate of Competency, a Special Certificate of Compliance, and a Volunteer Firefighter Certificate.

- Dishonorably discharged from any of the Armed Forces of the United States.

The bill provides that the certification of an individual will be permanently revoked if the individual:

- Is convicted of a misdemeanor relating to perjury or false statement;
- Is convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of any other state, of United States, or of another country;
- Is dishonorably discharged from any of the Armed Forces of the United States; or
- Has demonstrated a lack of moral fitness to carry out the responsibilities under the certification.

The provisions of this section that apply to revocation of a certificate will be applied prospectively to convictions and dishonorable discharges after July 1, 2013. For convictions prior to July 1, 2013, the statute as it existed before this bill would apply.

Additionally, the certification of an individual shall be revoked if the individual has demonstrated a lack of moral fitness or trustworthiness to carry out the responsibilities under the individual's certification. After investigation, if the division has reason to believe that an individual who is certified may have been convicted of a felony or of a misdemeanor related to perjury or false statement in this state or any other state or jurisdiction, the division may require the individual to submit fingerprints to the division with a current processing fee. The fingerprints shall be forwarded by the division to the Department of Law Enforcement for state processing and shall be forwarded by the Department of Law Enforcement to the Federal Bureau of Investigation for national processing.

Section 67 renumbers current s. 633.43, F.S., to become s. 633.428, F.S., and makes minor technical changes.

Section 68 renumbers current s. 633.44, F.S., to become s. 633.432, F.S., and provides that beside those purposes already listed, an additional purpose of the Florida State Fire College is to ensure professionalism and competence of those who perform firefighting, fire prevention, and associated fire protection functions by administering a system of certification and licensing.

Section 69 renumbers current s. 633.48, F.S., to become s. 633.434, F.S., and changes references.

Section 70 renumbers current s. 633.461, F.S., to become s. 633.436, F.S. Current law specifies the allowable uses for funds received from the Insurance Regulatory Trust Fund. One of the current allowable uses is the State Fire Marshal Scholarship Grant Program. The bill deletes this program from the purposes for which the funds used.

Section 71 renumbers current s. 633.47, F.S., to become s. 633.438, F.S.

Section 72 renumbers current s. 633.49, F.S., to become s. 633.442, F.S., and makes minor technical changes.

Section 73 renumbers current s. 633.50, F.S., to become s. 633.444, F.S., corrects references, makes minor technical changes, and adds provisions to the division's duties related to the Florida State Fire College. The bill provides that, in addition to its statutory duties related to the State Fire College, the division must:

- Establish criteria for approving education or training providers, including courses taught.
- Register the approved education or training providers in an electronic database.

An education or training provider must be approved and registered before it can offer a course to fulfill an education or training requirement, and only an approved and registered provider can provide instruction or training that will be recognized by the division as fulfilling an education or training requirement.

Section 74 renumbers current s. 633.46, F.S., to become s. 633.446, F.S.

Section 75 requests the Division of Law Revision and Information to create part V of chapter 633, Florida Statutes, consisting of sections 633.502, 633.504, 633.506, 633.508, 633.512, 633.516, 633.518, 633.520, 633.522, 633.526, 633.528, 633.532, 633.534, and 633.536, Florida Statutes, and entitled "Florida Firefighters Occupational Safety and Health Act."

Section 76 renumbers current s. 633.801, F.S., to become s. 633.502, F.S., and provides that the title "Florida Firefighters Occupational Safety and Health Act," which is currently applied to ss. 633.801 – 633.821, F.S., will instead apply to ss. 633.502 – 633.536, F.S.

Section 77 renumbers current s. 633.802, F.S., to become s. 633.504, F.S., changes references and amends current definitions. Current law defines "firefighter employee" as any person engaged in specifically defined employment. The bill specifies that a "firefighter employee" is a firefighter, a volunteer firefighter, or an individual providing support services. The bill expands the current definition of "firefighter place of employment" to include the physical location at which a firefighter employee is deployed.

Section 78 renumbers current s. 633.803, F.S., to become s. 633.506, F.S., corrects references, and makes minor technical changes.

Section 79 renumbers current s. 633.821, F.S., to become s. 633.508, F.S., corrects references, deletes obsolete language and incorporates all the language formerly contained in ss. 633.808(1), 633.808(2), and 633.808(3), F.S., and renumbers those sections to be ss. 633.508(7)(a), 633.508(7)(b), and 633.508(7)(c), F.S., respectively.

Section 80 renumbers current s. 633.817, F.S., to become s. 633.512, F.S., and corrects references.

Section 81 renumbers current s. 633.805, F.S., to become s. 633.516, F.S.

Section 82 renumbers current ss. 633.806(1) and 633.806(2), F.S., to become ss. 633.518(1) and 633.518(2), F.S., respectively, corrects references, and adds provisions. Current law authorizes the division to conduct investigations into the causes of firefighter injuries. The bill expands this authority of the division to conduct studies, investigations or inspections into the causes of

firefighter injuries, illnesses, safety-based complaints or Line of Duty Deaths. The bill also incorporates the language formerly contained in s. 633.815, F.S., and renumbers it to be s. 633.518(3), F.S., with minor technical changes.

Section 83 renumbers current s. 633.807, F.S., to become s. 633.520, F.S., and corrects references.

Section 84 renumbers current s. 633.809, F.S., to become s. 633.522(1), F.S., and makes technical changes; renumbers current ss. 633.810(1), 633.810(2), 633.810(3), and 633.810(4), F.S., to become ss. 633.522(2), 633.522(3), 633.522(4), 633.522(5), F.S., respectively; and renumbers current s. 633.813, F.S., to become s. 633.522(6), F.S., with minor technical changes.

Section 85 renumbers current s. 633.811, F.S., to become s. 633.526, F.S., corrects references, and specifies sanctions that the division may impose for violations by firefighter employers. The bill provides that when the division finds that a firefighter employer has violated any rule adopted under a provision of this part, the division may:

- Issue an administrative cease and desist order, enforceable in the circuit court.
- Assess an administrative fine of an amount between \$100 and \$1,000 for each violation and each day a violation is committed.

The bill also provides that hearings under s. 633.811, F.S., will be conducted in Tallahassee, rather than in the county of the violation, as provided by current law.

Section 86 renumbers current s. 633.812, F.S., to become s. 633.528, F.S., corrects references, and removes the requirements in current law that a private firefighter employer with 20 or more full-time firefighter employees must provide for a safety committee in the safety program.

Section 87 renumbers current s. 633.816, F.S., to become s. 633.532, F.S., and corrects references.

Section 88 renumbers current s. 633.818, F.S., and s. 633.819, F.S., to become s. 633.534(1), F.S., and s. 633.534(2), F.S., respectively, and corrects references.

Section 89 renumbers current s. 633.814, F.S., to become s. 633.536, F.S., and corrects references.

Section 90 amends s. 112.011, F.S., relating to disqualification from public employment based on criminal convictions. The bill repeals the current statutory provision that a person with a felony conviction can become eligible to serve as a firefighter after a period of 4 years or if he or she has received a full pardon or has had his or her civil rights restored.

Section 91 amends s. 112.191, F.S., relating to payments provided to firefighters killed in the line of duty. Current law provides that an adjusted award of \$50,000 be paid when the firefighter is accidentally killed and an adjusted award of \$150,000 be paid when the firefighter's death is the

result of an intentional act of another person.⁴⁰ Under current law, the amounts are to be adjusted by agency rule to reflect changes since the “effective date of the act,” based on the Consumer Price Index For All Urban Consumers published by the U.S. Department of Labor. The bill provides that the division is to apply the Consumer Price Index For All Urban Consumers to reflect price levels since July 1, 2002, and publish the resulting amounts on the division’s website.

Section 92 amends s. 120.541, F.S., to move into the text of that section the provisions that are currently noted in footnote 1 of that section. The effect of the bill is to specify that triennial updates and amendments to the Florida Building Code and triennial updates and amendments to the Florida Fire Prevention Code are exempt from legislative ratification.

Section 93 amends s. 196.081, F.S., to move the text of its current footnote 1 into the body of the statutory section. The effect is to create a new s. 196.081, F.S., which provides an exemption from property tax on a homestead owned by a surviving spouse of a first responder who died in the line of duty. The bill defines a first responder to be a law enforcement officer, a correctional officer, a firefighter, or an emergency medical technician or paramedic.

Section 94 repeals s. 633.024, F.S.

Section 95 repeals s. 633.0245, F.S.

Section 96 repeals s. 633.03, F.S. The text of current s. 633.03, F.S., is moved to become new s. 633.112(6), F.S.

Section 97 repeals s. 633.0421, F.S. The text of current s. 633.0421, F.S., is moved to become new s. 633.142(11)(b), F.S.

Section 98 repeals s. 633.13, F.S. The text of current s. 633.13, F.S., is moved to become new s. 633.114(2), F.S.

Section 99 repeals s. 633.167, F.S. Portions of the repealed text are incorporated into new s. 633.106, F.S.

Section 100 repeals s. 633.18, F.S. The text of current s. 633.18, F.S., is moved to become new s. 633.112(5), F.S.

Section 101 repeals s. 633.30, F.S. Portions of the repealed text are incorporated into new s. 633.102, F.S.

Section 102 repeals s. 633.32, F.S. The text of current ss. 633.32(1), (2), (3), and (4), F.S., is moved to become new ss. 633.402(5), (6), (7), and (8), F.S., respectively.

Section 103 repeals s. 633.33, F.S. The text of current ss. 633.33(1), (2), (3), (5), and (6), F.S., is moved to become new ss. 633.402(9)(a), (b), (c), (d), and (e), F.S., respectively.

⁴⁰ Section 112.191(2), F.S.

Section 104 repeals s. 633.37, F.S. Portions of the repealed text are incorporated into new s. 633.408, F.S.

Section 105 repeals s. 633.445, F.S.

Section 106 repeals s. 633.46, F.S. Portions of the repealed text are incorporated into new s. 633.132, F.S.

Section 107 repeals s. 633.514, F.S. The text of current ss. 633.514(1) and (2), F.S., is moved to become new s. 633.302(4) and (5), F.S., respectively

Section 108 repeals s. 633.517, F.S. Portions of the repealed text are incorporated into new s. 633.112, F.S.

Section 109 repeals s. 633.524, F.S. Portions of the repealed text are moved into new s. 633.132, F.S.

Section 110 repeals s. 633.804, F.S.

Section 111 repeals s. 633.808, F.S. The text of current s. 633.808(1), (2), and (4), F.S., is moved to become new s. 633.508(7)(a), (b), and (c), F.S., respectively.

Section 112 repeals s. 633.810, F.S., Current ss. 633.810(1), (2), (3), and (4), F.S., are renumbered to become new ss. 633.522(2), (3), (4), and (5), F.S., respectively.

Section 113 repeals s. 633.813, F.S. Current s. 633.813, F.S., is renumbered to become new s. 633.522(6), F.S., with minor technical changes.

Section 114 repeals s. 633.815, F.S. Current s. 633.815, F.S., is renumbered to become new s. 633.518(3), F.S., with minor technical changes.

Section 115 repeals s. 633.819, F.S. Current s. 633.819, F.S., is renumbered to become new s. 633.534(2), F.S., with corrected references.

Section 116 repeals s. 633.820, F.S.

Sections 117-160 makes changes to cross referencing to reflect new chapter organization.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

To the extent this bill requires a local government to expend funds to comply with its terms, the provisions of s. 18(a) of Art. VII, State Constitution, may apply. If those provisions do apply, in order for the law to be binding upon the cities and counties, the Legislature must find that the law fulfills an important state interest (included in section 4 of the bill), and one of the following relevant exceptions must be met:

- Funds estimated at the time of enactment sufficient to fund such expenditures are appropriated;
- Counties and cities are authorized to enact a funding source not available for such local government on February 1, 1989, that can be used to generate the amount of funds necessary to fund the expenditures;
- The expenditure is required to comply with a law that applies to all persons similarly situated; or
- The law must be approved by two-thirds of the membership of each house of the Legislature.

Since the provisions of the bill apply to all governmental entities alike, expenditures required by the bill are required by all persons similarly situated. Given this relevant exception, it appears that the mandate restriction does not apply.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

A \$10 fee is created instead of having fire equipment dealers pay for a new application fee (\$150 -\$250) for downgrading their license. Also, the fee for duplicate fire equipment license or change of address has been reduced from \$15 to \$10.

B. Private Sector Impact:

The Revenue Estimating Conference has not reviewed the bill. The following provisions of the bill could potentially generate varying indeterminate private sector fiscal impacts.

Under changes in the bill a person could be charged with a felony for impersonating a volunteer firefighter.

The bill creates requirements for becoming a certified volunteer firefighter and fire service instructor.

The bill requires a license, permit, or certificate holder must notify the division in writing of any changes to her or his current mailing address or e-mail address. Delivery by regular mail or e-mail using the last known mailing address or e-mail address on record shall constitute adequate and sufficient notice on any official communication by the division.

The bill increases from 3 years to 4 the number of years a fire safety inspector certificate is valid, increases the continuing education requirements for a fire safety inspector from 40 hours to 54 hours and requires repeat training for fire safety inspectors whose certification has lapsed for 8 years or more.

The bill allows fire equipment dealer applicant's with facilities outside of the state, instead of paying for an inspection completed by the division, can provide a notarized statement from a professional engineer licensed by the applicant's state verifying the applicant possesses the equipment required for the class of license sought and that all such equipment is operable.

The bill requires a fire equipment dealer applicant who has been convicted of a felony to wait 4 years after the end of their sentence or final release by the Parole Commission, unless they have received a full pardon or have had her or his civil rights restored, before applying again.

The bill removes current restrictions on the number of reexaminations for a fire equipment dealer license in a given year but requires that an applicant who passes the exam has 1 year from the application date to complete the licensure requirements or else the applicant must reapply.

The bill removes the restriction that the State Fire Marshal cannot revoke a license for more than 5 years, allowing a license to be revoked indefinitely.

The bill allows for a fire service provider to pay part or all of the costs of tuition for attendance at approved courses. In addition, it allows for firefighters from other states to be certified if the division determines their training meets the minimum training required under this section. The bill also allows for an extension of the 6-month reexamination period based upon documented medical necessity.

The bill would ban any convicted felon or dishonorably discharged member of the armed services from obtaining licensure as a firefighter.

The bill requires, when the division suspends or revokes an individual's certificate, the division must suspend or revoke all other certificates issued by the division.

The bill increases the number of years a Firefighter Certificate of Compliance is valid from 3 to 4. The Continuing Education requirements remain at 40 hours.

C. Government Sector Impact:

The Revenue Estimating Conference has not reviewed the bill. The following provisions of the bill could potentially generate varying indeterminate government sector fiscal impacts.

The bill clarifies the State Fire Marshal shall be required to investigate and keep records on the cause, origin and circumstance of every explosion that occurs in the state.

The Florida Fire Code Advisory Council must meet at least semiannually to advise the State Fire Marshal's Office on matters relating to the Florida Fire Prevention Code.

The bill requires uniform firesafety standards are to be applied to state universities defined under s. 1000.21, F.S.

The bill allows a special district to regulate the quality and character of work performed by contractors through a system of permits, fees, and inspections which are designed to secure compliance with state and local building laws or to enforce other local laws for the protection of the public health and safety.

The bill adds a member to the Firefighters Employment, Standards, and Training Council who is to be an employee of the Florida Forest Service appointed by the director of the Florida Forest Service at the Department of Agriculture and Consumer Services., fire technology, fire administration, and all allied and supporting fields.

The bill provides that the division must establish criteria for approving education and training providers and register the approved providers in an electronic database. The DFS believes this responsibility will be met with existing resources.

The bill expands the authority of the division to conduct studies or investigations into the causes of firefighter illnesses, safety-based complaints or Line of Duty Deaths. The DFS believes this responsibility will be met with existing resources.

The bill provides that if the division finds that a firefighter employer has violated a rule, it can issue an administrative cease and desist order, enforceable in the circuit court.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Community Affairs April 9, 2013:

- Removes certain Contractor I and Contractor II duty specifications.
- Removes a provision applying uniform firesafety standards to state universities.
- Revises local entity and State Fire Marshal roles for initial and department investigations of fires and explosions in the state.
- Restores provisions related to the application of the minimum firesafety code to an existing building.

- Revises how alternate members of the nonbinding Fire Code Interpretation Committee are called upon to respond when interpretations are requested.
- Extends the length of time by which an interpretation must be provided from 10 days to 15 days.
- Provides for a yes/no question on the interpretation form.
- Removes state universities from a definition of state-owned buildings.

CS by Banking and Insurance April 3, 2013:

- Clarifies a Contractor I may perform all of the duties specified for a Contractor II, Contractor III, Contractor IV, and Contractor V; a Contractor II may perform the duties specified for a Contractor IV and Contractor V; and a Contractor IV is limited to the scope of practice specified in NFPA 13D.
- Adds “or fire prevention services” to the definitions for “fire service provider.”
- Changes “every 4 years” to “quadrennial” renewals.
- Removes “to be furnished by the State Fire Marshall” when referring to investigative forms.
- Increases from 3 years to 4 years the time an education instructor must complete their 40 hours of continuing education.
- Removes language stating the division may establish by rule any fee necessary to cover administrative costs and clarifies that all moneys collected by the State Fire Marshal shall be deposited into the Insurance Regulatory Trust.
- Removes “if necessary” with regard to the meeting by the Florida Fire Code Advisory Council.
- Reestablishes current law that uniform firesafety standards must be applied to public food service establishments, lodging parks, recreational vehicle parks, recreational camps and self-service gasoline stations.
- Increases from 2 years to 4 years the time a fire equipment dealer license may be inactive before being voided.
- Allows a Contractor V may install the cross-connection backflow prevention device as defined on new installations following the engineer of record’s direction on the type and size of the device.
- Changes “Fire Service Instructor Certificate” to “Certificate of Competency.”
- Requires the certification of an individual shall be revoked if the individual has demonstrated a lack of moral fitness or trustworthiness to carry out the responsibilities under the individual’s certification. After investigation, if the division has reason to believe that an individual who is certified may have been convicted of a felony or of a misdemeanor related to perjury or false statement in this state or any other state or jurisdiction, the division may require the individual to submit fingerprints to the division with a current processing fee. The fingerprints shall be forwarded by the division to the Department of Law Enforcement for state processing and shall be forwarded by the Department of Law Enforcement to the Federal Bureau of Investigation for national processing.
- Adds “including courses taught” with regard to criteria for approving education or training providers.
- Removes the original bill’s provisions that emergency rules may be subject to legislative notification when the economic impact exceeds certain levels.

- Renumbers current s. 633.46, F.S., to become s. 633.446, F.S.
- Removes Section 93 dealing with s. 554.103, F.S., Boiler Code.
- Removes Sections 96 and 97 dealing with firework safety standards and firework dealer fees.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Simmons

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1 A bill to be entitled
2 An act relating to fire safety and prevention;
3 providing a directive to the Division of Law Revision
4 and Information to create part I of ch. 633, F.S.,
5 entitled "General Provisions"; transferring,
6 renumbering, and amending s. 633.021, F.S.; revising
7 and providing definitions; transferring, renumbering,
8 and amending s. 633.01, F.S.; revising provisions
9 relating to the authority of the State Fire Marshal;
10 removing references to the Life Safety Code; revising
11 the renewal period for firesafety inspector
12 requirements for certification; conforming cross-
13 references; authorizing the State Fire Marshal to
14 administer oaths and take testimony; authorizing the
15 State Fire Marshal to enter into contracts with
16 private entities for the administration of
17 examinations; transferring, renumbering, and amending
18 s. 633.163, F.S.; revising provisions relating to the
19 disciplinary authority of the State Fire Marshal;
20 authorizing the State Fire Marshal to deny, suspend,
21 or revoke the licenses of certain persons; providing
22 terms and conditions of probation; transferring and
23 renumbering s. 633.15, F.S., relating to the force and
24 effect of ch. 633, F.S., and rules adopted by the
25 State Fire Marshal on municipalities, counties, and
26 special districts having fire safety responsibilities;
27 transferring, renumbering, and amending s. 633.101,
28 F.S.; revising provisions relating to hearings,
29 investigations, and recordkeeping duties and the

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30 authority of the State Fire Marshal; authorizing the
31 State Fire Marshal to designate an agent for various
32 purposes related to hearings; providing for the
33 issuance of subpoenas; transferring, renumbering, and
34 amending s. 633.111, F.S.; requiring the State Fire
35 Marshal to keep records of all fires and explosions;
36 transferring, renumbering, and amending s. 633.02,
37 F.S.; revising provisions relating to the authority of
38 agents of the State Fire Marshal; transferring and
39 renumbering s. 633.14, F.S., relating to the powers of
40 agents of the State Fire Marshal to make arrests,
41 conduct searches and seizures, serve summonses, and
42 carry firearms; transferring, renumbering, and
43 amending s. 633.121, F.S., relating to persons
44 authorized to enforce laws and rules of the State Fire
45 Marshal; revising terminology; transferring,
46 renumbering, and amending s. 633.151, F.S.; clarifying
47 provisions relating to impersonating the State Fire
48 Marshal, a firefighter, a firesafety inspector, or a
49 volunteer firefighter, for which a criminal penalty is
50 provided; transferring, renumbering, and amending s.
51 633.171, F.S.; providing penalties for rendering a
52 fire protection system required by statute or by rule
53 inoperative; providing penalties for using the
54 certificate of another person, holding a license or
55 certificate and allowing another person to use the
56 license or certificate, and using or allowing the use
57 of any certificate or permit by any individual or
58 organization other than the individual to whom the

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59 certificate or permit is issued; conforming a cross-
60 reference; transferring, renumbering, and amending s.
61 633.175, F.S., relating to investigation of fraudulent
62 insurance claims and crimes and immunity of insurance
63 companies supplying information relative thereto;
64 defining the term "consultant"; revising provisions to
65 include investigation of explosions in fraudulent
66 insurance claim investigations; authorizing the State
67 Fire Marshal to adopt rules to implement provisions
68 relating to an insurance company's investigation of a
69 suspected fire or explosion by intentional means;
70 revising terminology; conforming a cross-reference;
71 transferring, renumbering, and amending s. 633.45,
72 F.S.; clarifying and revising the powers and duties of
73 the Division of State Fire Marshal; requiring the
74 division to establish by rule uniform minimum
75 standards for the employment and training of
76 firefighters and volunteer firefighters; requiring the
77 division to establish by rule minimum curriculum
78 requirements and criteria for the approval of
79 education or training providers; requiring the
80 division to specify by rule standards for the
81 approval, denial of approval, probation, suspension,
82 and revocation of approval of education or training
83 providers and facilities for training firefighters and
84 volunteer firefighters; requiring the division to
85 specify by rule standards for the certification,
86 denial of certification, probation, and revocation of
87 certification for instructors; requiring the division

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88 to establish by rule minimum training qualifications
89 for persons serving as specified fire safety
90 coordinators; requiring the division to issue
91 specified licenses, certificates, and permits;
92 conforming cross-references; creating s. 633.132,
93 F.S.; establishing fees to be collected by the
94 division; authorizing the division to establish by
95 rule fees necessary to cover administrative costs and
96 to collect such fees in advance; providing for the
97 appropriation and deposit of all funds collected by
98 the State Fire Marshal pursuant to ch. 633, F.S.;
99 transferring and renumbering s. 633.39, F.S., relating
100 to acceptance by the division of donations of property
101 and grants of money; transferring, renumbering, and
102 amending s. 633.115, F.S., relating to the Fire and
103 Emergency Incident Information Reporting Program;
104 making technical changes; conforming a cross-
105 reference; creating s. 633.138, F.S.; providing
106 requirements with respect to notice of change of
107 address of record for, and notice of felony actions
108 against, a licensee, permittee, or certificateholder;
109 transferring, renumbering and amending s. 633.042,
110 F.S.; revising the "Reduced Cigarette Ignition
111 Propensity Standard and Firefighter Protection Act" to
112 include preemption by the act of local laws and rules;
113 providing a directive to the Division of Law Revision
114 and Information to create part II of ch. 633, F.S.,
115 entitled "Fire Safety and Prevention"; transferring,
116 renumbering, and amending s. 633.0215, F.S., relating

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117 to the Florida Fire Prevention Code; conforming cross-
118 references; deleting an obsolete provision;
119 transferring, renumbering, and amending s. 633.72,
120 F.S., relating to the Florida Fire Code Advisory
121 Council; revising membership of the council; providing
122 for semiannual meetings of the council; authorizing
123 the council to review proposed changes to the Florida
124 Fire Prevention Code and specified uniform firesafety
125 standards; conforming cross-references; transferring,
126 renumbering, and amending s. 633.022, F.S., relating
127 to uniform firesafety standards; revising
128 applicability of uniform firesafety standards;
129 removing obsolete provisions; transferring,
130 renumbering, and amending s. 633.025, F.S., relating
131 to minimum firesafety standards; deleting references
132 to the Life Safety Code; conforming provisions to
133 changes made by the act; conforming a cross-reference;
134 transferring, renumbering, and amending s. 633.026,
135 F.S., relating to informal interpretations of the
136 Florida Fire Prevention Code and legislative intent
137 with respect thereto; conforming provisions to changes
138 made by the act; conforming cross-references; revising
139 terminology to provide for declaratory statements
140 rather than formal interpretations in nonbinding
141 interpretations of Florida Fire Prevention Code
142 provisions; transferring, renumbering, and amending s.
143 633.052, F.S., relating to ordinances relating to fire
144 safety and penalties for violation; conforming
145 terminology; providing that a special district may

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146 enact any ordinance relating to fire safety codes that
147 is identical to ch. 633, F.S., or any state law,
148 except as to penalty; transferring, renumbering, and
149 amending s. 633.081, F.S., relating to inspection of
150 buildings and equipment; clarifying persons authorized
151 to inspect buildings and structures; conforming cross-
152 references; revising requirements of persons
153 conducting fire safety inspections; revising the
154 period of validity of, and continuing education
155 requirements for, fire safety inspector certificates;
156 requiring repeat training for certified firesafety
157 inspectors whose certification has lapsed for a
158 specified period; revising grounds for denial, refusal
159 to renew, suspension, or revocation of a fire safety
160 inspector certificate; requiring the department to
161 provide by rule for the certification of Fire Code
162 Administrators; transferring, renumbering, and
163 amending s. 633.085, F.S., relating to inspection of
164 state buildings and premises; defining the terms
165 "high-hazard occupancy" and "state-owned building";
166 providing for identification of state-owned buildings
167 or state-leased buildings or space; authorizing,
168 rather than requiring, the State Fire Marshal or
169 agents thereof to conduct performance tests on any
170 electronic fire warning and smoke detection system,
171 and any pressurized air-handling unit, in any state-
172 owned building or state-leased building or space on a
173 recurring basis; requiring the State Fire Marshal or
174 agents thereof to ensure that fire drills are

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conducted in all high-hazard state-owned buildings or high-hazard state-leased occupancies at least annually; requiring that all new construction or renovation, alteration, or change of occupancy of any existing, state-owned building or state-leased building or space comply with uniform firesafety standards; authorizing the division to inspect state-owned buildings and spaces and state-leased buildings and spaces as necessary before occupancy or during construction, renovation, or alteration to ascertain compliance with uniform firesafety standards; requiring the division to issue orders to cease construction, renovation, or alteration, or to preclude occupancy, of a state-owned or state-leased building or space for noncompliance; transferring, renumbering, and amending s. 633.027, F.S., relating to buildings with light-frame truss-type construction; conforming cross-references; transferring, renumbering, and amending s. 633.60, F.S., relating to automatic fire sprinkler systems for one-family dwellings, two-family dwellings, and mobile homes; conforming a cross-reference; transferring and renumbering s. 633.557, F.S., relating to the nonapplicability of the act to owners of property who are building or improving farm outbuildings and standpipe systems installed by plumbing contractors; transferring, renumbering, and amending s. 633.161, F.S., relating to violations and enforcement of ch. 633, F.S., orders resulting from violations, and

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penalties for violation; conforming cross-references;
providing a directive to the Division of Law Revision
and Information to create part III of ch. 633, F.S.,
entitled "Fire Protection and Suppression";
transferring, renumbering, and amending s. 633.511,
F.S., relating to the Florida Fire Safety Board;
conforming provisions to changes made by the act;
conforming cross-references; requiring the board to
act in an advisory capacity; authorizing the board to
review complaints and make recommendations; providing
for election of officers, quorum, and compensation of
the board; requiring the board to adopt a seal;
transferring, renumbering, and amending s. 633.061,
F.S., relating to licensure to install or maintain
fire suppression equipment; removing the fee schedule
from such provisions; revising provisions relating to
fire equipment dealers who wish to withdraw a
previously filed halon equipment exemption affidavit;
providing conditions that an applicant for a license
of any class who has facilities located outside the
state must meet in order to obtain a required
equipment inspection; providing for the adoption of
rules with respect to the establishment and
calculation of inspection costs; revising and
clarifying provisions that exclude from licensure for
a specified period applicants having a previous
criminal conviction; defining the term "convicted";
providing conditions under which a licensed fire
equipment dealer may apply to convert the license

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currently held to a higher or lower licensing category; providing a procedure for an applicant who passes an examination for licensure or permit but fails to meet remaining qualifications within 1 year after the application date; transferring, renumbering, and amending s. 633.065, F.S., relating to requirements for installation, inspection, and maintenance of fire suppression equipment; conforming a cross-reference; transferring, renumbering, and amending s. 633.071, F.S., relating to standard service tags required on all fire extinguishers and preengineered systems; conforming a cross-reference; transferring, renumbering, and amending s. 633.082, F.S., relating to inspection of fire control systems, fire hydrants, and fire protection systems; conforming a cross-reference; making technical changes; transferring, renumbering, and amending s. 633.083, F.S., relating to the prohibited sale or use of certain types of fire extinguishers and penalty therefor; making a technical change; transferring, renumbering, and amending s. 633.162, F.S., relating to fire suppression system contractors and disciplinary actions with respect thereto; conforming cross-references; clarifying provisions; transferring, renumbering, and amending s. 633.521, F.S., relating to certification as fire protection system contractor; clarifying provisions and making technical changes; conforming cross-references; transferring, renumbering, and amending s. 633.551, F.S., relating

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to county and municipal powers and the effect of ch.
75-240, Laws of Florida; making technical changes;
transferring and renumbering s. 633.527, F.S.,
relating to records concerning an applicant and the
extent of confidentiality; transferring and
renumbering s. 633.531, F.S., relating to statewide
effectiveness and nontransferability of certificates;
transferring, renumbering, and amending s. 633.534,
F.S., relating to the issuance of certificates to
individuals and business organizations; making a
technical change; transferring, renumbering, and
amending s. 633.537, F.S., relating to renewal and
expiration of certificates; deleting an obsolete
provision; deleting a provision which prescribes the
biennial renewal fee for an inactive status
certificate; making technical changes; transferring,
renumbering, and amending s. 633.539, F.S., relating
to requirements for installation, inspection, and
maintenance of fire protection systems; conforming a
cross-reference; transferring, renumbering, and
amending s. 633.541, F.S., relating to the prohibition
against contracting as a fire protection contractor
without a certificate and penalty for violation
thereof; conforming cross-references; making a
technical change; transferring, renumbering, and
amending s. 633.547, F.S., relating to disciplinary
action concerning fire protection system contractors;
revising provisions that authorize the State Fire
Marshal to suspend a fire protection system

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contractor's or permittee's certificate; deleting provisions authorizing revocation of a certificate for a specified period; conforming a cross-reference; transferring, renumbering, and amending s. 633.549, F.S., relating to violations that are subject to injunction; making a technical change; transferring and renumbering s. 633.554, F.S., relating to application of ch. 633, F.S., regulating contracting and contractors; transferring, renumbering, and amending s. 633.70, F.S., relating to jurisdiction of the State Fire Marshal over alarm system contractors and certified unlimited electrical contractors; conforming a cross-reference; transferring and renumbering s. 633.701, F.S., relating to requirements for fire alarm system equipment; transferring, renumbering, and amending s. 633.702, F.S., relating to prohibited acts regarding alarm system contractors or certified unlimited electrical contractors and penalties for violations; making technical changes; providing a directive to the Division of Law Revision and Information to create part IV of ch. 633, F.S., entitled "Fire Standards and Training"; transferring, renumbering, and amending s. 633.31, F.S.; revising provisions relating to the Firefighters Employment, Standards, and Training Council; providing for an additional member of the council; providing for organization of the council, meetings, quorum, compensation, and adoption of a seal; providing for special powers of the council in connection with the

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employment and training of firefighters; transferring, renumbering, and amending s. 633.42, F.S., relating to the authority of fire service providers to establish qualifications and standards for hiring, training, or promoting firefighters which exceed the minimum set by the department; conforming terminology; creating s. 633.406, F.S.; specifying classes of certification awarded by the division; authorizing the division to establish specified additional certificates by rule; transferring, renumbering, and amending s. 633.35, F.S.; revising provisions relating to firefighter and volunteer firefighter training and certification; requiring the division to establish by rule specified courses and course examinations; providing that courses may only be administered by specified education or training providers and taught by certified instructors; revising provisions with respect to payment of training costs and payment of tuition for attendance at approved courses; providing requirements for issuance by the division of a firefighter certificate of compliance; providing requirements for issuance by the division of a Volunteer Firefighter Certificate of Completion; authorizing the division to issue a Special Certificate of Compliance; providing requirements and limitations with respect thereto; providing procedures and requirements for reexamination after failure of an examination; increasing the required number of hours of the structural fire training program; providing for

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a Forestry Certificate of Compliance and prescribing the rights, privileges, and benefits thereof; transferring, renumbering, and amending s. 633.34, F.S., relating to qualifications for certification as a firefighter; revising provisions relating to disqualifying offenses; providing requirements of the division with respect to suspension or revocation of a certificate; making technical changes; conforming cross-references; transferring, renumbering, and amending s. 633.352, F.S., relating to firefighter employment and volunteer firefighter service; revising provisions relating to retention of certification as a firefighter; defining the term "active"; transferring, renumbering, and amending s. 633.41, F.S.; prohibiting a fire service provider from employing an individual as a firefighter or supervisor of firefighters and from retaining the services of an individual volunteering as a firefighter or a supervisor of firefighters without required certification; requiring a fire service provider to make a diligent effort to determine possession of required certification prior to employing or retaining an individual for specified services; defining the term "diligent effort"; requiring a fire service provider to notify the division of specified hirings, retentions, terminations, decisions not to retain a firefighter, and determinations of failure to meet certain requirements; authorizing the division to conduct site visits to fire departments to monitor compliance;

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defining the term "employ"; conforming cross-
references; transferring, renumbering, and amending s.
633.38, F.S., relating to curricula and standards for
advanced and specialized training prescribed by the
division; revising terminology to conform; conforming
cross-references; transferring, renumbering, and
amending s. 633.382, F.S., relating to supplemental
compensation for firefighters who pursue specified
higher educational opportunities; removing
definitions; requiring the State Fire Marshal to
determine, and adopt by rule, course work or degrees
that represent the best practices toward supplemental
compensation goals; specifying that supplemental
compensation shall be paid to qualifying full-time
employees of a fire service provider; conforming
terminology; clarifying provisions; specifying that
policy guidelines be adopted by rule; classifying the
division as a fire service provider responsible for
the payment of supplemental compensation to full-time
firefighters employed by the division; transferring,
renumbering, and amending s. 633.353, F.S., relating
to falsification of qualifications; clarifying
provisions that provide a penalty for falsification of
qualifications provided to the Bureau of Fire
Standards and Training of the division; transferring,
renumbering, and amending s. 633.351, F.S., relating
to disciplinary action and standards for revocation of
certification; providing definitions; providing
conditions for ineligibility to apply for

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certification under ch. 633, F.S.; providing conditions for permanent revocation of certification, prospective application of such provisions, and retroactive application with respect to specified convictions; revising provisions relating to revocation of certification; providing requirements with respect to application for certification; requiring specified submission of fingerprints; providing a fee; providing requirements of the Department of Law Enforcement with respect to submitted fingerprints; transferring, renumbering, and amending s. 633.43, F.S., relating to the establishment of the Florida State Fire College; conforming a provision to changes made by the act; transferring, renumbering, and amending s. 633.44, F.S., relating to the purposes of the Florida State Fire College and part IV of ch. 633, F.S.; expanding such purpose; conforming a cross-reference; transferring, renumbering, and amending s. 633.48, F.S., relating to the superintendent of the Florida State Fire College; conforming a cross-reference; transferring, renumbering, and amending s. 633.461, F.S., relating to uses of funds from the Insurance Regulatory Trust Fund; clarifying provisions; transferring and renumbering s. 633.47, F.S., relating to the procedure for making expenditures on behalf of the Florida State Fire College; transferring, renumbering, and amending s. 633.49, F.S., relating to the use of buildings, equipment, and other facilities

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of the fire college; conforming a cross-reference; transferring, renumbering, and amending s. 633.50, F.S., relating to additional duties of the Division of State Fire Marshal related to the Florida State Fire College; conforming cross-references; transferring and renumbering s. 633.46, F.S., relating to fees to be charged for training; providing a directive to the Division of Law Revision and Information to create part V of ch. 633, F.S., entitled "Florida Firefighters Occupational Safety and Health Act"; transferring, renumbering, and amending s. 633.801, F.S., relating to a short title; conforming a cross-reference; transferring, renumbering, and amending s. 633.802, F.S., relating to definitions; revising definitions of "firefighter employee," "firefighter employer," and "firefighter place of employment"; transferring, renumbering, and amending s. 633.803, F.S., relating to legislative intent to enhance firefighter occupational safety and health in the state; clarifying provisions; conforming cross-references; transferring, renumbering, and amending s. 633.821, F.S., relating to assistance by the division in facilitating firefighter employee workplace safety; revising references to publications; removing obsolete provisions; revising requirements and responsibilities of the division; transferring, renumbering, and amending s. 633.817, F.S., relating to remedies available to the division for noncompliance with part V of ch. 633, F.S.; conforming cross-references;

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transferring and renumbering s. 633.805, F.S., relating to a required study by the division of firefighter employee occupational diseases; transferring, renumbering, and amending s. 633.806, F.S., relating to certain duties of the division; revising provisions that require the division to make studies, investigations, inspections, and inquiries with respect to compliance with part V of ch. 633, F.S., or rules authorized thereunder, and the causes of firefighter employee injuries, illnesses, safety-based complaints, or line-of-duty deaths in firefighter employee places of employment; authorizing the division to adopt by rule procedures for conducting inspections and inquiries of firefighter employers under part V of ch. 633, F.S.; authorizing the division to enter premises to investigate compliance; providing a criminal penalty; conforming references; transferring, renumbering, and amending s. 633.807, F.S., relating to safety responsibilities of firefighter employers; revising definitions of the terms "safe" and "safety"; transferring, renumbering, and amending s. 633.809, F.S.; relating to firefighter employers with a high frequency of firefighter employee work-related injuries; revising provisions relating to required safety inspections; clarifying that the division may not assess penalties as a result of such inspections; requiring firefighter employers to submit a plan for the correction of noncompliance issues to the division for approval in accordance with

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494 division rule; providing procedures if a plan is not
495 submitted, does not provide corrective actions, is
496 incomplete, or is not implemented; providing for
497 workplace safety committees and coordinators,
498 including mandatory negotiations during collective
499 bargaining; requiring the division to adopt rules;
500 providing for compensation of the workplace safety
501 committee; authorizing cancellation of an insurance
502 plan due to noncompliance; transferring, renumbering,
503 and amending s. 633.811, F.S., relating to firefighter
504 employer penalties; prescribing additional
505 administrative penalties for firefighter employers for
506 violation of, or refusal to comply with, part V of ch.
507 633, F.S.; providing for location of hearings;
508 transferring, renumbering, and amending s. 633.812,
509 F.S., relating to specified cooperation by the
510 division with the Federal Government; clarifying
511 requirements from which private firefighter employers
512 are exempt; eliminating a prerequisite to exemption
513 for specified firefighter employers; requiring
514 reinspection after specified noncompliance;
515 transferring, renumbering, and amending s. 633.816,
516 F.S., relating to firefighter employee rights and
517 responsibilities; conforming cross-references;
518 transferring, renumbering, and amending s. 633.818,
519 F.S., relating to false statements; conforming a
520 cross-reference; prohibiting a person from committing
521 certain fraudulent acts in any matter within the
522 jurisdiction of the division; providing criminal

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penalties; providing a statute of limitation;
transferring, renumbering, and amending s. 633.814,
F.S., relating to disbursement of expenses to
administer part V of ch. 633, F.S.; conforming a
cross-reference; amending s. 112.011, F.S.; removing
provisions that exclude from employment for a
specified period an applicant for employment with a
fire department who has a prior felony conviction;
amending s. 112.191, F.S.; revising provisions
relating to adjustments in payments of accidental
death benefits for firefighters; amending s. 120.541,
F.S.; revising a cross-reference to conform with
changes made in the act; amending s. 196.081, F.S.;
revising a cross-reference to conform with changes
made in the act; amending s. 633.167, F.S.; deleting a
provision providing for terms and conditions of
probation; amending s. 633.517, F.S.; deleting a
provision authorizing the State Fire Marshal to
administer oaths and take testimony; repealing s.
633.024, F.S., relating to legislative findings and
intent with respect to ensuring effective fire
protection of vulnerable nursing home residents, the
expedited retrofit of existing nursing homes through a
limited state loan guarantee, and funding thereof;
repealing s. 633.0245, F.S., relating to the State
Fire Marshal Nursing Home Fire Protection Loan
Guarantee Program; repealing s. 633.03, F.S., relating
to investigations of fire and reports; repealing s.
633.0421, F.S., relating to preemption of the reduced

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cigarette ignition propensity standard by the state;
repealing s. 633.13, F.S., relating to the authority
of State Fire Marshal agents; repealing s. 633.18,
F.S., relating to hearings and investigations by the
State Fire Marshal; repealing s. 633.30, F.S.,
relating to definitions with respect to standards for
firefighting; repealing s. 633.32, F.S., relating to
organization, meetings, quorum, compensation, and seal
of the Firefighters Employment, Standards, and
Training Council; repealing s. 633.33, F.S., relating
to special powers of the Firefighters Employment,
Standards, and Training Council in connection with the
employment and training of firefighters; repealing s.
633.37, F.S., relating to payment of tuition at
approved training programs by the employing agency;
repealing s. 633.445, F.S., relating to the State Fire
Marshal Scholarship Grant Program; repealing s.
633.46, F.S., relating to authority of the Division of
State Fire Marshal to fix and collect admission fees
and other fees it deems necessary to be charged for
training; repealing s. 633.514, F.S., relating to
Florida Fire Safety Board duties, meetings, officers,
quorum, and compensation; repealing s. 633.524, F.S.,
relating to certificate and permit fees assessed under
ch. 633, F.S., and the use and deposit thereof;
repealing s. 633.804, F.S., relating to the adoption
of rules governing firefighter employer and
firefighter employee safety inspections and
consultations; repealing s. 633.808, F.S., relating to

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division authority; repealing s. 633.810, F.S., relating to workplace safety committees and safety coordinators; repealing s. 633.813, F.S., relating to cancellation of an insurance policy for failure to implement a safety and health program; repealing s. 633.815, F.S., relating to penalties for refusing entry to a firefighter place of employment for the purposes of investigations or inspections by the division; repealing s. 633.819, F.S., relating to matters within the jurisdiction of the division and fraudulent acts, penalties, and statute of limitations; repealing s. 633.820, F.S., relating to the applicability of specified sections of ch. 633, F.S., to volunteer firefighters and volunteer fire departments; amending ss. 112.1815, 112.191, 112.81, 119.071, 120.80, 121.0515, 125.01, 125.01045, 125.56, 166.0446, 175.032, 175.121, 218.23, 252.515, 255.45, 258.0145, 281.02, 384.287, 395.0163, 400.232, 400.915, 429.41, 429.44, 429.73, 447.203, 468.602, 468.609, 489.103, 489.105, 496.404, 509.032, 513.05, 553.73, 553.77, 553.79, 590.02, 627.4107, 893.13, 934.03, 943.61, 1002.33, 1002.34, 1013.12, and 1013.38, F.S.; conforming cross-references; updating terminology; providing an effective date.

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

Section 1. The Division of Law Revision and Information is directed to create part I of chapter 633, Florida Statutes,

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consisting of sections 633.102, 633.104, 633.106, 633.108,
633.112, 633.114, 633.116, 633.118, 633.122, 633.124, 633.126,
633.128, 633.132, 633.134, 633.136, and 633.138, Florida
Statutes, to be entitled "General Provisions."

Section 2. Section 633.021, Florida Statutes, is
transferred, renumbered as section 633.102, Florida Statutes,
and amended to read:

633.102 ~~633.021~~ Definitions.—As used in this chapter, the
term:

(1) "Board" means the Florida Fire Safety Board.

~~(2) "Certificate" means a certificate of competency issued
by the State Fire Marshal.~~

~~(3) "Certification" means the act of obtaining or holding a
certificate of competency from the State Fire Marshal.~~

(2) ~~(4)~~ "Contracting" means engaging in business as a
contractor.

(3) ~~(5)~~ (a) "Contractor I" means a contractor whose business
includes the execution of contracts requiring the ability to lay
out, fabricate, install, inspect, alter, repair, and service all
types of fire protection systems, excluding preengineered
systems. A Contractor I may also perform all of the duties
specified for a Contractor II, Contractor III, Contractor IV,
and Contractor V.

(b) "Contractor II" means a contractor whose business is
limited to the execution of contracts requiring the ability to
lay out, fabricate, install, inspect, alter, repair, and service
water sprinkler systems, water spray systems, foam-water
sprinkler systems, foam -water spray systems, standpipes,
combination standpipes and sprinkler risers, all piping that is

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an integral part of the system beginning at the point of service as defined in this section, sprinkler tank heaters, air lines, thermal systems used in connection with sprinklers, and tanks and pumps connected thereto, excluding preengineered systems. A Contractor II may also perform the duties specified for a Contractor IV and Contractor V.

(c) "Contractor III" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service carbon dioxide ~~CO₂~~ systems, foam extinguishing systems, dry chemical systems, and Halon and other chemical systems, excluding preengineered systems.

(d) "Contractor IV" means a contractor whose business is limited to the execution of contracts requiring the ability to lay out, fabricate, install, inspect, alter, repair, and service automatic fire sprinkler systems for detached one-family dwellings, detached two-family dwellings, and mobile homes, excluding preengineered systems and excluding single-family homes in cluster units, such as apartments, condominiums, and assisted living facilities or any building that is connected to other dwellings. A Contractor IV is limited to the scope of practice specified in NFPA 13D.

(e) "Contractor V" means a contractor whose business is limited to the execution of contracts requiring the ability to fabricate, install, inspect, alter, repair, and service the underground piping for a fire protection system using water as the extinguishing agent beginning at the point of service as defined in this act and ending no more than 1 foot above the finished floor.

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The definitions in this subsection ~~may must~~ not be construed to include ~~fire-protection~~ engineers or architects and do not limit or prohibit a licensed fire protection engineer or architect with fire protection design experience from designing any type of fire protection system. A distinction is made between system design concepts prepared by the design professional and system layout as defined in this section and typically prepared by the contractor. However, a person ~~persons~~ certified as a Contractor I, Contractor II, or Contractor IV under this chapter may design fire protection systems of 49 or fewer sprinklers, and may design the alteration of an existing fire sprinkler system if the alteration consists of the relocation, addition, or deletion of not more than 49 sprinklers, notwithstanding the size of the existing fire sprinkler system. A person certified as a Contractor I, Contractor II, or Contractor IV may design a fire protection system the scope of which complies with NFPA 13D, Standard for the Installation of Sprinkler Systems in One- and Two-Family Dwellings and Manufactured Homes, as adopted by the State Fire Marshal, notwithstanding the number of fire sprinklers. Contractor-developed plans may not be required by any local permitting authority to be sealed by a registered professional engineer.

(4) "Department" means the Department of Financial Services.

(5) "Division" means the Division of State Fire Marshal within the Department of Financial Services.

(6) "Explosives" means any chemical compound or mixture that has the property of yielding readily to combustion or

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697 oxidation upon the application of heat, flame, or shock and is
698 capable of producing an explosion and is commonly used for that
699 purpose, including but not limited to dynamite, nitroglycerin,
700 trinitrotoluene, ammonium nitrate when combined with other
701 ingredients to form an explosive mixture, blasting caps, and
702 detonators; but the term does not include cartridges for
703 firearms or fireworks as defined in chapter 791.

704 (7)(a) "Fire equipment dealer Class A" means a licensed
705 fire equipment dealer whose business is limited to servicing,
706 recharging, repairing, installing, or inspecting all types of
707 fire extinguishers and conducting hydrostatic tests on all types
708 of fire extinguishers.

709 (b) "Fire equipment dealer Class B" means a licensed fire
710 equipment dealer whose business is limited to servicing,
711 recharging, repairing, installing, or inspecting all types of
712 fire extinguishers, including recharging carbon dioxide units
713 and conducting hydrostatic tests on all types of fire
714 extinguishers, except carbon dioxide units.

715 (c) "Fire equipment dealer Class C" means a licensed fire
716 equipment dealer whose business is limited to servicing,
717 recharging, repairing, installing, or inspecting all types of
718 fire extinguishers, except recharging carbon dioxide units, and
719 conducting hydrostatic tests on all types of fire extinguishers,
720 except carbon dioxide units.

721 (d) "Fire equipment dealer Class D" means a licensed fire
722 equipment dealer whose business is limited to servicing,
723 recharging, repairing, installing, hydrotesting, or inspecting
724 of all types of preengineered fire extinguishing systems.

725 (8) A "Fire extinguisher" means ~~is~~ a cylinder that:

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(a) Is portable and can be carried or is on wheels.

(b) Is manually operated.

(c) May use a variety of extinguishing agents that are expelled under pressure.

(d) Is rechargeable or nonrechargeable.

(e) Is installed, serviced, repaired, recharged, inspected, and hydrotested according to applicable procedures of the manufacturer, standards of the National Fire Protection Association, and the Code of Federal Regulations.

(f) Is listed by a nationally recognized testing laboratory.

(9) "Firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the division under s. 633.408.

(10) "Fire service support personnel" means an individual who does not hold a current and valid certificate issued by the division and who may only perform support services.

(11)(9) A "Fire hydrant" means ~~is~~ a connection to a water main, elevated water tank, or other source of water for the purpose of supplying water to a fire hose or other fire protection apparatus for fire suppression operations. The term does not include a fire protection system.

(12)(10) A "Fire protection system" means ~~is~~ a system individually designed to protect the interior or exterior of a specific building or buildings, structure, or other special hazard from fire. Such systems include, but are not limited to, water sprinkler systems, water spray systems, foam-water sprinkler systems, foam-water spray systems, carbon dioxide ~~CO₂~~

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755 systems, foam extinguishing systems, dry chemical systems, and
756 Halon and other chemical systems used for fire protection use.
757 Such systems also include any overhead and underground fire
758 mains, fire hydrants and hydrant mains, standpipes and hoses
759 connected to sprinkler systems, sprinkler tank heaters, air
760 lines, thermal systems used in connection with fire sprinkler
761 systems, and tanks and pumps connected to fire sprinkler
762 systems.

763 (13)~~(11)~~ A "Firesafety inspector" means ~~is~~ an individual
764 who holds a current and valid Fire Safety Inspector Certificate
765 of Compliance issued ~~certified~~ by the division ~~State Fire~~
766 ~~Marshal~~ under s. 633.216 ~~s. 633.081~~ who is officially assigned
767 the duties of conducting firesafety inspections of buildings and
768 facilities on a recurring or regular basis on behalf of the
769 state or any county, municipality, or special district with fire
770 safety responsibilities.

771 (14) "Fire service provider" means a municipality or
772 county, the state, or any political subdivision of the state,
773 including authorities and special districts, employing
774 firefighters or utilizing volunteer firefighters to provide fire
775 extinguishment or fire prevention services for the protection of
776 life and property. The term includes any organization under
777 contract or other agreement with such entity to provide such
778 services.

779 (15)~~(12)~~ "Handling" means touching, holding, taking up,
780 moving, controlling, or otherwise affecting with the hand or by
781 any other agency.

782 ~~(13) (a) For the purposes of s. 633.085(1), the term "high-~~
783 ~~hazard occupancy" means any building or structure:~~

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~~1. That contains combustible or explosive matter or flammable conditions dangerous to the safety of life or property.~~

~~2. In which persons receive educational instruction.~~

~~3. In which persons reside, excluding private dwellings.~~

~~4. Containing three or more floor levels.~~

~~Such buildings or structures include, but are not limited to, all hospitals and residential health care facilities, nursing homes and other adult care facilities, correctional or detention facilities, public schools, public lodging establishments, migrant labor camps, residential child care facilities, and self-service gasoline stations.~~

~~(b) For the purposes of this subsection, the term "high hazard occupancy" does not include any residential condominium where the declaration of condominium or the bylaws provide that the rental of units shall not be permitted for less than 90 days.~~

~~(16)~~ (14) "Highway" means every way or place of whatever nature within the state open to the use of the public, as a matter of right, for purposes of vehicular traffic and includes public streets, alleys, roadways, or driveways upon grounds of colleges, universities, and institutions and other ways open to travel by the public, notwithstanding that the same have been temporarily closed for the purpose of construction, reconstruction, maintenance, or repair. The term does not include a roadway or driveway upon grounds owned by a private person.

(17) "Hot zone" means the area immediately around an

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813 incident where serious threat of harm exists, which includes the
814 collapse zone for a structure fire.

815 (18)~~(15)~~ "Keeping" means possessing, holding, retaining,
816 maintaining, or having habitually in stock for sale.

817 (19)~~(16)~~ "Layout" ~~as used in this chapter~~ means the layout
818 of risers, cross mains, branch lines, sprinkler heads, sizing of
819 pipe, hanger locations, and hydraulic calculations in accordance
820 with the design concepts established through ~~the provisions of~~
821 the Responsibility Rules adopted by the Board of Professional
822 Engineers.

823 (20)~~(17)~~ "Manufacture" means the compounding, combining,
824 producing, or making of anything or the working of anything by
825 hand, by machinery, or by any other agency into forms suitable
826 for use.

827 (21)~~(18)~~ A "Minimum firesafety standard" means ~~is~~ a
828 requirement or group of requirements adopted pursuant to s.
829 633.208 ~~633.025~~ by a county, municipality, or special district
830 with firesafety responsibilities, or by the State Fire Marshal
831 pursuant to s. 394.879, for the protection of life and property
832 from loss by fire which shall be met, as a minimum, by every
833 occupancy, facility, building, structure, premises, device, or
834 activity to which it applies.

835 (22) "Minimum Standards Course" means training of at least
836 360 hours as prescribed by rule adopted by the division which is
837 required to obtain a Firefighter Certificate of Compliance under
838 s. 633.408.

839 (23)~~(19)~~ "Motor vehicle" means any device propelled by
840 power other than muscular power in, upon, or by which any
841 individual ~~person~~ or property is or may be transported or drawn

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upon a highway, except a device moved or used exclusively upon stationary rails or tracks.

(24) ~~(20)~~ "Point-of-service" means the point at which the underground piping for a fire protection system as defined in this section using water as the extinguishing agent becomes used exclusively for the fire protection system.

(25) ~~(21)~~ (a) ~~A~~ "Preengineered system" means ~~is~~ a fire suppression system which:

1. Uses any of a variety of extinguishing agents.

2. Is designed to protect specific hazards.

3. Must be installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association (NFPA) standards. Only those chapters within the National Fire Protection Association standards which ~~that~~ pertain to servicing, recharging, repairing, installing, hydrotesting, or inspecting any type of preengineered fire extinguishing system may be used.

4. Must be installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.

5. Must be listed by a nationally recognized testing laboratory.

(b) Preengineered systems consist of and include all of the components and parts providing fire suppression protection, but do not include the equipment being protected, and may incorporate special nozzles, flow rates, methods of application, pressurization levels, and quantities of agents designed by the manufacturer for specific hazards.

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871 (26)~~(22)~~ "Private carrier" means a ~~any~~ motor vehicle,
872 aircraft, or vessel operating intrastate in which there is
873 identity of ownership between freight and carrier.

874 (27)~~(23)~~ "Sale" means the act of selling; the act whereby
875 the ownership of property is transferred from one person to
876 another for a sum of money or, loosely, for any consideration.
877 The term includes the delivery of merchandise with or without
878 consideration.

879 (28)~~(24)~~ "Special state firesafety inspector" means an
880 individual officially assigned to the duties of conducting
881 firesafety inspections required by law on behalf of or by an
882 agency of the state having authority for inspections other than
883 the division ~~of State Fire Marshal~~.

884 (29)~~(25)~~ A "Sprinkler system" means ~~is~~ a type of fire
885 protection system, ~~either~~ manual or automatic, using water as an
886 extinguishing agent and installed in accordance with applicable
887 National Fire Protection Association standards.

888 (30)~~(26)~~ "Storing" means accumulating, laying away, or
889 depositing for preservation or as a reserve fund in a store,
890 warehouse, or other source from which supplies may be drawn or
891 within which they may be deposited. The term is limited in
892 meaning and application to storage having a direct relationship
893 to transportation.

894 (31) "Support services" means those activities that a fire
895 service provider has trained an individual to perform safely
896 outside the hot zone of an emergency scene, including pulling
897 hoses, opening and closing fire hydrants, driving and operating
898 apparatus, carrying tools, carrying or moving equipment,
899 directing traffic, manning a resource pool, or similar

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activities.

(32) "Suspension" means the temporary withdrawal of a license, certificate, or permit issued pursuant to this chapter.

(33)~~(27)~~ "Transportation" means the conveying or carrying of property from one place to another by motor vehicle (except a motor vehicle subject to ~~the provisions of~~ s. 316.302), aircraft, or vessel, subject to such limitations as are set forth in s. 552.12, in which only the motor vehicles, aircraft, or vessels of the Armed Forces and other federal agencies are specifically exempted.

(34)~~(28)~~ A "Uniform firesafety standard" means ~~is~~ a requirement or group of requirements for the protection of life and property from loss by fire which shall be met by every building and structure specified in s. 633.206 ~~633.022(1)~~, and is not ~~neither~~ weakened or ~~nor~~ exceeded by law, rule, or ordinance of any other state agency or political subdivision or county, municipality, or special district with firesafety responsibilities.

(35)~~(29)~~ "Use" means application, employment; that enjoyment of property which consists of its employment, occupation, exercise, or practice.

(36) "Volunteer firefighter" means an individual who holds a current and valid Volunteer Firefighter Certificate of Completion issued by the division under s. 633.408.

Section 3. Section 633.01, Florida Statutes, is transferred and renumbered as section 633.104, Florida Statutes, subsections (1), (3), (5), (6), and (7) of that section are amended, and subsections (8) and (9) are added to that section, to read:

633.104 ~~633.01~~ State Fire Marshal; authority; ~~powers and~~

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duties; rules.—

(1) The Chief Financial Officer is designated as "State Fire Marshal." The State Fire Marshal has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of this chapter conferring powers or duties upon the department.~~ Rules must ~~shall~~ be in substantial conformity with generally accepted standards of firesafety; must ~~shall~~ take into consideration the direct supervision of children in nonresidential child care facilities; and must ~~shall~~ balance and temper the need of the State Fire Marshal to protect all Floridians from fire hazards with the social and economic inconveniences that may be caused or created by the rules. The department shall adopt the Florida Fire Prevention Code ~~and the Life Safety Code.~~

(3) The State Fire Marshal shall establish by rule guidelines and procedures for quadrennial ~~triennial~~ renewal of firesafety inspector requirements for certification.

(5) It is the intent of the Legislature that there are to be no conflicting requirements between the Florida Fire Prevention Code ~~and the Life Safety Code authorized by this chapter~~ and ~~the provisions of~~ the Florida Building Code or conflicts in their enforcement and interpretation. Potential conflicts shall be resolved through coordination and cooperation of the State Fire Marshal and the Florida Building Commission as provided by this chapter and part IV of chapter 553.

(6) Only the State Fire Marshal may issue, and, when requested in writing by any substantially affected person or a local enforcing agency, the State Fire Marshal shall issue declaratory statements pursuant to s. 120.565 relating to the

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958 Florida Fire Prevention Code ~~and the Life Safety Code~~.

959 (7) The State Fire Marshal, in consultation with the
960 Department of Education, shall adopt and administer rules
961 prescribing standards for the safety and health of occupants of
962 educational and ancillary facilities pursuant to ss. 633.206
963 ~~633.022~~, 1013.12, 1013.37, and 1013.371. In addition, in any
964 county, municipality, or special district that does not employ
965 or appoint a firesafety inspector certified under s. 633.216
966 ~~633.081~~, the State Fire Marshal shall assume the duties of the
967 local county, municipality, or independent special fire control
968 district as defined in s. 191.003 with respect to firesafety
969 inspections of educational property required under s.
970 1013.12(3)(b), and the State Fire Marshal may take necessary
971 corrective action as authorized under s. 1013.12(7).

972 (8) The State Fire Marshal or her or his duly appointed
973 hearing officer may administer oaths and take testimony about
974 all matters within the jurisdiction of this chapter. Chapter 120
975 governs hearings conducted by or on behalf of the State Fire
976 Marshal.

977 (9) The State Fire Marshal may contract with any qualified
978 public entity or private company in accordance with chapter 287
979 to provide examinations for any applicant for any examination
980 administered under the jurisdiction of the State Fire Marshal.
981 The State Fire Marshal may direct payments from each applicant
982 for each examination directly to such contracted entity or
983 company.

984 Section 4. Section 633.163, Florida Statutes, is
985 transferred, renumbered as section 633.106, Florida Statutes,
986 and amended to read:

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987 633.106 ~~633.163~~ State Fire Marshal; disciplinary authority;
988 administrative fine and probation in lieu of suspension,
989 revocation, or refusal to issue a license, permit, or
990 certificate.-

991 (1) The State Fire Marshal may deny, suspend, or revoke the
992 license, certificate, or permit of any individual who does not
993 meet the qualifications established by, or who violates any
994 provision under, this chapter or any rule authorized by this
995 chapter.

996 (2) ~~(1)~~ If the State Fire Marshal finds that one or more
997 grounds exist for the suspension, revocation, or refusal to
998 issue, renew, or continue any license, certificate, or permit
999 issued under this chapter, the State Fire Marshal may, in its
1000 discretion, in lieu of the suspension, revocation, or refusal to
1001 issue, renew, or continue, and, except on a second offense or
1002 when the suspension, revocation, or refusal to issue, renew, or
1003 continue is mandatory, impose upon the licensee,
1004 certificateholder, or permittee one or more of the following:

1005 (a) An administrative fine not to exceed \$1,000 for each
1006 violation, and not to exceed a total of \$10,000 in any one
1007 proceeding.

1008 (b) Probation for a period not to exceed 2 years, as
1009 specified by the State Fire Marshal in her or his order.

1010 (3) ~~(2)~~ The State Fire Marshal may allow the licensee,
1011 certificateholder, or permittee a reasonable period, not to
1012 exceed 30 days, within which to pay to the State Fire Marshal
1013 the amount of the fine. If the licensee, certificateholder, or
1014 permittee fails to pay the administrative fine in its entirety
1015 to the State Fire Marshal within such period, the license,

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1016 permit, or certificate shall stand suspended until payment of
1017 the administrative fine.

1018 (4) As a condition to probation or in connection therewith,
1019 the State Fire Marshal may specify in her or his order
1020 reasonable terms and conditions to be fulfilled by the
1021 probationer during the probation period. If during the probation
1022 period the State Fire Marshal has good cause to believe that the
1023 probationer has violated any of the terms and conditions, she or
1024 he shall suspend, revoke, or refuse to issue, renew, or continue
1025 the license, certificate, or permit of the probationer, as upon
1026 the original ground or grounds referred to in subsection (2).

1027 Section 5. Section 633.15, Florida Statutes, is transferred
1028 and renumbered as section 633.108, Florida Statutes.

1029 Section 6. Section 633.101, Florida Statutes, is
1030 transferred, renumbered as section 633.112, Florida Statutes,
1031 and amended to read:

1032 633.112 ~~633.101~~ State Fire Marshal; hearings;
1033 investigations; recordkeeping and reports; subpoenas of
1034 witnesses; orders of circuit court investigatory powers of State
1035 Fire Marshal; costs of service and witness fees.-

1036 (1) The State Fire Marshal may in his or her discretion
1037 take or cause to be taken the testimony on oath of a person ~~all~~
1038 ~~persons~~ whom he or she believes to be cognizant of any facts in
1039 relation to matters under investigation.

1040 (2) If the State Fire Marshal is ~~shall be~~ of the opinion
1041 that there is sufficient evidence to charge a ~~any~~ person with an
1042 offense, he or she must ~~shall~~ cause the arrest of such person
1043 and must ~~shall~~ furnish to the prosecuting officer of any court
1044 having jurisdiction of the ~~said~~ offense all information obtained

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1045 by him or her, including a copy of all pertinent and material
1046 testimony taken, together with the names and addresses of all
1047 witnesses. In the conduct of such investigations, the State Fire
1048 Marshal may request such assistance as may reasonably be given
1049 by such prosecuting officers and other local officials.

1050 (3) The State Fire Marshal may summon and compel the
1051 attendance of witnesses before him or her to testify in relation
1052 to any matter ~~manner~~ which is, by ~~the provisions of~~ this
1053 chapter, a subject of inquiry and investigation, and he or she
1054 may require the production of any book, paper, or document
1055 deemed pertinent thereto by him or her, and may seize furniture
1056 and other personal property to be held for evidence.

1057 (4) A person ~~All persons~~ so summoned and so testifying
1058 shall be entitled to the same witness fees and mileage as
1059 provided for witnesses testifying in the circuit courts of this
1060 state, and officers serving subpoenas or orders of the State
1061 Fire Marshal shall be paid in like manner for like services in
1062 such courts, from the funds herein provided.

1063 (5) Any agent designated by the State Fire Marshal for such
1064 purposes, may hold hearings, sign and issue subpoenas,
1065 administer oaths, examine witnesses, receive evidence, and
1066 require by subpoena the attendance and testimony of witnesses
1067 and the production of such accounts, records, memoranda, or
1068 other evidence, as may be material for the determination of any
1069 complaint or conducting any inquiry or investigation under this
1070 chapter. In the case of disobedience to a subpoena, the State
1071 Fire Marshal or her or his agent may invoke the aid of any court
1072 of competent jurisdiction in requiring the attendance and
1073 testimony of witnesses and the production of accounts, records,

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1074 memoranda, or other evidence and any such court may in case of
1075 refusal to obey a subpoena issued to a person, issue an order
1076 requiring the person to appear before the State Fire Marshal's
1077 agent or produce accounts, records, memoranda, or other
1078 evidence, as so ordered, or to give evidence touching any matter
1079 pertinent to any complaint or the subject of any inquiry or
1080 investigation, and any failure to obey such order of the court
1081 shall be punished by the court as contempt.

1082 (6) The State Fire Marshal shall investigate the cause,
1083 origin, and circumstances of every fire or explosion occurring
1084 in this state if property has been damaged or destroyed and
1085 there is probable cause to believe that the fire or explosion
1086 was the result of carelessness or design. Report of all such
1087 investigations shall be made on approved forms.

1088 Section 7. Section 633.111, Florida Statutes, is
1089 transferred, renumbered as subsections (7) and (8) of section
1090 633.112, Florida Statutes, and amended to read:

1091 633.112 State Fire Marshal; hearings; investigations;
1092 recordkeeping and reports; subpoenas of witnesses; orders of
1093 circuit court ~~investigatory powers of State Fire Marshal; costs~~
1094 ~~of service and witness fees.~~

1095 (7) The State Fire Marshal shall keep ~~in her or his office~~
1096 a record of all fires and explosions occurring in this state
1097 upon which she or he had caused an investigation to be made and
1098 all facts concerning the same. These records, obtained or
1099 prepared by the State Fire Marshal pursuant to her or his
1100 investigation, include documents, papers, letters, maps,
1101 diagrams, tapes, photographs, films, sound recordings, and
1102 evidence. These records are confidential and exempt from the

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provisions of s. 119.07(1) until the investigation is completed or ceases to be active. For purposes of this section, an investigation is considered "active" while such investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch, and there is a good faith belief that action may be initiated by the department or other administrative or law enforcement agency. Further, these documents, papers, letters, maps, diagrams, tapes, photographs, films, sound recordings, and evidence relative to the subject of an investigation shall not be subject to subpoena until the investigation is completed or ceases to be active, unless the State Fire Marshal consents. These records shall be made daily from the reports furnished the State Fire Marshal by her or his agents or others.

(8) Whenever the State Fire Marshal releases an investigative report, any person requesting a copy of the report shall pay in advance, and the State Fire Marshal shall collect in advance, notwithstanding the provisions of s. 624.501(19)(a) and (b), a fee of \$10 for the copy of the report, which fee shall be deposited into the Insurance Regulatory Trust Fund. The State Fire Marshal may release the report without charge to any state attorney or to any law enforcement agency or fire department assisting in the investigation.

Section 8. Section 633.02, Florida Statutes, is transferred, renumbered as section 633.114, Florida Statutes, and amended to read:

633.114 ~~633.02~~ State Fire Marshal agents ~~Agents~~; authority;

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1132 ~~powers and~~ duties; compensation.—

1133 (1) The State Fire Marshal shall appoint such agents as may
1134 be necessary to carry out effectively ~~the provisions of this~~
1135 chapter, who shall be reimbursed for travel expenses as provided
1136 in s. 112.061, in addition to their salary, when traveling or
1137 making investigations in the performance of their duties. Such
1138 agents shall be at all times under the direction and control of
1139 the State Fire Marshal, who shall fix their compensation, and
1140 all orders shall be issued in the State Fire Marshal's name and
1141 by her or his authority.

1142 (2) The authority given the State Fire Marshal under this
1143 chapter may be exercised by her or his agents, individually or
1144 in conjunction with any other state or local official charged
1145 with similar responsibilities.

1146 Section 9. Section 633.14, Florida Statutes, is transferred
1147 and renumbered as section 633.116, Florida Statutes.

1148 Section 10. Section 633.121, Florida Statutes, is
1149 transferred, renumbered as section 633.118, Florida Statutes,
1150 and amended to read:

1151 633.118 ~~633.121~~ Persons authorized to enforce laws and
1152 rules of State Fire Marshal.—The chiefs of county, municipal,
1153 and special-district fire service providers ~~departments~~; other
1154 fire service provider ~~department~~ personnel designated by their
1155 respective chiefs; and personnel designated by local governments
1156 having no organized fire service providers ~~departments~~ are
1157 authorized to enforce this chapter law and all rules prescribed
1158 by the State Fire Marshal within their respective jurisdictions.
1159 Such personnel acting under the authority of this section shall
1160 be ~~deemed to be~~ agents of their respective jurisdictions, not

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agents of the State Fire Marshal.

Section 11. Section 633.151, Florida Statutes, is transferred, renumbered as section 633.122, Florida Statutes, and amended to read:

633.122 ~~633.151~~ Impersonating State Fire Marshal, firefighter ~~firefighters~~, volunteer firefighter, or firesafety inspector; criminal penalties.—A person who falsely assumes or pretends to be the State Fire Marshal, an agent of the division ~~of State Fire Marshal~~, a firefighter ~~as defined in s. 112.81~~, a volunteer firefighter, or a firesafety inspector by identifying himself or herself as the State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or a firesafety inspector by wearing a uniform or presenting or displaying a badge as credentials that would cause a reasonable person to believe that he or she is a State Fire Marshal, an agent of the division, a firefighter, a volunteer firefighter, or firesafety inspector commits ~~and who acts as such to require a person to aid or assist him or her in any matter relating to the duties of the State Fire Marshal, an agent of the division, a firefighter, or a firesafety inspector is guilty of a felony of the third degree, punishable as provided in ss. 775.082 and 775.083 or, if the impersonation occurs during the commission of a separate felony by that person, commits is guilty of a felony of the first degree, punishable as provided in ss. 775.082 and 775.083.~~

Section 12. Section 633.171, Florida Statutes, is transferred and renumbered as section 633.124, Florida Statutes, and subsections (1) and (2) and paragraph (b) of subsection (3) of that section are amended, to read:

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1190 633.124 ~~633.171~~ Penalty for violation of law, rule, or
1191 order to cease and desist or for failure to comply with
1192 corrective order.—

1193 (1) A ~~Any~~ person who violates any provision of this chapter
1194 ~~law~~, any order or rule of the State Fire Marshal, or any order
1195 to cease and desist or to correct conditions issued under this
1196 chapter commits a misdemeanor of the second degree, punishable
1197 as provided in s. 775.082 or s. 775.083.

1198 (2) It is a misdemeanor of the first degree, punishable as
1199 provided in s. 775.082 or s. 775.083, to intentionally or
1200 willfully:

1201 (a) Render a fire protection system, fire extinguisher, or
1202 preengineered system required by statute or by rule inoperative
1203 except while ~~during such time as~~ the fire protection system,
1204 fire extinguisher, or preengineered system is being serviced,
1205 hydrotested, tested, repaired, or recharged, except pursuant to
1206 court order.

1207 (b) Obliterate the serial number on a fire extinguisher for
1208 purposes of falsifying service records.

1209 (c) Improperly service, recharge, repair, hydrotest, test,
1210 or inspect a fire extinguisher or preengineered system.

1211 (d) Use the license, certificate, or permit number of
1212 another person.

1213 (e) Hold a license, certificate, or permit and allow
1214 another person to use the license, certificate, or said permit
1215 ~~number~~.

1216 (f) Use, or allow permit the use of, any license,
1217 certificate, or permit by any individual or organization other
1218 than the one to whom the license, certificate, or permit is

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issued.

(3)

(b) A person who initiates a pyrotechnic display within any structure commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, unless:

1. The structure has a fire protection system installed in compliance with s. 633.334 ~~633.065~~.

2. The owner of the structure has authorized in writing the pyrotechnic display.

3. If the local jurisdiction requires a permit for the use of a pyrotechnic display in an occupied structure, such permit has been obtained and all conditions of the permit complied with or, if the local jurisdiction does not require a permit for the use of a pyrotechnic display in an occupied structure, the person initiating the display has complied with National Fire Protection Association, Inc., Standard 1126, 2001 Edition, Standard for the Use of Pyrotechnics before a Proximate Audience.

Section 13. Section 633.175, Florida Statutes, is transferred and renumbered as section 633.126, Florida Statutes, and subsections (1), (2), (3), (6), and (9) of that section are amended, to read:

633.126 ~~633.175~~ Investigation of fraudulent insurance claims and crimes; immunity of insurance companies supplying information.—

(1)(a) As used in this section, the term "consultant" means any individual or entity, or employee of the individual or entity, retained by an insurer to assist in the investigation of a fire, explosion, or suspected fraudulent insurance act.

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1248 (b) The State Fire Marshal or an agent appointed pursuant
1249 to s. 633.114 ~~633.02~~, any law enforcement officer as defined in
1250 s. 111.065, any law enforcement officer of a federal agency, or
1251 any fire service provider ~~department~~ official who is engaged in
1252 the investigation of a fire or explosion loss may request any
1253 insurance company or its agent, adjuster, employee, or attorney,
1254 investigating a claim under an insurance policy or contract with
1255 respect to a fire or explosion to release any information
1256 whatsoever in the possession of the insurance company or its
1257 agent, adjuster, employee, or attorney relative to a loss from
1258 that fire or explosion. The insurance company shall release the
1259 available information to and cooperate with any official
1260 authorized to request such information pursuant to this section.
1261 The information shall include, but shall not be limited to:

1262 1.~~(a)~~ Any insurance policy relevant to a loss under
1263 investigation and any application for such a policy.

1264 2.~~(b)~~ Any policy premium payment records.

1265 3.~~(c)~~ The records, reports, and all material pertaining to
1266 any previous claims made by the insured with the reporting
1267 company.

1268 4.~~(d)~~ Material relating to the investigation of the loss,
1269 including statements of a any person, proof of loss, and other
1270 relevant evidence.

1271 5.~~(e)~~ Memoranda, notes, and correspondence relating to the
1272 investigation of the loss in the possession of the insurance
1273 company or its agents, adjusters, employees, or attorneys.

1274 (2) If an insurance company has reason to suspect that a
1275 fire or explosion loss to its insured's real or personal
1276 property was caused by intentional ~~incendiary~~ means, the company

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shall notify the State Fire Marshal and shall furnish her or him with all material acquired by the company during ~~the course of~~ its investigation. The State Fire Marshal may adopt rules to implement this subsection.

(3) In the absence of fraud, bad faith, or malice, a ~~no~~ representative of or consultant to an insurance company or of the National Insurance Crime Bureau employed to adjust or investigate losses caused by fire or explosion is not ~~shall be~~ liable for damages in a civil action for furnishing information concerning fires or explosion suspected to be other than accidental to investigators employed by other insurance companies or the National Insurance Crime Bureau.

(6) The actions of an insurance company or of its agents, employees, adjusters, consultants, or attorneys, in complying with the statutory obligation of this section may not ~~shall in~~ ~~no way~~ be construed by a court as a waiver or abandonment of any privilege or confidentiality of attorney work product, attorney-client communication, or such other privilege or immunity as is provided by law.

(9) A ~~Any~~ person who willfully violates ~~the provisions of~~ this section commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 14. Section 633.45, Florida Statutes, is transferred, renumbered as section 633.128, Florida Statutes, and amended to read:

633.128 ~~633.45~~ Division of State Fire Marshal; powers, duties.—

(1) The division shall:

(a) Establish, by rule, uniform minimum standards for the

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1306 ~~employment and~~ training of firefighters and volunteer
1307 firefighters.

1308 (b) Establish, by rule, minimum curriculum requirements and
1309 criteria used to approve education or training providers,
1310 including for schools operated by or for any fire service
1311 provider, employing agency for the specific purpose of training
1312 individuals seeking to become a firefighter recruits or
1313 volunteer firefighter firefighters.

1314 (c) Specify, by rule, standards for the approval, denial of
1315 approval, probation, suspension, and revocation of approval of
1316 education or training providers and facilities for training
1317 firefighters and volunteer firefighters ~~Approve institutions,~~
1318 ~~instructors, and facilities for school operation by or for any~~
1319 ~~employing agency for the specific purpose of training~~
1320 ~~firefighters and firefighter recruits.~~

1321 (d) Specify, by rule, standards for the certification,
1322 denial of certification, probation, and revocation of
1323 certification for instructors, approval, denial of approval,
1324 probation, and revocation of approval of institutions,
1325 instructors, and facilities for training firefighters and
1326 firefighter recruits; including a rule requiring each that an
1327 instructor to must complete 40 hours of continuing education
1328 every 4 3 years in order to maintain her or his certification
1329 ~~the approval of the department.~~

1330 (e) Issue certificates of competency to persons who, by
1331 reason of experience and completion of basic inservice training,
1332 advanced education, or specialized training, are especially
1333 qualified for particular aspects or classes of firefighting
1334 ~~firefighter~~ duties.

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(f) Establish, by rule, minimum training qualifications for persons serving as firesafety coordinators for their respective departments of state government and certify ~~all~~ persons who satisfy such qualifications.

(g) Establish a uniform lesson plan to be followed by firesafety instructors in the training of state employees in firesafety and emergency evacuation procedures.

(h) Have complete jurisdiction over, and complete management and control of, the Florida State Fire College and be invested with full power and authority to make all rules ~~and regulations~~ necessary for the governance of the said institution.

(i) Appoint a superintendent of the Florida State Fire College and such other instructors, experimental helpers, and laborers as may be necessary and remove the same as in the division's ~~its~~ judgment and discretion may be best, fix their compensation, and provide for their payment.

(j) Have full management, possession, and control of the lands, buildings, structures, and property belonging to the Florida State Fire College.

(k) Provide for the courses of study and curriculum of the Florida State Fire College.

(l) Make rules ~~and regulations~~ for the admission of trainees to the Florida State Fire College.

(m) Visit and inspect the Florida State Fire College ~~and every department thereof~~ and provide for the proper keeping of accounts and records thereof.

(n) Make and prepare all necessary budgets of expenditures for the enlargement, proper furnishing, maintenance, support,

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and conduct of the Florida State Fire College.

(o) Select and purchase all property, furniture, fixtures, and paraphernalia necessary for the Florida State Fire College.

(p) Build, construct, change, enlarge, repair, and maintain any and all buildings or structures of the Florida State Fire College that may at any time be necessary for the ~~said~~ institution and purchase and acquire all lands and property necessary for same, of every nature and description whatsoever.

(q) Care for and maintain the Florida State Fire College and do and perform every other matter or thing requisite to the proper management, maintenance, support, and control of the ~~said~~ institution, necessary or requisite to carry out fully the purpose of this chapter ~~act~~ and for raising it to, and maintaining it at, the proper efficiency and standard as required in and by part IV ~~the provisions of ss. 633.43-633.49.~~

(r) Issue a license, certificate, or permit of a specific class to an individual who successfully completes the training, education, and examination required under this chapter or by rule for such class of license, certificate, or permit.

(2) The division, subject to the limitations and restrictions ~~elsewhere herein~~ imposed in this chapter, may:

(a) Adopt rules ~~and regulations~~ for the administration of this chapter ~~ss. 633.30-633.49~~ pursuant to chapter 120.

(b) Adopt a seal and alter the same at its pleasure.

(c) Sue and be sued.

(d) Acquire any real or personal property by purchase, gift, or donation, and have water rights.

(e) Exercise the right of eminent domain to acquire any property and lands necessary to the establishment, operation,

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and expansion of the Florida State Fire College.

(f) Make contracts and execute necessary or convenient instruments.

(g) Undertake by contract or contracts, or by its own agent and employees, and otherwise than by contract, any project or projects, and operate and maintain such projects.

(h) Accept grants of money, materials, or property of any kind from a federal agency, private agency, county, municipality, ~~city, town~~, corporation, partnership, or individual upon such terms and conditions as the grantor may impose.

(i) Perform all acts and do all things necessary or convenient to carry out the powers granted herein and the purposes of this chapter ~~ss. 633.30-633.49~~.

(3) The title to all property referred to in part IV ~~ss. 633.43-633.49~~, however acquired, shall be vested in the department and shall only be transferred and conveyed by it.

Section 15. Section 633.132, Florida Statutes, is created to read:

633.132 Fees.—

(1) The division shall collect in advance the following fees that it deems necessary to be charged:

(a) Pursuant to part III of this chapter:

1. Contractor certificate initial application: \$300 for each class of certificate.

2. Contractor biennial renewal fee: \$150 for each class of certificate.

3. Contractor permit initial application fee: \$100 for each class of permit.

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1422 4. Contractor permit biennial renewal fee: \$50 for each
1423 class of permit.

1424 5. Contractor examination or reexamination fee: \$100 for
1425 each class of certificate.

1426 6. Fire equipment dealer license:

1427 a. Class A: \$250.

1428 b. Class B: \$150.

1429 c. Class C: \$150.

1430 d. Class D: \$200.

1431 7. Fire equipment dealer or contractor application and
1432 renewal fee for an inactive license: \$75.

1433 8. Fire equipment dealer license or permit exam or
1434 reexamination: \$50.

1435 9. Reinspection fee for a dealer equipment inspection
1436 conducted by the State Fire Marshal under s. 633.304(1): \$50 for
1437 each reinspection.

1438 10. Permit for a portable fire extinguisher
1439 installer/repairer/inspector: \$90.

1440 11. Permit for a preengineered fire extinguishing system
1441 installer/repairer/inspector: \$120.

1442 12. Conversion of a fire equipment dealer's license to a
1443 different category: \$10 for each permit and license.

1444 (b) Pursuant to part IV of this chapter:

1445 1. Certificate of compliance: \$30.

1446 2. Certificate of competency: \$30.

1447 3. Renewal fee for a certificate of compliance, competency,
1448 or instruction: \$15.

1449 (c) Duplicate or change of address for any license, permit,
1450 or certificate: \$10.

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1451 (2) All moneys collected by the State Fire Marshal pursuant
1452 to this chapter shall be deposited into the Insurance Regulatory
1453 Trust Fund.

1454 Section 16. Section 633.39, Florida Statutes, is
1455 transferred and renumbered as section 633.134, Florida Statutes.

1456 Section 17. Section 633.115, Florida Statutes, is
1457 transferred, renumbered as section 633.136, Florida Statutes,
1458 and amended to read:

1459 633.136 ~~633.115~~ Fire and Emergency Incident Information
1460 Reporting Program; duties; fire reports.—

1461 (1) (a) The Fire and Emergency Incident Information
1462 Reporting Program is created within the division ~~of State Fire~~
1463 ~~Marshal~~. The program shall:

1464 1. Establish and maintain an electronic communication
1465 system capable of transmitting fire and emergency incident
1466 information to and between fire protection agencies.

1467 2. Initiate a Fire and Emergency Incident Information
1468 Reporting System that shall be responsible for:

1469 a. Receiving fire and emergency incident information from
1470 fire protection agencies.

1471 b. Preparing and disseminating annual reports to the
1472 Governor, the President of the Senate, the Speaker of the House
1473 of Representatives, fire protection agencies, and, upon request,
1474 the public. Each report shall include, but not be limited to,
1475 the information listed in the National Fire Incident Reporting
1476 System.

1477 c. Upon request, providing other states and federal
1478 agencies with fire and emergency incident data of this state.

1479 3. Adopt rules to effectively and efficiently implement,

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administer, manage, maintain, and use the Fire and Emergency Incident Information Reporting Program. The rules shall be considered minimum requirements and shall not preclude a fire protection agency from implementing its own requirements which may ~~shall~~ not conflict with the rules of the division ~~of State Fire Marshal~~.

4. By rule, establish procedures and a format for each fire protection agency to voluntarily monitor its records and submit reports to the program.

5. Establish an electronic information database that ~~which~~ is accessible and searchable by fire protection agencies.

(b) The division ~~of State Fire Marshal~~ shall consult with the Florida Forest Service of the Department of Agriculture and Consumer Services and the State Surgeon General of the Department of Health to coordinate data, ensure accuracy of the data, and limit duplication of efforts in data collection, analysis, and reporting.

(2) The Fire and Emergency Incident Information System Technical Advisory Panel is created within the division ~~of State Fire Marshal~~. The panel shall advise, review, and recommend to the State Fire Marshal with respect to the requirements of this section. The membership of the panel shall consist of the following 15 members:

(a) The current 13 members of the Firefighters Employment, Standards, and Training Council as established in s. 633.402 ~~633.31~~.

(b) One member from the Florida Forest Service of the Department of Agriculture and Consumer Services, appointed by the director of the Florida Forest Service.

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(c) One member from the Department of Health, appointed by the State Surgeon General.

(3) For the purpose of this section, the term "fire protection agency" shall be defined by rule by the division ~~of State Fire Marshal~~.

Section 18. Section 633.138, Florida Statutes, is created to read:

633.138 Notice of change of address of record; notice of felony actions.—

(1) Any individual issued a license, permit, or certificate under this chapter shall notify the division in writing of any changes to her or his current mailing address, e-mail address, and place of practice as specified in rule adopted by the division.

(2) Notwithstanding any other provision of law, delivery by regular mail or e-mail to a licensee, permittee, or certificateholder, using the last known mailing address or e-mail address on record with the division, constitutes adequate and sufficient notice to the licensee, permittee, or certificateholder of any official communication by the division.

(3) Any individual issued a license, permit, or certificate under this chapter shall notify the division in writing within 30 days after pleading guilty or nolo contendere to, or being convicted or found guilty of, any felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.

Section 19. Section 633.042, Florida Statutes, is

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transferred and renumbered as section 633.142, Florida Statutes, and subsection (11) of that section is amended, to read:

633.142 ~~633.042~~ Reduced Cigarette Ignition Propensity Standard and Firefighter Protection Act; preemption.—

(11) PREEMPTION.—

(a) This section shall be repealed if a federal reduced cigarette ignition propensity standard that preempts this section is adopted and becomes effective.

(b) Notwithstanding any other provision of law, local governmental units of this state may not enact or enforce any ordinance or other local law or rule conflicting with, or preempted by, any provision of this act or any policy of this state expressed by this act, whether that policy be expressed by inclusion of a provision in this act or by exclusion of that subject from this act.

Section 20. The Division of Law Revision and Information is requested to create part II of chapter 633, Florida Statutes, consisting of sections 633.202, 633.204, 633.206, 633.208, 633.212, 633.214, 633.216, 633.218, 633.222, 633.224, 633.226, and 633.228, Florida Statutes, to be entitled "Fire Safety and Prevention."

Section 21. Section 633.0215, Florida Statutes, is transferred and renumbered as section 633.202, Florida Statutes, and subsections (2), (4), (7), (9), (10), and (12) through (15) of that section are amended, to read:

633.202 ~~633.0215~~ Florida Fire Prevention Code.—

(2) The State Fire Marshal shall adopt the current edition of the National Fire Protection Association's Standard 1, Fire Prevention Code but may ~~shall~~ not adopt a building, mechanical,

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or plumbing code. The State Fire Marshal shall adopt the current
edition of the Life Safety Code, NFPA Pamphlet 101, current
editions, by reference. The State Fire Marshal may modify the
selected codes and standards as needed to accommodate the
specific needs of the state. Standards or criteria in the
selected codes shall be similarly incorporated by reference. The
State Fire Marshal shall incorporate within sections of the
Florida Fire Prevention Code provisions that address uniform
firesafety standards as established in s. 633.206 ~~633.022~~. The
State Fire Marshal shall incorporate within sections of the
Florida Fire Prevention Code provisions addressing regional and
local concerns and variations.

(4) The State Fire Marshal shall update, by rule adopted
pursuant to ss. 120.536(1) and 120.54, the Florida Fire
Prevention Code every 3 years. Once initially adopted and
subsequently updated, the Florida Fire Prevention Code ~~and the~~
~~Life Safety Code~~ shall be adopted for use statewide without
adoptions by local governments. When updating the Florida Fire
Prevention Code ~~and the most recent edition of the Life Safety~~
~~Code~~, the State Fire Marshal shall consider changes made by the
national model fire codes incorporated into the Florida Fire
Prevention Code, the State Fire Marshal's own interpretations,
declaratory statements, appellate decisions, and approved
statewide and local technical amendments.

(7) Any local amendment adopted by a local government must
strengthen the Fire Prevention Code requirements of the minimum
firesafety code.

(9) The State Fire Marshal shall make rules that implement
this section and ss. 633.104 and 633.208 ~~633.01 and 633.025~~ for

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the purpose of accomplishing the objectives set forth in those sections.

(10) Notwithstanding other provisions of this chapter, if a county or a municipality within that county adopts an ordinance providing for a local amendment to the Florida Fire Prevention Code and that amendment provides a higher level of protection to the public than the level specified in the Florida Fire Prevention Code, the local amendment becomes effective without approval of the State Fire Marshal and is not rescinded pursuant to ~~the provisions of~~ this section, provided that the ordinance meets one or more of the following criteria:

(a) The local authority has adopted, by ordinance, a fire service facilities and operation plan that outlines goals and objectives for related equipment, personnel, and capital improvement needs of the local authority related to the specific amendment for the next 5 years;

(b) The local authority has adopted, by ordinance, a provision requiring proportionate reduction in, or rebate or waivers of, impact or other fees or assessments levied on buildings that are built or modified in compliance with the more stringent firesafety standards required by the local amendment; or

(c) The local authority has adopted, by ordinance, a growth management plan that requires buildings and structures to be equipped with more stringent firesafety requirements required by the local amendment when these firesafety requirements are used as the basis for planning infrastructure development, uses, or housing densities.

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1625 Except as provided in s. 633.206 ~~633.022~~, the local appeals
1626 process shall be the venue if there is a dispute between parties
1627 affected by the provisions of the more stringent local
1628 firesafety amendment adopted as part of the Florida Fire
1629 Prevention Code pursuant to the authority in this subsection.
1630 Local amendments adopted pursuant to this subsection shall be
1631 deemed local or regional variations and published as such in the
1632 Florida Fire Prevention Code. The act of publishing locally
1633 adopted firesafety amendments to the Florida Fire Prevention
1634 Code may ~~shall~~ not be construed to mean that the State Fire
1635 Marshal approves or denies the authenticity or appropriateness
1636 of the locally adopted firesafety provision, and the burden of
1637 protecting the local firesafety amendment remains solely with
1638 the adopting local governmental authority.

1639 ~~(12) Notwithstanding other provisions of this section, the~~
1640 ~~State Fire Marshal shall study the use of managed, facilities-~~
1641 ~~based, voice-over-Internet-protocol telephone service for~~
1642 ~~monitoring fire alarm signals. If the study determines that~~
1643 ~~voice-over-Internet-protocol telephone service technology~~
1644 ~~provides a level of protection equivalent to that required by~~
1645 ~~NFPA 72: National Fire Alarm Code, the State Fire Marshal shall~~
1646 ~~initiate rulemaking pursuant to ss. 120.536(1) and 120.54 by~~
1647 ~~December 1, 2008, to allow the use of this technology as an~~
1648 ~~additional method of monitoring fire alarm systems.~~

1649 (12) ~~(13)~~ (a) The State Fire Marshal shall issue an expedited
1650 declaratory statement relating to interpretations of ~~provisions~~
1651 ~~of~~ the Florida Fire Prevention Code according to the following
1652 guidelines:

1653 1. The declaratory statement shall be rendered in

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1654 accordance with s. 120.565, except that a final decision must be
1655 issued by the State Fire Marshal within 45 days after the
1656 division's receipt of a petition seeking an expedited
1657 declaratory statement. The State Fire Marshal shall give notice
1658 of the petition and the expedited declaratory statement or the
1659 denial of the petition in the next available issue of the
1660 Florida Administrative Register ~~Weekly~~ after the petition is
1661 filed and after the statement or denial is rendered.

1662 2. The petitioner must be the owner of the disputed project
1663 or the owner's representative.

1664 3. The petition for an expedited declaratory statement must
1665 be:

1666 a. Related to an active project that is under construction
1667 or must have been submitted for a permit.

1668 b. The subject of a written notice citing a specific
1669 provision of the Florida Fire Prevention Code which is in
1670 dispute.

1671 c. Limited to a single question that is capable of being
1672 answered with a "yes" or "no" response.

1673 (b) A petition for a declaratory statement which does not
1674 meet all of the requirements of this subsection must be denied
1675 without prejudice. This subsection does not affect the right of
1676 the petitioner as a substantially affected person to seek a
1677 declaratory statement under s. 633.104(6) ~~633.01(6)~~.

1678 ~~(13)-(14)~~ A condominium, cooperative, or multifamily
1679 residential building that is less than four stories in height
1680 and has an exterior corridor providing a means of egress is
1681 exempt from installing a manual fire alarm system as required in
1682 s. 9.6 of the most recent edition of the Life Safety Code

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1683 adopted in the Florida Fire Prevention Code. ~~This is intended to~~
1684 ~~clarify existing law.~~

1685 (14) ~~(15)~~ The Legislature finds that the electronic filing
1686 of construction plans will increase governmental efficiency,
1687 reduce costs, and increase timeliness of processing permits. If
1688 the fire code administrator or fire official provides for
1689 electronic filing, any construction plans, drawings,
1690 specifications, reports, final documents, or documents prepared
1691 or issued by a licensee may be dated and electronically signed
1692 and sealed by the licensee in accordance with part I of chapter
1693 668, and may be transmitted electronically to the fire code
1694 administrator or fire official for approval.

1695 Section 22. Section 633.72, Florida Statutes, is
1696 transferred, renumbered as section 633.204, Florida Statutes,
1697 and amended to read:

1698 633.204 ~~633.72~~ Florida Fire Code Advisory Council.—

1699 (1) There is created within the department the Florida Fire
1700 Code Advisory Council with 11 members appointed by the State
1701 Fire Marshal. The council shall advise and recommend to the
1702 State Fire Marshal changes to and interpretation of the uniform
1703 firesafety standards adopted under s. 633.206 ~~633.022~~, the
1704 Florida Fire Prevention Code, and those portions of the Florida
1705 Fire Prevention Code that have the effect of conflicting with
1706 building construction standards that are adopted pursuant to ss.
1707 633.202 and 633.206 ~~633.0215~~ and ~~633.022~~. The members of the
1708 council shall represent the following groups and professions:

1709 (a) One member shall be the State Fire Marshal, or his or
1710 her designated appointee who shall be an administrative employee
1711 of the marshal.†

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(b) One member shall be an administrative officer from a fire department representing a municipality, ~~or~~ a county, or a special district selected from a list of persons submitted by the Florida Fire Chiefs Association.†

(c) One member shall be an architect licensed in the state selected from a list of persons submitted by the Florida Association/American Institute of Architects.†

(d) One member shall be an engineer with fire protection design experience registered to practice in the state selected from a list of persons submitted by the Florida Engineering Society.†

(e) One member shall be an administrative officer from a building department of a county or municipality selected from a list of persons submitted by the Building Officials Association of Florida.†

(f) One member shall be a contractor licensed in the state selected from a list submitted by the Florida Home Builders Association.†

(g) One member shall be a Florida ~~certified~~ firefighter selected from a list submitted by the Florida Professional Firefighters' Association.†

(h) One member shall be a Florida certified firesafety ~~municipal fire~~ inspector selected from a list submitted by the Florida Fire Marshals' and Inspectors' ~~Marshal's~~ Association.†

(i) One member shall be selected from a list submitted by the Department of Education.†

(j) One member shall be selected from a list submitted by the Chancellor of the State University System.† ~~and~~

(k) One member shall be representative of the general

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1741 public.

1742 (2) The State Fire Marshal and the Florida Building
1743 Commission shall coordinate efforts to provide consistency
1744 between the Florida Building Code and the Florida Fire
1745 Prevention Code ~~and the Life Safety Code.~~

1746 (3) The council shall meet at least semiannually to advise
1747 the State Fire Marshal's Office on matters subject to this
1748 section.

1749 (4) The council may review proposed changes to the Florida
1750 Fire Prevention Code and the uniform firesafety standards
1751 pursuant to s. 633.202(4).

1752 (5)~~(3)~~ The council and Florida Building Commission shall
1753 cooperate through joint representation and coordination of codes
1754 and standards to resolve conflicts in their development,
1755 updating, and interpretation.

1756 (6)~~(4)~~ Each appointee shall serve a 4-year term. No member
1757 shall serve more than two consecutive terms. A ~~No~~ member of the
1758 council may not ~~shall~~ be paid a salary as such member, but each
1759 shall receive travel and expense reimbursement as provided in s.
1760 112.061.

1761 Section 23. Section 633.022, Florida Statutes, is
1762 transferred and renumbered as section 633.206, Florida Statutes,
1763 and subsection (1) and paragraph (a) of subsection (4) of that
1764 section are amended, to read:

1765 633.206 ~~633.022~~ Uniform firesafety standards.—The
1766 Legislature hereby determines that to protect the public health,
1767 safety, and welfare it is necessary to provide for firesafety
1768 standards governing the construction and utilization of certain
1769 buildings and structures. The Legislature further determines

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that certain buildings or structures, due to their specialized use or to the special characteristics of the person utilizing or occupying these buildings or structures, should be subject to firesafety standards reflecting these special needs as may be appropriate.

(1) The department shall establish uniform firesafety standards that apply to:

(a) All new, existing, and proposed state-owned and state-leased buildings, including state universities as defined under s. 1000.21.

(b) All new, existing, and proposed hospitals, nursing homes, assisted living facilities, adult family-care homes, correctional facilities, public schools, transient public lodging establishments, public food service establishments, elevators, migrant labor camps, mobile home parks, lodging parks, recreational vehicle parks, recreational camps, residential and nonresidential child care facilities, facilities for the developmentally disabled, motion picture and television special effects productions, tunnels, and self-service gasoline stations, of which standards the State Fire Marshal is the final administrative interpreting authority.

In the event there is a dispute between the owners of the buildings specified in paragraph (b) and a local authority requiring a more stringent uniform firesafety standard for sprinkler systems, the State Fire Marshal shall be the final administrative interpreting authority and the State Fire Marshal's interpretation regarding the uniform firesafety standards shall be considered final agency action.

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(4) (a) Notwithstanding any provision of law to the contrary, each nursing home licensed under part II of chapter 400 shall be protected throughout by an approved, supervised automatic sprinkler system in accordance with s. 9 of National Fire Protection Association, Inc., Life Safety Code, no later than December 31, 2010. ~~A nursing home licensee shall submit complete sprinkler construction documents to the Agency for Health Care Administration for review by December 31, 2008, and the licensee must gain final approval to start construction from the agency by June 30, 2009. The agency shall grant a 6-month extension to a nursing home licensee if the completion and submission of the sprinkler construction documents are contingent upon the approval of the application for the loan guarantee program authorized under s. 633.0245. In such case, the agency may extend the deadline for final approval to begin construction beyond June 30, 2009, but the deadline may not be extended beyond December 31, 2009.~~

Section 24. Section 633.025, Florida Statutes, is transferred, renumbered as section 633.208, Florida Statutes, and amended to read:

633.208 ~~633.025~~ Minimum firesafety standards.—

(1) The Florida Fire Prevention Code ~~and the Life Safety Code~~ adopted by the State Fire Marshal, which shall operate in conjunction with the Florida Building Code, shall be deemed adopted by each municipality, county, and special district with firesafety responsibilities. The minimum firesafety codes do ~~shall~~ not apply to buildings and structures subject to the uniform firesafety standards under s. 633.206 ~~633.022~~ and buildings and structures subject to the minimum firesafety

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standards adopted pursuant to s. 394.879.

(2) Pursuant to subsection (1), each municipality, county, and special district with firesafety responsibilities shall enforce the Florida Fire Prevention Code ~~and the Life Safety Code~~ as the minimum firesafety code required by this section.

~~(3) The most current edition of the National Fire Protection Association (NFPA) 101, Life Safety Code, adopted by the State Fire Marshal, shall be deemed to be adopted by each municipality, county, and special district with firesafety responsibilities as part of the minimum firesafety code.~~

(3) ~~(4)~~ Such code codes shall be a minimum code codes and a municipality, county, or special district with firesafety responsibilities may adopt more stringent firesafety standards, subject to the requirements of this subsection. Such county, municipality, or special district may establish alternative requirements to those requirements which are required under the minimum firesafety standards on a case-by-case basis, in order to meet special situations arising from historic, geographic, or unusual conditions, if the alternative requirements result in a level of protection to life, safety, or property equal to or greater than the applicable minimum firesafety standards. For the purpose of this subsection, the term "historic" means that the building or structure is listed on the National Register of Historic Places of the United States Department of the Interior.

(a) The local governing body shall determine, following a public hearing which has been advertised in a newspaper of general circulation at least 10 days before the hearing, if there is a need to strengthen the requirements of the minimum firesafety code adopted by such governing body. The

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determination must be based upon a review of local conditions by the local governing body, which review demonstrates that local conditions justify more stringent requirements than those specified in the minimum firesafety code for the protection of life and property or justify requirements that meet special situations arising from historic, geographic, or unusual conditions.

(b) Such additional requirements may ~~shall~~ not be discriminatory as to materials, products, or construction techniques of demonstrated capabilities.

(c) Paragraphs (a) and (b) apply solely to the local enforcing agency's adoption of requirements more stringent than those specified in the Florida Fire Prevention Code and the Life Safety Code that have the effect of amending building construction standards. Upon request, the enforcing agency must ~~shall~~ provide a person making application for a building permit, or any state agency or board with construction-related regulation responsibilities, a listing of all such requirements and codes.

(d) A local government which adopts amendments to the minimum firesafety code must provide a procedure by which the validity of such amendments may be challenged by any substantially affected party to test the amendment's compliance with ~~the provisions of~~ this section.

1. Unless the local government agrees to stay enforcement of the amendment, or other good cause is shown, the challenging party shall be entitled to a hearing on the challenge within 45 days.

2. For purposes of such challenge, the burden of proof

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shall be on the challenging party, but the amendment may ~~shall~~
not be presumed to be valid or invalid.

This subsection gives local government the authority to
establish firesafety codes that exceed the Florida Fire
Prevention Code ~~minimum firesafety codes and standards~~ adopted
by the State Fire Marshal. The Legislature intends that local
government give proper public notice and hold public hearings
before adopting more stringent firesafety codes ~~and standards~~. A
substantially affected person may appeal, to the department, the
local government's resolution of the challenge, and the
department shall determine if the amendment complies with this
section. Actions of the department are subject to judicial
review pursuant to s. 120.68. The department shall consider
reports of the Florida Building Commission, pursuant to part IV
of chapter 553, when evaluating building code enforcement.

(4) ~~(5)~~ The new building or structure provisions enumerated
within the Florida Fire Prevention Code ~~firesafety code~~ adopted
pursuant to this section shall apply only to buildings or
structures for which the building permit is issued on or after
the effective date of the current edition of the Florida Fire
Prevention Code ~~this act~~. Subject to ~~the provisions of~~
subsection (5) ~~(6)~~, the existing building or structure
provisions enumerated within the firesafety code adopted
pursuant to this section shall apply to buildings or structures
for which the building permit was issued or the building or
structure was constructed before ~~prior to~~ the effective date of
this act.

(5) ~~(6)~~ With regard to existing buildings, the Legislature

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1915 recognizes that it is not always practical to apply any or all
1916 of the provisions of the Florida Fire Prevention Code ~~minimum~~
1917 ~~firesafety code~~ and that physical limitations may require
1918 disproportionate effort or expense with little increase in fire
1919 or life safety ~~lifesafety~~. ~~Prior to applying the minimum~~
1920 ~~firesafety code to an existing building, the local fire official~~
1921 ~~shall determine that a threat to lifesafety or property exists.~~
1922 If a threat to lifesafety or property exists, the firesafety
1923 inspector ~~fire official~~ shall apply the applicable firesafety
1924 code for existing buildings to the extent practical to assure a
1925 reasonable degree of lifesafety and safety of property or the
1926 firesafety inspector ~~fire official~~ shall fashion a reasonable
1927 alternative which affords an equivalent degree of lifesafety and
1928 safety of property. The decision of the local firesafety
1929 inspector ~~fire official~~ may be appealed to the local
1930 administrative board described in s. 553.73.

1931 ~~(6)(7)~~ Nothing herein shall preclude a municipality,
1932 county, or special district from requiring a structure to be
1933 maintained in accordance with the Florida Fire Prevention Code
1934 ~~applicable firesafety code~~.

1935 ~~(7)(8)~~ Electrically operated single station smoke detectors
1936 required for residential buildings are not required to be
1937 interconnected within individual living units in all buildings
1938 having direct access to the outside from each living unit and
1939 having three stories or less. This subsection does not apply to
1940 any residential building required to have a manual or an
1941 automatic fire alarm system.

1942 ~~(8)(9)~~ The provisions of the Life Safety Code, as contained
1943 in the Florida Fire Prevention Code, do ~~shall~~ not apply to newly

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constructed one-family and two-family dwellings. However, fire sprinkler protection may be permitted by local government in lieu of other fire protection-related development requirements for such structures. While local governments may adopt fire sprinkler requirements for one- and two-family dwellings under this subsection, it is the intent of the Legislature that the economic consequences of the fire sprinkler mandate on home owners be studied before the enactment of such a requirement. After the effective date of this act, any local government that desires to adopt a fire sprinkler requirement on one- or two-family dwellings must prepare an economic cost and benefit report that analyzes the application of fire sprinklers to one- or two-family dwellings or any proposed residential subdivision. The report must consider the tradeoffs and specific cost savings and benefits of fire sprinklers for future owners of property. The report must include an assessment of the cost savings from any reduced or eliminated impact fees if applicable, the reduction in special fire district tax, insurance fees, and other taxes or fees imposed, and the waiver of certain infrastructure requirements including the reduction of roadway widths, the reduction of water line sizes, increased fire hydrant spacing, increased dead-end roadway length and a reduction in cul-de-sac sizes relative to the costs from fire sprinkling. A failure to prepare an economic report shall result in the invalidation of the fire sprinkler requirement to any one- or two-family dwelling or any proposed subdivision. In addition, a local jurisdiction or utility may not charge any additional fee, above what is charged to a non-fire sprinklered dwelling, on the basis that a one- or two-family dwelling unit

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is protected by a fire sprinkler system.

(9)~~(10)~~ Before imposing a fire sprinkler requirement on any one- or two-family dwelling, a local government must provide the owner of any one- or two-family dwelling a letter documenting specific infrastructure or other tax or fee allowances and waivers that are listed in but not limited to those described in subsection (8) ~~(9)~~ for the dwelling. The documentation must show that the cost savings reasonably approximate the cost of the purchase and installation of a fire protection system.

(10)~~(11)~~ Notwithstanding ~~the provisions of~~ subsection (8) ~~(9)~~, a property owner may ~~shall~~ not be required to install fire sprinklers in any residential property based upon the use of such property as a rental property or any change in or reclassification of the property's primary use to a rental property.

Section 25. Section 633.026, Florida Statutes, is transferred, renumbered as section 633.212, Florida Statutes, and amended to read:

633.212 ~~633.026~~ Legislative intent; informal interpretations of the Florida Fire Prevention Code.—It is the intent of the Legislature that the Florida Fire Prevention Code be interpreted by fire officials and local enforcement agencies in a manner that reasonably and cost-effectively protects the public safety, health, and welfare; ensures uniform interpretations throughout this state; and provides just and expeditious processes for resolving disputes regarding such interpretations. It is the further intent of the Legislature that such processes provide for the expeditious resolution of the issues presented and that the resulting interpretation of

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such issues be published on the website of the division ~~of State Fire Marshal~~.

(1) The division ~~of State Fire Marshal~~ shall by rule establish an informal process of rendering nonbinding interpretations of the Florida Fire Prevention Code. The division ~~of State Fire Marshal~~ may contract with and refer interpretive issues to a third party, selected based upon cost effectiveness, quality of services to be performed, and other performance-based criteria, which has experience in interpreting and enforcing the Florida Fire Prevention Code. It is the intent of the Legislature that the division ~~of State Fire Marshal~~ establish a Fire Code Interpretation Committee composed of seven persons and seven alternates, equally representing each area of the state, to which a party can pose questions regarding the interpretation of the Florida Fire Prevention Code provisions.

(2) Each member and alternate member of the Fire Code Interpretation Committee must be certified as a firesafety inspector pursuant to s. 633.216(2) ~~633.081(2)~~ and must have a minimum of 5 years of experience interpreting and enforcing the Florida Fire Prevention Code ~~and the Life Safety Code~~. Each member and alternate member must be approved by the division ~~of State Fire Marshal~~ and deemed by the division to have met these requirements for at least 30 days before participating in a review of a nonbinding interpretation.

(3) Each nonbinding interpretation of code provisions must be provided within 10 business days after receipt of a request for interpretation. The response period established in this subsection may be waived only with the written consent of the party requesting the nonbinding interpretation and the division

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~~of State Fire Marshal~~. Nonbinding interpretations shall be advisory only and nonbinding on the parties or the State Fire Marshal.

(4) In order to administer this section, the division ~~of State Fire Marshal~~ shall charge a fee for nonbinding interpretations. The fee may not exceed \$150 for each request for a review or interpretation. The division may authorize payment of fees directly to the nonprofit organization under contract pursuant to subsection (1).

(5) A party requesting a nonbinding interpretation who disagrees with the interpretation issued under this section may apply for a declaratory statement ~~formal interpretation~~ from the State Fire Marshal pursuant to s. 633.104(6) ~~633.01(6)~~.

(6) The division ~~of State Fire Marshal~~ shall issue or cause to be issued a nonbinding interpretation of the Florida Fire Prevention Code pursuant to this section when requested to do so upon submission of a petition by a fire official or by the owner or owner's representative or the contractor or contractor's representative of a project in dispute. The division shall adopt a petition form by rule, and the petition form must be published on the State Fire Marshal's website. The form must ~~shall~~, at a minimum, require:

(a) The name and address of the local fire official, including the address of the county, municipality, or special district.

(b) The name and address of the owner or owner's representative or the contractor or contractor's representative.

(c) A statement of the specific sections of the Florida Fire Prevention Code being interpreted by the local fire

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2060 official.

2061 (d) An explanation of how the petitioner's substantial
2062 interests are being affected by the local interpretation of the
2063 Florida Fire Prevention Code.

2064 (e) A statement of the interpretation of the specific
2065 sections of the Florida Fire Prevention Code by the local fire
2066 official.

2067 (f) A statement of the interpretation that the petitioner
2068 contends should be given to the specific sections of the Florida
2069 Fire Prevention Code and a statement supporting the petitioner's
2070 interpretation.

2071 (7) Upon receipt of a petition that meets the requirements
2072 of subsection (6), the division ~~of State Fire Marshal~~ shall
2073 immediately provide copies of the petition to the Fire Code
2074 Interpretation Committee, and shall publish the petition and any
2075 response submitted by the local fire official on the State Fire
2076 Marshal's website.

2077 (8) The committee shall conduct proceedings as necessary to
2078 resolve the issues and give due regard to the petition, the
2079 facts of the matter at issue, specific code sections cited, and
2080 any statutory implications affecting the Florida Fire Prevention
2081 Code. The committee shall issue an interpretation regarding the
2082 provisions of the Florida Fire Prevention Code within 10 days
2083 after the filing of a petition. The committee shall issue an
2084 interpretation based upon the Florida Fire Prevention Code or,
2085 if the code is ambiguous, the intent of the code. The
2086 committee's interpretation shall be provided to the petitioner
2087 and shall include a notice that if the petitioner disagrees with
2088 the interpretation, the petitioner may file a request for a

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2089 declaratory statement ~~formal interpretation~~ by the State Fire
2090 Marshal under s. 633.104(6) ~~633.01(6)~~. The committee's
2091 interpretation shall be provided to the State Fire Marshal, and
2092 the division shall publish the declaratory statement
2093 ~~interpretation~~ on the State Fire Marshal's website and in the
2094 Florida Administrative Register ~~Weekly~~.

2095 Section 26. Section 633.052, Florida Statutes, is
2096 transferred and renumbered as section 633.214, Florida Statutes,
2097 and paragraphs (a) and (b) of subsection (1), paragraph (d) of
2098 subsection (2), and subsections (3) and (4) of that section are
2099 amended, to read:

2100 633.214 ~~633.052~~ Ordinances relating to firesafety;
2101 definitions; penalties.—

2102 (1) As used in this section:

2103 (a) A "firesafety inspector" is an individual certified by
2104 the division ~~of State Fire Marshal~~, officially assigned the
2105 duties of conducting firesafety inspections of buildings and
2106 facilities on a recurring or regular basis, investigating civil
2107 infractions relating to firesafety, and issuing citations
2108 pursuant to this section on behalf of the state or any county,
2109 municipality, or special district with firesafety
2110 responsibilities.

2111 (b) "Citation" means a written notice, issued only after a
2112 written warning has been previously issued and a minimum time
2113 period of 45 days, except for major structural changes, which
2114 may be corrected within an extended adequate period of time,
2115 from the date of the issuance of the warning whereby the party
2116 warned may correct the alleged violation, issued to a person by
2117 a firesafety inspector, that the firesafety inspector has

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probable cause to believe that the person has committed a civil infraction in violation of a duly enacted ordinance and that the county court will hear the charge. The citation must ~~shall~~ contain:

1. The date and time of issuance.
2. The name and address of the person.
3. The date and time the civil infraction was committed.
4. The facts constituting probable cause.
5. The Florida Fire Prevention Code ordinance violated.
6. The name and authority of the firesafety inspector ~~officer~~.
7. The procedure for the person to follow in order to pay the civil penalty or to contest the citation.
8. The applicable civil penalty if the person elects to contest the citation.
9. The applicable civil penalty if the person elects not to contest the citation.
10. A conspicuous statement that if the person fails to pay the civil penalty within the time allowed or fails to appear in court to contest the citation, then she or he shall be deemed to have waived her or his right to contest the citation and that, in such case, judgment may be entered against the person for an amount up to the maximum civil penalty.

(2) A county or municipality that has created a code enforcement board or special magistrate system pursuant to chapter 162 may enforce firesafety code violations as provided in chapter 162. The governing body of a county or municipality which has not created a code enforcement board or special magistrate system for firesafety under chapter 162 may ~~is~~

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2147 ~~authorized to~~ enact ordinances relating to firesafety codes,
2148 which ordinances shall provide:

2149 (d) For the issuance of a citation by an officer who has
2150 probable cause to believe that a person has committed a
2151 violation of an ordinance relating to firesafety or the Florida
2152 Fire Prevention Code.

2153 (3) A person ~~Any person~~ who willfully refuses to sign and
2154 accept a citation issued by a firesafety inspector commits ~~shall~~
2155 ~~be guilty of~~ a misdemeanor of the second degree, punishable as
2156 provided in s. 775.082 or s. 775.083.

2157 (4) ~~Nothing contained in~~ This section does not ~~shall~~
2158 prevent any county, ~~or~~ municipality, or special district from
2159 enacting any ordinance relating to firesafety codes which is
2160 identical to ~~the provisions of~~ this chapter or any state law,
2161 except as to penalty; however, a ~~no~~ county, ~~or~~ municipal, or
2162 special district ordinance relating to firesafety codes may not
2163 ~~shall~~ conflict with ~~the provisions of~~ this chapter or any other
2164 state law.

2165 Section 27. Section 633.081, Florida Statutes, is
2166 transferred and renumbered as section 633.216, Florida Statutes,
2167 a new subsection (6) is added to that section, and present
2168 subsections (1) and (2), paragraph (c) of subsection (3), and
2169 subsections (4) through (9) of that section are amended, to
2170 read:

2171 633.216 ~~633.081~~ Inspection of buildings and equipment;
2172 orders; firesafety inspection training requirements;
2173 certification; disciplinary action.—The State Fire Marshal and
2174 her or his agents or persons authorized to enforce laws and
2175 rules of the State Fire Marshal shall, at any reasonable hour,

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when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted ~~promulgated~~ thereunder, or a minimum firesafety code adopted by the State Fire Marshal or a local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted ~~promulgated~~ thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals which are located on or within the premises of any such building or structure.

(1) Each county, municipality, and special district that has firesafety enforcement responsibilities shall employ or contract with a firesafety inspector. Except as provided in s. 633.312(2) and (3) ~~633.082(2)~~, the firesafety inspector must conduct all firesafety inspections that are required by law. The governing body of a county, municipality, or special district that has firesafety enforcement responsibilities may provide a schedule of fees to pay only the costs of inspections conducted pursuant to this subsection and related administrative expenses. Two or more counties, municipalities, or special districts that have firesafety enforcement responsibilities may jointly employ or contract with a firesafety inspector.

(2) Except as provided in s. 633.312(2) ~~633.082(2)~~, every firesafety inspection conducted pursuant to state or local firesafety requirements shall be by a person certified as having met the inspection training requirements set by the State Fire Marshal. Such person shall meet the requirements of s. 633.412(1)(a)-(d), and:

(a) ~~Be a high school graduate or the equivalent as determined by the department;~~

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~~(b) Not have been found guilty of, or having pleaded guilty or nolo contendere to, a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States, or of any state thereof, which involves moral turpitude, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of such cases;~~

~~(c) Have her or his fingerprints on file with the department or with an agency designated by the department;~~

~~(d) Have good moral character as determined by the department;~~

~~(e) Be at least 18 years of age;~~

~~(f) Have satisfactorily completed the firesafety inspector certification examination as prescribed by division rule the department; and~~

~~(g) 1. Have satisfactorily completed, as determined by division rule the department, a firesafety inspector training program of at least ~~not less than~~ 200 hours established by the department and administered by education or training providers ~~agencies and institutions~~ approved by the department for the purpose of providing basic certification training for firesafety inspectors; or~~

~~2. Have received in another state training in another state which is determined by the division ~~department~~ to be at least equivalent to that required by the department for approved firesafety inspector education and training programs in this state.~~

(3)

(c)1. To be certified as a firesafety inspector under this section, a ~~any~~ person who:

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a. Is a special state firesafety inspector on July 1, 2011, and who does not have 5 years of experience as a special state firesafety inspector as of July 1, 2011; or

b. Has 5 years of experience as a special state firesafety inspector but has failed the examination taken as provided in paragraph (2) (a) ~~(2) (f)~~, must take an additional 80 hours of the courses described in paragraph (2) (b) ~~(2) (g)~~.

2. After successfully completing the courses described in this paragraph, such person may take the firesafety inspection examination as provided in paragraph (2) (a) ~~(2) (f)~~, if such examination is taken before July 1, 2013.

3. Upon passing the examination, the person shall be certified as a firesafety inspector as provided in this section.

4. A person who fails the course of study or the examination described in this paragraph may not perform any firesafety inspection required by law on or after July 1, 2013.

(4) A firefighter certified pursuant to s. 633.408 ~~633.35~~ may conduct firesafety inspections, under the supervision of a certified firesafety inspector, while on duty as a member of a fire department company conducting inservice firesafety inspections without being certified as a firesafety inspector, if such firefighter has satisfactorily completed an inservice fire department company inspector training program of at least 24 hours' duration as provided by rule of the department.

(5) Every firesafety inspector certificate is valid for a period of 4 ~~3~~ years from the date of issuance. Renewal of certification is subject to the affected person's completing proper application for renewal and meeting all of the requirements for renewal as established under this chapter or by

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rule adopted under this chapter, which must ~~shall~~ include completion of at least 54 ~~40~~ hours during the preceding 4-year ~~3-year~~ period of continuing education as required by the rule of the department or, in lieu thereof, successful passage of an examination as established by the department.

(6) A previously certified firesafety inspector whose certification has lapsed for 8 years or more must repeat the fire safety inspector training as specified by the division.

(7) ~~(6)~~ The State Fire Marshal may deny, refuse to renew, suspend, or revoke the certificate of a firesafety inspector if the State Fire Marshal finds that any of the following grounds exist:

(a) Any cause for which issuance of a certificate could have been refused had it then existed and been known to the division ~~State Fire Marshal~~.

(b) Violation of this chapter or any rule or order of the State Fire Marshal.

(c) Falsification of records relating to the certificate.

~~(d) Having been found guilty of or having pleaded guilty or nolo contendere to a felony, whether or not a judgment of conviction has been entered.~~

(d) ~~(e)~~ Failure to meet any of the renewal requirements.

~~(f) Having been convicted of a crime in any jurisdiction which directly relates to the practice of fire code inspection, plan review, or administration.~~

(e) ~~(g)~~ Making or filing a report or record that the certificateholder knows to be false, or knowingly inducing another to file a false report or record, or knowingly failing to file a report or record required by state or local law, or

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2292 knowingly impeding or obstructing such filing, or knowingly
2293 inducing another person to impede or obstruct such filing.

2294 (f)~~(h)~~ Failing to properly enforce applicable fire codes or
2295 permit requirements within this state which the
2296 certificateholder knows are applicable by committing willful
2297 misconduct, gross negligence, gross misconduct, repeated
2298 negligence, or negligence resulting in a significant danger to
2299 life or property.

2300 (g)~~(i)~~ Accepting labor, services, or materials at no charge
2301 or at a noncompetitive rate from a ~~any~~ person who performs work
2302 that is under the enforcement authority of the certificateholder
2303 and who is not an immediate family member of the
2304 certificateholder. For the purpose of this paragraph, the term
2305 "immediate family member" means a spouse, child, parent,
2306 sibling, grandparent, aunt, uncle, or first cousin of the person
2307 or the person's spouse or a ~~any~~ person who resides in the
2308 primary residence of the certificateholder.

2309 (8)~~(7)~~ The division ~~of State Fire Marshal~~ and the Florida
2310 Building Code Administrators and Inspectors Board, established
2311 pursuant to s. 468.605, shall enter into a reciprocity agreement
2312 to facilitate joint recognition of continuing education
2313 recertification hours for certificateholders licensed under s.
2314 468.609 and firesafety inspectors certified under subsection
2315 (2).

2316 (9)~~(8)~~ The State Fire Marshal shall develop by rule an
2317 advanced training and certification program for firesafety
2318 inspectors having fire code management responsibilities. The
2319 program must be consistent with the appropriate provisions of
2320 NFPA 1037, or similar standards adopted by the division, and

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establish minimum training, education, and experience levels for firesafety inspectors having fire code management responsibilities.

(10)~~(9)~~ The department shall provide by rule for the certification of firesafety inspectors and Fire Code Administrators.

Section 28. Section 633.085, Florida Statutes, is transferred and renumbered as section 633.218, Florida Statutes, paragraph (a) of subsection (1) and subsections (2) through (5) of that section are amended, and paragraphs (e) and (f) are added to subsection (1) of that section, to read:

633.218 ~~633.085~~ Inspections of state buildings and premises; tests of firesafety equipment; building plans to be approved.—

(1) (a) It is the duty of the State Fire Marshal and her or his agents to inspect, or cause to be inspected, each state-owned building on a recurring basis established by rule, and to ensure that high-hazard occupancies are inspected at least annually, for the purpose of ascertaining and causing to be corrected any conditions liable to cause fire or endanger life from fire and any violation of the firesafety standards for state-owned buildings, ~~the provisions of this chapter, or the rules or regulations adopted and promulgated pursuant hereto.~~ The State Fire Marshal shall, within 7 days following an inspection, submit a report of such inspection to the head of the ~~department of state~~ agency government responsible for the building.

(e) For purposes of this section:

1.a. The term "high-hazard occupancy" means any building or

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2350 structure:

2351 (I) That contains combustible or explosive matter or
2352 flammable conditions dangerous to the safety of life or
2353 property;

2354 (II) At which persons receive educational instruction;

2355 (III) At which persons reside, excluding private dwellings;
2356 or

2357 (IV) Containing three or more floor levels.

2358 b. As used in this subparagraph, the phrase "building or
2359 structure":

2360 (I) Includes, but is not limited to, all hospitals and
2361 residential health care facilities, nursing homes and other
2362 adult care facilities, correctional or detention facilities,
2363 public schools, public lodging establishments, migrant labor
2364 camps, residential child care facilities, and self-service
2365 gasoline stations.

2366 (II) Does not include any residential condominium where the
2367 declaration of condominium or the bylaws provide that the rental
2368 of units shall not be permitted for less than 90 days.

2369 2. The term "state-owned building," includes private
2370 correctional facilities as defined under s. 944.710(3) and state
2371 universities as defined under s. 1000.21(6).

2372 (f) A state-owned building or state-leased building or
2373 space shall be identified through use of the United States
2374 National Grid Coordinate System.

2375 (2) The State Fire Marshal and her or his agents ~~may~~ shall
2376 conduct performance tests on any electronic fire warning and
2377 smoke detection system, and any pressurized air-handling unit,
2378 in any state-owned building or state-leased building or space on

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a recurring basis as provided in subsection (1). The State Fire Marshal and her or his agents shall also ensure that fire drills are conducted in all high-hazard state-owned buildings or high-hazard state-leased ~~high-hazard~~ occupancies at least annually.

(3) All construction of any new state-owned building or state-leased building or space, or any renovation, alteration, or change of occupancy of any existing, state-owned building or state-leased building or space must ~~shall~~ comply with the uniform firesafety standards of the State Fire Marshal.

(a) For all new construction or renovation, alteration, or change of occupancy of state-leased space, compliance with the uniform firesafety standards shall be determined by reviewing the plans for the proposed construction or occupancy submitted by the lessor to the division ~~of State Fire Marshal~~ for review and approval before ~~prior to~~ commencement of construction or occupancy, which review shall be completed within 10 working days after receipt of the plans by the division ~~of State Fire Marshal~~.

(b) The plans for all construction of any new, or renovation or alteration of any existing, state-owned building are subject to the review and approval of the division ~~of State Fire Marshal~~ for compliance with the uniform firesafety standards before ~~prior to~~ commencement of construction or change of occupancy, which review shall be completed within 30 calendar days of receipt of the plans by the division ~~of State Fire Marshal~~.

(4) The division ~~of State Fire Marshal~~ may inspect state-owned buildings and space and state-leased buildings and space as necessary before ~~prior to~~ occupancy or during construction,

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2408 renovation, or alteration to ascertain compliance with the
2409 uniform firesafety standards. Whenever the division ~~of State~~
2410 ~~Fire Marshal~~ determines by virtue of such inspection or by
2411 review of plans that construction, renovation, or alteration of
2412 state-owned buildings and state-leased buildings or space is not
2413 in compliance with the uniform firesafety standards, the
2414 division ~~of State Fire Marshal~~ shall issue an order to cease
2415 construction, renovation, or alteration, or to preclude
2416 occupancy, of a building until compliance is obtained, except
2417 for those activities required to achieve such compliance.

2418 (5) The division ~~of State Fire Marshal~~ shall by rule
2419 provide a schedule of fees to pay for the costs of the
2420 inspections, whether recurring or high hazard, any firesafety
2421 review or plans for proposed construction, renovations, or
2422 occupancy, and related administrative expenses.

2423 Section 29. Section 633.027, Florida Statutes, is
2424 transferred and renumbered as section 633.222, Florida Statutes,
2425 and subsection (3) of that section is amended, to read:

2426 633.222 ~~633.027~~ Buildings with light-frame truss-type
2427 construction; notice requirements; enforcement.-

2428 (3) The State Fire Marshal, and local fire officials in
2429 accordance with s. 633.118 ~~633.121~~, shall enforce ~~the provisions~~
2430 ~~of~~ this section. An ~~Any~~ owner who fails to comply with the
2431 requirements of this section is subject to penalties as provided
2432 in s. 633.228 ~~633.161~~.

2433 Section 30. Section 633.60, Florida Statutes, is
2434 transferred and renumbered as section 633.224, Florida Statutes,
2435 and subsection (1) of that section is amended, to read:

2436 633.224 ~~633.60~~ Automatic fire sprinkler systems for one-

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family dwellings, two-family dwellings, and mobile homes.—

(1) It is unlawful for a ~~any~~ person to engage in the business or act in the capacity of a contractor of automatic fire sprinkler systems for one-family dwellings, two-family dwellings, and mobile homes without having been duly certified and holding a current certificate as a Contractor I, Contractor II, or Contractor IV as defined in s. 633.102 ~~633.021~~.

Section 31. Section 633.557, Florida Statutes, is transferred and renumbered as section 633.226, Florida Statutes.

Section 32. Section 633.161, Florida Statutes, is transferred and renumbered as section 633.228, Florida Statutes, and paragraphs (a) and (b) of subsection (1), paragraph (a) of subsection (2), and subsection (3) of that section are amended, to read:

633.228 ~~633.161~~ Violations; orders to cease and desist, correct hazardous conditions, preclude occupancy, or vacate; enforcement; penalties.—

(1) If it is determined by the department that a violation specified in this subsection exists, the State Fire Marshal or her or his deputy may issue and deliver to the person committing the violation an order to cease and desist from such violation, to correct any hazardous condition, to preclude occupancy of the affected building or structure, or to vacate the premises of the affected building or structure. Such violations are:

(a) Except as set forth in paragraph (b), a violation of any provision of this chapter, of any rule adopted pursuant thereto, of any applicable uniform firesafety standard adopted pursuant to s. 633.206 ~~633.022~~ which is not adequately addressed by any alternative requirements adopted on a local level, or of

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any minimum firesafety standard adopted pursuant to s. 394.879.

(b) A substantial violation of an applicable minimum firesafety standard adopted pursuant to s. 633.208 ~~633.025~~ which is not reasonably addressed by any alternative requirement imposed at the local level, or an unreasonable interpretation of an applicable minimum firesafety standard, and which violation or interpretation clearly constitutes a danger to lifesafety.

(2) (a) If, during the conduct of a firesafety inspection authorized by ss. 633.216 and 633.218 ~~633.081~~ and ~~633.085~~, it is determined that a violation described in this section exists which poses an immediate danger to the public health, safety, or welfare, the State Fire Marshal may issue an order to vacate the building in question, which order shall be immediately effective and shall be an immediate final order under s. 120.569(2)(n). With respect to a facility under the jurisdiction of a district school board or community college board of trustees, the order to vacate shall be issued jointly by the district superintendent or college president and the State Fire Marshal.

(3) A ~~Any~~ person who violates or fails to comply with any order under subsection (1) or subsection (2) commits ~~is guilty~~ ~~of~~ a misdemeanor, punishable as provided in s. 633.124 ~~633.171~~.

Section 33. The Division of Law Revision and Information is directed to create part III of chapter 633, Florida Statutes, consisting of sections 633.302, 633.304, 633.306, 633.308, 633.312, 633.314, 633.316, 633.318, 633.322, 633.324, 633.326, 633.328, 633.332, 633.334, 633.336, 633.338, 633.342, 633.344, 633.346, 633.348, and 633.3482, Florida Statutes, to be entitled "Fire Protection and Suppression."

Section 34. Section 633.511, Florida Statutes, is

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transferred, renumbered as section 633.302, Florida Statutes,
and amended to read:

633.302 ~~633.511~~ Florida Fire Safety Board; membership;
duties; meetings; officers; quorum; compensation; seal.-

(1) The Florida Fire Safety Board is created consisting of
seven members who are ~~citizens and~~ residents of this state. One
shall be the State Fire Marshal, or her or his designee
~~designated appointee~~ who shall be an administrative employee of
the marshal; one shall be an administrative officer from a
building department representing an incorporated municipality or
a county; one shall be an administrative officer from a fire
department representing an incorporated municipality or a
county; two shall be contractors licensed pursuant to s. 633.318
~~633.521~~; and two shall be persons who hold valid licenses under
s. 633.304 ~~633.061~~.

(2) (a) To be eligible for appointment, each contractor must
~~shall~~ personally hold a current certificate of competency and a
current license issued by the division ~~State Fire Marshal~~,
together with an unexpired occupational license to operate as a
contractor issued by an incorporated municipality or a county;
be actively engaged in such business and have been so engaged
for a period of not less than 5 consecutive years before the
date of her or his appointment; and be a ~~citizen and~~ resident of
the state.

(b) To be eligible for appointment, each fire equipment
dealer must ~~shall~~ personally hold a current Class A, B, or C and
Class D fire equipment dealer license issued by the division
~~State Fire Marshal~~, together with an unexpired occupational
license to operate as a fire equipment dealer issued by an

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2524 incorporated municipality or a county; must ~~shall~~ be actively
2525 engaged in such business and have been so engaged for a period
2526 of not less than 5 consecutive years before the date of
2527 appointment; and must ~~shall~~ be a ~~citizen and~~ resident of this
2528 state.

2529 (3) The State Fire Marshal's term on the board, or that of
2530 her or his designee ~~designated administrative employee~~, shall
2531 coincide with the State Fire Marshal's term of office. Of the
2532 other six members of the board, one member shall be appointed
2533 for a term of 1 year, one member for a term of 2 years, two
2534 members for terms of 3 years, and two members for terms of 4
2535 years. All terms expire on June 30 of the last year of the term.
2536 ~~When Effective July 1, 1997, as~~ the term of a each member
2537 expires, the State Fire Marshal shall appoint a member to fill
2538 the vacancy for a term of 4 years. The State Fire Marshal may
2539 remove any appointed member for cause. A vacancy in the
2540 membership of the board for any cause shall be filled by
2541 appointment by the State Fire Marshal for the balance of the
2542 unexpired term.

2543 (4) The board shall act in an advisory capacity to the
2544 State Fire Marshal and shall meet regularly as the need presents
2545 itself. The board shall have the authority to review complaints
2546 and disputed administrative action and make recommendations for
2547 disciplinary action to the division at the request of the
2548 licenseholder, permitholder, or certificateholder. The board
2549 will serve in an advisory capacity to the division regarding
2550 rules, codes, standards, interpretations, and training. As soon
2551 as practicable after July 1, 2013, the board shall meet to elect
2552 officers from its membership, whose terms shall expire on June

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30 and annually thereafter. A majority of the board shall constitute a quorum. A member of the advisory board may not be paid a salary as such member, but shall be reimbursed for necessary expenses while attending advisory board meetings, including travel in the performance of her or his duties, as provided in s. 112.061.

(5) The board shall adopt a seal for its use containing the words "Florida Fire Safety Board."

Section 35. Section 633.061, Florida Statutes, is transferred and renumbered as section 633.304, Florida Statutes, and subsections (1) through (4) and subsection (9) of that section are amended, to read:

633.304 ~~633.061~~ Fire suppression equipment; license to install or maintain.—

(1) It is unlawful for any organization or individual to engage in the business of servicing, repairing, recharging, testing, marking, inspecting, installing, or hydrotesting any fire extinguisher or preengineered system in this state except in conformity with ~~the provisions of~~ this chapter. Each organization or individual that engages in such activity must possess a valid and subsisting license issued by the division ~~State Fire Marshal~~. All fire extinguishers and preengineered systems required by statute or by rule must be serviced by an organization or individual licensed under ~~the provisions of~~ this chapter. A licensee who receives appropriate training shall not be prohibited by a manufacturer from servicing any particular brand of fire extinguisher or preengineered system. The licensee is legally qualified to act for the business organization in all matters connected with its business, and the licensee must

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2582 supervise all activities undertaken by such business
2583 organization. Each licensee shall maintain a specific business
2584 location. A further requirement, in the case of multiple
2585 locations where such servicing or recharging is taking place, is
2586 that each licensee who maintains more than one place of business
2587 where actual work is carried on must possess an additional
2588 license, as set forth in this section, for each location, except
2589 that a licensed individual may not qualify for more than five
2590 locations. A licensee is limited to a specific type of work
2591 performed depending upon the class of license held. Licenses ~~and~~
2592 ~~license fees~~ are required for the following:

2593 (a) Class A: —\$250

2594 To service, recharge, repair, install, or inspect all types of
2595 fire extinguishers and to conduct hydrostatic tests on all types
2596 of fire extinguishers.

2597 (b) Class B: —\$150

2598 To service, recharge, repair, install, or inspect all types of
2599 fire extinguishers, including recharging carbon dioxide units
2600 and conducting hydrostatic tests on all types of fire
2601 extinguishers, except carbon dioxide units.

2602 (c) Class C: —\$150

2603 To service, recharge, repair, install, or inspect all types of
2604 fire extinguishers, except recharging carbon dioxide units, and
2605 to conduct hydrostatic tests on all types of fire extinguishers,
2606 except carbon dioxide units.

2607 (d) Class D: —\$200

2608 To service, repair, recharge, hydrotest, install, or inspect all
2609 types of preengineered fire extinguishing systems.

2610 ~~(e) Licenses issued as duplicates or to reflect a change of~~

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2611 ~~address—\$10~~

2612
2613 Any fire equipment dealer licensed pursuant to this subsection
2614 who does not want to engage in the business of servicing,
2615 inspecting, recharging, repairing, hydrotesting, or installing
2616 halon equipment must file an affidavit on a form provided by the
2617 division so stating. Licenses will be issued by the division to
2618 show ~~reflect~~ the work authorized thereunder. It is unlawful,
2619 unlicensed activity for a ~~any~~ person or firm to falsely hold
2620 himself or herself or a business organization out to perform any
2621 service, inspection, recharge, repair, hydrotest, or
2622 installation except as specifically described in the license. A
2623 fire equipment dealer licensed pursuant to this subsection who
2624 wishes to withdraw a previously filed halon equipment exemption
2625 affidavit and engage in the business of servicing, inspecting,
2626 recharging, repairing, hydrotesting, or installing halon
2627 equipment must submit a written statement requesting the
2628 withdrawal to the division. The dealer must also submit to an
2629 inspection by the State Fire Marshal or her or his designee in
2630 order to determine that the dealer possesses the equipment
2631 required to service, inspect, recharge, repair, hydrotest, or
2632 install halon equipment.

2633 (2) A person who holds a valid fire equipment dealer
2634 license may maintain such license in an inactive status during
2635 which time he or she may not engage in any work under the
2636 definition of the license held. An inactive status license shall
2637 be void after 4 ~~2~~ years or when ~~at the time~~ that the license is
2638 renewed, whichever comes first. ~~The biennial renewal fee for an~~
2639 ~~inactive status license shall be \$75.~~ An inactive status license

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may not be reactivated unless the continuing education requirements of this chapter have been fulfilled.

(3) Each individual actually performing the work of servicing, recharging, repairing, hydrotesting, installing, testing, or inspecting fire extinguishers or preengineered systems must possess a valid and subsisting permit issued by the division ~~State Fire Marshal~~. Permittees are limited as to specific type of work performed to allow work no more extensive than the class of license held by the licensee under whom the permittee is working. Permits will be issued by the division ~~and the fees required are~~ as follows:

(a) Portable permit: ~~_____ \$90~~ "Portable permittee" means a person who is limited to performing work no more extensive than the employing licensee in the servicing, recharging, repairing, installing, or inspecting all types of portable fire extinguishers.

(b) Preengineered permit: ~~_____ \$120~~ "Preengineered permittee" means a person who is limited to the servicing, recharging, repairing, installing, or inspecting of all types of preengineered fire extinguishing systems.

~~(c) Permits issued as duplicates or to reflect a change of address _____ \$10~~

Any fire equipment permittee licensed pursuant to this subsection who does not want to engage in servicing, inspecting, recharging, repairing, hydrotesting, or installing halon equipment must file an affidavit on a form provided by the division so stating. Permits will be issued by the division to show ~~reflect~~ the work authorized thereunder. It is unlawful,

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unlicensed activity for a ~~any~~ person or firm to falsely hold himself or herself out to perform any service, inspection, recharge, repair, hydrotest, or installation except as specifically described in the permit.

(4) (a) Such licenses and permits shall be issued by the division ~~State Fire Marshal~~ for 2 years beginning January 1, 2000, and each 2-year period thereafter and expiring December 31 of the second year. All licenses or permits issued will expire on December 31 of each odd-numbered year. The failure to renew a license or permit by December 31 of the second year will cause the license or permit to become inoperative. The holder of an inoperative license or permit may ~~shall~~ not engage in any activities for which a license or permit is required by this section. A license or permit which is inoperative because of the failure to renew it shall be restored upon payment of the applicable fee plus a penalty equal to the applicable fee, if the application for renewal is filed no later than the following March 31. If the application for restoration is not made before the March 31st deadline, the fee for restoration shall be equal to the original application fee and the penalty provided for herein, and, in addition, the State Fire Marshal shall require reexamination of the applicant. The fee for a license or permit issued for 1 year or less shall be prorated at 50 percent of the applicable fee for a biennial license or permit.

(b) After initial licensure, each licensee or permittee must successfully complete a course or courses of continuing education for fire equipment technicians of at least 16 hours. A license or permit may not be renewed unless the licensee or permittee produces documentation of the completion of at least

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16 hours of continuing education for fire equipment technicians during the biennial licensure period. A person who is both a licensee and a permittee shall be required to complete 16 hours of continuing education during each renewal period. Each licensee shall ensure that all permittees in his or her employment meet their continuing education requirements. The State Fire Marshal shall adopt rules describing the continuing education requirements and shall have the authority upon reasonable belief, to audit a fire equipment dealer to determine compliance with continuing education requirements.

(c) ~~(b)~~ The forms of such licenses and permits and applications therefor shall be prescribed by the State Fire Marshal; in addition to such other information and data as that officer determines is appropriate and required for such forms, there shall be included in such forms the following matters. Each such application must ~~shall~~ be in such form as to provide that the data and other information set forth therein shall be sworn to by the applicant or, if a corporation, by an officer thereof. An application for a permit must ~~shall~~ include the name of the licensee employing such permittee, and the permit issued in pursuance of such application must ~~shall~~ also set forth the name of such licensee. A permit is valid solely for use by the holder thereof in his or her employment by the licensee named in the permit.

(d) ~~(e)~~ A license of any class may ~~shall~~ not be issued or renewed by the division ~~State Fire Marshal~~ and a license of any class does ~~shall~~ not remain operative unless:

1. The applicant has submitted to the State Fire Marshal evidence of registration as a Florida corporation or evidence of

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2727 compliance with s. 865.09.

2728 2. The State Fire Marshal or his or her designee has by
2729 inspection determined that the applicant possesses the equipment
2730 required for the class of license sought. The State Fire Marshal
2731 shall give an applicant a reasonable opportunity to correct any
2732 deficiencies discovered by inspection. To obtain such
2733 inspection, an applicant with facilities located outside this
2734 state must:

2735 a. Provide a notarized statement from a professional
2736 engineer licensed by the applicant's state of domicile
2737 certifying that the applicant possesses the equipment required
2738 for the class of license sought and that all such equipment is
2739 operable; or

2740 b. Allow the State Fire Marshal or her or his designee to
2741 inspect the facility. All costs associated with the State Fire
2742 Marshal's inspection shall be paid by the applicant. The State
2743 Fire Marshal, in accordance with s. 120.54, may adopt rules to
2744 establish standards for the calculation and establishment of the
2745 amount of costs associated with any inspection conducted by the
2746 State Fire Marshal under this section. Such rules shall include
2747 procedures for invoicing and receiving funds in advance of the
2748 inspection ~~A fee of \$50, payable to the State Fire Marshal,~~
2749 ~~shall be required for any subsequent reinspection.~~

2750 3. The applicant has submitted to the State Fire Marshal
2751 proof of insurance providing coverage for comprehensive general
2752 liability for bodily injury and property damage, products
2753 liability, completed operations, and contractual liability. The
2754 State Fire Marshal shall adopt rules providing for the amounts
2755 of such coverage, but such amounts shall not be less than

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2756 \$300,000 for Class A or Class D licenses, \$200,000 for Class B
2757 licenses, and \$100,000 for Class C licenses; and the total
2758 coverage for any class of license held in conjunction with a
2759 Class D license may ~~shall~~ not be less than \$300,000. The State
2760 Fire Marshal may, at any time after the issuance of a license or
2761 its renewal, require upon demand, and in no event more than 30
2762 days after notice of such demand, the licensee to provide proof
2763 of insurance, on a form provided by the State Fire Marshal,
2764 containing confirmation of insurance coverage as required by
2765 this chapter. Failure, for any length of time, to provide proof
2766 of insurance coverage as required shall result in the immediate
2767 suspension of the license until proof of proper insurance is
2768 provided to the State Fire Marshal. An insurer which provides
2769 such coverage shall notify the State Fire Marshal of any change
2770 in coverage or of any termination, cancellation, or nonrenewal
2771 of any coverage.

2772 4. The applicant applies to the State Fire Marshal,
2773 provides proof of experience, and successfully completes a
2774 prescribed training course offered by the State Fire College or
2775 an equivalent course approved by the State Fire Marshal. This
2776 subparagraph does not apply to any holder of or applicant for a
2777 permit under paragraph (g) ~~(f)~~ or to a business organization or
2778 a governmental entity seeking initial licensure or renewal of an
2779 existing license solely for the purpose of inspecting,
2780 servicing, repairing, marking, recharging, and maintaining fire
2781 extinguishers used and located on the premises of and owned by
2782 such organization or entity.

2783 5. The applicant has a current retestor identification
2784 number that is appropriate for the license for which the

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applicant is applying and that is listed with the United States Department of Transportation.

6. The applicant has passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing ~~regulating~~ the activities authorized by the license and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination shall be developed and administered by the State Fire Marshal, or his or her designee in accordance with policies and procedures of the State Fire Marshal. An applicant shall pay a nonrefundable examination fee of \$50 for each examination or reexamination scheduled. A ~~No~~ reexamination may not ~~shall~~ be scheduled sooner than 30 days after any administration of an examination to an applicant. An ~~No~~ applicant may not ~~shall~~ be permitted to take an examination for any level of license more than a total of four times during 1 year, regardless of the number of applications submitted. As a prerequisite to licensure of the applicant, he or she:

a. Must be at least 18 years of age.

b. Must have 4 years of proven experience as a fire equipment permittee at a level equal to or greater than the level of license applied for or have a combination of education and experience determined to be equivalent thereto by the State Fire Marshal. Having held a permit at the appropriate level for the required period constitutes the required experience.

c. Must not have been convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof or under the law of any other country, ~~or pled nolo contendere to, any felony.~~

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2814 "Convicted" means a finding of guilt or the acceptance of a plea
2815 of guilty or nolo contendere in any federal or state court or a
2816 court in any other country, without regard to whether a judgment
2817 of conviction has been entered by the court having jurisdiction
2818 of the case. If an applicant has been convicted of any such
2819 felony, the applicant shall be excluded from licensure for a
2820 period of 4 years after expiration of sentence or final release
2821 by the Parole Commission unless the applicant, before the
2822 expiration of the 4-year period, has received a full pardon or
2823 has had her or his civil rights restored ~~must comply with s.~~
2824 ~~112.011(1)(b).~~

2825
2826 This subparagraph does not apply to any holder of or applicant
2827 for a permit under paragraph (g) ~~(f)~~ or to a business
2828 organization or a governmental entity seeking initial licensure
2829 or renewal of an existing license solely for the purpose of
2830 inspecting, servicing, repairing, marking, recharging,
2831 hydrotesting, and maintaining fire extinguishers used and
2832 located on the premises of and owned by such organization or
2833 entity.

2834 ~~(d) An applicant who fails the examination may take it~~
2835 ~~three more times during the 1-year period after he or she~~
2836 ~~originally filed an application for the examination. If the~~
2837 ~~applicant fails the examination within 1 year after the~~
2838 ~~application date and seeks to retake the examination, he or she~~
2839 ~~must file a new application, pay the application and examination~~
2840 ~~fees, and successfully complete a prescribed training course~~
2841 ~~approved by the State Fire College or an equivalent course~~
2842 ~~approved by the State Fire Marshal. An applicant may not submit~~

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2843 ~~a new application within 6 months after the date of his or her~~
2844 ~~last reexamination.~~

2845 (e) A fire equipment dealer licensed under this section may
2846 apply to convert ~~upgrade~~ the license currently held to a higher
2847 licensing category, if the licensed dealer:

2848 1. Submits an application for the license on a form in
2849 conformance with paragraph (c) ~~(b)~~. The application must be
2850 accompanied by a fee as prescribed in s. 633.132 ~~subsection (1)~~
2851 for the type of license requested.

2852 2. Provides evidence of 2 years' experience as a licensed
2853 dealer and meets such relevant educational requirements as are
2854 established by rule by the State Fire Marshal for purposes of
2855 upgrading a license.

2856 3. Meets the requirements of paragraph (d) ~~(e)~~.

2857 (f) A fire equipment dealer licensed under this section may
2858 apply to convert the license currently held to a lower licensing
2859 category, if the licensed dealer:

2860 1. Submits an application for the license on a form in
2861 conformance with paragraph (c). The application must be
2862 accompanied by a fee as prescribed in s. 633.132 for the type of
2863 license requested.

2864 2. Submits proof of insurance providing coverage meeting
2865 the requirements prescribed in subparagraph (d)3.

2866 3. Submits to an inspection of the facility to ensure all
2867 equipment associated with the higher class of license has been
2868 removed and submits the required reinspection fee.

2869 (g) A ~~No~~ permit of any class may not ~~shall~~ be issued or
2870 renewed to a person by the division ~~State Fire Marshal~~, and a ~~no~~
2871 permit of any class does not ~~shall~~ remain operative, unless the

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person has:

1. Submitted a nonrefundable examination fee in the amount of \$50.~~+~~

2. Successfully completed a training course offered by the State Fire College or an equivalent course approved by the State Fire Marshal.~~+~~ ~~and~~

3. Passed, with a grade of at least 70 percent, a written examination testing his or her knowledge of the rules and statutes governing ~~regulating~~ the activities authorized by the permit and demonstrating his or her knowledge and ability to perform those tasks in a competent, lawful, and safe manner. Such examination must ~~shall~~ be developed and administered by the State Fire Marshal in accordance with the policies and procedures of the State Fire Marshal. An examination fee must ~~shall~~ be paid for each examination scheduled. A ~~No~~ reexamination may not ~~shall~~ be scheduled sooner than 30 days after any administration of an examination to an applicant. An ~~No~~ applicant may not ~~shall~~ be permitted to take an examination for any level of permit more than four times during 1 year, regardless of the number of applications submitted. As a prerequisite to taking the permit examination, the applicant must be at least 16 years of age.

(h) ~~(g)~~ An applicant for a license or permit under this section who fails the examination may take it three more times during the 1-year period after he or she originally filed an application for the examination. If the applicant fails the examination within 1 year after the application date and he or she seeks to retake the examination, he or she must file a new application, pay the application and examination fees, and

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2901 successfully complete a prescribed training course offered by
2902 the State Fire College or an equivalent course approved by the
2903 State Fire Marshal. The applicant may not submit a new
2904 application within 6 months after the date of his or her fourth
2905 ~~last~~ reexamination. An applicant who passes the examination but
2906 does not meet the remaining qualifications prescribed by law and
2907 rule within 1 year after the application date must file a new
2908 application, pay the application and examination fee,
2909 successfully complete a prescribed training course approved by
2910 the State Fire College or an equivalent course approved by the
2911 State Fire Marshal, and pass the written examination.

2912 (9) ~~The provisions of This section does chapter do~~ not
2913 apply to inspections by fire chiefs, fire inspectors, fire
2914 marshals, or insurance company inspectors.

2915 Section 36. Section 633.065, Florida Statutes, is
2916 transferred and renumbered as section 633.306, Florida Statutes,
2917 and paragraph (a) of subsection (1) of that section is amended,
2918 to read:

2919 633.306 ~~633.065~~ Requirements for installation, inspection,
2920 and maintenance of fire suppression equipment.—

2921 (1) The requirements for installation of fire extinguishers
2922 and preengineered systems are as follows:

2923 (a) Fire equipment dealers shall be licensed under s.
2924 633.304 ~~633.061~~.

2925 Section 37. Section 633.071, Florida Statutes, is
2926 transferred and renumbered as section 633.308, Florida Statutes,
2927 and subsection (2) of that section is amended, to read:

2928 633.308 ~~633.071~~ Standard service tag required on all fire
2929 extinguishers and preengineered systems; serial number required

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on all portable fire extinguishers; standard inspection tags required on all fire protection systems.—

(2) All portable fire extinguishers required by statute or by rule must ~~shall~~ be listed by Underwriters Laboratories, Inc., or approved by Factory Mutual Laboratories, Inc., or listed by a nationally recognized testing laboratory in accordance with procedures adopted pursuant to s. 633.314(2) ~~633.083(2)~~, and carry an Underwriters Laboratories, Inc., or manufacturer's serial number. These listings, approvals, and serial numbers may be stamped on the manufacturer's identification and instructions plate or on a separate Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc., plate soldered or attached to the extinguisher shell in some permanent manner.

Section 38. Section 633.082, Florida Statutes, is transferred and renumbered as section 633.312, Florida Statutes, and subsections (2) and (3) of that section are amended, to read:

633.312 ~~633.082~~ Inspection of fire control systems, fire hydrants, and fire protection systems.—

(2) Fire hydrants and fire protection systems installed in public and private properties, except one-family or two-family dwellings, shall be inspected following procedures established in the nationally recognized inspection, testing, and maintenance standards publications NFPA-24 and NFPA-25 as set forth in the edition adopted by the State Fire Marshal. Quarterly, annual, 3-year, and 5-year inspections consistent with the contractual provisions with the owner shall be conducted by the certificateholder or permittees employed by the certificateholder pursuant to s. 633.318 ~~633.521~~, except that:

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(a) Public fire hydrants owned by a governmental entity shall be inspected following procedures established in the inspection, testing, and maintenance standards adopted by the State Fire Marshal or equivalent standards such as those contained in the latest edition of the American Water Works Association's Manual M17, "Installation, Field Testing, and Maintenance of Fire Hydrants."

(b) County, municipal, and special district utilities may perform fire hydrant inspections required by this section using designated employees. Such designated employees need not be certified under this chapter. However, counties, municipalities, or special districts that use designated employees are responsible for ensuring that the designated employees are qualified to perform such inspections.

(3) The inspecting contractor shall provide to the building owner or hydrant owner and the local authority having jurisdiction a copy of the applicable inspection report established under this chapter. The maintenance of fire hydrant and fire protection systems as well as corrective actions on deficient systems is the responsibility of the owner of the system or hydrant. Equipment requiring periodic testing or operation to ensure its maintenance shall be tested or operated as specified in the Fire Prevention Code, Life Safety Code, National Fire Protection Association standards, or as directed by the appropriate authority ~~agency having jurisdiction~~, provided that such appropriate authority may ~~agency shall~~ not require a sprinkler system not required by the Fire Prevention Code, Life Safety Code, or National Fire Protection Association standards to be removed regardless of its condition. This

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section does not prohibit governmental entities from inspecting and enforcing firesafety codes.

Section 39. Section 633.083, Florida Statutes, is transferred and renumbered as section 633.314, Florida Statutes, and subsection (3) of that section is amended, to read:

633.314 ~~633.083~~ Sale or use of certain types of fire extinguishers prohibited; penalty.—

(3) A person who violates ~~any of the provisions of this section commits is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 40. Section 633.162, Florida Statutes, is transferred and renumbered as section 633.316, Florida Statutes, and subsection (1) and paragraph (e) of subsection (4) of that section are amended, to read:

633.316 ~~633.162~~ Fire suppression system contractors; disciplinary action.—

(1) The violation of any provision of this chapter or any rule adopted and adopted ~~promulgated~~ pursuant hereto or the failure or refusal to comply with any notice or order to correct a violation or any cease and desist order by a ~~any~~ person who possesses a license or permit issued pursuant to s. 633.304 ~~633.061~~ is cause for denial, nonrenewal, revocation, or suspension of such license or permit by the State Fire Marshal after such officer has determined that the person committed ~~is guilty of~~ such violation. An order of suspension must ~~shall~~ state the period ~~of time~~ of such suspension, which period may not be in excess of 2 years from the date of such order. An order of revocation may be entered for a period not exceeding 5 years. Such orders shall effect suspension or revocation of all

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3017 licenses or permits issued by the division to ~~then held by~~ the
3018 person, and during such period ~~a of time no~~ license or permit
3019 may not ~~shall~~ be issued by the division to such person. During
3020 the suspension or revocation of any license or permit, the
3021 former licensee or permittee may ~~shall~~ not engage in or attempt
3022 or profess to engage in any transaction or business for which a
3023 license or permit is required under this chapter or directly or
3024 indirectly own, control, or be employed in any manner by any
3025 firm, business, or corporation for which a license or permit
3026 under this chapter is required. If, during the period between
3027 the beginning of proceedings and the entry of an order of
3028 suspension or revocation by the State Fire Marshal, a new
3029 license or permit has been issued by the division to the person
3030 so charged, the order of suspension or revocation shall operate
3031 to suspend or revoke such new license or permit held by such
3032 person.

3033 (4) In addition to the grounds set forth in subsection (1),
3034 it is cause for denial, nonrenewal, revocation, or suspension of
3035 a license or permit by the State Fire Marshal if she or he
3036 determines that the licensee or permittee has:

3037 (e) Failed to provide proof of insurance to the State Fire
3038 Marshal or failed to maintain in force the insurance coverage
3039 required by s. 633.304 ~~633.061~~.

3040 Section 41. Section 633.521, Florida Statutes, is
3041 transferred and renumbered as section 633.318, Florida Statutes,
3042 and subsection (1), paragraph (a) of subsection (2), paragraphs
3043 (c) and (g) of subsection (3), and subsections (4), (8), and
3044 (11) of that section are amended, to read:

3045 633.318 ~~633.521~~ Certificate application and issuance;

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3046 permit issuance; examination and investigation of applicant.—

3047 (1) To obtain a fire protection system contractor's
3048 certificate, an applicant shall submit to the division State
3049 ~~Fire Marshal~~ an application in writing, on a form provided by
3050 the division State Fire Marshal containing the information
3051 prescribed, which shall be accompanied by the fee fixed herein,
3052 containing a statement that the applicant desires the issuance
3053 of a certificate and stating the class of certificate requested.

3054 (2) (a) Examinations shall be administered by the division
3055 ~~State Fire Marshal~~ and held at times and places within the state
3056 as the division State Fire Marshal determines, but there shall
3057 be at least two examinations a year. Each applicant shall take
3058 and pass an objective, written examination of her or his fitness
3059 for a certificate in the class for which the application is
3060 requested. There shall be a type of examination for each class
3061 of certificate for contractors as ~~of the classes of certificates~~
3062 defined in s. 633.102 ~~633.021(5)~~. The examination must ~~shall~~
3063 test the applicant's ability to lay out, fabricate, install,
3064 alter, repair, and inspect fire protection systems and their
3065 appurtenances and must ~~shall~~ test the applicant's fitness in
3066 business and financial management. The test must ~~shall~~ be based
3067 on applicable standards of the National Fire Protection
3068 Association and on relevant Florida and federal laws pertaining
3069 to the construction industry, safety standards, administrative
3070 procedures, and pertinent technical data.

3071 (3)

3072 (c) Required education and experience for certification as
3073 a Contractor I, Contractor II, Contractor III, or Contractor IV
3074 includes training and experience in both installation and system

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layout as defined in s. 633.102 ~~633.021~~.

(g) Within 30 days after the date of the examination, the division ~~State Fire Marshal~~ shall inform the applicant in writing whether she or he has qualified or not and, if the applicant has qualified, that she or he is eligible ~~ready~~ to be issued ~~issue~~ a certificate of competency, subject to compliance with the requirements of subsection (4).

(4) As a prerequisite to issuance of a certificate, the division must ~~State Fire Marshal shall~~ require the applicant to submit satisfactory evidence that she or he has obtained insurance providing coverage for comprehensive general liability for bodily injury and property damages, products liability, completed operations, and contractual liability. The division ~~State Fire Marshal~~ may adopt rules providing for the amount of insurance, but such amount shall not be less than \$500,000 for a Contractor I, Contractor II, Contractor III, or Contractor V and shall not be less than \$250,000 for a Contractor IV. An insurer which provides such coverage shall notify ~~within 30 days~~ the division within 30 days ~~State Fire Marshal~~ of any material change in coverage or any termination, cancellation, or nonrenewal of such coverage. An insurer which fails to so notify the division ~~State Fire Marshal's office~~ shall be subject to the penalties provided under s. 624.4211.

(8) An individual employed by a Contractor I or Contractor II certificateholder, as established in this section, who will be inspecting water-based fire protection systems as required under s. 633.312 ~~633.082~~, must be issued a permit by the division ~~State Fire Marshal~~ to conduct such work. The permit is valid solely for use by the holder thereof in his or her

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3104 employment by the certificateholder named in the permit. A
3105 permittee must have a valid and subsisting permit upon his or
3106 her person at all times while engaging in inspecting fire
3107 protection systems, and a permitholder must be able to produce
3108 such a permit upon demand. In addition, a permittee shall, at
3109 all times while performing inspections, carry an identification
3110 card containing his or her photograph and other identifying
3111 information as prescribed by the State Fire Marshal, and the
3112 permittee must produce the identification card and information
3113 upon demand. The permit and the identification may be one and
3114 the same. A permittee is limited as to the specific type of work
3115 performed, depending upon the class of certificate held by the
3116 certificateholder under whom the permittee is working. The
3117 permit class shall be known as a Water-Based Fire Protection
3118 Inspector whose permit allows the holder to inspect water
3119 sprinkler systems, water spray systems, foam-water sprinkler
3120 systems, foam-water spray systems, standpipes, combination
3121 standpipes and sprinkler systems, all piping that is an integral
3122 part of the system beginning at the point where the piping is
3123 used exclusively for fire protection, sprinkler tank heaters,
3124 air lines, thermal systems used in connection with sprinklers,
3125 and tanks and pumps connected thereto, excluding preengineered
3126 systems.

3127 (11) It is intended that a certificateholder, or a
3128 permitholder who is employed by a certificateholder, conduct
3129 inspections required by this chapter. It is understood that
3130 after July 1, 2008, employee turnover may result in a depletion
3131 of personnel who are certified under the NICET Sub-field of
3132 Inspection and Testing of Fire Protection Systems Level II or

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3133 equivalent training and education as required by the division ~~of~~
3134 ~~State Fire Marshal~~. A certificateholder may obtain a provisional
3135 permit with an endorsement for inspection, testing, and
3136 maintenance of water-based fire extinguishing systems for an
3137 employee if the employee has initiated procedures for obtaining
3138 Level II certification from the National Institute for
3139 Certification in Engineering Technologies Sub-field of
3140 Inspection and Testing of Fire Protection Systems and achieved
3141 Level I certification or an equivalent level as determined by
3142 the State Fire Marshal through verification of experience,
3143 training, and examination. The division ~~State Fire Marshal~~ may
3144 establish rules to administer this subsection. After 2 years of
3145 provisional certification, the employee must have achieved NICET
3146 Level II certification or obtain equivalent training and
3147 education as determined by the division, or cease performing
3148 inspections requiring Level II certification. The provisional
3149 permit is valid only for the 2 calendar years after the date of
3150 issuance, may not be extended, and is not renewable. After the
3151 initial 2-year provisional permit expires, the certificateholder
3152 must wait 2 additional years before a new provisional permit may
3153 be issued. The intent is to prohibit the certificateholder from
3154 using employees who never reach NICET Level II status, or
3155 equivalent training and education as determined by the division,
3156 by continuously obtaining provisional permits.

3157 Section 42. Section 633.551, Florida Statutes, is
3158 transferred and renumbered as section 633.322, Florida Statutes,
3159 and subsections (1) through (3) of that section are amended, to
3160 read:

3161 633.322 ~~633.551~~ County, ~~and~~ municipal, and special district

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3162 powers; effect of ch. 75-240.—

3163 (1) ~~Nothing in~~ This chapter does not limit ~~act limits~~ the
3164 power of a municipality, ~~or~~ county, or special district to
3165 regulate the quality and character of work performed by
3166 contractors through a system of permits, fees, and inspections
3167 which are designed to secure compliance with, and aid in the
3168 implementation of, state and local building laws or to enforce
3169 other local laws for the protection of the public health and
3170 safety.

3171 (2) ~~Nothing in~~ This chapter does not limit ~~act limits~~ the
3172 power of a municipality, ~~or~~ county, or special district to adopt
3173 any system of permits requiring submission to and approval by
3174 the municipality, ~~or~~ county, or special district of plans and
3175 specifications for work to be performed by contractors before
3176 commencement of the work, except that a ~~no~~ municipality, or
3177 county, or special district may not ~~shall~~ require a fire
3178 protection system contractor's shop drawings to be sealed by a
3179 professional engineer.

3180 (3) An ~~Any~~ official authorized to issue building or other
3181 related permits shall ascertain that the applicant contractor is
3182 duly certified before issuing the permit. The evidence shall
3183 consist only of the exhibition to him or her of ~~current~~ evidence
3184 of current certification.

3185 Section 43. Section 633.527, Florida Statutes, is
3186 transferred and renumbered as section 633.324, Florida Statutes.

3187 Section 44. Section 633.531, Florida Statutes, is
3188 transferred and renumbered as section 633.326, Florida Statutes.

3189 Section 45. Section 633.534, Florida Statutes, is
3190 transferred and renumbered as section 633.328, Florida Statutes,

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and subsection (4) of that section is amended, to read:

633.328 ~~633.534~~ Issuance of certificate to individuals and business organizations.—

(4) ~~If~~ When the certified business organization makes application for an occupational license in any municipality or county of this state, the application must ~~shall~~ be made with the tax collector in the name of the business organization, and the license, when issued, shall be issued to the business organization upon payment of the appropriate licensing fee and exhibition to the tax collector of a valid certificate issued by the division ~~State Fire Marshal~~.

Section 46. Section 633.537, Florida Statutes, is transferred and renumbered as section 633.332, Florida Statutes, and subsections (1) and (2) and paragraph (a) of subsection (3) of that section are amended, to read:

633.332 ~~633.537~~ Certificate; expiration; renewal; inactive certificate; continuing education.—

(1) Certificates shall expire every 2 years at midnight on June 30. ~~Effective with the June 30, 1998, renewal,~~ All certificates must be renewed every 2 years. The failure to renew a certificate before ~~during~~ June 30, shall cause the certificate to become inoperative, and it is unlawful thereafter for a ~~any~~ person to engage, offer to engage, or hold herself or himself out as engaging in contracting under the certificate unless the certificate is restored or reissued. A certificate which is inoperative because of failure to renew shall be restored on payment of the proper renewal fee if the application for restoration is made within 90 days after June 30. If the application for restoration is not made within the 90-day

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period, the fee for restoration must ~~shall~~ be equal to the original application fee, and, in addition, the State Fire Marshal must ~~shall~~ require examination or reexamination of the applicant.

(2) A person who holds a valid certificate may maintain such certificate in an inactive status during which time she or he may not engage in contracting. An inactive status certificate shall be void after a 2-year period. ~~The biennial renewal fee for an inactive status certificate shall be \$75.~~ An inactive status certificate may be reactivated upon application to the State Fire Marshal and payment of the initial application fee.

(3) (a) A certificate for the Contractor I, II, and III classifications as defined in this chapter may ~~shall~~ not be renewed unless the certificateholder produces documentation of at least 32 contact hours of continuing education in the fire protection discipline during the biennial licensure period. Holders of Contractor IV certificates are required to obtain 14 contact hours of continuing education encompassing the appropriate National Fire Protection Association fire sprinkler documents before ~~prior to~~ renewal. Holders of Contractor V certificates are required to obtain 14 contact hours of continuing education before ~~prior to~~ renewal, at least 1 hour of which is in the fire protection discipline. Any continuing education hours approved pursuant to chapter 489 by the Construction Industry Licensing Board for underground utility and excavation contractors shall be considered as also approved to comply with Contractor V continuing education requirements. A Contractor V certificateholder shall provide to the State Fire Marshal evidence of approval of such coursework by the

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Construction Industry Licensing Board.

Section 47. Section 633.539, Florida Statutes, is transferred and renumbered as section 633.334, Florida Statutes, and paragraph (a) of subsection (1) and subsections (2) and (4) of that section are amended, to read:

633.334 ~~633.539~~ Requirements for installation, inspection, and maintenance of fire protection systems.—

(1) The requirements for installation of fire protection systems are as follows:

(a) Contractors of fire protection systems shall be certified under s. 633.318 ~~633.521~~.

(2) Equipment shall be inspected, serviced, and maintained in accordance with the manufacturer's maintenance procedures and with applicable National Fire Protection Association standards. The inspection of fire protection systems shall be conducted by a certificateholder or holder of a permit issued by the division ~~State Fire Marshal~~. The permitholder may perform inspections on fire protection systems only while employed by the certificateholder. This section does not prohibit the authority having jurisdiction or insurance company representatives from reviewing the system in accordance with acceptable oversight standards.

(4) The Contractor V may install the cross-connection backflow prevention device as defined in this chapter on new installations following the engineer of record's direction on the type and size of the device. The retrofitting of a backflow device on an existing fire protection system will cause a reduction in available water pressure and probable system malfunction. The development of aboveground fire protection

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system hydraulic calculations is a task of the Contractor I and II, as defined in this chapter. Accordingly, a Contractor V is expressly prohibited from retrofitting cross-connection backflow prevention devices on an existing fire protection system, and only a Contractor I or Contractor II who is tasked to recalculate the system and take corrective actions to ensure that the system will function with the available water supply may retroactively install these backflow devices on existing fire protection systems.

Section 48. Section 633.541, Florida Statutes, is transferred and renumbered as section 633.336, Florida Statutes, and subsections (1), (3), and (4) of that section are amended, to read:

633.336 ~~633.541~~ Contracting without certificate prohibited; violations; penalty.—

(1) It is unlawful for any organization or individual to engage in the business of layout, fabrication, installation, inspection, alteration, repair, or service of a fire protection system, other than a preengineered system, act in the capacity of a fire protection contractor, or advertise itself as being a fire protection contractor without having been duly certified and holding a valid and existing certificate, except as hereinafter provided. The holder of a certificate used to qualify an organization must be a full-time employee of the qualified organization or business. A certificateholder who is employed by more than one fire protection contractor during the same ~~period of~~ time is deemed not to be a full-time employee of either contractor. The State Fire Marshal shall revoke, for a period ~~of time~~ determined by the State Fire Marshal, the

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3307 certificate of a certificateholder who allows the use of the
3308 certificate to qualify a company of which the certificateholder
3309 is not a full-time employee. A contractor who maintains more
3310 than one place of business must employ a certificateholder at
3311 each location. ~~Nothing in~~ This subsection does not prohibit
3312 ~~prohibits~~ an employee acting on behalf of governmental entities
3313 from inspecting and enforcing firesafety codes, provided such
3314 employee is certified under s. 633.216 ~~633.081~~.

3315 (3) ~~A Any~~ person who violates any provision of this act or
3316 commits any of the acts constituting cause for disciplinary
3317 action as herein set forth commits ~~is guilty of~~ a misdemeanor of
3318 the second degree, punishable as provided in s. 775.082 or s.
3319 775.083.

3320 (4) In addition to the penalties provided in subsection
3321 (3), a fire protection contractor certified under this chapter
3322 who violates any provision of this section or who commits any
3323 act constituting cause for disciplinary action is subject to
3324 suspension or revocation of the certificate and administrative
3325 fines pursuant to s. 633.338 ~~633.547~~.

3326 Section 49. Section 633.547, Florida Statutes, is
3327 transferred and renumbered as section 633.338, Florida Statutes,
3328 and paragraphs (d) and (h) of subsection (2) and subsection (3)
3329 of that section are amended, to read:

3330 633.338 ~~633.547~~ Disciplinary action; fire protection system
3331 contractors; grounds for denial, nonrenewal, suspension, or
3332 revocation of certificate or permit.—

3333 (2) The following acts constitute cause for disciplinary
3334 action:

3335 (d) Disciplinary action by any municipality, ~~or~~ county, or

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3336 special district, which action shall be reviewed by the State
3337 Fire Marshal before taking any disciplinary action.

3338 (h) Failing to provide proof of insurance to the State Fire
3339 Marshal or failing to maintain in force the insurance coverage
3340 required by s. 633.318 ~~633.521~~.

3341 (3) The State Fire Marshal ~~is authorized to take the~~
3342 ~~following disciplinary action:~~

3343 ~~(a) She or he may suspend the contractor's certificate~~
3344 ~~certificateholder for a period of up to not to exceed 2 years.~~
3345 During that period, the contractor must cease all operations as
3346 a contractor, but the State Fire Marshal may authorize the
3347 certificateholder from all operations as a contractor during the
3348 period fixed by the State Fire Marshal, but she or he may permit
3349 the certificateholder to complete any contracts then incomplete.

3350 ~~(b) She or he may revoke a certificate for a period not to~~
3351 ~~exceed 5 years.~~

3352 Section 50. Section 633.549, Florida Statutes, is
3353 transferred, renumbered as section 633.342, Florida Statutes,
3354 and amended to read:

3355 633.342 ~~633.549~~ Violations subject to injunction.—A ~~Any~~
3356 person who operates as a contractor without a current
3357 certificate or who violates any part of this chapter or any
3358 rule, decision, order, direction, demand, or requirement of the
3359 State Fire Marshal in relation thereto, or any part or provision
3360 thereof, may be enjoined by the courts of the state from any
3361 such violation or such unauthorized or unlawful contracting at
3362 the request ~~instance~~ of the State Fire Marshal, the board, or
3363 any resident ~~citizen~~ or taxpayer of the state.

3364 Section 51. Section 633.554, Florida Statutes, is

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transferred and renumbered as section 633.344, Florida Statutes.

Section 52. Section 633.70, Florida Statutes, is transferred and renumbered as section 633.346, Florida Statutes, and subsection (1) of that section is amended, to read:

633.346 ~~633.70~~ Jurisdiction of State Fire Marshal over alarm system contractors and certified unlimited electrical contractors.—

(1) ~~If~~ When the State Fire Marshal, in the course of its activities pursuant to s. 633.104(2) ~~633.01(2)~~, determines that an alarm system contractor or a certified unlimited electrical contractor working with an alarm system has violated any provision of this chapter or the rules of the State Fire Marshal, the State Fire Marshal shall have jurisdiction, notwithstanding any other provision of this chapter, to order corrective action by the alarm system contractor or the certified unlimited electrical contractor to bring the alarm system into compliance with applicable standards set forth in this chapter and the rules of the State Fire Marshal.

Section 53. Section 633.701, Florida Statutes, is transferred and renumbered as section 633.348, Florida Statutes.

Section 54. Section 633.702, Florida Statutes, is transferred and renumbered as section 633.3482, Florida Statutes, and subsection (2) and paragraph (c) of subsection (3) of that section are amended, to read:

633.3482 ~~633.702~~ Prohibited acts regarding alarm system contractors or certified unlimited electrical contractors; penalties.—

(2) A ~~Any~~ person who violates this section commits ~~is~~ ~~guilty of~~ a misdemeanor of the second degree, punishable as

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provided in s. 775.082 or s. 775.083.

(3) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any fire alarm system contractor or certified unlimited electrical contractor to intentionally or willfully:

(c) Knowingly combine ~~combining~~ or conspire ~~conspiring~~ with a ~~any~~ person by allowing one's certificate to be used by an ~~any~~ uncertified person with intent to evade ~~the provisions of this~~ act. When a licensee allows his or her license to be used by one or more companies without having any active participation in the operation or management of ~~the said~~ companies, such act constitutes prima facie evidence of any intent to evade ~~the provisions of this chapter act~~.

Section 55. The Division of Law Revision and Information is directed to create part IV of chapter 633, Florida Statutes, consisting of sections 633.402, 633.404, 633.406, 633.408, 633.412, 633.414, 633.416, 633.418, 633.422, 633.424, 633.426, 633.428, 633.432, 633.434, 633.436, 633.438, 633.442, 633.444, and 633.446, Florida Statutes, to be entitled "Fire Standards and Training."

Section 56. Section 633.31, Florida Statutes, is transferred and renumbered as section 633.402, Florida Statutes, subsection (1) of that section is amended, and new subsections (5) through (9) are added to that section, to read:

633.402 ~~633.31~~ Firefighters Employment, Standards, and Training Council; organization; meetings; quorum; compensation; seal; special powers; firefighter training.-

(1) There is created within the department a Firefighters Employment, Standards, and Training Council of 14 ~~13~~ members.

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(a) The members shall be appointed as follows:

1. Two ~~members shall be~~ fire chiefs appointed by the Florida Fire Chiefs Association.

2. Two ~~members shall be~~ firefighters, who are not officers, appointed by the Florida Professional Firefighters Association.

3. Two ~~members shall be~~ firefighter officers, who are not fire chiefs, appointed by the State Fire Marshal.

4. One individual ~~member~~ appointed by the Florida League of Cities.

5. One individual ~~member~~ appointed by the Florida Association of Counties.

6. One individual ~~member~~ appointed by the Florida Association of Special Districts.

7. One individual ~~member~~ appointed by the Florida Fire Marshals' and Inspectors' ~~Marshal's~~ Association.

8. One employee of the Florida Forest Service of the Department of Agriculture and Consumer Services appointed by the director of the Florida Forest Service.

9. One individual ~~member~~ appointed by the State Fire Marshal.

10. One ~~member shall be a~~ director or instructor of a state-certified firefighting training facility appointed by the State Fire Marshal.

11. The remaining member, who shall be appointed by the State Fire Marshal, may not be a member or representative of the firefighting profession or of any local government.

(b) To be eligible for appointment as a member under subparagraph (a)1., subparagraph (a)2., subparagraph (a)3., subparagraph (a)8., or subparagraph (a)10. ~~fire chief member,~~

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3452 ~~firefighter officer member, firefighter member, or a director or~~
3453 ~~instructor of a state-certified firefighting facility,~~ a person
3454 must ~~shall~~ have had at least 4 years' experience in the
3455 firefighting profession. ~~The remaining member, who shall be~~
3456 ~~appointed by the State Fire Marshal, shall not be a member or~~
3457 ~~representative of the firefighting profession or of any local~~
3458 ~~government.~~ Members shall serve only as long as they continue to
3459 meet the criteria under which they were appointed, or unless a
3460 member has failed to appear at three consecutive and properly
3461 noticed meetings unless excused by the chair.

3462 (5) The council shall elect to 1-year terms a chair and a
3463 vice chair. A person may not serve more than two consecutive
3464 terms in either office.

3465 (6) The council shall meet at the call of the chair, at the
3466 request of a majority of its membership, at the request of the
3467 department, or at such times as are prescribed by its rules, and
3468 a majority of the council shall constitute a quorum.

3469 (7) Members of the council shall serve without compensation
3470 but shall be entitled to be reimbursed for per diem and travel
3471 expenses as provided by s. 112.061.

3472 (8) The council may adopt a seal for its use containing the
3473 words "Firefighters Employment, Standards, and Training
3474 Council."

3475 (9) The council shall have special powers in connection
3476 with the employment and training of firefighters to:

3477 (a) Recommend, for adoption by the division, uniform
3478 minimum standards for the employment and training of
3479 firefighters and training of volunteer firefighters.

3480 (b) Recommend, for adoption by the division, minimum

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curriculum requirements for schools operated by or for any fire service provider for the specific purpose of training firefighter trainees, firefighters, and volunteer firefighters.

(c) Recommend, for adoption by the division, on matters relating to the funding, general operation, and administration of the Bureau of Fire Standards and Training (Florida State Fire College), including, but not limited to, all standards, training, curriculum, and the issuance of any certificate of competency required by this chapter.

(d) Make or support studies on any aspect of firefighting employment, education, and training or recruitment.

(e) Make recommendations concerning any matter within its purview pursuant to this section.

Section 57. Section 633.42, Florida Statutes, is transferred, renumbered as 633.404, Florida Statutes, and amended to read:

633.404 ~~633.42~~ Additional standards authorized.—Nothing herein shall be construed to preclude a fire service provider ~~an employing agency~~ from establishing qualifications and standards for hiring, training, or promoting firefighters that exceed the minimum set by the division ~~department~~.

Section 58. Section 633.406, Florida Statutes, is created to read:

633.406 Classes of certification.—

(1) The division may award one or more of the following certificates:

(a) Firefighter Certificate of Compliance.—A Firefighter Certificate of Compliance may be awarded to a person who meets the requirements established in s. 633.408(4).

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3510 (b) Fire Safety Inspector Certificate of Compliance.—A Fire
3511 Safety Inspector Certificate of Compliance may be awarded to a
3512 person who meets the requirements established in s. 633.216(2).

3513 (c) Special Certificate of Compliance.—A Special
3514 Certificate of Compliance may be awarded to a person who
3515 qualifies under s. 633.408(6).

3516 (d) Forestry Certificate of Compliance.—A Forestry
3517 Certificate of Compliance may be awarded to a person who has
3518 satisfactorily complied with a training program and successfully
3519 passed an examination as prescribed by rule, and who possesses
3520 the qualifications established in s. 590.02(1)(e).

3521 (e) Fire Service Instructor Certificate.—A Fire Service
3522 Instructor Certificate may be awarded to a person who
3523 demonstrates general or specialized knowledge, skills, and
3524 abilities in firefighting service and meets the qualification
3525 requirements prescribed by rule.

3526 (f) Certificate of Competency.—A Certificate of Competency
3527 may be awarded to a person who meets the experience, training,
3528 advanced education, or examination requirements as prescribed by
3529 rule, and is especially qualified for particular aspects of
3530 firefighting service.

3531 (g) Volunteer Firefighter Certificate of Completion.—A Fire
3532 Service Instructor Certificate may be awarded to a person who
3533 has satisfactorily completed the training requirements as
3534 prescribed by rule for a volunteer firefighter.

3535 (2) The division may establish by rule certificates, in
3536 addition to those provided in subsection (1), that the division
3537 may award in recognition of special training or education
3538 received by an individual, authorizing that individual to

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perform specialized firefighting services or provide specialized
firefighting instruction, such as hazardous materials and urban
search and rescue.

Section 59. Section 633.35, Florida Statutes, is
transferred, renumbered as section 633.408, Florida Statutes,
and amended to read:

633.408 ~~633.35~~ Firefighter and volunteer firefighter
training and certification.—

(1) The division shall establish by rule:

(a) A Minimum Standards Course and course examination to
provide the training required to obtain a Firefighter
Certificate of Compliance.

(b) Courses and course examinations to provide training
required to obtain a Volunteer Firefighter Certificate of
Completion or a Special Certificate of Compliance.

(c) Courses to provide continuing training for firefighters
and volunteer firefighters.

(2) Courses under subsection (1) may only be administered
by education or training providers approved by the division
pursuant to s. 633.128(1)(c) and taught by instructors certified
pursuant to s. 633.128(1)(d) ~~a firefighter training program of~~
~~not less than 360 hours, administered by such agencies and~~
~~institutions as it approves for the purpose of providing basic~~
~~employment training for firefighters.~~

(3) (a) Nothing herein shall require a fire service provider
~~public employer~~ to pay the cost of such training.

(b) A fire service provider may pay part or all of the
costs of tuition for attendance at approved courses.

(4) ~~(2)~~ The division shall issue a firefighter certificate

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of compliance to any individual who:

(a) person Satisfactorily completes ~~complying with the~~
Minimum Standards Course or who has satisfactorily completed
training for firefighters in another state which has been
determined by the division to be at least the equivalent of the
training required for the Minimum Standards Course.

(b) Passes the minimum standards course examination.
~~training program established in subsection (1), who has~~
~~successfully passed an examination as prescribed by the~~
~~division, and~~

(c) who Possesses the qualifications for employment in s.
633.412 ~~633.34, except s. 633.34(5).~~

(5) The division shall issue a Volunteer Firefighter
Certificate of Completion to any individual who satisfactorily
completes the course established under paragraph (1)(b) ~~No~~
~~person may be employed as a regular or permanent firefighter by~~
~~an employing agency, or by a private entity under contract with~~
~~the state or any political subdivision of the state, including~~
~~authorities and special districts, for a period of time in~~
~~excess of 1 year from the date of initial employment until he or~~
~~she has obtained such certificate of compliance. A person who~~
~~does not hold a certificate of compliance and is employed under~~
~~this section may not directly engage in hazardous operations,~~
~~such as interior structural firefighting and hazardous-~~
~~materials incident mitigation, requiring the knowledge and~~
~~skills taught in a training program established in subsection~~
~~(1). However, a person who has served as a volunteer firefighter~~
~~with the state or any political subdivision of the state,~~
~~including authorities and special districts, who is then~~

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employed as a regular or permanent firefighter may function, during this period, in the same capacity in which he or she acted as a volunteer firefighter, provided that he or she has completed all training required by the volunteer organization.

~~(3) The division may issue a certificate to any person who has received basic employment training for firefighters in another state when the division has determined that such training was at least equivalent to that required by the division for approved firefighter education and training programs in this state and when such person has satisfactorily complied with all other requirements of this section.~~

(6) (a) The division may also issue a Special Certificate of Compliance to an individual ~~a person~~ who:

1. Satisfactorily completes the course established in paragraph (1) (b) to obtain a Special Certificate of Compliance.

2. Passes the examination established in paragraph (1) (b), to obtain a Special Certificate of Compliance.

3. Possesses the qualifications in s. 633.412 ~~is otherwise qualified under this section and who is employed as the administrative and command head of a fire/rescue/emergency services organization, based on the acknowledgment that such person is less likely to need physical dexterity and more likely to need advanced knowledge of firefighting and supervisory skills.~~

(b) A special ~~The certificate of compliance is valid only~~ authorizes an individual to serve ~~while the person is serving in a position~~ as an administrative and command head of a fire service provider ~~fire/rescue/emergency services organization.~~

~~(7) (4)~~ An individual ~~A person~~ who fails an examination

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given under this section may retake the examination once within 6 months after the original examination date. If the individual ~~An applicant who~~ does not retake the examination or fails the ~~reexamination~~ within such time, the individual must take the Minimum Standards Course for a Firefighter Certificate of Compliance or the course established under paragraph (1)(b) for a Special Certificate of Compliance, ~~pursuant to subsection (1),~~ before being reexamined. The division may grant an extension of the 6-month period based upon documented medical necessity and ~~may~~ establish reasonable preregistration deadlines for ~~such~~ reexaminations.

~~(8)(5)~~ Pursuant to s. 590.02(1)(e), the division shall establish a structural fire training program of not less than 206 ~~40~~ hours. The division shall issue to a ~~any~~ person satisfactorily complying with this training program and who has successfully passed an examination as prescribed by the division and who has met the requirements of s. 590.02(1)(e), a Forestry Certificate of Compliance ~~Certificate of Forestry Firefighter~~.

~~(6)~~ An individual who holds a current and valid Forestry Certificate of Compliance ~~A certified forestry firefighter~~ is entitled to the same rights, privileges, and benefits provided for by law as a ~~certified~~ firefighter.

Section 60. Section 633.34, Florida Statutes, is transferred, renumbered as section 633.412, Florida Statutes, and amended to read:

633.412 ~~633.34~~ Firefighters; qualifications for certification ~~employment~~.—

(1) ~~A~~ Any person applying for certification ~~employment~~ as a firefighter must:

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3655 (a)~~(1)~~ Be a high school graduate or the equivalent, as the
3656 term may be determined by the division, and at least 18 years of
3657 age.

3658 (b)~~(2)~~ Not ~~Neither~~ have been convicted of a misdemeanor
3659 relating to the certification or to perjury or false statements,
3660 or a felony or a crime punishable by imprisonment of 1 year or
3661 more under the law of the United States or of any state thereof
3662 or under the law of any other country, or dishonorably
3663 discharged from any of the Armed Forces of the United States.

3664 "Convicted" means a finding of guilt or the acceptance of a plea
3665 of guilty or nolo contendere, in any federal or state court or a
3666 court in any other country, without regard to whether a judgment
3667 of conviction has been entered by the court having jurisdiction
3668 of the case ~~felony or of a misdemeanor directly related to the~~
3669 ~~position of employment sought, nor have pled nolo contendere to~~
3670 ~~any charge of a felony. If an applicant has been convicted of a~~
3671 ~~felony, such applicant must be in compliance with s.~~

3672 ~~112.011(2) (b). If an applicant has been convicted of a~~
3673 ~~misdemeanor directly related to the position of employment~~
3674 ~~sought, such applicant shall be excluded from employment for a~~
3675 ~~period of 4 years after expiration of sentence. If the sentence~~
3676 ~~is suspended or adjudication is withheld in a felony charge or~~
3677 ~~in a misdemeanor directly related to the position or employment~~
3678 ~~sought and a period of probation is imposed, the applicant must~~
3679 ~~have been released from probation.~~

3680 (c)~~(3)~~ Submit fingerprints ~~a fingerprint card~~ to the
3681 division with a current processing fee. The fingerprints
3682 ~~fingerprint card~~ will be forwarded to the Department of Law
3683 Enforcement for state processing, and forwarded by the

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Department of Law Enforcement to ~~and/or~~ the Federal Bureau of Investigation for national processing.

(d) ~~(4)~~ Have a good moral character as determined by investigation under procedure established by the division.

(e) ~~(5)~~ Be in good physical condition as determined by a medical examination given by a physician, surgeon, or physician assistant licensed to practice in the state pursuant to chapter 458; an osteopathic physician, surgeon, or physician assistant licensed to practice in the state pursuant to chapter 459; or an advanced registered nurse practitioner licensed to practice in the state pursuant to chapter 464. Such examination may include, but need not be limited to, ~~provisions of~~ the National Fire Protection Association Standard 1582. A medical examination evidencing good physical condition shall be submitted to the division, on a form as provided by rule, before an individual is eligible for admission into a course under ~~firefighter training program as defined in s. 633.408~~ 633.35.

(f) ~~(6)~~ Be a nonuser of tobacco or tobacco products for at least 1 year immediately preceding application, as evidenced by the sworn affidavit of the applicant.

(2) If the division suspends or revokes an individual's certificate, the division must suspend or revoke all other certificates issued by the division pursuant to this part.

Section 61. Section 633.352, Florida Statutes, is transferred, renumbered as section 633.414, Florida Statutes, and amended to read:

633.414 ~~633.352~~ Retention of firefighter certification.—

(1) In order for a firefighter to retain her or his Firefighter Certificate of Compliance, every 4 years he or she

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3713 must:

3714 (a) Be ~~Any certified firefighter who has not been active as~~
3715 ~~a firefighter, or as a volunteer firefighter with an organized~~
3716 ~~fire department, for a period of 3 years shall be required to~~
3717 ~~retake the practical portion of the minimum standards state~~
3718 ~~examination specified in rule 69A-37.056(6)(b), Florida~~
3719 ~~Administrative Code, in order to maintain her or his~~
3720 ~~certification as a firefighter;~~

3721 (b) Maintain a current and valid fire service instructor
3722 certificate, instruct at least 40 hours during the 4-year
3723 period, and provide proof of such instruction to the division,
3724 which proof must be registered in an electronic database
3725 designated by the division;

3726 (c) Successfully complete a refresher course consisting of
3727 a minimum of 40 hours of training to be prescribed by rule; or

3728 (d) Within 6 months before the 4-year period expires,
3729 successfully retake and pass the Minimum Standards Course
3730 examination.

3731 (2) In order for a volunteer firefighter to retain her or
3732 his Volunteer Firefighter Certificate of Completion, every 4
3733 years he or she must:

3734 (a) Be active as a volunteer firefighter; or

3735 (b) Successfully complete a refresher course consisting of
3736 a minimum of 40 hours of training to be prescribed by rule.

3737 (3) Subsection (1) however, this requirement does not apply
3738 to state-certified firefighters who are certified and employed
3739 as full-time, as determined by the fire service provider, as
3740 firesafety inspectors or fire investigators ~~firesafety~~
3741 ~~instructors,~~ regardless of her or his ~~the firefighter's~~

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employment status as a firefighter.

(4) For the purposes of this section, the term "active" means being employed as a firefighter or providing service as a volunteer firefighter for a cumulative 6 months within a 4-year period.

(5) The 4-year ~~3-year~~ period begins:

(a) If the individual is certified on or after July 1, 2013, on the date the certificate ~~of compliance~~ is issued or upon termination of employment or service with a ~~an organized~~ fire department.

(b) If the individual is certified before July 1, 2013, on July 1, 2014, or upon termination of employment or service thereafter.

Section 62. Section 633.41, Florida Statutes, is transferred, renumbered as section 633.416, Florida Statutes, and amended to read:

633.416 ~~633.41~~ Firefighter employment and volunteer firefighter service; saving clause.—

(1) A fire service provider may not employ an individual to:

(a) Extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Firefighter Certificate of Compliance; or

(b) Serve as the administrative and command head of a fire service provider for a period in excess of 1 year unless the individual holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance.

(2) A fire service provider may not retain the services of

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an individual volunteering to extinguish fires for the protection of life or property or to supervise individuals who perform such services unless the individual holds a current and valid Volunteer Firefighter Certificate of Completion.

(3) (a) A fire service provider must make a diligent effort to determine whether the individual has a current and valid certificate before employing or retaining an individual for the services under subsection (1) or subsection (2), including making a determination of whether the requirements set forth in s. 633.414 have been fulfilled.

(b) For the purposes of this subsection, the term "diligent effort" means contacting at least three of the individual's previous employers to obtain her or his dates of employment and contacting the division to determine the certification status of the individual.

(4) (a) A fire service provider must notify the division electronically, as directed by rule by the division, within 10 days after:

1. The hiring of a firefighter.
2. The retention of a volunteer firefighter.
3. The cessation of employment of a firefighter.
4. A decision not to retain a volunteer firefighter.

(b) Notification under paragraph (a) must include:

1. The individual's name.
2. The date on which he or she was hired or retained.
3. The last date of employment or retention before leaving the fire service provider.
4. Any other information deemed necessary by the division to determine compliance with ss. 633.414 and 633.426.

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(5) If the fire service provider makes a determination that an individual has not met the requirements set forth in s. 633.414(1), the fire service provider must notify the division in writing within 10 days after making that determination.

(6) The division may conduct site visits to fire departments to monitor compliance with this section.

(7) For purposes of this section, the term "employ" means to pay an individual a salary, wage, or other compensation for the performance of work. The term does not include the payment of expenses, reasonable benefits, a nominal fee, or a combination thereof to a volunteer for a public or private fire service provider who is only paid in a manner that would be authorized for a volunteer under the federal Fair Labor Standards Act of 1938, as amended, 29 U.S.C. ss. 201 et seq., and its implementing rules.

(8) Firefighters employed on July 5, 1969, are not required to meet the provisions of ss. 633.412 and 633.408 ~~633.34 and 633.35~~ as a condition of tenure or continued employment, and ~~nor shall~~ their failure to fulfill such requirements does not make them ineligible for any promotional examination for which they are otherwise eligible or affect in any way any pension rights to which they may be entitled on July 5, 1969.

Section 63. Section 633.38, Florida Statutes, is transferred, renumbered as section 633.418, Florida Statutes, and amended to read:

633.418 ~~633.38~~ Inservice training and promotion; participation.—

(1) (a) The division shall by rule ~~rules and regulations~~ prescribe curricula and standards for advanced and specialized

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training courses and education ~~training~~ in addition to those prescribed in ss. 633.412 and 633.408 ~~633.34~~ and ~~633.35~~.

(b) The standards provided by this section do ~~shall~~ not bind any fire service provider ~~employing agency~~ as to the requirements it may have for promoting personnel.

(2) A fire service provider ~~departments or any fire service~~ participating under ~~the provisions of~~ this section shall adhere to the standards and procedures established by the division.

Section 64. Section 633.382, Florida Statutes, is transferred, renumbered as section 633.422, Florida Statutes, and amended to read:

633.422 ~~633.382~~ Firefighters; supplemental compensation.—

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

~~(a) "Employing agency" means any municipality or any county, the state, or any political subdivision of the state, including authorities and special districts employing firefighters.~~

~~(b) "Firefighter" means any person who meets the definition of the term "firefighter" in s. 633.30(1) who is certified in compliance with s. 633.35 and who is employed solely within the fire department of the employing agency or is employed by the division.~~

~~(1)(2)~~ QUALIFICATIONS FOR SUPPLEMENTAL COMPENSATION.—The Legislature recognizes the need for supplemental compensation for firefighters who pursue higher educational opportunities that directly relate to the improvement of the health, safety, and welfare of firefighters and those who firefighters protect. The State Fire Marshal shall determine, and adopt by rule, the course work or degrees that represent the best practices toward

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3858 this goal in the field of firefighting.

3859 (a) In addition to the compensation now paid by a fire
3860 service provider ~~an employing agency~~ to any firefighter, every
3861 firefighter shall be paid supplemental compensation by the fire
3862 service provider ~~employing agency~~ when such firefighter is a
3863 full-time employee, as determined by the employing fire service
3864 provider, and has complied with one of the following criteria:

3865 1. A ~~Any~~ firefighter who receives an associate degree from
3866 an accredited ~~a~~ college, which degree is directly applicable to
3867 fire department duties, as outlined in policy guidelines adopted
3868 by rule by ~~of~~ the division, shall be additionally compensated as
3869 outlined in paragraph (2) (a) ~~(3) (a)~~.

3870 2. A ~~Any~~ firefighter, regardless of whether or not she or
3871 he earned an associate degree earlier, who receives from an
3872 accredited college or university a bachelor's degree, which
3873 bachelor's degree is directly applicable to fire department
3874 duties, as outlined in policy guidelines adopted by rule by ~~of~~
3875 the division, shall receive compensation as outlined in
3876 paragraph (2) (b) ~~(3) (b)~~.

3877 (b) ~~If Whenever~~ any question arises as to the eligibility
3878 of any firefighter to receive supplemental compensation as
3879 provided in this section, the question, together with all facts
3880 relating thereto, must ~~shall~~ be submitted to the division for
3881 determination, and the decision of the division with regard to
3882 determination of eligibility shall be final, subject to ~~the~~
3883 ~~provisions of~~ chapter 120.

3884 (2) (3) SUPPLEMENTAL COMPENSATION.—Supplemental compensation
3885 shall be determined as follows:

3886 (a) Fifty dollars shall be paid monthly to each firefighter

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who qualifies under ~~the provisions of~~ subparagraph (1) (a)1
~~(2) (a)1~~.

(b) One hundred and ten dollars shall be paid monthly to
each firefighter who qualifies under ~~the provisions of~~
subparagraph (1) (a)2 ~~(2) (a)2~~.

(3) ~~(4)~~ FUNDING.—

(a) The fire service provider ~~employing agency~~ is
responsible for the correct payment of firefighters pursuant to
~~the provisions of~~ this section. The division may review, in a
postaudit capacity, any action taken by an agency in
administering the educational incentive program. The fire
service provider ~~employing agency~~ shall take appropriate action
when a postaudit shows that an action taken by the fire service
provider ~~employing agency~~ was in error.

(b) Each fire service provider ~~agency~~ employing
firefighters who are eligible for this compensation shall submit
reports containing information relating to compensation paid as
a result of this section to the division on March 31, June 30,
September 30, and December 31 of each year.

(c) There is appropriated from the Police and Firefighter's
Premium Tax Trust Fund to the Firefighters' Supplemental
Compensation Trust Fund, which is ~~hereby~~ created under the
Department of Revenue, all moneys which have not been
distributed to municipalities and special fire control districts
in accordance with s. 175.121 as a result of the limitation
contained in s. 175.122 on the disbursement of revenues
collected pursuant to chapter 175 or as a result of any
municipality or special fire control district not having
qualified in any given year, or portion thereof, for

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participation in the distribution of the revenues collected pursuant to chapter 175. The total required annual distribution from the Firefighters' Supplemental Compensation Trust Fund shall equal the amount necessary to pay supplemental compensation as provided in this section, provided that:

1. Any deficit in the total required annual distribution shall be made up from accrued surplus funds existing in the Firefighters' Supplemental Compensation Trust Fund on June 30, 1990, for as long as such funds last. If the accrued surplus is insufficient to cure the deficit in any given year, the proration of the appropriation among the counties, municipalities, and special fire service taxing districts shall equal the ratio of compensation paid in the prior year to county, municipal, and special fire service taxing district firefighters pursuant to this section. This ratio shall be provided annually to the Department of Revenue by the division ~~of State Fire Marshal~~. Surplus funds that have accrued or accrue on or after July 1, 1990, shall be redistributed to municipalities and special fire control districts as provided in subparagraph 2.

2. By October 1 of each year, any funds that have accrued or accrue on or after July 1, 1990, and remain in the Firefighters' Supplemental Compensation Trust Fund following the required annual distribution shall be redistributed by the Department of Revenue pro rata to those municipalities and special fire control districts identified by the Department of Management Services as being eligible for additional funds pursuant to s. 175.121(3)(b).

(d) Salary incentive payments to firefighters shall

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commence in the first full calendar month following the initial date of certification of eligibility by the division ~~of State Fire Marshal~~.

(e) Special fire service taxing districts are authorized ~~and empowered~~ to spend ~~expend~~ the funds necessary to ensure correct payment to firefighters.

(4) (5) LEGISLATIVE FINDINGS.—The payment of supplemental compensation and expenses of the administration provided by this section is found to serve a state, county, district, and municipal purpose and to provide benefit to the state and to its counties, municipalities, and districts.

(5) APPLICABILITY.—For the purposes of this section, the division shall be considered a fire service provider responsible for the payment of supplemental compensation in accordance with this section to firefighters employed full-time by the division.

Section 65. Section 633.353, Florida Statutes, is transferred, renumbered as section 633.424, Florida Statutes, and amended to read:

633.424 ~~633.353~~ Falsification of qualifications.—An individual ~~Any person~~ who willfully and knowingly falsifies her or his ~~the~~ qualifications ~~of a new employee~~ to the Bureau of Fire Standards and Training of the division commits ~~is guilty of~~ a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 66. Section 633.351, Florida Statutes, is transferred, renumbered as section 633.426, Florida Statutes, and amended to read:

633.426 ~~633.351~~ Disciplinary action; ~~firefighters;~~ standards for revocation of certification.—

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(1) For purposes of this section, the term:

(a) "Certificate" means any of the certificates issued under s. 633.406.

(b) "Certification" or "certified" means the act of holding a current and valid certificate.

(c) "Convicted" means a finding of guilt, or the acceptance of a plea of guilty or nolo contendere, in any federal or state court or a court in any other country, without regard to whether a judgment of conviction has been entered by the court having jurisdiction of the case.

(2) An individual is ineligible to apply for certification if the individual has, at any time, been:

(a) Convicted of a misdemeanor relating to the certification or to perjury or false statements.

(b) Convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country.

(c) Dishonorably discharged from any of the Armed Forces of the United States.

(3) (a) The certification of an individual shall be permanently revoked if the individual is:

1. Convicted of a misdemeanor relating to perjury or false statement.

2. Convicted of a felony or a crime punishable by imprisonment of 1 year or more under the law of the United States or of any state thereof, or under the law of any other country.

3. Dishonorably discharged from any of the Armed Forces of

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the United States.

(b) For individuals who are certified before July 1, 2013:

1. This subsection applies prospectively to convictions or dishonorable discharges entered on or after July 1, 2013.

2. Section 633.351 as it existed before July 1, 2013, applies to convictions entered before July 1, 2013.

(4) The certification of an individual ~~a firefighter~~ shall be revoked if evidence is found which demonstrates that the certification was improperly issued by the division or if ~~evidence is found that the certification~~ was issued on the basis of false, incorrect, incomplete, or misleading information, or that the individual has demonstrated a lack of moral fitness or trustworthiness to carry out the responsibilities under the individual's certification.

(5) After investigation, if the division has reason to believe that an individual who is certified may have been convicted of a felony or of a misdemeanor related to perjury or false statement in this state or any other state or jurisdiction, the division may require the individual to submit fingerprints to the division with a current processing fee. The fingerprints shall be forwarded by the division to the Department of Law Enforcement for state processing and shall be forwarded by the Department of Law Enforcement to the Federal Bureau of Investigation for national processing.

~~(2) The certification of a firefighter who is convicted of a felony, or who is convicted of a misdemeanor relating to misleading or false statements, or who pleads nolo contendere to any charge of a felony shall be revoked until the firefighter complies with s. 112.011(2)(b). However, if sentence upon such~~

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~~felony or such misdemeanor charge is suspended or adjudication is withheld, the firefighter's certification shall be revoked until she or he completes any probation.~~

Section 67. Section 633.43, Florida Statutes, is transferred, renumbered as section 633.428, Florida Statutes, and amended to read:

633.428 ~~633.43~~ Florida State Fire College established.— There is ~~hereby~~ established a state institution to be known as the Florida State Fire College, to be located at or near Ocala, Marion County. The institution shall be operated by the division ~~of State Fire Marshal of the department.~~

Section 68. Section 633.44, Florida Statutes, is transferred, renumbered as section 633.432, Florida Statutes, and amended to read:

633.432 ~~633.44~~ Purpose of fire college.—The purposes of part IV ss. 633.43-633.49 and of the Florida State Fire College ~~are shall be:~~

(1) To provide professional and volunteer firefighters with needful professional instruction and training in subjects, including, but not limited to, firefighting, fire prevention, hazardous materials, urban search and rescue, and emergency operations, at a minimum of cost to them and to their employers.

(2) To ensure the professionalism and competence of those performing firefighting, fire prevention, and associated fire protection functions by administering a system of certification and licensing.

(3) ~~(2)~~ To develop new methods and practices of firefighting and fire prevention.

(4) ~~(3)~~ To assist the state and county, municipal, and other

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4061 local governments of this state and their agencies and officers
4062 in their investigation and determination of the causes of fires.

4063 (5)~~(4)~~ To provide testing facilities for testing
4064 firefighting equipment.

4065 (6)~~(5)~~ To disseminate useful information on fires,
4066 firefighting and fire prevention and other related subjects, to
4067 fire departments and others interested in such information.

4068 (7)~~(6)~~ To do such other needful or useful things necessary
4069 to the promotion of public safety in the field of fire hazards
4070 and fire prevention work.

4071
4072 It is ~~hereby~~ declared by the Legislature that the above purposes
4073 are legitimate state functions and are designed to promote
4074 public safety.

4075 Section 69. Section 633.48, Florida Statutes, is
4076 transferred, renumbered as section 633.434, Florida Statutes,
4077 and amended to read:

4078 633.434 ~~633.48~~ Superintendent of college.—The division may
4079 employ a superintendent for the Florida State Fire College, who
4080 must ~~shall~~ be especially trained and qualified in firefighting,
4081 fire prevention and fire experimental work, and may employ on
4082 the recommendations of the ~~said~~ superintendent such other
4083 instructors, experimental helpers and laborers as may be
4084 necessary to the proper conduct of the ~~said~~ institution; and may
4085 proceed with the erection and detailed operation of the ~~said~~
4086 institution under ss. 633.428-633.444 ~~633.43-633.49~~.

4087 Section 70. Section 633.461, Florida Statutes, is
4088 transferred, renumbered as section 633.436, Florida Statutes,
4089 and amended to read:

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4090 633.436 ~~633.461~~ Use of Insurance Regulatory Trust Fund.—The
4091 funds received from the Insurance Regulatory Trust Fund shall be
4092 used by the staff of the Florida State Fire College to provide
4093 all necessary services, training, equipment, and supplies to
4094 carry out the college's responsibilities, including, but not
4095 limited to, ~~the State Fire Marshal Scholarship Grant Program and~~
4096 the procurement of training resources and ~~films, videotapes,~~
4097 ~~audiovisual~~ equipment, and other useful information on fire,
4098 firefighting, and fire prevention, including public fire service
4099 information packages.

4100 Section 71. Section 633.47, Florida Statutes, is
4101 transferred and renumbered as section 633.438, Florida Statutes.

4102 Section 72. Section 633.49, Florida Statutes, is
4103 transferred, renumbered as section 633.442, Florida Statutes,
4104 and amended to read:

4105 633.442 ~~633.49~~ Buildings, equipment, and other facilities;
4106 use.—The division shall have the power to prescribe and shall
4107 make the necessary rules ~~and regulations~~ for the use of
4108 buildings, equipment, and other facilities of the Florida State
4109 Fire College when they are not in use for the purposes set forth
4110 in part IV ~~ss. 633.43–633.49~~.

4111 Section 73. Section 633.50, Florida Statutes, is
4112 transferred, renumbered as section 633.444, Florida Statutes,
4113 and amended to read:

4114 633.444 ~~633.50~~ Division powers and duties; Florida State
4115 Fire College.—

4116 (1) The division, in performing its duties related to the
4117 Florida State Fire College, specified in part IV ~~ss. 633.43–~~
4118 ~~633.49~~, shall:

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(a) Enter into agreements with public or private school districts, community colleges, junior colleges, or state universities to carry out its duties and responsibilities.

(b) Review and approve budget requests for the fire college educational program.

(c) Prepare the legislative budget request for the Florida State Fire College education program. The superintendent is responsible for all expenditures pursuant to appropriations.

(d) Implement procedures to obtain appropriate entitlement funds from federal and state grants to supplement the annual legislative appropriation. Such funds must be used expressly for the fire college educational programs.

(e) Develop a staffing and funding formula for the Florida State Fire College. The formula must ~~shall~~ include differential funding levels for various types of programs, must ~~shall~~ be based on the number of full-time equivalent students and information obtained from scheduled attendance counts taken the first day of each program, and must ~~shall~~ provide the basis for the legislative budget request. As used in this section, a full-time equivalent student is equal to a minimum of 900 hours in a technical certificate program and 400 hours in a degree-seeking program. The funding formula must ~~shall~~ be as prescribed pursuant to s. 1011.62, must ~~shall~~ include procedures to document daily attendance, and must ~~shall~~ require that attendance records be retained for audit purposes.

(f) Approve and register in an electronic database an education or training provider, designated by the division, before the education or training provider may offer any course to fulfill any education or training requirement under this

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chapter. The division shall establish criteria, by rule, for the approval of such education or training providers, including courses taught. Only approved and registered education or training providers are eligible to provide instruction or training that will be recognized by the division as fulfilling any education or training requirement under this chapter.

(g) Recognize only courses offered by approved and registered training or education providers as fulfilling the education or training requirements under this chapter.

(2) Funds generated by the formula per full-time equivalent student may not exceed the level of state funding per full-time equivalent student generated through the Florida Education Finance Program or the State Community College Program Fund for students enrolled in comparable education programs provided by public school districts and community colleges. Funds appropriated for education and operational costs shall be deposited in the Insurance Regulatory Trust Fund to be used solely for purposes specified in s. 633.436 ~~633.461~~ and may not be transferred to any other budget entity for purposes other than education.

Section 74. Section 633.46, Florida Statutes, is transferred and renumbered as section 633.446, Florida Statutes.

Section 75. The Division of Law Revision and Information is directed to create part V of chapter 633, Florida Statutes, consisting of sections 633.502, 633.504, 633.506, 633.508, 633.512, 633.516, 633.518, 633.520, 633.522, 633.526, 633.528, 633.532, 633.534, and 633.536, Florida Statutes, to be entitled "Florida Firefighters Occupational Safety and Health Act."

Section 76. Section 633.801, Florida Statutes, is

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transferred, renumbered as section 633.502, Florida Statutes,
and amended to read:

633.502 ~~633.801~~ Short title.—Sections 633.502-633.536,
~~633.801-633.821~~ may be cited as the "Florida Firefighters
Occupational Safety and Health Act."

Section 77. Section 633.802, Florida Statutes, is
transferred and renumbered as section 633.504, Florida Statutes,
and subsections (1), (2), and (4) of that section are amended,
to read:

633.504 ~~633.802~~ Definitions.—As used in this part, the term
~~Unless the context clearly requires otherwise, the following~~
~~definitions shall apply to ss. 633.801-633.821:~~

(1) "Firefighter employee" means a firefighter, volunteer
firefighter, or individual providing support services who is ~~any~~
~~person~~ engaged in any employment, public or private, ~~as a~~
~~firefighter~~ under any appointment or contract of hire or
apprenticeship, express or implied, oral or written, whether
lawfully or unlawfully employed, responding to or assisting with
fire or medical emergencies, regardless of whether ~~or not the~~
~~firefighter is~~ on duty, except those appointed under s.

590.02(1)(d).

(2) "Firefighter employer" means the state and all
political subdivisions of this state, all public and quasi-
public corporations in this state, and a ~~every~~ person carrying
on any employment for this state, political subdivisions of this
state, and public and quasi-public corporations in this state
which employs firefighter employees ~~firefighters~~, except those
appointed under s. 590.02(1)(d).

(4) "Firefighter place of employment" or "place of

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employment" means the physical location at which the firefighter employee is employed or deployed.

Section 78. Section 633.803, Florida Statutes, is transferred, renumbered as section 633.506, Florida Statutes, and amended to read:

633.506 ~~633.803~~ Legislative intent.—It is the intent of the Legislature to enhance firefighter occupational safety and health in the state through the implementation and maintenance of policies, procedures, practices, rules, and standards that reduce the incidence of firefighter employee accidents, firefighter employee occupational diseases, and firefighter employee fatalities compensable under chapter 440 or otherwise. The Legislature further intends that the division develop a means by which the division can identify individual firefighter employers with a high frequency or severity of work-related injuries, conduct safety inspections of those firefighter employers, and assist those firefighter employers in the development and implementation of firefighter employee safety and health programs. In addition, it is the intent of the Legislature that the division administer and enforce this part ~~the provisions of ss. 633.801-633.821~~; provide assistance to firefighter employers, firefighter employees, and insurers; and enforce the policies, rules, and standards set forth in this part ~~ss. 633.801-633.821~~.

Section 79. Section 633.821, Florida Statutes, is transferred and renumbered as section 633.508, Florida Statutes, subsections (2), (3), (5), and (6) of that section are amended, and subsection (7) is added to that section, to read:

633.508 ~~633.821~~ Workplace safety; rulemaking authority;

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4235 division authority.—

4236 (2) The division shall have the authority to adopt rules
4237 for the purpose of ensuring safe working conditions for all
4238 firefighter employees by authorizing the enforcement of
4239 effective standards, by assisting and encouraging firefighter
4240 employers to maintain safe working conditions, and by providing
4241 for education and training in the field of safety. Specifically,
4242 the division may by rule adopt the most current edition of all
4243 or any part of subparts C through T and subpart Z of 29 C.F.R.
4244 s. 1910, as revised April 8, 1998; the National Fire Protection
4245 Association, Inc., Standard 1500, paragraph 5-7 (Personal Alert
4246 Safety System) (1992 edition); the National Fire Protection
4247 Association, Inc., Publication 1403, Standard on Live Fire
4248 Training Evolutions (latest edition), as limited by subsection
4249 (6); and ANSI A 10.4-1990.

4250 (3) With respect to 29 C.F.R. s. 1910.134(g)(4), the two
4251 individuals located outside the immediately dangerous to life
4252 and health atmosphere may be assigned to an additional role,
4253 such as incident commander, pumper operator, engineer, or
4254 driver, so long as such individual can ~~is able to~~ immediately
4255 perform assistance or rescue activities without jeopardizing the
4256 safety or health of any firefighter employee working at an
4257 incident. ~~Also with respect to 29 C.F.R. s. 1910.134(g)(4):~~

4258 ~~(a) Each county, municipality, and special district shall~~
4259 ~~implement such provision by April 1, 2002, except as provided in~~
4260 ~~paragraphs (b) and (c).~~

4261 ~~(b) If any county, municipality, or special district is~~
4262 ~~unable to implement such provision by April 1, 2002, without~~
4263 ~~adding additional personnel to its firefighting staff or~~

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~~expending significant additional funds, such county, municipality, or special district shall have an additional 6 months within which to implement such provision. Such county, municipality, or special district shall notify the division that the 6-month extension to implement such provision is in effect in such county, municipality, or special district within 30 days after its decision to extend the time for the additional 6 months. The decision to extend the time for implementation shall be made prior to April 1, 2002.~~

~~(c) If, after the extension granted in paragraph (b), the county, municipality, or special district, after having worked with and cooperated fully with the division and the Firefighters Employment, Standards, and Training Council, is still unable to implement such provisions without adding additional personnel to its firefighting staff or expending significant additional funds, such municipality, county, or special district shall be exempt from the requirements of 29 C.F.R. s. 1910.134(g)(4). However, each year thereafter the division shall review each such county, municipality, or special district to determine if such county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds. If the division determines that any county, municipality, or special district has the ability to implement such provision without adding additional personnel to its firefighting staff or expending significant additional funds, the division shall require such county, municipality, or special district to implement such provision. Such requirement by the division under this paragraph constitutes final agency action subject to~~

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4293 ~~chapter 120.~~

4294 (5) The division may adopt any rule necessary to implement,
4295 interpret, and make specific the provisions of this section,
4296 provided the division may not adopt by rule any other standard
4297 or standards of the Occupational Safety and Health
4298 Administration or the National Fire Protection Association
4299 relating solely to this part ~~ss. 633.801-633.821~~ and firefighter
4300 employment safety without specific legislative authority.

4301 (6) (a) The division shall adopt rules for live fire
4302 training that all firefighter employees ~~firefighters~~ subject to
4303 this chapter must complete. The division shall also adopt rules
4304 for a training and certification process for live fire training
4305 instructors.

4306 (b) Such rules for training must ~~shall~~ include:

4307 1. Sections of the most current edition of the National
4308 Fire Protection Association, Inc., Publication 1402, Guide to
4309 Building Fire Service Training Centers, relating to establishing
4310 policies and procedures for effective use of such permanent
4311 facilities or structures.

4312 2. Sections of the most current edition of the National
4313 Fire Protection Association, Inc., Publication 1403, Standard on
4314 Live Fire Training Evolutions, excluding, however:

4315 a. Any chapter entitled "Referenced Publications."

4316 b. References to the National Fire Protection Association,
4317 Inc., Publication 1975, Station Uniform.

4318 c. Provisions of the National Fire Protection Association,
4319 Inc., Publication 1001, not adopted under rule 69A-37 ~~or any~~
4320 ~~references to such publication in the National Fire Protection~~
4321 ~~Association, Inc., Publication 1975.~~

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d. Any reference to an authority having jurisdiction in the National Fire Protection Association, Inc., Publication 1403, defined as the organization, office, or individual responsible for approving equipment, materials, installations, and procedures.

3. A 40-hour training program for live fire training instructors, including:

a. Live fire instructional techniques.

b. Training safety in acquired or permanent facilities or props.

c. Personnel safety.

d. Exterior props, including, but not limited to, liquid petroleum gas, other liquid fuels, and similar props.

~~(e) The rules, excluding those pertaining to live fire training instructor certification, shall take effect no later than January 1, 2006.~~

(c) ~~(d)~~ Each live fire training instructor is required to be a state certified fire safety instructor. All live fire training ~~commenced on and after January 1, 2007,~~ must be conducted by a certified live fire training instructor.

(d) ~~(e)~~ This subsection does not apply to wildland or prescribed live fire training exercises sanctioned by the Florida Forest Service of the Department of Agriculture and Consumer Services or the National Wildfire Coordinating Group.

(7) The division shall:

(a) Investigate and prescribe by rule what safety devices, safeguards, or other means of protection must be adopted for the prevention of accidents and injuries in every firefighter employee place of employment or at any fire scene; determine

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4351 what suitable devices, safeguards, or other means of protection
4352 for the prevention of occupational diseases must be adopted or
4353 followed in any or all such firefighter places of employment or
4354 at any emergency fire scene; and adopt reasonable rules for the
4355 prevention of accidents, the safety, protection, and security of
4356 firefighter employees engaged in interior firefighting, and the
4357 prevention of occupational diseases.

4358 (b) Ascertain, fix, and order such reasonable standards and
4359 rules for the construction, repair, and maintenance of
4360 firefighter employee places of employment so as to render them
4361 safe. Such rules and standards shall be adopted in accordance
4362 with chapter 120.

4363 (c) Adopt rules prescribing recordkeeping responsibilities
4364 for firefighter employers, which may include maintaining a log
4365 and summary of occupational injuries, diseases, and illnesses,
4366 for producing on request a notice of injury and firefighter
4367 employee accident investigation records, and prescribing a
4368 retention schedule for such records.

4369 Section 80. Section 633.817, Florida Statutes, is
4370 transferred, renumbered as section 633.512, Florida Statutes,
4371 and amended to read:

4372 633.512 ~~633.817~~ Compliance.—Failure of a firefighter
4373 employer or an insurer to comply with this part ~~ss. 633.801–~~
4374 ~~633.821~~, or with any rules adopted under this part ~~ss. 633.801–~~
4375 ~~633.821~~, constitutes grounds for the division to seek remedies,
4376 including injunctive relief, by making appropriate filings with
4377 the circuit court.

4378 Section 81. Section 633.805, Florida Statutes, is
4379 transferred and renumbered as section 633.516, Florida Statutes.

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Section 82. Section 633.806, Florida Statutes, is transferred, renumbered as section 633.518, Florida Statutes, and amended to read:

633.518 ~~633.806~~ Studies, investigations, inspections, or inquiries by the division; refusal to admit; penalty.—

(1) The division shall make studies, ~~and~~ investigations, inspections, or inquiries with respect to compliance with this part or any rules authorized under this part ~~safety provisions~~ and the causes of firefighter employee injuries, illnesses, safety-based complaints, or Line of Duty Deaths (LODD) as defined in rule in firefighter employee places of employment and shall make such recommendations to the Legislature and firefighter employers and insurers as the division considers proper ~~as to prevent or reduce future occurrences the best means of preventing firefighter injuries~~. In making such studies, ~~and~~ investigations, inspections, or inquiries, the division may cooperate with any agency of the United States charged with the duty of enforcing any law securing safety against injury in any place of firefighter employment covered by this part ~~ss.~~

~~633.801-633.821~~ or any agency or department of the state engaged in enforcing any law to ensure safety for firefighter employees.

(2) The division by rule may adopt procedures for conducting investigations, inspections, or inquiries of firefighter employers under this part ~~ss. 633.801-633.821~~.

(3) The division and authorized representatives of the division may enter and inspect any firefighter employee's place of employment at any reasonable time for the purpose of investigating compliance with this part and conducting inspections for the proper enforcement of this part. A

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firefighter employer who refuses to admit any member of the division or authorized representative of the division to any place of employment or to allow investigation and inspection pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

Section 83. Section 633.807, Florida Statutes, is transferred, renumbered as section 633.520, Florida Statutes, and amended to read:

633.520 ~~633.807~~ Safety; firefighter employer responsibilities.—Every firefighter employer shall furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and safety of such firefighter employees. As used in this section, the terms "safe" and "safety," as applied to any employment or place of ~~firefighter~~ employment, mean such freedom from danger as is reasonably necessary for the protection of the lives, health, and safety of firefighter employees, including conditions and methods of sanitation and hygiene. Safety devices and safeguards required to be furnished by the firefighter employer by this section or by the division under authority of this section do ~~shall~~ not include personal apparel and protective devices that replace personal apparel normally worn by firefighter employees during regular working hours.

Section 84. Section 633.809, Florida Statutes, is transferred, renumbered as section 633.522, Florida Statutes, and amended to read:

633.522 ~~633.809~~ Firefighter employers; ~~whose firefighter~~

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employees have a high frequency of work-related injuries;
corrective plans; workplace safety committees and coordinators;
failure to implement a safety and health program; cancellation.-

(1) The division shall develop a means to ~~by which the~~
~~division may~~ identify individual firefighter employers with
~~whose firefighter employees have a high frequency or severity of~~
firefighter employee work-related injuries. ~~The division shall~~
~~carry out safety inspections of the facilities and operations of~~
~~those firefighter employers in order to assist them in reducing~~
~~the frequency and severity of work-related injuries. The~~
~~division shall develop safety and health programs for those~~
~~firefighter employers. Insurers shall distribute such safety and~~
~~health programs to the firefighter employers so identified by~~
~~the division. Those firefighter employers identified by the~~
~~division as having a high frequency or severity of work-related~~
~~injuries shall implement a safety and health program developed~~
~~by the division. The division shall~~ conduct ~~carry out~~ safety
inspections of those firefighter employers so identified to
ensure compliance with this part or the division's rules and
make recommendations based upon current ~~the~~ safety and health
practices ~~program~~ and to assist such firefighter employers in
reducing the number of work-related injuries. The division may
not assess penalties as a result of such inspections, ~~except as~~
~~provided by s. 633.813.~~ Copies of any report made as the result
of such an inspection shall be provided to the firefighter
employer and its insurer. Firefighter employers shall ~~may~~ submit
a plan for the correction of any noncompliance issues ~~their own~~
~~safety and health programs~~ to the division for approval in
accordance with division rule ~~lieu of using the safety and~~

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4467 ~~health program developed by the division.~~ The division shall
4468 promptly review the plan ~~program~~ submitted and approve or
4469 disapprove the plan ~~program~~ within 60 days or such plan ~~program~~
4470 shall be deemed approved. Upon approval by the division, the
4471 plan ~~program~~ shall be implemented by the firefighter employer.
4472 If the plan ~~program~~ is not submitted, does not provide
4473 corrective actions for all deficiencies, is not complete, or is
4474 not implemented, the fire service provider shall be subject to
4475 s. 633.526 approved or if a program is not submitted, the
4476 ~~firefighter employer shall implement the program developed by~~
4477 ~~the division. The division shall adopt rules setting forth the~~
4478 ~~criteria for safety and health programs, as such rules relate to~~
4479 ~~this section.~~

4480 (2) In order to promote health and safety in firefighter
4481 employee places of employment in this state:

4482 (a) Each firefighter employer of 20 or more firefighter
4483 employees shall establish and administer a workplace safety
4484 committee in accordance with rules adopted under this section.

4485 (b) Each firefighter employer of fewer than 20 firefighter
4486 employees with a high frequency or high severity of work-related
4487 injuries, as identified by the division, shall establish and
4488 administer a workplace safety committee or designate a workplace
4489 safety coordinator who shall establish and administer workplace
4490 safety activities in accordance with rules adopted under this
4491 section.

4492 (3) The division shall adopt rules:

4493 (a) Prescribing the membership of the workplace safety
4494 committees so as to ensure an equal number of firefighter
4495 employee representatives who are volunteers or are elected by

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4496 their peers and firefighter employer representatives, and
4497 specifying the frequency of meetings.

4498 (b) Requiring firefighter employers to make adequate
4499 records of each meeting and to file and to maintain the records
4500 subject to inspection by the division.

4501 (c) Prescribing the duties and functions of the workplace
4502 safety committee and workplace safety coordinator which include,
4503 but are not limited to:

4504 1. Establishing procedures for workplace safety inspections
4505 by the committee.

4506 2. Establishing procedures for investigating all workplace
4507 accidents, safety-related incidents, illnesses, and deaths.

4508 3. Evaluating accident prevention and illness prevention
4509 programs.

4510 4. Prescribing guidelines for the training of safety
4511 committee members.

4512 (4) The composition, selection, and function of workplace
4513 safety committees shall be a mandatory topic of negotiations
4514 with any certified collective bargaining agent for firefighter
4515 employers that operate under a collective bargaining agreement.
4516 Firefighter employers that operate under a collective bargaining
4517 agreement that contains provisions governing the formation and
4518 operation of workplace safety committees that meet or exceed the
4519 minimum requirements contained in this section, or firefighter
4520 employers who otherwise have existing workplace safety
4521 committees that meet or exceed the minimum requirements
4522 established by this section, are in compliance with this
4523 section.

4524 (5) Firefighter employees shall be compensated their

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regular hourly wage while engaged in workplace safety committee or workplace safety coordinator training, meetings, or other duties prescribed under this section.

(6) If a firefighter employer fails to implement a corrective plan, the insurer or self-insurer's fund that is providing coverage for the firefighter employer may cancel the contract for insurance with the firefighter employer. In the alternative, the insurer or fund may terminate any discount or deviation granted to the firefighter employer for the remainder of the term of the policy. If the contract is canceled or the discount or deviation is terminated, the insurer must make such reports as are required by law.

Section 85. Section 633.811, Florida Statutes, is transferred, renumbered as section 633.526, Florida Statutes, and amended to read:

633.526 ~~633.811~~ Firefighter employer penalties.—If any firefighter employer violates or fails or refuses to comply with this part ~~ss. 633.801-633.821~~, or with any rule adopted by the division under such sections in accordance with chapter 120 for the prevention of injuries, accidents, or occupational diseases or with any lawful order of the division in connection with this part ~~ss. 633.801-633.821~~, or fails or refuses to furnish or adopt any safety device, safeguard, or other means of protection prescribed by division rule under this part ~~ss. 633.801-633.821~~ for the prevention of accidents or occupational diseases, the division may:

(1) Issue an administrative cease and desist order, enforceable in the circuit court in the jurisdiction where the violation is occurring or has occurred.

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4554 (2) Assess an administrative fine against a firefighter
4555 employer of not less than \$100 or more than \$1,000 for each
4556 violation and each day a violation is committed.

4557 (3) Assess against the firefighter employer a civil penalty
4558 of not less than \$100 nor more than \$5,000 for each day the
4559 violation, omission, failure, or refusal continues after the
4560 firefighter employer has been given written notice of such
4561 violation, omission, failure, or refusal. The total penalty for
4562 each violation shall not exceed \$50,000. The division shall
4563 adopt rules requiring penalties commensurate with the frequency
4564 or severity of safety violations. Hearings requested under this
4565 section shall be conducted in Tallahassee ~~A hearing shall be~~
4566 ~~held in the county in which the violation, omission, failure, or~~
4567 ~~refusal is alleged to have occurred, unless otherwise agreed to~~
4568 ~~by the firefighter employer and authorized by the division.~~ All
4569 penalties assessed and collected under this section shall be
4570 deposited in the Insurance Regulatory Trust Fund.

4571 Section 86. Section 633.812, Florida Statutes, is
4572 transferred and renumbered as section 633.528, Florida Statutes,
4573 and subsections (2) and (3) of that section are amended, to
4574 read:

4575 633.528 633.812 Division cooperation with Federal
4576 Government; exemption from requirements for private firefighter
4577 employers.—

4578 ~~(2) Except as provided in this section,~~ A private
4579 firefighter employer is not subject to the requirements set
4580 forth in part IV and part V of the division if the private
4581 firefighter employer meets the requirements of this part and:

4582 (a) The private firefighter employer is subject to the

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federal regulations in 29 C.F.R. ss. 1910 and 1926.

(b) The private firefighter employer has adopted and implemented a written safety program that conforms to the requirements of 29 C.F.R. ss. 1910 and 1926.

~~(c) A private firefighter employer with 20 or more full-time firefighter employees shall include provisions for a safety committee in the safety program. The safety committee shall include firefighter employee representation and shall meet at least once each calendar quarter. The private firefighter employer shall make adequate records of each meeting and maintain the records subject to inspections under subsection (3). The safety committee shall, if appropriate, make recommendations regarding improvements to the safety program and corrections of hazards affecting workplace safety.~~

(c) ~~(d)~~ The private firefighter employer provides the division with a written statement that certifies compliance with this subsection.

(3) The division may enter at any reasonable time any place of private firefighter employment for the purpose of verifying the accuracy of the written certification. If the division determines that the private firefighter employer has not complied with the requirements of subsection (2), the private firefighter employer shall be subject to the rules of the division until the private firefighter employer complies with subsection (2), which must be verified by a reinspection by and recertifies that fact to the division.

Section 87. Section 633.816, Florida Statutes, is transferred, renumbered as section 633.532, Florida Statutes, and amended to read:

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4612 633.532 ~~633.816~~ Firefighter employee rights and
4613 responsibilities.—

4614 (1) Each firefighter employee of a firefighter employer
4615 covered under this part ~~ss. 633.801-633.821~~ shall comply with
4616 rules adopted by the division and with reasonable workplace
4617 safety and health standards, rules, policies, procedures, and
4618 work practices established by the firefighter employer and the
4619 workplace safety committee. A firefighter employee who knowingly
4620 fails to comply with this subsection may be disciplined or
4621 discharged by the firefighter employer.

4622 (2) A firefighter employer may not discharge, threaten to
4623 discharge, cause to be discharged, intimidate, coerce, otherwise
4624 discipline, or in any manner discriminate against a firefighter
4625 employee for any of the following reasons:

4626 (a) The firefighter employee has testified or is about to
4627 testify, on her or his own behalf or on behalf of others, in any
4628 proceeding instituted under this part ~~ss. 633.801-633.821~~;

4629 (b) The firefighter employee has exercised any other right
4630 given ~~afforded~~ under this part ~~ss. 633.801-633.821~~; or

4631 (c) The firefighter employee is engaged in activities
4632 relating to the workplace safety committee.

4633 (3) ~~No~~ Pay, a position, seniority, or any other benefit may
4634 not be lost for exercising any right under, or for seeking
4635 compliance with any requirement of, this part ~~ss. 633.801-~~
4636 ~~633.821~~.

4637 Section 88. Section 633.818, Florida Statutes, is
4638 transferred, renumbered as section 633.534, Florida Statutes,
4639 and amended to read:

4640 633.534 ~~633.818~~ False, fictitious, or fraudulent acts,

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statements, and representations prohibited; penalty; statute of limitations ~~to insurers.~~

(1) A firefighter employer who knowingly and willfully falsifies or conceals a material fact, who makes a false, fictitious, or fraudulent statement or representation, or who makes or uses any false document knowing the document to contain any false, fictitious, or fraudulent entry or statement to an insurer of workers' compensation insurance under this part ~~ss. 633.801-633.821~~ commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person may not, in any matter within the jurisdiction of the division, knowingly and willfully falsify or conceal a material fact; make any false, fictitious, or fraudulent statement or representation; or make or use any false document, knowing the same to contain any false, fictitious, or fraudulent statement or entry. A person who violates this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. The statute of limitations for prosecution of an act committed in violation of this section is 5 years after the date the act was committed or, if not discovered within 30 days after the act was committed, 5 years after the date the act was discovered.

Section 89. Section 633.814, Florida Statutes, is transferred, renumbered as section 633.536, Florida Statutes, and amended to read:

633.536 ~~633.814~~ Expenses of administration.—The amounts that are needed to administer this part ~~ss. 633.801-633.821~~ shall be disbursed from the Insurance Regulatory Trust Fund.

Section 90. Paragraph (b) of subsection (2) of section

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112.011, Florida Statutes, is amended to read:

112.011 Disqualification from licensing and public employment based on criminal conviction.—

(2)

(b) This section does not apply to the employment practices of any fire department relating to the hiring of firefighters. ~~An applicant for employment with any fire department who has a prior felony conviction shall be excluded from employment for a period of 4 years after expiration of sentence or final release by the Parole Commission unless the applicant, before the expiration of the 4 year period, has received a full pardon or has had his or her civil rights restored.~~

Section 91. Paragraph (i) of subsection (2) of section 112.191, Florida Statutes, is amended, and paragraphs (a), (b), and (c) of subsection (2) of that section are reenacted, to read:

112.191 Firefighters; death benefits.—

(2)(a) The sum of \$50,000, as adjusted pursuant to paragraph (i), shall be paid as provided in this section when a firefighter, while engaged in the performance of his or her firefighter duties, is accidentally killed or receives accidental bodily injury which subsequently results in the loss of the firefighter's life, provided that such killing is not the result of suicide and that such bodily injury is not intentionally self-inflicted. Notwithstanding any other provision of law, in no case shall the amount payable under this subsection be less than the actual amount stated therein.

(b) The sum of \$50,000, as adjusted pursuant to paragraph (i), shall be paid as provided in this section if a firefighter

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is accidentally killed as specified in paragraph (a) and the accidental death occurs as a result of the firefighter's response to what is reasonably believed to be an emergency involving the protection of life or property or the firefighter's participation in a training exercise. This sum is in addition to any sum provided in paragraph (a). Notwithstanding any other provision of law, the amount payable under this subsection may not be less than the actual amount stated therein.

(c) If a firefighter, while engaged in the performance of his or her firefighter duties, is unlawfully and intentionally killed, is injured by an unlawful and intentional act of another person and dies as a result of such injury, dies as a result of a fire which has been determined to have been caused by an act of arson, or subsequently dies as a result of injuries sustained therefrom, the sum of \$150,000, as adjusted pursuant to paragraph (i), shall be paid as provided in this section. Notwithstanding any other provision of law, the amount payable under this subsection may not be less than the actual amount stated therein.

(i) Any payments made pursuant to paragraph (a), paragraph (b), or paragraph (c) shall consist of the statutory amount adjusted to show ~~reflect~~ price level changes in the Consumer Price Index for All Urban Consumers published by the United States Department of Labor since July 1, 2002 ~~the effective date of the act~~. The Division of State Fire Marshal, using the most recent month for which Consumer Price Index data is available, shall, on June 15 of each year, calculate and publish on the division's internet website the amount resulting from the

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adjustments to ~~by rule adjust~~ the statutory amounts ~~amount based~~
~~on the Consumer Price Index for All Urban Consumers published by~~
~~the United States Department of Labor.~~ The adjusted statutory
amounts ~~Adjustment~~ shall be effective on ~~made~~ July 1 of each
year ~~using the most recent month for which data are available at~~
~~the time of the adjustment.~~

Section 92. Subsection (4) of section 120.541, Florida
Statutes, as amended by section 1 of chapter 2011-222, 2011 Laws
of Florida, is amended to read:

120.541 Statement of estimated regulatory costs.—

(4) Subsection (3) does not apply to the adoption of:

(a) Federal standards pursuant to s. 120.54(6).

(b) Triennial updates of and amendments to the Florida
Building Code which are expressly authorized by s. 553.73.

(c) Triennial updates of and amendments to the Florida Fire
Prevention Code which are expressly authorized by s. 633.202 ~~s.~~
~~633.0215.~~

Section 93. Paragraph (c) of subsection (6) of section
196.081, Florida Statutes, as amended by section 2 of chapter
2012-54, Laws of Florida, and section 19 of chapter 2012-193,
Laws of Florida, is amended to read:

196.081 Exemption for certain permanently and totally
disabled veterans and for surviving spouses of veterans;
exemption for surviving spouses of first responders who die in
the line of duty.—

(6) Any real estate that is owned and used as a homestead
by the surviving spouse of a first responder who died in the
line of duty while employed by the state or any political
subdivision of the state, including authorities and special

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districts, and for whom a letter from the state or appropriate political subdivision of the state, or other authority or special district, has been issued which legally recognizes and certifies that the first responder died in the line of duty while employed as a first responder is exempt from taxation if the first responder and his or her surviving spouse were permanent residents of this state on January 1 of the year in which the first responder died.

(c) As used in this subsection only, and not applicable to the payment of benefits under s. 112.19 or s. 112.191, the term:

1. "First responder" means a law enforcement officer or correctional officer as defined in s. 943.10, a firefighter as defined in s. 633.102 ~~s. 633.30~~, or an emergency medical technician or paramedic as defined in s. 401.23 who is a full-time paid employee, part-time paid employee, or unpaid volunteer.

2. "In the line of duty" means:

- a. While engaging in law enforcement;
- b. While performing an activity relating to fire suppression and prevention;
- c. While responding to a hazardous material emergency;
- d. While performing rescue activity;
- e. While providing emergency medical services;
- f. While performing disaster relief activity;
- g. While otherwise engaging in emergency response activity;

or

h. While engaging in a training exercise related to any of the events or activities enumerated in this subparagraph if the training has been authorized by the employing entity.

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A heart attack or stroke that causes death or causes an injury resulting in death must occur within 24 hours after an event or activity enumerated in this subparagraph and must be directly and proximately caused by the event or activity in order to be considered as having occurred in the line of duty.

Section 94. Section 633.167, Florida Statutes, is amended to read:

633.167 Probation.—

~~(1)~~ If the State Fire Marshal finds that one or more grounds exist for the suspension, revocation, or refusal to issue, renew, or continue any license, certification, or permit issued under this chapter, the State Fire Marshal may, in her or his discretion, except when an administrative fine is not permissible under this chapter or when the suspension, revocation, or refusal is mandatory, in lieu of suspension, revocation, or refusal to issue, renew, or continue or, in connection with any administrative fine imposed, place the offending licensee, certificateholder, or permittee on probation for a period not to exceed 2 years, as specified by the State Fire Marshal in her or his order.

~~(2) As a condition to probation or in connection therewith, the State Fire Marshal may specify in her or his order reasonable terms and conditions to be fulfilled by the probationer during the probation period. If during the probation period the State Fire Marshal has good cause to believe that the probationer has violated any of the terms and conditions, she or he shall suspend, revoke, or refuse to issue, renew, or continue the license, certificate, or permit of the probationer, as upon~~

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the original ground or grounds referred to in subsection (1).

Section 95. Section 633.517, Florida Statutes, is amended to read:

633.517 Authority of State Fire Marshal to adopt rules, administer oaths, and take testimony.—

(1) The State Fire Marshal may ~~is authorized~~, with the advice of the board, ~~to~~ adopt rules pursuant to ss. 120.536(1) and 120.54 to implement ~~the provisions of~~ this act.

(2) ~~The State Fire Marshal or her or his duly appointed hearing officer may administer oaths and take testimony about all matters within the jurisdiction of this act. Chapter 120 governs hearings conducted by or on behalf of the State Fire Marshal.~~

Section 96. Section 633.024, Florida Statutes, is repealed.

Section 97. Section 633.0245, Florida Statutes, is repealed.

Section 98. Section 633.03, Florida Statutes, is repealed.

Section 99. Section 633.0421, Florida Statutes, is repealed.

Section 100. Section 633.13, Florida Statutes, is repealed.

Section 101. Section 633.18, Florida Statutes, is repealed.

Section 102. Section 633.30, Florida Statutes, is repealed.

Section 103. Section 633.32, Florida Statutes, is repealed.

Section 104. Section 633.33, Florida Statutes, is repealed.

Section 105. Section 633.37, Florida Statutes, is repealed.

Section 106. Section 633.445, Florida Statutes, is repealed.

Section 107. Section 633.46, Florida Statutes, is repealed.

Section 108. Section 633.514, Florida Statutes, is

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repealed.

Section 109. Section 633.524, Florida Statutes, is
repealed.

Section 110. Section 633.804, Florida Statutes, is
repealed.

Section 111. Section 633.808, Florida Statutes, is
repealed.

Section 112. Section 633.810, Florida Statutes, is
repealed.

Section 113. Section 633.813, Florida Statutes, is
repealed.

Section 114. Section 633.815, Florida Statutes, is
repealed.

Section 115. Section 633.819, Florida Statutes, is
repealed.

Section 116. Section 633.820, Florida Statutes, is
repealed.

Section 117. Subsection (1) of section 112.1815, Florida
Statutes, is amended to read:

112.1815 Firefighters, paramedics, emergency medical
technicians, and law enforcement officers; special provisions
for employment-related accidents and injuries.—

(1) The term "first responder" as used in this section
means a law enforcement officer as defined in s. 943.10, a
firefighter as defined in s. 633.102 ~~633.30~~, or an emergency
medical technician or paramedic as defined in s. 401.23 employed
by state or local government. A volunteer law enforcement
officer, firefighter, or emergency medical technician or
paramedic engaged by the state or a local government is also

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considered a first responder of the state or local government for purposes of this section.

Section 118. Paragraph (b) of subsection (1) of section 112.191, Florida Statutes, is amended to read:

112.191 Firefighters; death benefits.—

(1) Whenever used in this act:

(b) The term “firefighter” means any full-time duly employed uniformed firefighter employed by an employer, whose primary duty is the prevention and extinguishing of fires, the protection of life and property therefrom, the enforcement of municipal, county, and state fire prevention codes, as well as the enforcement of any law pertaining to the prevention and control of fires, who is certified pursuant to s. 633.408 ~~633.35~~, and who is a member of a duly constituted fire department of such employer or who is a volunteer firefighter.

Section 119. Subsection (1) of section 112.81, Florida Statutes, is amended to read:

112.81 Definitions.—As used in this part:

(1) “Firefighter” means a ~~any~~ person who is certified in compliance with s. 633.408 ~~633.35~~ and who is employed solely within the fire department or public safety department of an employing agency as a full-time firefighter whose primary responsibility is the prevention and extinguishment of fires; the protection of life and property; and the enforcement of municipal, county, and state fire prevention codes and laws pertaining to the prevention and control of fires.

Section 120. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read:

119.071 General exemptions from inspection or copying of

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public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term "telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, social security numbers, dates of birth, and photographs of active or former sworn or civilian law enforcement personnel, including correctional and correctional probation officers, personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the home addresses, telephone numbers, social security numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1).

b. The home addresses, telephone numbers, dates of birth, and photographs of firefighters certified in compliance with s. 633.408 ~~633.35~~; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and

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4931 locations of schools and day care facilities attended by the
4932 children of such firefighters are exempt from s. 119.07(1).

4933 c. The home addresses, dates of birth, and telephone
4934 numbers of current or former justices of the Supreme Court,
4935 district court of appeal judges, circuit court judges, and
4936 county court judges; the home addresses, telephone numbers,
4937 dates of birth, and places of employment of the spouses and
4938 children of current or former justices and judges; and the names
4939 and locations of schools and day care facilities attended by the
4940 children of current or former justices and judges are exempt
4941 from s. 119.07(1).

4942 d. The home addresses, telephone numbers, social security
4943 numbers, dates of birth, and photographs of current or former
4944 state attorneys, assistant state attorneys, statewide
4945 prosecutors, or assistant statewide prosecutors; the home
4946 addresses, telephone numbers, social security numbers,
4947 photographs, dates of birth, and places of employment of the
4948 spouses and children of current or former state attorneys,
4949 assistant state attorneys, statewide prosecutors, or assistant
4950 statewide prosecutors; and the names and locations of schools
4951 and day care facilities attended by the children of current or
4952 former state attorneys, assistant state attorneys, statewide
4953 prosecutors, or assistant statewide prosecutors are exempt from
4954 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

4955 e. The home addresses, dates of birth, and telephone
4956 numbers of general magistrates, special magistrates, judges of
4957 compensation claims, administrative law judges of the Division
4958 of Administrative Hearings, and child support enforcement
4959 hearing officers; the home addresses, telephone numbers, dates

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of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; and the names and locations of schools and day care facilities attended by the children of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the general magistrate, special magistrate, judge of compensation claims, administrative law judge of the Division of Administrative Hearings, or child support hearing officer provides a written statement that the general magistrate, special magistrate, judge of compensation claims, administrative law judge of the Division of Administrative Hearings, or child support hearing officer has made reasonable efforts to protect such information from being accessible through other means available to the public.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former human resource, labor relations, or employee relations directors, assistant directors, managers, or assistant managers of any local government agency or water management district whose duties include hiring and firing employees, labor contract negotiation, administration, or other personnel-related duties; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the

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children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, telephone numbers, dates of birth, and photographs of current or former code enforcement officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

h. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former guardians ad litem, as defined in s. 39.820; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such persons; and the names and locations of schools and day care facilities attended by the children of such persons are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, if the guardian ad litem provides a written statement that the guardian ad litem has made reasonable efforts to protect such information from being accessible through other means available to the public.

i. The home addresses, telephone numbers, dates of birth, and photographs of current or former juvenile probation officers, juvenile probation supervisors, detention superintendents, assistant detention superintendents, juvenile justice detention officers I and II, juvenile justice detention officer supervisors, juvenile justice residential officers, juvenile justice residential officer supervisors I and II, juvenile justice counselors, juvenile justice counselor

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5018 supervisors, human services counselor administrators, senior
5019 human services counselor administrators, rehabilitation
5020 therapists, and social services counselors of the Department of
5021 Juvenile Justice; the names, home addresses, telephone numbers,
5022 dates of birth, and places of employment of spouses and children
5023 of such personnel; and the names and locations of schools and
5024 day care facilities attended by the children of such personnel
5025 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5026 Constitution.

5027 j. The home addresses, telephone numbers, dates of birth,
5028 and photographs of current or former public defenders, assistant
5029 public defenders, criminal conflict and civil regional counsel,
5030 and assistant criminal conflict and civil regional counsel; the
5031 home addresses, telephone numbers, dates of birth, and places of
5032 employment of the spouses and children of such defenders or
5033 counsel; and the names and locations of schools and day care
5034 facilities attended by the children of such defenders or counsel
5035 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5036 Constitution.

5037 k. The home addresses, telephone numbers, and photographs
5038 of current or former investigators or inspectors of the
5039 Department of Business and Professional Regulation; the names,
5040 home addresses, telephone numbers, and places of employment of
5041 the spouses and children of such current or former investigators
5042 and inspectors; and the names and locations of schools and day
5043 care facilities attended by the children of such current or
5044 former investigators and inspectors are exempt from s. 119.07(1)
5045 and s. 24(a), Art. I of the State Constitution if the
5046 investigator or inspector has made reasonable efforts to protect

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such information from being accessible through other means available to the public. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

1. The home addresses and telephone numbers of county tax collectors; the names, home addresses, telephone numbers, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution if the county tax collector has made reasonable efforts to protect such information from being accessible through other means available to the public. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the officer, employee, justice, judge, or other person specified in subparagraph 2. shall maintain the exempt status of that information only if the officer, employee, justice, judge, other person, or employing agency of the designated employee submits a written request for maintenance of the exemption to the custodial agency.

4. The exemptions in this paragraph apply to information held by an agency before, on, or after the effective date of the exemption.

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5. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2017, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 121. Subsection (17) of section 120.80, Florida Statutes, is amended to read:

120.80 Exceptions and special requirements; agencies.—

(17) STATE FIRE MARSHAL.—Section 120.541(3) does not apply to the adoption of amendments and the triennial update to the Florida Fire Prevention Code expressly authorized by s. 633.202 ~~633.0215~~.

Section 122. Subsection (3) and paragraph (a) of subsection (6) of section 121.0515, Florida Statutes, are amended to read:

121.0515 Special Risk Class.—

(3) CRITERIA.—A member, to be designated as a special risk member, must meet the following criteria:

(a) Effective October 1, 1978, the member must be employed as a law enforcement officer and be certified, or required to be certified, in compliance with s. 943.1395; however, sheriffs and elected police chiefs are excluded from meeting the certification requirements of this paragraph. In addition, the member's duties and responsibilities must include the pursuit, apprehension, and arrest of law violators or suspected law violators; or as of July 1, 1982, the member must be an active member of a bomb disposal unit whose primary responsibility is the location, handling, and disposal of explosive devices; or the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose

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primary duties and responsibilities are in accounting,
purchasing, legal, and personnel, are not included;

(b) Effective October 1, 1978, the member must be employed as a firefighter and be certified, or required to be certified, in compliance with s. 633.408 ~~633.35~~ and be employed solely within the fire department of a local government employer or an agency of state government with firefighting responsibilities. In addition, the member's duties and responsibilities must include on-the-scene fighting of fires; as of October 1, 2001, fire prevention or firefighter training; as of October 1, 2001, direct supervision of firefighting units, fire prevention, or firefighter training; or as of July 1, 2001, aerial firefighting surveillance performed by fixed-wing aircraft pilots employed by the Florida Forest Service of the Department of Agriculture and Consumer Services; or the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included. All periods of creditable service in fire prevention or firefighter training, or as the supervisor or command officer of a member or members who have such responsibilities, and for which the employer paid the special risk contribution rate, are included;

(c) Effective October 1, 1978, the member must be employed as a correctional officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the custody, and physical restraint when necessary, of prisoners or

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inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or as of July 1, 1984, the member must be the supervisor or command officer of a member or members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal, and personnel, are not included; however, wardens and assistant wardens, as defined by rule, are included;

(d) Effective October 1, 1999, the member must be employed by a licensed Advance Life Support (ALS) or Basic Life Support (BLS) employer as an emergency medical technician or a paramedic and be certified in compliance with s. 401.27. In addition, the member's primary duties and responsibilities must include on-the-scene emergency medical care or as of October 1, 2001, direct supervision of emergency medical technicians or paramedics, or the member must be the supervisor or command officer of one or more members who have such responsibility. Administrative support personnel, including, but not limited to, those whose primary responsibilities are in accounting, purchasing, legal, and personnel, are not included;

(e) Effective January 1, 2001, the member must be employed as a community-based correctional probation officer and be certified, or required to be certified, in compliance with s. 943.1395. In addition, the member's primary duties and responsibilities must be the supervised custody, surveillance, control, investigation, and counseling of assigned inmates, probationers, parolees, or community controllees within the community; or the member must be the supervisor of a member or

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members who have such responsibilities. Administrative support personnel, including, but not limited to, those whose primary duties and responsibilities are in accounting, purchasing, legal services, and personnel management, are not included; however, probation and parole circuit and deputy circuit administrators are included;

(f) Effective January 1, 2001, the member must be employed in one of the following classes and must spend at least 75 percent of his or her time performing duties which involve contact with patients or inmates in a correctional or forensic facility or institution:

1. Dietitian (class codes 5203 and 5204);
2. Public health nutrition consultant (class code 5224);
3. Psychological specialist (class codes 5230 and 5231);
4. Psychologist (class code 5234);
5. Senior psychologist (class codes 5237 and 5238);
6. Regional mental health consultant (class code 5240);
7. Psychological Services Director-DCF (class code 5242);
8. Pharmacist (class codes 5245 and 5246);
9. Senior pharmacist (class codes 5248 and 5249);
10. Dentist (class code 5266);
11. Senior dentist (class code 5269);
12. Registered nurse (class codes 5290 and 5291);
13. Senior registered nurse (class codes 5292 and 5293);
14. Registered nurse specialist (class codes 5294 and 5295);
15. Clinical associate (class codes 5298 and 5299);
16. Advanced registered nurse practitioner (class codes 5297 and 5300);

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17. Advanced registered nurse practitioner specialist
(class codes 5304 and 5305);

18. Registered nurse supervisor (class codes 5306 and
5307);

19. Senior registered nurse supervisor (class codes 5308
and 5309);

20. Registered nursing consultant (class codes 5312 and
5313);

21. Quality management program supervisor (class code
5314);

22. Executive nursing director (class codes 5320 and 5321);

23. Speech and hearing therapist (class code 5406); or

24. Pharmacy manager (class code 5251);

(g) Effective July 1, 2001, the member must be employed as
a youth custody officer and be certified, or required to be
certified, in compliance with s. 943.1395. In addition, the
member's primary duties and responsibilities must be the
supervised custody, surveillance, control, investigation,
apprehension, arrest, and counseling of assigned juveniles
within the community;

(h) Effective October 1, 2005, through June 30, 2008, the
member must be employed by a law enforcement agency or medical
examiner's office in a forensic discipline recognized by the
International Association for Identification and must qualify
for active membership in the International Association for
Identification. The member's primary duties and responsibilities
must include the collection, examination, preservation,
documentation, preparation, or analysis of physical evidence or
testimony, or both, or the member must be the direct supervisor,

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quality management supervisor, or command officer of one or more individuals with such responsibility. Administrative support personnel, including, but not limited to, those whose primary responsibilities are clerical or in accounting, purchasing, legal, and personnel, are not included;

(i) Effective July 1, 2008, the member must be employed by the Department of Law Enforcement in the crime laboratory or by the Division of State Fire Marshal in the forensic laboratory in one of the following classes:

1. Forensic technologist (class code 8459);
2. Crime laboratory technician (class code 8461);
3. Crime laboratory analyst (class code 8463);
4. Senior crime laboratory analyst (class code 8464);
5. Crime laboratory analyst supervisor (class code 8466);
6. Forensic chief (class code 9602); or
7. Forensic services quality manager (class code 9603);

(j) Effective July 1, 2008, the member must be employed by a local government law enforcement agency or medical examiner's office and must spend at least 65 percent of his or her time performing duties that involve the collection, examination, preservation, documentation, preparation, or analysis of human tissues or fluids or physical evidence having potential biological, chemical, or radiological hazard or contamination, or use chemicals, processes, or materials that may have carcinogenic or health-damaging properties in the analysis of such evidence, or the member must be the direct supervisor of one or more individuals having such responsibility. If a special risk member changes to another position within the same agency, he or she must submit a complete application as provided in

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5250 paragraph (4)(a); or

5251 (k) The member must have already qualified for and be
5252 actively participating in special risk membership under
5253 paragraph (a), paragraph (b), or paragraph (c), must have
5254 suffered a qualifying injury as defined in this paragraph, must
5255 not be receiving disability retirement benefits as provided in
5256 s. 121.091(4), and must satisfy the requirements of this
5257 paragraph.

5258 1. The ability to qualify for the class of membership
5259 defined in paragraph (2)(i) occurs when two licensed medical
5260 physicians, one of whom is a primary treating physician of the
5261 member, certify the existence of the physical injury and medical
5262 condition that constitute a qualifying injury as defined in this
5263 paragraph and that the member has reached maximum medical
5264 improvement after August 1, 2008. The certifications from the
5265 licensed medical physicians must include, at a minimum, that the
5266 injury to the special risk member has resulted in a physical
5267 loss, or loss of use, of at least two of the following: left
5268 arm, right arm, left leg, or right leg; and:

5269 a. That this physical loss or loss of use is total and
5270 permanent, except if ~~in the event that~~ the loss of use is due to
5271 a physical injury to the member's brain, in which event the loss
5272 of use is permanent with at least 75 percent loss of motor
5273 function with respect to each arm or leg affected.

5274 b. That this physical loss or loss of use renders the
5275 member physically unable to perform the essential job functions
5276 of his or her special risk position.

5277 c. That, notwithstanding this physical loss or loss of use,
5278 the individual can ~~is able to~~ perform the essential job

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5279 functions required by the member's new position, as provided in
5280 subparagraph 3.

5281 d. That use of artificial limbs is ~~either~~ not possible or
5282 does not alter the member's ability to perform the essential job
5283 functions of the member's position.

5284 e. That the physical loss or loss of use is a direct result
5285 of a physical injury and not a result of any mental,
5286 psychological, or emotional injury.

5287 2. For the purposes of this paragraph, "qualifying injury"
5288 means an injury sustained in the line of duty, as certified by
5289 the member's employing agency, by a special risk member that
5290 does not result in total and permanent disability as defined in
5291 s. 121.091(4)(b). An injury is a qualifying injury if the injury
5292 is a physical injury to the member's physical body resulting in
5293 a physical loss, or loss of use, of at least two of the
5294 following: left arm, right arm, left leg, or right leg.
5295 Notwithstanding any other provision of this section, an injury
5296 that would otherwise qualify as a qualifying injury is not
5297 considered a qualifying injury if and when the member ceases
5298 employment with the employer for whom he or she was providing
5299 special risk services on the date the injury occurred.

5300 3. The new position, as described in sub-subparagraph 1.c.,
5301 that is required for qualification as a special risk member
5302 under this paragraph is not required to be a position with
5303 essential job functions that entitle an individual to special
5304 risk membership. Whether a new position as described in sub-
5305 subparagraph 1.c. exists and is available to the special risk
5306 member is a decision to be made solely by the employer in
5307 accordance with its hiring practices and applicable law.

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4. This paragraph does not grant or create additional rights for any individual to continued employment or to be hired or rehired by his or her employer that are not already provided within the Florida Statutes, the State Constitution, the Americans with Disabilities Act, if applicable, or any other applicable state or federal law.

(6) CREDIT FOR PAST SERVICE.—A special risk member may purchase retirement credit in the Special Risk Class based upon past service, and may upgrade retirement credit for such past service, to the extent of 2 percent of the member's average monthly compensation as specified in s. 121.091(1)(a) for such service as follows:

(a) The member may purchase special risk credit for past service with a municipality or special district which has elected to join the Florida Retirement System, or with a participating agency to which a member's governmental unit was transferred, merged, or consolidated as provided in s. 121.081(1)(f), if the member was employed with the municipality or special district when ~~at the time~~ it commenced participating in the Florida Retirement System or with the governmental unit at the time of its transfer, merger, or consolidation with the participating agency. The service must satisfy the criteria set forth in subsection (3) for Special Risk Class membership as a law enforcement officer, firefighter, or correctional officer; however, a certificate or waiver of certificate of compliance with s. 943.1395 or s. 633.408 ~~633.35~~ is not required for such service.

Section 123. Paragraph (d) of subsection (1) of section 125.01, Florida Statutes, is amended to read:

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125.01 Powers and duties.—

(1) The legislative and governing body of a county shall have the power to carry on county government. To the extent not inconsistent with general or special law, this power includes, but is not restricted to, the power to:

(d) Provide fire protection, including the enforcement of the Florida Fire Prevention Code, as provided in ss. 633.206 ~~633.022~~ and 633.208 ~~633.025~~, and adopt and enforce local technical amendments to the Florida Fire Prevention Code as provided in those sections and pursuant to s. 633.202 ~~633.0215~~.

Section 124. Subsection (2) of section 125.01045, Florida Statutes, is amended to read:

125.01045 Prohibition of fees for first responder services.—

(2) As used in this section, the term "first responder" means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.102 ~~633.30~~, or an emergency medical technician or paramedic as defined in s. 401.23 who is employed by the state or a local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

Section 125. Subsection (1) of section 125.56, Florida Statutes, is amended to read:

125.56 Enforcement and amendment of the Florida Building Code and the Florida Fire Prevention Code; inspection fees; inspectors; etc.—

(1) The board of county commissioners of each of the

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several counties of the state ~~may is authorized to~~ enforce the Florida Building Code and the Florida Fire Prevention Code, as provided in ss. 553.80, 633.206 ~~633.022~~, and 633.208 ~~633.025~~, and, at its discretion, to adopt local technical amendments to the Florida Building Code, pursuant to s. 553.73(4)(b) and (c) and local technical amendments to the Florida Fire Prevention Code, pursuant to s. 633.202 ~~633.0215~~, to provide for the safe construction, erection, alteration, repair, securing, and demolition of any building within its territory outside the corporate limits of any municipality. Upon a determination to consider amending the Florida Building Code or the Florida Fire Prevention Code by a majority of the members of the board of county commissioners of such county, the board shall call a public hearing and comply with the public notice requirements of s. 125.66(2). The board shall hear all interested parties at the public hearing and may then amend the building code or the fire code consistent with the terms and purposes of this act. Upon adoption, an amendment to the code shall be in full force and effect throughout the unincorporated area of such county until otherwise notified by the Florida Building Commission pursuant to s. 553.73 or the State Fire Marshal pursuant to s. 633.202 ~~633.0215~~. Nothing herein contained shall be construed to prevent the board of county commissioners from repealing such amendment to the building code or the fire code at any regular meeting of such board.

Section 126. Subsection (2) of section 166.0446, Florida Statutes, is amended to read:

166.0446 Prohibition of fees for first responder services.—

(2) As used in this section, the term "first responder"

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means a law enforcement officer as defined in s. 943.10, a firefighter as defined in s. 633.102 ~~633.30~~, or an emergency medical technician or paramedic as defined in s. 401.23 who is employed by the state or a local government. A volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is also considered a first responder of the state or local government for purposes of this section.

Section 127. Paragraph (a) of subsection (8) of section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the following words and phrases have the following meanings:

(8) (a) "Firefighter" means a ~~any~~ person employed solely by a constituted fire department of any municipality or special fire control district who is certified as a firefighter as a condition of employment in accordance with s. 633.408 ~~633.35~~ and whose duty it is to extinguish fires, to protect life, or to protect property. The term 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 firefighters, part-time firefighters, or auxiliary firefighters but does not include part-time firefighters or auxiliary firefighters. However, for purposes of this chapter only, the term also includes public safety officers who are responsible for performing both police and fire services, who are certified as police officers or

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5424 firefighters, and who are certified by their employers to the
5425 Chief Financial Officer as participating in this chapter before
5426 October 1, 1979. Effective October 1, 1979, public safety
5427 officers who have not been certified as participating in this
5428 chapter are considered police officers for retirement purposes
5429 and are eligible to participate in chapter 185. Any plan may
5430 provide that the fire chief has an option to participate, or
5431 not, in that plan.

5432 Section 128. Subsection (3) of section 175.121, Florida
5433 Statutes, is amended to read:

5434 175.121 Department of Revenue and Division of Retirement to
5435 keep accounts of deposits; disbursements.—For any municipality
5436 or special fire control district having a chapter or local law
5437 plan established pursuant to this chapter:

5438 (3) (a) All moneys not distributed to municipalities and
5439 special fire control districts under this section as a result of
5440 the limitation on disbursement contained in s. 175.122, or as a
5441 result of any municipality or special fire control district not
5442 having qualified in any given year, or portion thereof, shall be
5443 transferred to the Firefighters' Supplemental Compensation Trust
5444 Fund administered by the Department of Revenue, as provided in
5445 s. 633.422 ~~633.382~~.

5446 (b) 1. Moneys transferred under paragraph (a) but not needed
5447 to support the supplemental compensation program in a given year
5448 shall be redistributed pro rata to those participating
5449 municipalities and special fire control districts that transfer
5450 any portion of their funds to support the supplemental
5451 compensation program in that year. Such additional moneys shall
5452 be used to cover or offset costs of the retirement plan.

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2. To assist the Department of Revenue, the division shall identify those municipalities and special fire control districts that are eligible for redistribution as provided in s.

633.422(3)(c)2. ~~633.382(4)(c)2.~~, by listing the municipalities and special fire control districts from which funds were transferred under paragraph (a) and specifying the amount transferred by each.

Section 129. Paragraph (e) of subsection (1) of section 218.23, Florida Statutes, is amended to read:

218.23 Revenue sharing with units of local government.—

(1) To be eligible to participate in revenue sharing beyond the minimum entitlement in any fiscal year, a unit of local government is required to have:

(e) Certified that persons in its employ as firefighters, as defined in s. 633.102 ~~633.30(1)~~, meet the qualification for employment as established by the Division of State Fire Marshal pursuant to ~~the provisions of~~ ss. 633.412 ~~633.34~~ and 633.408 ~~633.35~~ and that ~~the provisions of~~ s. 633.422 ~~has~~ ~~633.382~~ have been met.

Additionally, to receive its share of revenue sharing funds, a unit of local government shall certify to the Department of Revenue that the requirements of s. 200.065, if applicable, were met. The certification shall be made annually within 30 days of adoption of an ordinance or resolution establishing a final property tax levy or, if no property tax is levied, not later than November 1. The portion of revenue sharing funds which, pursuant to this part, would otherwise be distributed to a unit of local government which has not certified compliance or has

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otherwise failed to meet the requirements of s. 200.065 shall be deposited in the General Revenue Fund for the 12 months following a determination of noncompliance by the department.

Section 130. Paragraph (a) of subsection (3) of section 252.515, Florida Statutes, is amended to read:

252.515 Postdisaster Relief Assistance Act; immunity from civil liability.—

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

(a) "Emergency first responder" means:

1. A physician licensed under chapter 458.
2. An osteopathic physician licensed under chapter 459.
3. A chiropractic physician licensed under chapter 460.
4. A podiatric physician licensed under chapter 461.
5. A dentist licensed under chapter 466.
6. An advanced registered nurse practitioner certified under s. 464.012.
7. A physician assistant licensed under s. 458.347 or s. 459.022.
8. A worker employed by a public or private hospital in the state.
9. A paramedic as defined in s. 401.23(17).
10. An emergency medical technician as defined in s. 401.23(11).
11. A firefighter as defined in s. 633.102 ~~633.30~~.
12. A law enforcement officer as defined in s. 943.10.
13. A member of the Florida National Guard.
14. Any other personnel designated as emergency personnel by the Governor pursuant to a declared emergency.

Section 131. Section 255.45, Florida Statutes, is amended

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to read:

255.45 Correction of firesafety violations in certain state-owned property.—The Department of Management Services is responsible for ensuring that firesafety violations that are noted by the State Fire Marshal pursuant to s. 633.218 ~~633.085~~ are corrected as soon as practicable for all state-owned property which is leased from the Department of Management Services.

Section 132. Subsection (4) of section 258.0145, Florida Statutes, is amended to read:

258.0145 Military state park fee discounts.—The Division of Recreation and Parks shall provide the following discounts on park fees to persons who present written documentation satisfactory to the division which evidences their eligibility for the discounts:

(4) The surviving spouse and parents of a law enforcement officer, as defined in s. 943.10(1), or a firefighter, as defined in s. 633.102 ~~633.30(1)~~, who has died in the line of duty shall receive lifetime family annual entrance passes at no charge.

Section 133. Subsection (1) of section 281.02, Florida Statutes, is amended to read:

281.02 Powers and duties of the Department of Management Services with respect to firesafety and security.—The Department of Management Services has the following powers and duties with respect to firesafety and security:

(1) To assist the State Fire Marshal in maintaining the firesafety of public buildings pursuant to s. 633.218 ~~633.085~~.

Section 134. Subsection (1) of section 384.287, Florida

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Statutes, is amended to read:

384.287 Screening for sexually transmissible disease.—

(1) An officer as defined in s. 943.10(14); support personnel as defined in s. 943.10(11) who are employed by the Department of Law Enforcement, including, but not limited to, any crime scene analyst, forensic technologist, or crime lab analyst; firefighter as defined in s. 633.102 ~~633.30~~; or ambulance driver, paramedic, or emergency medical technician as defined in s. 401.23, acting within the scope of employment, who comes into contact with a person in such a way that significant exposure, as defined in s. 381.004, has occurred may request that the person be screened for a sexually transmissible disease that can be transmitted through a significant exposure.

Section 135. Paragraph (a) of subsection (1) of section 395.0163, Florida Statutes, is amended to read:

395.0163 Construction inspections; plan submission and approval; fees.—

(1)(a) The design, construction, erection, alteration, modification, repair, and demolition of all public and private health care facilities are governed by the Florida Building Code and the Florida Fire Prevention Code under ss. 553.73 and 633.206 ~~633.022~~. In addition to the requirements of ss. 553.79 and 553.80, the agency shall review facility plans and survey the construction of any facility licensed under this chapter. The agency shall make, or cause to be made, such construction inspections and investigations as it deems necessary. The agency may prescribe by rule that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall, before

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commencing such alteration, addition, or new construction, submit plans and specifications therefor to the agency for preliminary inspection and approval or recommendation with respect to compliance with applicable provisions of the Florida Building Code or agency rules and standards. The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the fee for review of plans as required in subsection (2). The agency may be granted one 15-day extension for the review period if the director of the agency approves the extension. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for its disapproval. Conferences and consultations may be provided as necessary.

Section 136. Section 400.232, Florida Statutes, is amended to read:

400.232 Review and approval of plans; fees and costs.—The design, construction, erection, alteration, modification, repair, and demolition of all public and private health care facilities are governed by the Florida Building Code and the Florida Fire Prevention Code under ss. 553.73 and 633.206 ~~633.022~~. In addition to the requirements of ss. 553.79 and 553.80, the agency shall review the facility plans and survey the construction of facilities licensed under this chapter.

(1) The agency shall approve or disapprove the plans and specifications within 60 days after receipt of the final plans and specifications. The agency may be granted one 15-day extension for the review period, if the director of the agency

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so approves. If the agency fails to act within the specified time, it shall be deemed to have approved the plans and specifications. When the agency disapproves plans and specifications, it shall set forth in writing the reasons for disapproval. Conferences and consultations may be provided as necessary.

(2) The agency may ~~is authorized to~~ charge an initial fee of \$2,000 for review of plans and construction on all projects, no part of which is refundable. The agency may also collect a fee, not to exceed 1 percent of the estimated construction cost or the actual cost of review, whichever is less, for the portion of the review which encompasses initial review through the initial revised construction document review. The agency is further authorized to collect its actual costs on all subsequent portions of the review and construction inspections. Initial fee payment shall accompany the initial submission of plans and specifications. Any subsequent payment that is due is payable upon receipt of the invoice from the agency. Notwithstanding any other ~~provisions of~~ law to the contrary, all money received by the agency pursuant to ~~the provisions of~~ this section shall be ~~deemed to be~~ trust funds, to be held and applied solely for the operations required under this section.

Section 137. Section 400.915, Florida Statutes, is amended to read:

400.915 Construction and renovation; requirements.—The requirements for the construction or renovation of a PPEC center shall comply with:

(1) The provisions of chapter 553, which pertain to building construction standards, including plumbing, electrical

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code, glass, manufactured buildings, accessibility for the physically disabled;

(2) Section 633.206 ~~The provisions of s. 633.022~~ and applicable rules pertaining to physical standards for nonresidential child care facilities; and

(3) The standards or rules adopted pursuant to this part and part II of chapter 408.

Section 138. Paragraph (a) of subsection (1) of section 429.41, Florida Statutes, is amended to read:

429.41 Rules establishing standards.—

(1) It is the intent of the Legislature that rules published and enforced pursuant to this section shall include criteria by which a reasonable and consistent quality of resident care and quality of life may be ensured and the results of such resident care may be demonstrated. Such rules shall also ensure a safe and sanitary environment that is residential and noninstitutional in design or nature. It is further intended that reasonable efforts be made to accommodate the needs and preferences of residents to enhance the quality of life in a facility. The agency, in consultation with the department, may adopt rules to administer the requirements of part II of chapter 408. In order to provide safe and sanitary facilities and the highest quality of resident care accommodating the needs and preferences of residents, the department, in consultation with the agency, the Department of Children and Family Services, and the Department of Health, shall adopt rules, policies, and procedures to administer this part, which must include reasonable and fair minimum standards in relation to:

(a) The requirements for and maintenance of facilities, not

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5656 in conflict with ~~the provisions of~~ chapter 553, relating to
5657 plumbing, heating, cooling, lighting, ventilation, living space,
5658 and other housing conditions, which will ensure the health,
5659 safety, and comfort of residents and protection from fire
5660 hazard, including adequate provisions for fire alarm and other
5661 fire protection suitable to the size of the structure. Uniform
5662 firesafety standards shall be established and enforced by the
5663 State Fire Marshal in cooperation with the agency, the
5664 department, and the Department of Health.

5665 1. Evacuation capability determination.—

5666 a. The ~~provisions of the~~ National Fire Protection
5667 Association, NFPA 101A, Chapter 5, 1995 edition, shall be used
5668 for determining the ability of the residents, with or without
5669 staff assistance, to relocate from or within a licensed facility
5670 to a point of safety as provided in the fire codes adopted
5671 herein. An evacuation capability evaluation for initial
5672 licensure shall be conducted within 6 months after the date of
5673 licensure. For existing licensed facilities that are not
5674 equipped with an automatic fire sprinkler system, the
5675 administrator shall evaluate the evacuation capability of
5676 residents at least annually. The evacuation capability
5677 evaluation for each facility not equipped with an automatic fire
5678 sprinkler system shall be validated, without liability, by the
5679 State Fire Marshal, by the local fire marshal, or by the local
5680 authority having jurisdiction over firesafety, before the
5681 license renewal date. If the State Fire Marshal, local fire
5682 marshal, or local authority having jurisdiction over firesafety
5683 has reason to believe that the evacuation capability of a
5684 facility as reported by the administrator may have changed, it

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may, with assistance from the facility administrator, reevaluate the evacuation capability through timed exiting drills. Translation of timed fire exiting drills to evacuation capability may be determined:

(I) Three minutes or less: prompt.

(II) More than 3 minutes, but not more than 13 minutes: slow.

(III) More than 13 minutes: impractical.

b. The Office of the State Fire Marshal shall provide or cause the provision of training and education on the proper application of Chapter 5, NFPA 101A, 1995 edition, to its employees, to staff of the Agency for Health Care Administration who are responsible for regulating facilities under this part, and to local governmental inspectors. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

c. The Office of the State Fire Marshal, in cooperation with provider associations, shall provide or cause the provision of a training program designed to inform facility operators on how to properly review bid documents relating to the installation of automatic fire sprinklers. The Office of the State Fire Marshal shall provide or cause the provision of this training within its existing budget, but may charge a fee for this training to offset its costs. The initial training must be delivered within 6 months after July 1, 1995, and as needed thereafter.

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d. The administrator of a licensed facility shall sign an affidavit verifying the number of residents occupying the facility at the time of the evacuation capability evaluation.

2. Firesafety requirements.—

a. Except for the special applications provided herein, effective January 1, 1996, the ~~provisions of the~~ National Fire Protection Association, Life Safety Code, NFPA 101, 1994 edition, Chapter 22 for new facilities and Chapter 23 for existing facilities shall be the uniform fire code applied by the State Fire Marshal for assisted living facilities, pursuant to s. 633.206 ~~633.022~~.

b. Any new facility, regardless of size, that applies for a license on or after January 1, 1996, must be equipped with an automatic fire sprinkler system. The exceptions as provided in s. 22-2.3.5.1, NFPA 101, 1994 edition, as adopted herein, apply to any new facility housing eight or fewer residents. On July 1, 1995, local governmental entities responsible for the issuance of permits for construction shall inform, without liability, any facility whose permit for construction is obtained before ~~prior~~ ~~to~~ January 1, 1996, of this automatic fire sprinkler requirement. As used in this part, the term "a new facility" does not mean an existing facility that has undergone change of ownership.

c. Notwithstanding any provision of s. 633.206 ~~633.022~~ or of the National Fire Protection Association, NFPA 101A, Chapter 5, 1995 edition, to the contrary, any existing facility housing eight or fewer residents is not required to install an automatic fire sprinkler system, nor to comply with any other requirement in Chapter 23, NFPA 101, 1994 edition, that exceeds the

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firesafety requirements of NFPA 101, 1988 edition, that applies to this size facility, unless the facility has been classified as impractical to evacuate. Any existing facility housing eight or fewer residents that is classified as impractical to evacuate must install an automatic fire sprinkler system within the timeframes granted in this section.

d. Any existing facility that is required to install an automatic fire sprinkler system under this paragraph need not meet other firesafety requirements of Chapter 23, NFPA 101, 1994 edition, which exceed the provisions of NFPA 101, 1988 edition. The mandate contained in this paragraph which requires certain facilities to install an automatic fire sprinkler system supersedes any other requirement.

e. This paragraph does not supersede the exceptions granted in NFPA 101, 1988 edition or 1994 edition.

f. This paragraph does not exempt facilities from other firesafety provisions adopted under s. 633.206 ~~633.022~~ and local building code requirements in effect before July 1, 1995.

g. A local government may charge fees only in an amount not to exceed the actual expenses incurred by local government relating to the installation and maintenance of an automatic fire sprinkler system in an existing and properly licensed assisted living facility structure as of January 1, 1996.

h. If a licensed facility undergoes major reconstruction or addition to an existing building on or after January 1, 1996, the entire building must be equipped with an automatic fire sprinkler system. Major reconstruction of a building means repair or restoration that costs in excess of 50 percent of the value of the building as reported on the tax rolls, excluding

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land, before reconstruction. Multiple reconstruction projects within a 5-year period the total costs of which exceed 50 percent of the initial value of the building when ~~at the time~~ the first reconstruction project was permitted are to be considered as major reconstruction. Application for a permit for an automatic fire sprinkler system is required upon application for a permit for a reconstruction project that creates costs that go over the 50-percent threshold.

i. Any facility licensed before January 1, 1996, that is required to install an automatic fire sprinkler system shall ensure that the installation is completed within the following timeframes based upon evacuation capability of the facility as determined under subparagraph 1.:

(I) Impractical evacuation capability, 24 months.

(II) Slow evacuation capability, 48 months.

(III) Prompt evacuation capability, 60 months.

The beginning date from which the deadline for the automatic fire sprinkler installation requirement must be calculated is upon receipt of written notice from the local fire official that an automatic fire sprinkler system must be installed. The local fire official shall send a copy of the document indicating the requirement of a fire sprinkler system to the Agency for Health Care Administration.

j. It is recognized that the installation of an automatic fire sprinkler system may create financial hardship for some facilities. The appropriate local fire official shall, without liability, grant two 1-year extensions to the timeframes for installation established herein, if an automatic fire sprinkler

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5801 installation cost estimate and proof of denial from two
5802 financial institutions for a construction loan to install the
5803 automatic fire sprinkler system are submitted. However, for any
5804 facility with a class I or class II, or a history of uncorrected
5805 class III, firesafety deficiencies, an extension must not be
5806 granted. The local fire official shall send a copy of the
5807 document granting the time extension to the Agency for Health
5808 Care Administration.

5809 k. A facility owner whose facility is required to be
5810 equipped with an automatic fire sprinkler system under Chapter
5811 23, NFPA 101, 1994 edition, as adopted herein, must disclose to
5812 any potential buyer of the facility that an installation of an
5813 automatic fire sprinkler requirement exists. The sale of the
5814 facility does not alter the timeframe for the installation of
5815 the automatic fire sprinkler system.

5816 l. Existing facilities required to install an automatic
5817 fire sprinkler system as a result of construction-type
5818 restrictions in Chapter 23, NFPA 101, 1994 edition, as adopted
5819 herein, or evacuation capability requirements shall be notified
5820 by the local fire official in writing of the automatic fire
5821 sprinkler requirement, as well as the appropriate date for final
5822 compliance as provided in this subparagraph. The local fire
5823 official shall send a copy of the document to the Agency for
5824 Health Care Administration.

5825 m. Except in cases of life-threatening fire hazards, if an
5826 existing facility experiences a change in the evacuation
5827 capability, or if the local authority having jurisdiction
5828 identifies a construction-type restriction, such that an
5829 automatic fire sprinkler system is required, it shall be given

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5830 ~~afforded~~ time for installation as provided in this subparagraph.

5831
5832 Facilities that are fully sprinkled and in compliance with other
5833 firesafety standards are not required to conduct more than one
5834 of the required fire drills between the hours of 11 p.m. and 7
5835 a.m., per year. In lieu of the remaining drills, staff
5836 responsible for residents during such hours may be required to
5837 participate in a mock drill that includes a review of evacuation
5838 procedures. Such standards must be included or referenced in the
5839 rules adopted by the State Fire Marshal. Pursuant to s.

5840 633.206(1)(b) ~~633.022(1)(b)~~, the State Fire Marshal is the final
5841 administrative authority for firesafety standards established
5842 and enforced pursuant to this section. All licensed facilities
5843 must have an annual fire inspection conducted by the local fire
5844 marshal or authority having jurisdiction.

5845 3. Resident elopement requirements.—Facilities are required
5846 to conduct a minimum of two resident elopement prevention and
5847 response drills per year. All administrators and direct care
5848 staff must participate in the drills which shall include a
5849 review of procedures to address resident elopement. Facilities
5850 must document the implementation of the drills and ensure that
5851 the drills are conducted in a manner consistent with the
5852 facility's resident elopement policies and procedures.

5853 Section 139. Subsection (1) of section 429.44, Florida
5854 Statutes, is amended to read:

5855 429.44 Construction and renovation; requirements.—

5856 (1) The requirements for the construction and renovation of
5857 a facility shall comply with ~~the provisions of~~ chapter 553 which
5858 pertains ~~pertain~~ to building construction standards, including

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plumbing, electrical code, glass, manufactured buildings, accessibility for persons with disabilities, and the state minimum building code and with ~~the provisions of s. 633.206~~ 633.022, which pertains ~~pertain~~ to uniform firesafety standards.

Section 140. Subsection (2) of section 429.73, Florida Statutes, is amended to read:

429.73 Rules and standards relating to adult family-care homes.—

(2) The department shall by rule provide minimum standards and procedures for emergencies. Pursuant to s. 633.206 ~~633.022~~, the State Fire Marshal, in consultation with the department and the agency, shall adopt uniform firesafety standards for adult family-care homes.

Section 141. Subsection (4) of section 447.203, Florida Statutes, is amended to read:

447.203 Definitions.—As used in this part:

(4) "Managerial employees" are those employees who:

(a) Perform jobs that are not of a routine, clerical, or ministerial nature and require the exercise of independent judgment in the performance of such jobs and to whom one or more of the following applies:

1. They formulate or assist in formulating policies which are applicable to bargaining unit employees.

2. They may reasonably be required on behalf of the employer to assist in the preparation for the conduct of collective bargaining negotiations.

3. They have a role in the administration of agreements resulting from collective bargaining negotiations.

4. They have a significant role in personnel

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administration.

5. They have a significant role in employee relations.

6. They are included in the definition of administrative personnel contained in s. 1012.01(3).

7. They have a significant role in the preparation or administration of budgets for any public agency or institution or subdivision thereof.

(b) Serve as police chiefs, fire chiefs, or directors of public safety of any police, fire, or public safety department. Other police officers, as defined in s. 943.10(1), and firefighters, as defined in s. 633.102 ~~633.30(1)~~, may be determined by the commission to be managerial employees of such departments. In making such determinations, the commission shall consider, in addition to the criteria established in paragraph (a), the paramilitary organizational structure of the department involved.

However, in determining whether an individual is a managerial employee pursuant to either paragraph (a) or paragraph (b), above, the commission may consider historic relationships of the employee to the public employer and to coemployees.

Section 142. Subsection (1) of section 468.602, Florida Statutes, is amended to read:

468.602 Exemptions.—This part does not apply to:

(1) Persons who possess a valid certificate, issued pursuant to s. 633.216 ~~633.081~~, for conducting firesafety inspections, when conducting firesafety inspections.

Section 143. Paragraph (c) of subsection (2) of section 468.609, Florida Statutes, is amended to read:

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5917 468.609 Administration of this part; standards for
5918 certification; additional categories of certification.—

5919 (2) A person may take the examination for certification as
5920 a building code inspector or plans examiner pursuant to this
5921 part if the person:

5922 (c) Meets eligibility requirements according to one of the
5923 following criteria:

5924 1. Demonstrates 5 years' combined experience in the field
5925 of construction or a related field, building code inspection, or
5926 plans review corresponding to the certification category sought;

5927 2. Demonstrates a combination of postsecondary education in
5928 the field of construction or a related field and experience
5929 which totals 4 years, with at least 1 year of such total being
5930 experience in construction, building code inspection, or plans
5931 review;

5932 3. Demonstrates a combination of technical education in the
5933 field of construction or a related field and experience which
5934 totals 4 years, with at least 1 year of such total being
5935 experience in construction, building code inspection, or plans
5936 review;

5937 4. Currently holds a standard certificate as issued by the
5938 board, or a fire safety inspector license issued pursuant to
5939 chapter 633, has a minimum of 5 years' verifiable full-time
5940 experience in inspection or plan review, and satisfactorily
5941 completes a building code inspector or plans examiner training
5942 program of not less than 200 hours in the certification category
5943 sought. The board shall establish by rule criteria for the
5944 development and implementation of the training programs; or

5945 5. Demonstrates a combination of the completion of an

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5946 approved training program in the field of building code
5947 inspection or plan review and a minimum of 2 years' experience
5948 in the field of building code inspection, plan review, fire code
5949 inspections and fire plans review of new buildings as a
5950 firesafety inspector certified under s. 633.216 ~~633.081(2)~~, or
5951 construction. The approved training portion of this requirement
5952 shall include proof of satisfactory completion of a training
5953 program of not less than 300 hours which is approved by the
5954 board in the chosen category of building code inspection or plan
5955 review in the certification category sought with not less than
5956 20 hours of instruction in state laws, rules, and ethics
5957 relating to professional standards of practice, duties, and
5958 responsibilities of a certificateholder. The board shall
5959 coordinate with the Building Officials Association of Florida,
5960 Inc., to establish by rule the development and implementation of
5961 the training program.

5962 Section 144. Subsection (22) of section 489.103, Florida
5963 Statutes, is amended to read:

5964 489.103 Exemptions.—This part does not apply to:

5965 (22) A person licensed pursuant to s. 633.304(1)(d)
5966 ~~633.061(1)(d)~~ or (3)(b) performing work authorized by such
5967 license.

5968 Section 145. Paragraph (n) of subsection (3) of section
5969 489.105, Florida Statutes, is amended to read:

5970 489.105 Definitions.—As used in this part:

5971 (3) "Contractor" means the person who is qualified for, and
5972 is only responsible for, the project contracted for and means,
5973 except as exempted in this part, the person who, for
5974 compensation, undertakes to, submits a bid to, or does himself

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5975 or herself or by others construct, repair, alter, remodel, add
5976 to, demolish, subtract from, or improve any building or
5977 structure, including related improvements to real estate, for
5978 others or for resale to others; and whose job scope is
5979 substantially similar to the job scope described in one of the
5980 paragraphs of this subsection. For the purposes of regulation
5981 under this part, the term "demolish" applies only to demolition
5982 of steel tanks more than 50 feet in height; towers more than 50
5983 feet in height; other structures more than 50 feet in height;
5984 and all buildings or residences. Contractors are subdivided into
5985 two divisions, Division I, consisting of those contractors
5986 defined in paragraphs (a)-(c), and Division II, consisting of
5987 those contractors defined in paragraphs (d)-(q):

5988 (n) "Underground utility and excavation contractor" means a
5989 contractor whose services are limited to the construction,
5990 installation, and repair, on public or private property, whether
5991 accomplished through open excavations or through other means,
5992 including, but not limited to, directional drilling, auger
5993 boring, jacking and boring, trenchless technologies, wet and dry
5994 taps, grouting, and slip lining, of main sanitary sewer
5995 collection systems, main water distribution systems, storm sewer
5996 collection systems, and the continuation of utility lines from
5997 the main systems to a point of termination up to and including
5998 the meter location for the individual occupancy, sewer
5999 collection systems at property line on residential or single-
6000 occupancy commercial properties, or on multioccupancy properties
6001 at manhole or wye lateral extended to an invert elevation as
6002 engineered to accommodate future building sewers, water
6003 distribution systems, or storm sewer collection systems at storm

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sewer structures. However, an underground utility and excavation contractor may install empty underground conduits in rights-of-way, easements, platted rights-of-way in new site development, and sleeves for parking lot crossings no smaller than 2 inches in diameter if each conduit system installed is designed by a licensed professional engineer or an authorized employee of a municipality, county, or public utility and the installation of such conduit does not include installation of any conductor wiring or connection to an energized electrical system. An underground utility and excavation contractor may not install piping that is an integral part of a fire protection system as defined in s. 633.102 ~~633.021~~ beginning at the point where the piping is used exclusively for such system.

Section 146. Subsection (9) of section 496.404, Florida Statutes, is amended to read:

496.404 Definitions.—As used in ss. 496.401-496.424:

(9) "Emergency service employee" means any employee who is a firefighter, as defined in s. 633.102 ~~633.30~~, or ambulance driver, emergency medical technician, or paramedic, as defined in s. 401.23.

Section 147. Paragraph (a) of subsection (7) of section 509.032, Florida Statutes, is amended to read:

509.032 Duties.—

(7) PREEMPTION AUTHORITY.—

(a) The regulation of public lodging establishments and public food service establishments, including, but not limited to, sanitation standards, inspections, training and testing of personnel, and matters related to the nutritional content and marketing of foods offered in such establishments, is preempted

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to the state. This paragraph does not preempt the authority of a local government or local enforcement district to conduct inspections of public lodging and public food service establishments for compliance with the Florida Building Code and the Florida Fire Prevention Code, pursuant to ss. 553.80 and 633.206 ~~633.022~~.

Section 148. Section 513.05, Florida Statutes, is amended to read:

513.05 Rules.—The department may adopt rules pertaining to the location, construction, modification, equipment, and operation of mobile home parks, lodging parks, recreational vehicle parks, and recreational camps, except as provided in s. 633.206 ~~633.022~~, as necessary to administer this chapter. Such rules may include definitions of terms; requirements for plan reviews of proposed and existing parks and camps; plan reviews of parks that consolidate space or change space size; water supply; sewage collection and disposal; plumbing and backflow prevention; garbage and refuse storage, collection, and disposal; insect and rodent control; space requirements; heating facilities; food service; lighting; sanitary facilities; bedding; an occupancy equivalency to spaces for permits for recreational camps; sanitary facilities in recreational vehicle parks; and the owners' responsibilities at recreational vehicle parks and recreational camps.

Section 149. Paragraph (d) of subsection (1) and paragraph (f) of subsection (11) of section 553.73, Florida Statutes, are amended to read:

553.73 Florida Building Code.—

(1)

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(d) Conflicting requirements between the Florida Building Code and the Florida Fire Prevention Code and Life Safety Code of the state established pursuant to ss. 633.206 ~~633.022~~ and 633.208 ~~633.025~~ shall be resolved by agreement between the commission and the State Fire Marshal in favor of the requirement that offers the greatest degree of lifesafety or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction. If the commission and State Fire Marshal are unable to agree on a resolution, the question shall be referred to a mediator, mutually agreeable to both parties, to resolve the conflict in favor of the provision that offers the greatest lifesafety, or alternatives that would provide an equivalent degree of lifesafety and an equivalent method of construction.

(11)

(f) All decisions of the local building official and local fire official and all decisions of the administrative board shall be in writing and shall be binding upon a person ~~all persons~~ but do ~~shall~~ not limit the authority of the State Fire Marshal or the Florida Building Commission pursuant to paragraph (1)(d) and ss. 633.104 ~~633.01~~ and 633.228 ~~633.161~~. Decisions of general application shall be indexed by building and fire code sections and shall be available for inspection during normal business hours.

Section 150. Paragraph (e) of subsection (1) of section 553.77, Florida Statutes, is amended to read:

553.77 Specific powers of the commission.—

(1) The commission shall:

(e) Participate with the Florida Fire Code Advisory Council

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created under s. 633.204 ~~633.72~~, to provide assistance and recommendations relating to firesafety code interpretations. The administrative staff of the commission shall attend meetings of the Florida Fire Code Advisory Council and coordinate efforts to provide consistency between the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code.

Section 151. Subsections (2) and (12) of section 553.79, Florida Statutes, are amended to read:

553.79 Permits; applications; issuance; inspections.—

(2) Except as provided in subsection (6), an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building or structure until the local building code administrator or inspector has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found the plans to be in compliance with the Florida Building Code. If the local building code administrator or inspector finds that the plans are not in compliance with the Florida Building Code, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency. The local enforcing agency shall provide this information to the permit applicant. In addition, an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the appropriate firesafety inspector certified pursuant to s. 633.216 ~~633.081~~ has reviewed the plans and specifications required by the

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Florida Building Code, or local amendment thereto, for such proposal and found that the plans comply with the Florida Fire Prevention Code and the Life Safety Code. Any building or structure which is not subject to a firesafety code shall not be required to have its plans reviewed by the firesafety inspector. Any building or structure that is exempt from the local building permit process may not be required to have its plans reviewed by the local building code administrator. Industrial construction on sites where design, construction, and firesafety are supervised by appropriate design and inspection professionals and which contain adequate in-house fire departments and rescue squads is exempt, subject to local government option, from review of plans and inspections, providing owners certify that applicable codes and standards have been met and supply appropriate approved drawings to local building and firesafety inspectors. The enforcing agency shall issue a permit to construct, erect, alter, modify, repair, or demolish any building or structure when the plans and specifications for such proposal comply with ~~the provisions of~~ the Florida Building Code and the Florida Fire Prevention Code and the Life Safety Code as determined by the local authority in accordance with this chapter and chapter 633.

(12) One-family and two-family detached residential dwelling units are not subject to plan review by the local fire official as described in this section or inspection by the local fire official as described in s. 633.216 ~~633.081~~, unless expressly made subject to the said plan review or inspection by local ordinance.

Section 152. Paragraph (d) of subsection (1) of section

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590.02, Florida Statutes, is amended to read:

590.02 Florida Forest Service; powers, authority, and duties; liability; building structures; Florida Center for Wildfire and Forest Resources Management Training.—

(1) The Florida Forest Service has the following powers, authority, and duties:

(d) To appoint center managers, forest area supervisors, forestry program administrators, a forest protection bureau chief, a forest protection assistant bureau chief, a field operations bureau chief, deputy chiefs of field operations, district managers, forest operations administrators, senior forest rangers, investigators, forest rangers, firefighter rotorcraft pilots, and other employees who may, at the Florida Forest Service's discretion, be certified as forestry firefighters pursuant to s. 633.408(8) ~~633.35(4)~~. Other provisions of law notwithstanding, center managers, district managers, forest protection assistant bureau chief, and deputy chiefs of field operations shall have Selected Exempt Service status in the state personnel designation;

Section 153. Section 627.4107, Florida Statutes, is amended to read:

627.4107 Government employees exposed to toxic drug chemicals; cancellation of life or health policy or certificate prohibited.—No life or health insurer may cancel or nonrenew a life or health insurance policy or certificate of insurance providing coverage to a state or local law enforcement officer as defined in s. 943.10, firefighter as defined in s. 633.102 ~~633.30~~, emergency medical technician as defined in s. 401.23, or paramedic as defined in s. 401.23, a volunteer firefighter as

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defined in 633.102 engaged by state or local government, a law enforcement officer employed by the Federal Government, or any other local, state, or Federal Government employee solely based on the fact that the individual has been exposed to toxic chemicals or suffered injury or disease as a result of the individual's lawful duties arising out of the commission of a violation of chapter 893 by another person. This section does not apply to a ~~any~~ person who commits an offense under chapter 893. This section does not prohibit an insurer from canceling or nonrenewing an insurance policy or certificate, as permitted under the applicable state insurance code, based on an act or practice of the policyholder or certificateholder that constitutes fraud or intentional misrepresentation of material fact by the policyholder or certificateholder.

Section 154. Subsection (10) of section 893.13, Florida Statutes, is amended to read:

893.13 Prohibited acts; penalties.—

(10) If a person violates any provision of this chapter and the violation results in a serious injury to a state or local law enforcement officer as defined in s. 943.10, firefighter as defined in s. 633.102 ~~633.30~~, emergency medical technician as defined in s. 401.23, paramedic as defined in s. 401.23, employee of a public utility or an electric utility as defined in s. 366.02, animal control officer as defined in s. 828.27, volunteer firefighter engaged by state or local government, law enforcement officer employed by the Federal Government, or any other local, state, or Federal Government employee injured during the course and scope of his or her employment, the person commits a felony of the third degree, punishable as provided in

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s. 775.082, s. 775.083, or s. 775.084. If the injury sustained results in death or great bodily harm, the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 155. Paragraph (g) of subsection (2) of section 934.03, Florida Statutes, is amended to read:

934.03 Interception and disclosure of wire, oral, or electronic communications prohibited.—

(2)

(g) It is lawful under ss. 934.03-934.09 for an employee of:

1. An ambulance service licensed pursuant to s. 401.25, a fire station employing firefighters as defined by s. 633.102 ~~633.30~~, a public utility, a law enforcement agency as defined by s. 934.02(10), or any other entity with published emergency telephone numbers;

2. An agency operating an emergency telephone number "911" system established pursuant to s. 365.171; or

3. The central abuse hotline operated pursuant to s. 39.201

to intercept and record incoming wire communications; however, such employee may intercept and record incoming wire communications on designated "911" telephone numbers and published nonemergency telephone numbers staffed by trained dispatchers at public safety answering points only. It is also lawful for such employee to intercept and record outgoing wire communications to the numbers from which such incoming wire communications were placed when necessary to obtain information required to provide the emergency services being requested. For

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the purpose of this paragraph, the term "public utility" has the same meaning as provided in s. 366.02 and includes a person, partnership, association, or corporation now or hereafter owning or operating equipment or facilities in the state for conveying or transmitting messages or communications by telephone or telegraph to the public for compensation.

Section 156. Paragraph (b) of subsection (4) of section 943.61, Florida Statutes, is amended to read:

943.61 Powers and duties of the Capitol Police.—

(4) The Capitol Police shall have the following responsibilities, powers, and duties:

(b) To provide and maintain the security of all property located in the Capitol Complex in a manner consistent with the security plans developed and approved under paragraph (a) and, in consultation with the State Fire Marshal, to provide for evacuations, information, and training required for firesafety on such property in a manner consistent with s. 633.218 ~~633.085~~.

Section 157. Paragraph (b) of subsection (18) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(18) FACILITIES.—

(b) A charter school shall use ~~utilize~~ facilities that comply with the Florida Fire Prevention Code, pursuant to s. 633.208 ~~633.025~~, as adopted by the authority in whose jurisdiction the facility is located as provided in paragraph (a).

Section 158. Subsection (9) of section 1002.34, Florida Statutes, is amended to read:

1002.34 Charter technical career centers.—

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(9) FACILITIES.—A center may be located in any suitable location, including part of an existing public school or Florida College System institution building, space provided on a public worksite, or a public building. A center's facilities must comply with the State Uniform Building Code for Public Educational Facilities Construction adopted pursuant to s. 1013.37, or with applicable state minimum building codes pursuant to chapter 553, and state minimum fire protection codes pursuant to s. 633.208 ~~633.025~~, adopted by the authority in whose jurisdiction the facility is located. If K-12 public school funds are used for construction, the facility must remain on the local school district's Florida Inventory of School Houses (FISH) school building inventory of the district school board and must revert to the district school board if the consortium dissolves and the program is discontinued. If Florida College System institution public school funds are used for construction, the facility must remain on the local Florida College System institution's facilities inventory and must revert to the local Florida College System institution board of trustees if the consortium dissolves and the program is discontinued. The additional student capacity created by the addition of the center to the local school district's FISH may not be calculated in the permanent student capacity for the purpose of determining need or eligibility for state capital outlay funds while the facility is used as a center. If the construction of the center is funded jointly by K-12 public school funds and Florida College System institution funds, the sponsoring entities must agree, before granting the charter, on the appropriate owner and terms of transfer of the facility if

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the charter is dissolved.

Section 159. Subsection (1), paragraph (c) of subsection (2), and paragraphs (a) and (c) of subsection (6) of section 1013.12, Florida Statutes, are amended to read:

1013.12 Casualty, safety, sanitation, and firesafety standards and inspection of property.—

(1) FIRESAFETY.—The State Board of Education shall adopt and administer rules prescribing standards for the safety and health of occupants of educational and ancillary plants as a part of State Requirements for Educational Facilities or the Florida Building Code for educational facilities construction as provided in s. 1013.37, except that the State Fire Marshal in consultation with the Department of Education shall adopt uniform firesafety standards for educational and ancillary plants and educational facilities, as provided in s.

633.206(1)(b) ~~633.022(1)(b)~~, and a firesafety evaluation system to be used as an alternate firesafety inspection standard for existing educational and ancillary plants and educational facilities. The uniform firesafety standards and the alternate firesafety evaluation system shall be administered and enforced by fire officials certified by the State Fire Marshal under s. 633.216 ~~633.081~~. These standards must be used by all public agencies when inspecting public educational and ancillary plants, and the firesafety standards must be used by county, municipal, or independent special fire control district inspectors when performing firesafety inspections of public educational and ancillary plants and educational facilities. In accordance with such standards, each board shall prescribe policies and procedures establishing a comprehensive program of

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safety and sanitation for the protection of occupants of public educational and ancillary plants. Such policies must contain procedures for periodic inspections as prescribed in this section or chapter 633 and for withdrawal of any educational and ancillary plant, or portion thereof, from use until unsafe or unsanitary conditions are corrected or removed.

(2) PERIODIC INSPECTION OF PROPERTY BY DISTRICT SCHOOL BOARDS.—

(c) Under the direction of the fire official appointed by the board under s. 1013.371(2), firesafety inspections of each educational and ancillary plant located on property owned or leased by the board, or other educational facilities operated by the board, must be made no sooner than 1 year after issuance of a certificate of occupancy and annually thereafter. Such inspections shall be made by persons certified by the Division of State Fire Marshal under s. 633.216 ~~633.081~~ to conduct firesafety inspections in public educational and ancillary plants. The board shall submit a copy of the firesafety inspection report to the county, municipality, or independent special fire control district providing fire protection services to the school facility within 10 business days after the date of the inspection. Alternate schedules for delivery of reports may be agreed upon between the school district and the county, municipality, or independent special fire control district providing fire protection services to the site in cases in which delivery is impossible due to hurricanes or other natural disasters. Regardless, if immediate life-threatening deficiencies are noted in the report, the report shall be delivered immediately. In addition, the board and any other

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authority conducting the fire safety inspection shall certify to the State Fire Marshal that the annual inspection has been completed. The certification shall be made electronically or by such other means as directed by the State Fire Marshal.

(6) INSPECTIONS OF PUBLIC POSTSECONDARY EDUCATION FACILITIES.—

(a) Firesafety inspections of public college facilities, including charter schools located on board-owned or board-leased facilities or otherwise operated by public college boards, shall be made in accordance with the Florida Fire Prevention Code, as adopted by the State Fire Marshal. Notwithstanding s. 633.202 ~~633.0215~~, provisions of the code relating to inspections of such facilities are not subject to any local amendments as provided by s. 1013.371. Each public college facility shall be inspected annually by persons certified under s. 633.216 ~~633.081~~.

(c) Firesafety inspections of state universities shall comply with the Florida Fire Prevention Code, as adopted by the State Fire Marshal under s. 633.202 ~~633.0215~~.

Section 160. Paragraphs (a), (b), and (d) of subsection (2) and paragraph (a) of subsection (4) of section 1013.38, Florida Statutes, are amended to read:

1013.38 Boards to ensure that facilities comply with building codes and life safety codes.—

(2) In addition to the submission of site plans, boards may provide compliance as follows:

(a) Boards or consortia may individually or cooperatively provide review services under the insurance risk management oversight through the use of board employees or consortia employees registered pursuant to chapter 471, chapter 481, or

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part XII of chapter 468 and firesafety inspectors certified
under s. 633.216 ~~633.081~~.

(b) Boards may elect to review construction documents using
their own employees registered pursuant to chapter 471, chapter
481, or part XII of chapter 468 and firesafety inspectors
certified under s. 633.216 ~~633.081~~.

(d) Boards or consortia may contract for plan review
services directly with engineers and architects registered
pursuant to chapter 471 or chapter 481 and firesafety inspectors
certified under s. 633.216 ~~633.081~~.

(4) (a) Before the commencement of any new construction,
renovation, or remodeling, the board shall:

1. Approve or cause to be approved the construction
documents and evaluate such documents for compliance with the
Florida Building Code and the Florida Fire Prevention Code.

2. Ensure compliance with all applicable firesafety codes
and standards by contracting with a firesafety inspector
certified by the State Fire Marshal under s. 633.216 ~~633.081~~.

Section 161. This act shall take effect July 1, 2013.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsections (2) and (3) of section 456.44,
Florida Statutes, are amended to read:

456.44 Controlled substance prescribing.—

(2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician
licensed under chapter 458, chapter 459, chapter 461, or chapter
466 who prescribes more than a 30-day supply of any controlled
substance, listed in Schedule II, Schedule III, or Schedule IV
as defined in s. 893.03, over a 6-month period to any one



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13 patient for the treatment of chronic nonmalignant pain, must:

14 (a) Designate himself or herself as a controlled substance
15 prescribing practitioner on the physician's practitioner
16 profile.

17 (b) Comply with the requirements of this section and
18 applicable board rules.

19 (3) STANDARDS OF PRACTICE.—The standards of practice in
20 this section do not supersede the level of care, skill, and
21 treatment recognized in general law related to health care
22 licensure.

23 (a) A complete medical history and a physical examination
24 must be conducted before beginning any treatment and must be
25 documented in the medical record. The exact components of the
26 physical examination shall be left to the judgment of the
27 clinician who is expected to perform a physical examination
28 proportionate to the diagnosis that justifies a treatment. The
29 medical record must, at a minimum, document the nature and
30 intensity of the pain, current and past treatments for pain,
31 underlying or coexisting diseases or conditions, the effect of
32 the pain on physical and psychological function, a review of
33 previous medical records, previous diagnostic studies, and
34 history of alcohol and substance abuse. The medical record shall
35 also document the presence of one or more recognized medical
36 indications for the use of a controlled substance. Each
37 registrant must develop a written plan for assessing each
38 patient's risk of aberrant drug-related behavior, which may
39 include patient drug testing. Registrants must assess each
40 patient's risk for aberrant drug-related behavior and monitor
41 that risk on an ongoing basis in accordance with the plan.



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42 (b) Before or during a new patient's visit for pain-
43 treatment services at a pain-management clinic registered under
44 s. 458.3265 or s. 459.0137, a physician shall consult the
45 prescription drug monitoring program database provided under s.
46 893.055(2) (a) before prescribing a controlled substance listed
47 in Schedule II or Schedule III in s. 893.03. The physician may
48 designate an agent under his or her supervision to consult the
49 database. The board shall adopt rules to establish a penalty for
50 a physician who does not comply with this subsection.

51 (c)~~(b)~~ Each registrant must develop a written
52 individualized treatment plan for each patient. The treatment
53 plan shall state objectives that will be used to determine
54 treatment success, such as pain relief and improved physical and
55 psychosocial function, and shall indicate if any further
56 diagnostic evaluations or other treatments are planned. After
57 treatment begins, the physician shall adjust drug therapy to the
58 individual medical needs of each patient. Other treatment
59 modalities, including a rehabilitation program, shall be
60 considered depending on the etiology of the pain and the extent
61 to which the pain is associated with physical and psychosocial
62 impairment. The interdisciplinary nature of the treatment plan
63 shall be documented.

64 (d)~~(c)~~ The physician shall discuss the risks and benefits
65 of the use of controlled substances, including the risks of
66 abuse and addiction, as well as physical dependence and its
67 consequences, with the patient, persons designated by the
68 patient, or the patient's surrogate or guardian if the patient
69 is incompetent. The physician shall use a written controlled
70 substance agreement between the physician and the patient



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71 outlining the patient's responsibilities, including, but not
72 limited to:

73 1. Number and frequency of controlled substance
74 prescriptions and refills.

75 2. Patient compliance and reasons for which drug therapy
76 may be discontinued, such as a violation of the agreement.

77 3. An agreement that controlled substances for the
78 treatment of chronic nonmalignant pain shall be prescribed by a
79 single treating physician unless otherwise authorized by the
80 treating physician and documented in the medical record.

81 (e)~~(d)~~ The patient shall be seen by the physician at
82 regular intervals, not to exceed 3 months, to assess the
83 efficacy of treatment, ensure that controlled substance therapy
84 remains indicated, evaluate the patient's progress toward
85 treatment objectives, consider adverse drug effects, and review
86 the etiology of the pain. Continuation or modification of
87 therapy shall depend on the physician's evaluation of the
88 patient's progress. If treatment goals are not being achieved,
89 despite medication adjustments, the physician shall reevaluate
90 the appropriateness of continued treatment. The physician shall
91 monitor patient compliance in medication usage, related
92 treatment plans, controlled substance agreements, and
93 indications of substance abuse or diversion at a minimum of 3-
94 month intervals.

95 (f)~~(e)~~ The physician shall refer the patient as necessary
96 for additional evaluation and treatment in order to achieve
97 treatment objectives. Special attention shall be given to those
98 patients who are at risk for misusing their medications and
99 those whose living arrangements pose a risk for medication



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misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(g)~~(f)~~ A physician registered under this section must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.
2. Diagnostic, therapeutic, and laboratory results.
3. Evaluations and consultations.
4. Treatment objectives.
5. Discussion of risks and benefits.
6. Treatments.
7. Medications, including date, type, dosage, and quantity prescribed.
8. Instructions and agreements.
9. Periodic reviews.
10. Results of any drug testing.
11. A photocopy of the patient's government-issued photo identification.
12. If a written prescription for a controlled substance is given to the patient, a duplicate of the prescription.
13. The physician's full name presented in a legible manner.



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(h)~~(g)~~ Patients with signs or symptoms of substance abuse shall be immediately referred to a board-certified pain management physician, an addiction medicine specialist, or a mental health addiction facility as it pertains to drug abuse or addiction unless the physician is board-certified or board-eligible in pain management. Throughout the period of time before receiving the consultant's report, a prescribing physician shall clearly and completely document medical justification for continued treatment with controlled substances and those steps taken to ensure medically appropriate use of controlled substances by the patient. Upon receipt of the consultant's written report, the prescribing physician shall incorporate the consultant's recommendations for continuing, modifying, or discontinuing controlled substance therapy. The resulting changes in treatment shall be specifically documented in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the



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American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a physician who prescribes medically necessary controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395 or to a resident in a facility licensed under part II of chapter 400. This subsection does not apply to any physician licensed under chapter 458 or chapter 459 who writes fewer than 50 prescriptions for a controlled substance for all of his or her patients during a 1-year period.

Section 2. Present subsections (1) through (17) of section 465.003, Florida Statutes, are renumbered as subsections (2) through (18), respectively, paragraph (a) of present subsection (11) of that section is amended, and a new subsection (1) is added to that section, to read:

465.003 Definitions.—As used in this chapter, the term:

(1) "Abandoned" means the status of a pharmacy permit of a person or entity that was issued the permit but fails to commence pharmacy operations within 180 days after issuance of the permit without good cause or fails to follow pharmacy closure requirements as set by the board.

(12) ~~(11)~~ (a) "Pharmacy" includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, and an Internet pharmacy.

1. The term "community pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold



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or where prescriptions are filled or dispensed on an outpatient basis.

2. The term "institutional pharmacy" includes every location in a hospital, clinic, nursing home, dispensary, sanitarium, extended care facility, or other facility, hereinafter referred to as "health care institutions," where medicinal drugs are compounded, dispensed, stored, or sold.

3. The term "nuclear pharmacy" includes every location where radioactive drugs and chemicals within the classification of medicinal drugs are compounded, dispensed, stored, or sold. The term "nuclear pharmacy" does not include hospitals licensed under chapter 395 or the nuclear medicine facilities of such hospitals.

4. The term "special pharmacy" includes every location where medicinal drugs are compounded, dispensed, stored, or sold if such locations are not otherwise defined in this subsection.

5. The term "Internet pharmacy" includes locations not otherwise licensed or issued a permit under this chapter, within or outside this state, which use the Internet to communicate with or obtain information from consumers in this state and use such communication or information to fill or refill prescriptions or to dispense, distribute, or otherwise engage in the practice of pharmacy in this state. Any act described in this definition constitutes the practice of pharmacy as defined in subsection (14) ~~(13)~~.

Section 3. Section 465.0065, Florida Statutes, is created to read:

465.0065 Notices; form and service.—Each notice served by the department pursuant to this chapter must be in writing and



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216 must be delivered personally by an agent of the department or by
217 certified mail to the pharmacy permittee or licensee. If the
218 pharmacy permittee or licensee refuses to accept service or
219 evades service or if the agent is otherwise unable to carry out
220 service after due diligence, the department may post the notice
221 in a conspicuous place at the pharmacy or at the home or
222 business address for the licensee.

223 Section 4. Paragraphs (e) and (s) of subsection (1) of
224 section 465.016, Florida Statutes, are amended, and paragraph
225 (u) is added to that subsection, to read:

226 465.016 Disciplinary actions.—

227 (1) The following acts constitute grounds for denial of a
228 license or disciplinary action, as specified in s. 456.072(2):

229 (e) Violating chapter 499; 21 U.S.C. ss. 301-392, known as
230 the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et
231 seq., known as the Comprehensive Drug Abuse Prevention and
232 Control Act; or chapter 893 or rules adopted thereunder.

233 (s) Dispensing any medicinal drug based upon a
234 communication that purports to be a prescription as defined by
235 s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows
236 or has reason to believe that the purported prescription is not
237 based upon a valid practitioner-patient relationship.

238 (u) Misappropriating drugs, supplies, or equipment from a
239 pharmacy permittee.

240 Section 5. Paragraph (j) of subsection (5) of section
241 465.022, Florida Statutes, is amended, present subsections (10)
242 through (14) are renumbered as subsections (11) through (15),
243 respectively, present subsection (10) of that section is
244 amended, and a new subsection (10) is added to that section, to



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read:

465.022 Pharmacies; general requirements; fees.—

(5) The department or board shall deny an application for a pharmacy permit if the applicant or an affiliated person, partner, officer, director, or prescription department manager or consultant pharmacist of record of the applicant:

(j) Has dispensed any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

For felonies in which the defendant entered a plea of guilty or nolo contendere in an agreement with the court to enter a pretrial intervention or drug diversion program, the department shall deny the application if upon final resolution of the case the licensee has failed to successfully complete the program.

(10) The permittee shall commence pharmacy operations within 180 days after issuance of the permit, or show good cause to the department why pharmacy operations were not commenced. Commencement of pharmacy operations includes, but is not limited to, acts within the scope of the practice of pharmacy, ordering or receiving drugs, and other similar activities. The board shall establish rules regarding commencement of pharmacy



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operations.

~~(11)(10)~~ A pharmacy permittee shall be supervised by a prescription department manager or consultant pharmacist of record at all times. A permittee must notify the department, on a form approved by the board, within 10 days after any change in prescription department manager or consultant pharmacist of record.

Section 6. Subsection (1) of section 465.023, Florida Statutes, is amended to read:

465.023 Pharmacy permittee; disciplinary action.—

(1) The department or the board may revoke or suspend the permit of any pharmacy permittee, and may fine, place on probation, or otherwise discipline any pharmacy permittee if the permittee, or any affiliated person, partner, officer, director, or agent of the permittee, including a person fingerprinted under s. 465.022(3), has:

(a) Obtained a permit by misrepresentation or fraud or through an error of the department or the board;

(b) Attempted to procure, or has procured, a permit for any other person by making, or causing to be made, any false representation;

(c) Violated any of the requirements of this chapter or any of the rules of the Board of Pharmacy; of chapter 499, known as the "Florida Drug and Cosmetic Act"; of 21 U.S.C. ss. 301-392, known as the "Federal Food, Drug, and Cosmetic Act"; of 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or of chapter 893 or rules adopted thereunder;

(d) Been convicted or found guilty, regardless of



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adjudication, of a felony or any other crime involving moral turpitude in any of the courts of this state, of any other state, or of the United States;

(e) Been convicted or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for any offense that would constitute a violation of this chapter;

(f) Been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to the practice of, or the ability to practice, the profession of pharmacy;

(g) Been convicted of, or entered a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction which relates to health care fraud; or

(h) Dispensed any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship that includes a documented patient evaluation, including history and a physical examination adequate to establish the diagnosis for which any drug is prescribed and any other requirement established by board rule under chapter 458, chapter 459, chapter 461, chapter 463, chapter 464, or chapter 466.

Section 7. Section 465.1902, Florida Statutes, is created to read:

465.1902 Preemption.—This chapter preempts to the state all regulation of the licensure, activity, and operation of pharmacies and pharmacists as defined in this chapter. A local



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government or political subdivision of the state may not enact or enforce an ordinance that imposes a levy, charge, or fee upon, or that otherwise regulates, pharmacies and pharmacists as defined in this chapter, except that this preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding the following:

(1) Local business taxes adopted pursuant to chapter 205.

(2) Land use development regulations adopted pursuant to chapter 163, which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health care services, or the prescribing of controlled substances.

Section 8. Paragraph (b) of subsection (2), subsection (10), and paragraph (c) of subsection (11) of section 893.055, Florida Statutes, are amended to read:

893.055 Prescription drug monitoring program.—

(2)

(b) ~~The department, when the direct support organization receives at least \$20,000 in nonstate moneys or the state receives at least \$20,000 in federal grants for the prescription drug monitoring program,~~ shall adopt rules as necessary concerning the reporting, accessing the database, evaluation, management, development, implementation, operation, security, and storage of information within the system, including rules for when patient advisory reports are provided to pharmacies and prescribers. The patient advisory report shall be provided in accordance with s. 893.13(7)(a)8. The department shall work with



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the professional health care licensure boards, such as the Board of Medicine, the Board of Osteopathic Medicine, and the Board of Pharmacy; other appropriate organizations, such as the Florida Pharmacy Association, the Florida Medical Association, the Florida Retail Federation, and the Florida Osteopathic Medical Association, including those relating to pain management; and the Attorney General, the Department of Law Enforcement, and the Agency for Health Care Administration to develop rules appropriate for the prescription drug monitoring program.

(10) All costs incurred by the department in administering the prescription drug monitoring program shall be funded through state funds, federal grants, or private funding applied for or received by the state. The department may not commit funds for the monitoring program without ensuring funding is available. ~~The prescription drug monitoring program and the implementation thereof are contingent upon receipt of the nonstate funding.~~ The department and state government shall cooperate with the direct-support organization established pursuant to subsection (11) in seeking state funds, federal grant funds, other nonstate grant funds, gifts, donations, or other private moneys for the department if ~~so long as~~ the costs of doing so are not considered material. Nonmaterial costs for this purpose include, but are not limited to, the costs of mailing and personnel assigned to research or apply for a grant. Notwithstanding the exemptions to competitive-solicitation requirements under s. 287.057(3)(f), the department shall comply with the competitive-solicitation requirements under s. 287.057 for the procurement of any goods or services required by this section. ~~Funds provided, directly or indirectly, by prescription drug~~



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~~manufacturers may not be used to implement the program.~~

(11) The department may establish a direct-support organization that has a board consisting of at least five members to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(c) The State Surgeon General shall appoint a board of directors for the direct-support organization. Members of the board shall serve at the pleasure of the State Surgeon General. The State Surgeon General shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources. Inappropriate sources include, but are not limited to, donors, grantors, persons, ~~or~~ organizations, or pharmaceutical companies, that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.

Section 9. Section 893.0552, Florida Statutes, is created to read:

893.0552 Preemption of regulation.—

(1) This section preempts to the state all regulation of the licensure, activity, and operation of pain-management clinics as defined in ss. 458.3265 and 459.0137 in the following circumstances:

(a) The clinic is wholly owned and operated by a physician who performs interventional pain procedures of the type routinely billed using surgical codes, who has never been suspended or revoked for prescribing a controlled substance in Schedule II or Schedule III of s. 893.03 and drugs containing



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Alprazolam in excessive or inappropriate quantities that are not in the best interest of a patient, and who:

1. Has completed a fellowship in pain medicine which is approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association;

2. Is board-certified in pain medicine by the American Board of Pain Medicine, board-certified by the American Board of Interventional Pain Physicians; or

3. Has a board certification or subcertification in pain management or pain medicine by a specialty board approved by the American Board of Medical Specialties or the American Osteopathic Association.

(b) The clinic is wholly owned and operated by a physician-multispecialty practice if one or more board-eligible or board-certified medical specialists has one of the qualifications specified in subparagraph (a)1., subparagraph (a)2., or subparagraph (a)3., performs interventional pain procedures of the type routinely billed using surgical codes, and has never been suspended or revoked for prescribing a controlled substance in Schedule II or Schedule III of s. 893.03 and drugs containing Alprazolam in excessive or inappropriate quantities that are not in the best interest of a patient.

(2) Notwithstanding subsection (1), the preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding local business taxes adopted pursuant to chapter 205 and land use development regulations adopted pursuant to chapter 163. A pain-management clinic in which the regulation of its licensure, activity, and operation is preempted to the state pursuant to subsection (1) is a



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permissible use in a land use or zoning category that permits hospitals and other health care facilities or clinics as defined in chapter 395 or s. 408.07. Upon the request of a local government, a pain-management clinic must annually demonstrate that it qualifies for preemption pursuant to subsection (1).

Section 10. Subsection (1) of section 409.9201, Florida Statutes, is amended to read:

409.9201 Medicaid fraud.—

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

(a) "Prescription drug" means any drug, including, but not limited to, finished dosage forms or active ingredients that are subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or by s. 465.003 ~~s. 465.003(8)~~, s. 499.003(46) or (53) or s. 499.007(13).

(b) "Value" means the amount billed to the Medicaid program for the property dispensed or the market value of a legend drug or goods or services at the time and place of the offense. If the market value cannot be determined, the term means the replacement cost of the legend drug or goods or services within a reasonable time after the offense.

The value of individual items of the legend drugs or goods or services involved in distinct transactions committed during a single scheme or course of conduct, whether involving a single person or several persons, may be aggregated when determining the punishment for the offense.

Section 11. Paragraph (pp) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the



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board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(pp) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the



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ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 458.3265(2).

Section 12. Paragraph (rr) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(rr) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the



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Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 459.0137(2).



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Section 13. Subsection (1) of section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—

(1) A person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of s. 465.003 ~~s. 465.003(13)~~. All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his or her supervision. A pharmacy registered technician, under the supervision of a pharmacist, may initiate or receive communications with a practitioner or his or her agent, on behalf of a patient, regarding refill authorization requests. A licensed pharmacist may not supervise more than one registered pharmacy technician unless otherwise permitted by the guidelines adopted by the board. The board shall establish guidelines to be followed by licensees or permittees in determining the circumstances under which a licensed pharmacist may supervise more than one but not more than three pharmacy technicians.

Section 14. Paragraph (c) of subsection (2) of section 465.015, Florida Statutes, is amended to read:

465.015 Violations and penalties.—

(2) It is unlawful for any person:

(c) To sell or dispense drugs as defined in s. 465.003 ~~s. 465.003(8)~~ without first being furnished with a prescription.

Section 15. Subsection (8) of section 465.0156, Florida



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Statutes, is amended to read:

465.0156 Registration of nonresident pharmacies.—

(8) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes of this section, the registered pharmacy and the pharmacist designated by the registered pharmacy as the prescription department manager or the equivalent must be licensed in the state of location in order to dispense into this state.

Section 16. Subsection (4) of section 465.0197, Florida Statutes, is amended to read:

465.0197 Internet pharmacy permits.—

(4) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes of this section, the Internet pharmacy and the pharmacist designated by the Internet pharmacy as the prescription department manager or the equivalent must be licensed in the state of location in order to dispense into this state.

Section 17. Section 465.1901, Florida Statutes, is amended to read:

465.1901 Practice of orthotics and pedorthics.—The provisions of chapter 468 relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003 ~~s. 465.003(13)~~, and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under



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the supervision of a pharmacist engaged in the practice of orthotics or pedorthics is not precluded from continuing that practice pending adoption of these rules.

Section 18. Subsection (43) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(43) "Prescription drug" means a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s. 465.003 ~~s. 465.003(8)~~, s. 499.007(13), or subsection (11), subsection (46), or subsection (53), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

Section 19. Subsection (22) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(22) "Prescription" means and includes an order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by



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the laws of the state to do so, and meeting the requirements of s. 893.04. The term also includes an order for drugs or medicinal supplies so transmitted or written by a physician, dentist, veterinarian, or other practitioner licensed to practice in a state other than Florida, but only if the pharmacist called upon to fill such an order determines, in the exercise of his or her professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies so ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness. However, if the physician writing the prescription is not known to the pharmacist, the pharmacist shall obtain proof to a reasonable certainty of the validity of said prescription. A prescription order for a controlled substance shall not be issued on the same prescription blank with another prescription order for a controlled substance which is named or described in a different schedule, nor shall any prescription order for a controlled substance be issued on the same prescription blank as a prescription order for a medicinal drug, as defined in s. 465.003 ~~s. 465.003(8)~~, which does not fall within the definition of a controlled substance as defined in this act.

Section 20. This act shall take effect July 1, 2013.

===== 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



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An act relating to the provision of health care with controlled substances; amending s. 456.44, F.S.; limiting the application of requirements for prescribing controlled substances; requiring a physician to consult the prescription drug monitoring program database before prescribing certain controlled substances; authorizing the appropriate board to adopt a penalty for failure to consult the database; exempting nursing home residents and certain physicians from requirements regarding prescriptions of controlled substances; amending s. 465.003, F.S.; defining a term; conforming a cross-reference; creating s. 465.0065, F.S.; providing notice requirements for inspection of a pharmacy; amending s. 465.016, F.S.; providing additional grounds for disciplinary action; conforming a cross-reference; amending s. 465.022, F.S.; conforming a cross-reference; requiring a pharmacy permittee to commence operations within 180 days after permit issuance or show good cause why operations were not commenced; requiring the Board of Pharmacy to establish rules; requiring a pharmacy permittee to be supervised by a prescription department manager or consultant pharmacist of record; amending s. 465.023, F.S.; providing additional grounds for disciplinary action; conforming a cross-reference; creating s. 465.1902, F.S.; providing that regulation of the licensure, activity, and operation of pharmacies and pharmacists is preempted to the state; prohibiting a local



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government or political subdivision of the state from
enacting or enforcing an ordinance that imposes a
levy, charge, or fee upon, or that otherwise
regulates, pharmacies and pharmacists, except for
ordinances regarding local business taxes and land
development; amending s. 893.055, F.S.; deleting an
obsolete provision; deleting a provision that
prohibits funds from prescription drug manufacturers
to be used to implement the prescription drug
monitoring program; revising the sources of money
which are inappropriate for the direct-support
organization of the prescription drug monitoring
program to receive; authorizing the prescription drug
monitoring program to be funded by state funds and
pharmaceutical company donations; creating s.
893.0552, F.S.; providing that regulation of the
licensure, activity, and operation of pain-management
clinics is preempted to the state; authorizing a local
government or political subdivision of the state to
enact certain ordinances regarding local business
taxes and land development; amending ss. 409.9201,
458.331, 459.015, 465.014, 465.015, 465.0156,
465.0197, 465.1901, 499.003, and 893.02, F.S.;
conforming cross-references; providing an effective
date.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic

Controlled Substances

Name

Lisa Hurley

Job Title

Address

100 S. Monroe St.

Street

Tallahassee FL 32301

City

State

Zip

Speaking:

☒

For

☐

Against

☐

Information

Strike All Amendments

com

Representing

FL Assoc Counties

Bill Number

1192

Amendment Barcode

314958 (if applicable) X (if applicable)

Phone

850.922.1300

E-mail

lhurley@fl-counties.com

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)

4-9-13

Meeting Date

Topic * Preemption *

Bill Number 1192
(if applicable)

Name John Hill

Amendment Barcode 314958
(if applicable)

Job Title CONSULTANT

Address 1621 Grandview Blvd.
Street

Phone 407-592-9211

Kissimmee FL 34744
City State Zip

E-mail _____

Speaking: ☐ For ☒ Against ☐ Information

Representing Clinics

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
APPEARANCE RECORD

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

4/9/13

Meeting Date

Waive in Support
★

Topic Controlled Substances

Bill Number 1192
(if applicable)

Name Ron Watson

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address 118 E Jefferson St

Phone 850 224-1089

Tallahassee FL 32301
City State Zip

E-mail rwatson@floridadental.org

Speaking: ☐ For ☐ Against ☐ Information

Representing FDA - Florida Dental Assoc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

~~1:30 PM~~ - SDB
1:30 PM

THE FLORIDA SENATE
APPEARANCE RECORD

WAIVE IN SUPPORT

4-9-2013

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

Meeting Date

Topic PROVISION OF HEALTHCARE W/ CONTROLLED SUBSTANCE Bill Number SB 1192
(if applicable)

Name STEPHEN R. WINN Amendment Barcode _____
(if applicable)

Job Title EXECUTIVE DIRECTOR

Address 2007 APALACHEE PARKWAY Phone 878-7463

TALLAHASSEE FL 32301
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA OSTEOPATHIC MEDICAL 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic Provision of Health Care w/ Controlled Substances Bill Number 1192
(if applicable)

Name Holly Miller Amendment Barcode _____
(if applicable)

Job Title Assistant General Counsel

Address _____
Street

Phone 850 224 6496

City _____ State _____ Zip _____

E-mail hnmiller@amedia.org

Speaking: ☒ For ☐ Against ☐ Information

Representing FMA

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
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic PDMP

Bill Number 1192
(if applicable)

Name WAYNE APPLEBE

Amendment Barcode _____
(if applicable)

Job Title HUMAN SERVICES Policy Coordinator

Address 2200 Ringling Blvd
Street

Phone 941 650-2239

Sarasota, FL 34238
City State Zip

E-mail wapplebee@scs.gov.net

Speaking: ☐ For ☐ Against ☐ Information

Representing Sarasota 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic _____

Bill Number 1192
(if applicable)

Name Cindy Harney

Amendment Barcode _____
(if applicable)

Job Title Citizen FADDA

Address 851 Dog Kennel Rd
Street
Sarasota FL 34240
City State Zip

Phone 941-256-5092

E-mail cindylynnharney@yahoo

Speaking: ☒ For ☐ Against ☒ Information

Representing FADDA

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
APPEARANCE RECORD

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

9-9-13

Meeting Date

Topic PDMP

Bill Number 1192
(if applicable)

Name TOM KNIGHT

Amendment Barcode _____
(if applicable)

Job Title Sheriff/SARASOTA COUNTY

Address 2071 RINGLING BLVD
Street

Phone 941-861-4008

SARASOTA, FL 33071
City State Zip

E-mail SheriffKnight@scgov.net

Speaking: ☒ For ☐ Against ☒ Information

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic PDMP

Bill Number SB 1192
(if applicable)

Name Gravin Meshael

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1229 S. Tamiami Tr.

Phone 941-809-7656

Street

Sarasota

FL

34239

City

State

Zip

E-mail gravin@jwmanagement.com

Speaking: ☒ For ☐ Against ☒ Information

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic _____

Bill Number 1192
(if applicable)

Name Chris Nuland

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1000 Riverside Ave #115
Street
Jacksonville FL 32204
City State Zip

Phone 904-355-1555

E-mail nulandlaw@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Chapter, American College of Physicians

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: April 3, 2013

I respectfully request that **Senate Bill #1192**, relating to Provision of Health Care with Controlled Substances, be placed on the:

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

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

Senator Denise Grimsley
Florida Senate, District 21

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 1192

INTRODUCER: Community Affairs Committee; Health Policy Committee; and Senator Grimsley

SUBJECT: Provision of Health Care with Controlled Substances

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	Toman	Yeatman	CA	Fav/CS
3.			AP	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 1192 substantially amends various sections of the Florida Statutes to:

- Revise the requirement to register as a controlled substance providing practitioner to practitioners who prescribe more than a 30 day supply of certain controlled substances over a six-month period to one patient;
- Require certain physicians to check the Prescription Drug Monitoring Program (PDMP) database before prescribing certain controlled substances to a new patient;
- Exclude certain physicians from the standards of practice for prescribing controlled substances contained within s. 456.44, F.S.;
- Define the term “abandoned” as it relates to pharmacy permits;
- Mandate that the DOH serve notices to pharmacy permittees and licensees in writing and by an agent of the DOH or certified mail;
- Clarify and add to the types of activities that are grounds for licensure denial, revocation, or suspension, or for disciplinary action for pharmacies;
- Require that pharmacies commence operations within 180 days of receiving a permit;

- Require that pharmacies be supervised by a prescription department manager or consultant pharmacist of record at all times;
- Authorize state funds to fund the PDMP program; and
- Include pharmaceutical companies as organizations that may be considered inappropriate sources of funds for the PDMP program.
- Preempt to the state all regulation of the licensure, activity, and operation of specified pain management clinics under certain circumstances.

This bill substantially amends sections 409.9201, 456.44, 458.331, 459.015, 465.003, 465.014, 465.015, 465.016, 465.0156, 465.0197, 465.022, 465.023, 465.1901, 499.003, 893.02, and 893.055, Florida Statutes, and creates sections 465.0065, 465.1902, 893.0552, Florida Statutes.

II. Present Situation:

Controlled Substances

Controlled substances are drugs with the potential for abuse. Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. The distinguishing factors between the different drug schedules are the “potential for abuse”¹ of the substance contained therein and whether there is a currently accepted medical use for the substance. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances.²

Schedule I controlled substances currently have no accepted medical use in treatment in the United States and therefore may not be prescribed, administered, or dispensed for medical use. These substances have a high potential for abuse and include heroin, peyote, lysergic acid diethylamide (LSD), and cannabis.³

Schedule II controlled substances have severely restricted medical uses and a high potential for abuse, which may lead to severe psychological or physical dependence. These drugs include morphine and its derivatives, amphetamines, cocaine, and pentobarbital.⁴

Schedule III controlled substances have lower abuse potential than Schedule II substances and have some accepted medical use, but they may still cause psychological or physical dependence. Schedule III substances include products containing less than 15 milligrams (mg) of hydrocodone (such as Vicodin) or less than 90 mg of dihydrocodeine per dose (such as Tylenol #3), ketamine, and anabolic steroids.⁵

Schedule IV substances have a low potential for abuse and include propoxyphene (Darvocet), alprazolam (Xanax), and lorazepam (Ativan).⁶

¹ Section 893.02(20), F.S.

² DEA, Office of Diversion Control, Controlled Substance Schedules, available at: www.deadiversion.usdoj.gov/21cfr/cfr/2108cfr.htm (last visited Apr. 4, 2013).

³ Section 893.03(1), F.S.

⁴ Section 893.03(2), F.S.

⁵ Section 893.03(3), F.S.

⁶ Section 893.03(4), F.S.

Schedule V controlled substances have an extremely low potential for abuse and primarily consist of preparations containing limited quantities of certain narcotics, such as cough syrup.⁷

Any health care professional wishing to prescribe controlled substances must apply for a prescribing number from the federal Drug Enforcement Administration (DEA). Prescribing numbers are linked to state licenses and may be suspended or revoked upon any disciplinary action taken against a licensee.

Controlled Substance Prescribing

As of January 1, 2012, every physician, podiatrist, or dentist who prescribes controlled substances in the state for the treatment of chronic nonmalignant pain⁸ must register as a controlled substance prescribing practitioner and comply with certain practice standards specified in statute and rule.⁹

Before prescribing any controlled substances for the treatment of chronic nonmalignant pain, a practitioner must document certain characteristics about the nature of the pain, success of past treatments, any underlying health problems, and history of alcohol and substance abuse.¹⁰ The practitioner must develop a written plan for assessing the patient's risk for aberrant drug-related behavior and monitor such behavior throughout the course of controlled substance treatment.¹¹ Each practitioner must also enter into a controlled substance agreement with their patients; such agreements must include:

- The risks and benefits of controlled substance use, including the risk for addiction or dependence;
- The number and frequency of permitted prescriptions and refills;
- A statement of reasons for discontinuation of therapy, including violation of the agreement; and
- The requirement that a patient's chronic nonmalignant pain only be treated by one practitioner at a time unless otherwise authorized and documented.¹²

Patients treated for nonmalignant pain with controlled substances must be seen by their prescribing practitioners at least once every three months to monitor progress and compliance, and detailed medical records relating to such treatment must be maintained.¹³ Patients at special risk for drug abuse or diversion may require co-monitoring by an addiction medicine physician or a psychiatrist.¹⁴ Anyone with signs or symptoms of substance abuse must be immediately

⁷ Section 893.03 (5), F.S.

⁸ "Chronic nonmalignant pain" is defined as pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery. Section 456.44(1)(e), F.S.

⁹ Section 456.44(2)(a) and (b), F.S.

¹⁰ Section 456.44(3)(a), F.S.

¹¹ Section 456.44(3)(b), F.S.

¹² Section 456.44(3)(c)1.-3., F.S.

¹³ Section 456.44(3)(d), F.S.

¹⁴ Section 456.44(3)(e), F.S.

referred to a pain-management physician, an addiction medicine specialist, or an addiction medicine facility.¹⁵

Anesthesiologists, physiatrists, neurologists, and surgeons are exempt from these provisions.¹⁶ Physicians who hold certain credentials relating to pain medicine are also exempt.¹⁷

Pain-Management Clinics

A pain-management clinic is any facility that advertises pain-management services or where a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.¹⁸ Pain-management clinics are regulated by the practice acts for medical doctors and osteopathic physicians. Until January 1, 2016, all pain-management clinics must register with the DOH and meet certain provisions concerning staffing, sanitation, recordkeeping, and quality assurance.¹⁹ Clinics are exempt from these provisions if they are:

- Licensed under ch. 395, F.S., as a hospital, ambulatory surgical center, or mobile surgical facility;
- Staffed primarily by surgeons;
- Owned by a publicly held corporation whose shares are traded on a national exchange or on the over-the-counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million;
- Affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;
- Not involved in prescribing controlled substances for the treatment of pain;
- Owned by a corporate entity exempt from federal taxation under 26 U.S.C. s. 501(c)(3); or
- Wholly owned and operated by anesthesiologists, physiatrists, or neurologists, or physicians holding certain credentials in pain medicine.²⁰

All clinics must be owned by at least one licensed physician or be licensed as a health care clinic under ch. 400, part X, F.S., to be eligible for registration.²¹ The DOH is prohibited from registering a pain-management clinic:

- Not owned by a physician or not a health care clinic licensed under part X of ch. 400, F.S.;
- Owned by a physician whose DEA number has ever been revoked;
- Owned by a physician whose application for a license to prescribe, dispense, or administer a controlled substance has been denied by any jurisdiction; or
- Owned by a physician who has been convicted of certain drug-related crimes in any jurisdiction.²²

¹⁵ Section 456.44(3)(g), F.S.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 458.3265(1)(a)1.c. and 459.0137(1)(a)1.c., F.S.

¹⁹ Section 458.3265 and 459.0137, F.S.

²⁰ Section 458.3265(1)(a)2.a.-h. and 459.0137(1)(a)2.a.-h., F.S.

²¹ Section 458.3265(1)(d) and 459.0137(1)(d), F.S.

²² Section 458.3265(1)(d) and (e) and 459.0137(1)(d) and (e), F.S.

Pain-management clinics are inspected annually by DOH unless they hold current certification from a DOH-approved national accrediting agency.²³ The DOH may suspend or revoke clinic registration or impose administrative fines of up to \$5,000 per violation for any offenses against state pain-management clinic provisions or related federal laws and rules.²⁴

If the registration for a pain-management clinic is revoked for any reason, the clinic must cease to operate immediately, remove all signs or symbols identifying the facility as a pain-management clinic, and dispose of any medication on the premises.²⁵ No owner or operator of the clinic may own or operate another pain-management clinic for five years after revocation of registration.²⁶

Prescription Drug Monitoring Program

Chapter 2009-197, L.O.F, established the Prescription Drug Monitoring Program (PDMP) in s. 893.055, F.S. The PDMP uses a comprehensive electronic system/database to monitor the prescribing and dispensing of certain controlled substances.²⁷ Dispensers of certain controlled substances must report specified information to the PDMP database, including the name of the prescriber, the date the prescription was filled and dispensed, and the name, address, and date of birth of the person to whom the controlled substance is dispensed.²⁸

Direct access to the PDMP database is presently limited to medical doctors, osteopathic physicians, dentists, podiatric physicians, advanced registered nurse practitioners, physician assistants, and pharmacists.²⁹ Indirect access to the PDMP database is provided to:

- The DOH or its relevant health care regulatory boards;
- The Attorney General for Medicaid fraud cases;
- A law enforcement agency; and
- A patient or the legal guardian, or designated health care surrogate of an incapacitated patient.³⁰

Restrictions on how DOH may fund implementation and operation of the PDMP are also included in statute. The DOH is prohibited from using state funds and any money received directly or indirectly from prescription drug manufacturers to implement the PDMP.³¹ Funding for the PDMP comes from three funding sources:³²

²³ Section 458.3265(3)(a) and 459.0137(3)(a), F.S.

²⁴ Section 458.3265(5) and 459.0137(5), F.S.

²⁵ Section 458.3265(1)(h)-(j) and 459.0137(1)(h)-(j), F.S.

²⁶ Section 458.3265(1)(k) and 459.0137(1)(k), F.S.

²⁷ Section 893.055(2)(a), F.S.

²⁸ Section 893.055(3)(a)-(c), F.S.

²⁹ Section 893.055(7)(b), F.S.

³⁰ Section 893.055(7)(c)1.-4., F.S.

³¹ Section 893.055(10) and (11)(c), F.S.

³² Florida Department of Health, *Electronic-Florida Online Reporting of Controlled Substances Evaluation (E-FORCSE), 2011-2012 Prescription Drug Monitoring Program Annual Report*, page 7 (available at www.eforcse.com/docs/2012AnnualReport.pdf, last visited on Apr. 3, 2013. Information also came from Florida Department of Health document detailing the funding history of the PDMP, also on file with Health Quality Subcommittee staff.

- Donations procured by the Florida PDMP Foundation, Inc. (Foundation), the direct-support organization authorized by s. 893.055, F.S., to fund the continuing operation of the PDMP;
- Federal grants; and
- Private grants and donations.

Section 893.0551, F.S., provides an exemption from public records for personal information of a patient and certain information concerning health care professionals related to the PDMP.³³ The statute details exceptions for disclosure of information after DOH ensures the legitimacy of the person's request for the information.³⁴

The PDMP became operational on September 1, 2011, when it began receiving prescription data from pharmacies and dispensing practitioners.³⁵ Health care practitioners began accessing the PDMP on October 17, 2011.³⁶ Law enforcement began requesting data from the PDMP in support of active criminal investigations on November 14, 2011.³⁷

Currently, prescribers are not required to consult the PDMP database prior to prescribing a controlled substance for a patient, but may do so. Between 2011 and 2012, physicians and pharmacists used the PDMP database at least 2.6 million times.³⁸ Nearly 5,000 pharmacists entered 56 million prescriptions into the database.³⁹ Law enforcement queried the PDMP database more than 20,000 times in conjunction with active criminal investigations.⁴⁰

Prescription Drug Monitoring Programs in Other States

At least 43 states have passed laws enabling PDMPs.⁴¹ The Legislature's Office of Program Policy Analysis and Government Accountability (OPPAGA) examined the PDMPs of 26 of those states, including Florida.⁴² All PDMPs examined are either run by the states in-house or by contract with private vendors. Most states do not require prescribers to register in order to use the PDMP and primarily encourage prescribers to use the database through education and outreach programs.⁴³ Only three of the 26 states require prescribers to access the database prior to prescribing most or all controlled substances.^{44, 45} In 17 of 23 states, including Florida, accessing the database is strictly voluntary and in the remaining six states accessing the database is only

³³ Section 893.0551(2)(a)-(h), F.S.

³⁴ Section 893.0551(3)(a)-(g), F.S.

³⁵ Supra, n. 32 at page 4.

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at page 3.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ The National Conference of State Legislatures, *Prevention of Prescription Drug Overdose and Abuse*, found at: <http://www.ncsl.org/issues-research/health/prevention-of-prescription-drug-overdose-and-abuse.aspx>, last visited on Apr. 3, 2013.

⁴² OPPAGA Review of State Prescription Drug Monitoring Programs, Jan. 31, 2013, on file with the Senate Health Policy Committee.

⁴³ *Id.*, p. 8.

⁴⁴ Kentucky, New Mexico, and New York.

⁴⁵ *Id.*, p. 4.

required under limited circumstances.⁴⁶ All states reviewed have the authority to take punitive action against dispensers of prescription drugs that do not comply with their state's respective laws and rules on their state's PDMP. These punitive actions can come in the form of fines, licensure disciplinary action, and/ or criminal charges, however, states rarely use these punitive measures when dispensers do not comply with PDMP requirements.

State Preemption

There is currently no statutory provision that expressly preempts the regulation of operations in pharmacies, health care clinics, health care facilities and pain-management clinics to the state of Florida. Some counties and municipalities have created ordinances for the regulation of the operation of these clinics based upon the powers and duties conveyed upon these entities in Florida Statutes.⁴⁷

III. Effect of Proposed Changes:

Section 1 amends s. 456.44, F.S. to:

- Restrict the requirement to register as a controlled substance providing practitioner to physicians⁴⁸ who prescribe more than a 30-day supply of any Schedule I, II, or III controlled substance over a six-month period to any one patient for the treatment of chronic malignant pain;
- Require that physicians who treat new patients in a pain-management clinic, pursuant to s. 458.326, F.S., consult the PDMP database before prescribing a Schedule II or III controlled substance;
- Allow the physician to designate an agent to check the PDMP database; and
- Mandate the board adopt rules to establish a penalty for not checking the PDMP database.
- Exclude physicians who prescribe medically necessary controlled substances to residents in a nursing home and a physician licensed under ch. 458 or 459, F.S., who writes fewer than 50 total prescriptions for controlled substances for all of his or her patients during a one-year period from the standards of practice established in this section.

Section 2 amends s. 465.003, F.S., to define the term “abandoned” as used in ch. 465, F.S., relating to pharmacies, as the status of a permit of a person or entity that was issued a pharmacy permit but fails to commence pharmacy operations within 180 days after issuance of the permit without good cause or fails to follow pharmacy closure requirements as set by the board.

Section 3 creates s. 465.0065, F.S., to mandate that each notice served by the DOH under ch. 465, F.S., must be in writing and delivered personally by an agent of the DOH or by certified mail to the pharmacy permittee or licensee. If the pharmacy permittee refuses to accept service or evades service or if the agent is otherwise unable to carry out service after due diligence, the DOH may post the notice in a conspicuous place at the pharmacy or at the licensee's home or business address.

⁴⁶ These circumstances typically revolve around how often a drug is prescribed, if the drug is in a specific class or schedule, if the drug has a specific agreement, or if there is a reasonable suspicion that the patient is abusing drugs. Id.

⁴⁷ DOH bill analysis on SB 1192, dated Mar. 1, 2013, on file with the Senate Health Policy Committee.

⁴⁸ Registered under ch. 458, 459, 461, or 466, F.S.

Section 4 amends s. 465.016, F.S., to clarify that violating rules adopted under ch. 893, F.S., relating to drug abuse prevention and control, and misappropriating drugs, supplies, or equipment from a pharmacy permittee constitutes grounds for denial of a license or disciplinary action.

Section 5 amends s. 465.022, F.S., to:

- Require that a pharmacy permittee commence pharmacy operations within 180 days after issuance of the permit or show good cause why operations were not commenced;
- Define commencement of operations as including, but is not limited to, acts within the scope of practice of pharmacy, ordering or receiving drugs, and other similar activities;
- Mandate that the DOH establish rules regarding the commencement of pharmacy operations; and
- Clarify that a pharmacy permittee must be supervised by a prescription department manager or consultant pharmacist of record at all times.

Section 6 amends s. 465.023, F.S., to clarify that violating rules adopted under ch. 893, F.S., relating to drug abuse prevention and control, is grounds for the DOH to revoke or suspend a permit of any pharmacy permittee.

Section 7 creates s. 465.1902, F.S., to:

- Preempt to the state all regulation of the licensure, activity, and operation of pharmacies and pharmacists as defined in ch. 465, F.S.;
- Restrict local governments or political subdivisions of the state from enacting or enforcing ordinances that imposes a levy, charge, or fee upon, or that otherwise regulate pharmacies and pharmacists as defined in ch. 465, F.S.; and
- Allow local governments and political subdivisions to enact ordinances regarding:
 - Local business taxes adopted pursuant to ch. 205, F.S.; and
 - Land use development regulations adopted pursuant to ch. 163, F.S., which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health care services, or the prescribing of controlled substances.

Section 8 amends s. 893.055, F.S., to allow the DOH to fund the PDMP program with state funds and maintain the PDMP program. This section also excludes pharmaceutical companies from those organizations that may be considered inappropriate sources of funds for the PDMP program.

Section 9 creates s. 893.0552, F.S., to preempt to the state all regulation of the licensure and activity and operation of pain management clinics as defined in ss. 458.3265 and 459.0137, F.S., in the following circumstances:

- The clinic is wholly owned and operated by a physician who performs interventional pain procedures routinely billed using surgical codes, who has never been suspended or revoked for prescribing certain controlled substances, *and who*:
 - has completed a fellowship in pain medicine approved by certain bodies,
 - is board-certified in pain medicine by specified entities, or

- has a board certification or subcertification in pain management or pain medicine by an approved specialty board.
- The clinic is wholly owned and operated by a physician-multispecialty practice if one or more board-eligible or board-certified medical specialists has one of the qualifications specified above, performs interventional pain procedures of the type routinely billed using surgical codes, and has never been suspended or revoked for prescribing certain controlled substances.
- Allow local governments and political subdivisions to enact ordinances regarding:
 - Local business taxes adopted pursuant to ch. 205, F.S.; and
 - Land use development regulations adopted pursuant to ch. 163, F.S.

A pain-management clinic specified in this section is permissible use in a land use or zoning category that permits hospitals and other health care facilities or clinics as defined in chapter 395 or s. 408.07, F.S.

Upon the request of a local government, a pain-management clinic must annually demonstrate that it qualifies for the preemption outlined in this section.

Sections 10-19 amend various sections of the Florida Statutes to conform those sections to changes made in section 2 of the bill.

Section 20 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Section 18 of the Florida Constitution prohibits laws requiring counties or municipalities to spend funds or that limit their ability to raise revenues. Subsection 18(d) provides an applicable exemption for laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 or \$1.9 million for FY 2012-13.⁴⁹

It is unknown to what extent the preemption provisions of the bill may limit local government revenue generated by fines related to local ordinances governing pain-management clinics. However, if revenue losses occur and are greater than \$1.9 million, the law may be unenforceable unless passed by two-thirds in each house of the Legislature.

B. Public Records/Open Meetings Issues:

None.

⁴⁹ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: <http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf>.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Some physicians and health care practices may be negatively impacted from a time management perspective by the additional requirement to consult the PDMP prior to dispensing. However, to the extent that inappropriate prescribing of controlled substances is avoided, overall health care costs may be lessened and lives saved.

C. Government Sector Impact:

The DOH will incur non-recurring costs for rulemaking which are within their current budget. The DOH may also experience an indeterminate increase in workload implementing the requirements of this bill.

Local government revenue generated from fines for pain-management clinic violations authorized by local ordinance may be reduced.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Community Affairs on April 9, 2013:

- Removes state preemption of the regulation of certain health care clinics and health care facilities;
- Retains exemptions from department registration for pain management clinics owned by certain publically-held corporations or not-for-profit corporations;
- Removes a requirement for physicians who treat intractable pain to consult the PDMP;
- Revises state preemption of the regulation of pain management clinics and osteopathic pain management clinics;

- Upon the request of a local government, requires a pain-management clinic to annually demonstrate that it qualifies for the above preemption; and
- Includes pharmaceutical companies as inappropriate sources of funding for PDMPs.

CS by Health Policy on Mar. 21, 2013:

The CS amends SB 1192 to:

- Place language preempting the regulation of the licensure, activity, and operation of various health care facilities and practitioners in the chapters that pertain to those facilities and practitioners;
- Allow local governments to pass ordinances which regulate pain-management clinics;
- Allow the DOH to send notices, in the manner prescribed in the bill, to pharmacy licensees;
- Amend the title to conform to the bill's contents; and
- Make technical changes.

B. Amendments:

None.

By the Committee on Health Policy; and Senator Grimsley

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1 A bill to be entitled
2 An act relating to the provision of health care with
3 controlled substances; creating ss. 400.996 and
4 408.833, F.S.; providing that regulation of the
5 licensure, activity, and operation of clinics and
6 health care facilities is preempted to the state;
7 prohibiting a local government or political
8 subdivision of the state from enacting or enforcing an
9 ordinance that imposes a levy, charge, or fee upon, or
10 that otherwise regulates, clinics and health care
11 facilities, except for ordinances regarding local
12 business taxes and land development; amending s.
13 456.44, F.S.; limiting the application of requirements
14 for prescribing controlled substances; requiring a
15 physician to consult the prescription drug monitoring
16 program database before prescribing certain controlled
17 substances; authorizing the board to adopt a penalty
18 for failure to consult the database; exempting nursing
19 home residents and certain physicians from
20 requirements regarding prescriptions of controlled
21 substances; amending s. 458.326, F.S.; requiring a
22 physician to consult the prescription drug monitoring
23 program database or designate an agent to consult the
24 database before prescribing certain controlled
25 substances; authorizing the board to adopt a penalty
26 for failure to consult the database; amending ss.
27 458.3265 and 459.0137, F.S.; requiring that owners of
28 pain-management clinics be licensed physicians;
29 removing language regarding nonphysician-owned pain-

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30 management clinics; providing that regulation of the
31 licensure and activity of certain physicians and
32 osteopathic physicians is preempted to the state;
33 prohibiting a local government or political
34 subdivision of the state from enacting or enforcing an
35 ordinance that imposes a levy, charge, or fee upon, or
36 that otherwise regulates, physicians and osteopathic
37 physicians, except for ordinances regarding local
38 business taxes and land development; amending s.
39 465.003, F.S.; defining a term; conforming a cross-
40 reference; creating s. 465.0065, F.S.; providing
41 notice requirements for inspection of a pharmacy;
42 amending s. 465.016, F.S.; providing additional
43 grounds for disciplinary action; conforming a cross-
44 reference; amending s. 465.022, F.S.; conforming a
45 cross-reference; requiring a pharmacy permittee to
46 commence operations within 180 days after permit
47 issuance or show good cause why operations were not
48 commenced; requiring the board to establish rules;
49 requiring a pharmacy permittee to be supervised by a
50 prescription department manager or consultant
51 pharmacist of record; amending s. 465.023, F.S.;
52 providing additional grounds for disciplinary action;
53 conforming a cross-reference; creating s. 465.1902,
54 F.S.; providing that regulation of the licensure,
55 activity, and operation of pharmacies and pharmacists
56 is preempted to the state; prohibiting a local
57 government or political subdivision of the state from
58 enacting or enforcing an ordinance that imposes a

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levy, charge, or fee upon, or that otherwise regulates, pharmacies and pharmacists, except for ordinances regarding local business taxes and land development; amending s. 893.055, F.S.; deleting an obsolete provision; authorizing the prescription drug monitoring program to be funded by state funds and pharmaceutical company donations; amending ss. 409.9201, 458.331, 459.015, 465.014, 465.015, 465.0156, 465.0197, 465.1901, 499.003, and 893.02, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 400.996, Florida Statutes, is created to read:

400.996 Preemption.—This chapter preempts to the state all regulation of the licensure, activity, and operation of clinics under part X of chapter 400, excluding registration and licensing for pain-management clinics. A local government or political subdivision of the state may not enact or enforce an ordinance that imposes a levy, charge, or fee upon, or that otherwise regulates, clinics under part X of chapter 400, including services provided within such facilities, except that this preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding the following:

(1) Local business taxes adopted pursuant to chapter 205.

(2) Land use development regulations adopted pursuant to

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chapter 163, which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health care services, or the prescribing of controlled substances. However, a clinic that treats pain or provides pain-management services is a permissible use in a land use or zoning category that permits hospitals, other health care facilities, or clinics as defined in chapter 395, s. 408.07, or part X of chapter 400.

Section 2. Section 408.833, Florida Statutes, is created to read:

408.833 Preemption.—This chapter preempts to the state all regulation of the licensure, activity, and operation of health care facilities as defined in s. 408.07. A local government or political subdivision of the state may not enact or enforce an ordinance that imposes a levy, charge, or fee upon, or that otherwise regulates health care facilities as defined in s. 408.07, including services provided within such facilities, except that this preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding the following:

(1) Local business taxes adopted pursuant to chapter 205.

(2) Land use development regulations adopted pursuant to chapter 163, which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health

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117 care services, or the prescribing of controlled substances.
118 However, a health care facility or clinic that treats pain or
119 provides pain-management services is a permissible use in a land
120 use or zoning category that permits hospitals, other health care
121 facilities, or clinics as defined in chapter 395, s. 408.07, or
122 part X of chapter 400.

123 Section 3. Subsections (2) and (3) of section 456.44,
124 Florida Statutes, are amended to read:

125 456.44 Controlled substance prescribing.—

126 (2) REGISTRATION.—~~Effective January 1, 2012,~~ A physician
127 licensed under chapter 458, chapter 459, chapter 461, or chapter
128 466 who prescribes more than a 30-day supply of any controlled
129 substance, listed in Schedule II, Schedule III, or Schedule IV
130 as defined in s. 893.03, over a 6-month period to any one
131 patient for the treatment of chronic nonmalignant pain, must:

132 (a) Designate himself or herself as a controlled substance
133 prescribing practitioner on the physician's practitioner
134 profile.

135 (b) Comply with the requirements of this section and
136 applicable board rules.

137 (3) STANDARDS OF PRACTICE.—The standards of practice in
138 this section do not supersede the level of care, skill, and
139 treatment recognized in general law related to health care
140 licensure.

141 (a) A complete medical history and a physical examination
142 must be conducted before beginning any treatment and must be
143 documented in the medical record. The exact components of the
144 physical examination shall be left to the judgment of the
145 clinician who is expected to perform a physical examination

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146 proportionate to the diagnosis that justifies a treatment. The
147 medical record must, at a minimum, document the nature and
148 intensity of the pain, current and past treatments for pain,
149 underlying or coexisting diseases or conditions, the effect of
150 the pain on physical and psychological function, a review of
151 previous medical records, previous diagnostic studies, and
152 history of alcohol and substance abuse. The medical record shall
153 also document the presence of one or more recognized medical
154 indications for the use of a controlled substance. Each
155 registrant must develop a written plan for assessing each
156 patient's risk of aberrant drug-related behavior, which may
157 include patient drug testing. Registrants must assess each
158 patient's risk for aberrant drug-related behavior and monitor
159 that risk on an ongoing basis in accordance with the plan.

160 (b) Before or during a new patient's visit for pain-
161 treatment services at a pain-management clinic registered under
162 s. 458.3265 or s. 459.0137, a physician shall consult the
163 prescription drug monitoring program database provided under s.
164 893.055(2) (a) before prescribing a controlled substance listed
165 in Schedule II or Schedule III in s. 893.03. The physician may
166 designate an agent under his or her supervision to consult the
167 database. The board shall adopt rules to establish a penalty for
168 a physician who does not comply with this subsection.

169 (c) ~~(b)~~ Each registrant must develop a written
170 individualized treatment plan for each patient. The treatment
171 plan shall state objectives that will be used to determine
172 treatment success, such as pain relief and improved physical and
173 psychosocial function, and shall indicate if any further
174 diagnostic evaluations or other treatments are planned. After

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175 treatment begins, the physician shall adjust drug therapy to the
176 individual medical needs of each patient. Other treatment
177 modalities, including a rehabilitation program, shall be
178 considered depending on the etiology of the pain and the extent
179 to which the pain is associated with physical and psychosocial
180 impairment. The interdisciplinary nature of the treatment plan
181 shall be documented.

182 (d)~~(e)~~ The physician shall discuss the risks and benefits
183 of the use of controlled substances, including the risks of
184 abuse and addiction, as well as physical dependence and its
185 consequences, with the patient, persons designated by the
186 patient, or the patient's surrogate or guardian if the patient
187 is incompetent. The physician shall use a written controlled
188 substance agreement between the physician and the patient
189 outlining the patient's responsibilities, including, but not
190 limited to:

191 1. Number and frequency of controlled substance
192 prescriptions and refills.

193 2. Patient compliance and reasons for which drug therapy
194 may be discontinued, such as a violation of the agreement.

195 3. An agreement that controlled substances for the
196 treatment of chronic nonmalignant pain shall be prescribed by a
197 single treating physician unless otherwise authorized by the
198 treating physician and documented in the medical record.

199 (e)~~(d)~~ The patient shall be seen by the physician at
200 regular intervals, not to exceed 3 months, to assess the
201 efficacy of treatment, ensure that controlled substance therapy
202 remains indicated, evaluate the patient's progress toward
203 treatment objectives, consider adverse drug effects, and review

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the etiology of the pain. Continuation or modification of therapy shall depend on the physician's evaluation of the patient's progress. If treatment goals are not being achieved, despite medication adjustments, the physician shall reevaluate the appropriateness of continued treatment. The physician shall monitor patient compliance in medication usage, related treatment plans, controlled substance agreements, and indications of substance abuse or diversion at a minimum of 3-month intervals.

(f)~~(e)~~ The physician shall refer the patient as necessary for additional evaluation and treatment in order to achieve treatment objectives. Special attention shall be given to those patients who are at risk for misusing their medications and those whose living arrangements pose a risk for medication misuse or diversion. The management of pain in patients with a history of substance abuse or with a comorbid psychiatric disorder requires extra care, monitoring, and documentation and requires consultation with or referral to an addiction medicine specialist or psychiatrist.

(g)~~(f)~~ A physician registered under this section must maintain accurate, current, and complete records that are accessible and readily available for review and comply with the requirements of this section, the applicable practice act, and applicable board rules. The medical records must include, but are not limited to:

1. The complete medical history and a physical examination, including history of drug abuse or dependence.
2. Diagnostic, therapeutic, and laboratory results.
3. Evaluations and consultations.

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- 233 4. Treatment objectives.
- 234 5. Discussion of risks and benefits.
- 235 6. Treatments.
- 236 7. Medications, including date, type, dosage, and quantity
237 prescribed.
- 238 8. Instructions and agreements.
- 239 9. Periodic reviews.
- 240 10. Results of any drug testing.
- 241 11. A photocopy of the patient's government-issued photo
242 identification.
- 243 12. If a written prescription for a controlled substance is
244 given to the patient, a duplicate of the prescription.
- 245 13. The physician's full name presented in a legible
246 manner.
- 247 (h) ~~(g)~~ Patients with signs or symptoms of substance abuse
248 shall be immediately referred to a board-certified pain
249 management physician, an addiction medicine specialist, or a
250 mental health addiction facility as it pertains to drug abuse or
251 addiction unless the physician is board-certified or board-
252 eligible in pain management. Throughout the period of time
253 before receiving the consultant's report, a prescribing
254 physician shall clearly and completely document medical
255 justification for continued treatment with controlled substances
256 and those steps taken to ensure medically appropriate use of
257 controlled substances by the patient. Upon receipt of the
258 consultant's written report, the prescribing physician shall
259 incorporate the consultant's recommendations for continuing,
260 modifying, or discontinuing controlled substance therapy. The
261 resulting changes in treatment shall be specifically documented

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in the patient's medical record. Evidence or behavioral indications of diversion shall be followed by discontinuation of controlled substance therapy, and the patient shall be discharged, and all results of testing and actions taken by the physician shall be documented in the patient's medical record.

This subsection does not apply to a board-eligible or board-certified anesthesiologist, physiatrist, rheumatologist, or neurologist, or to a board-certified physician who has surgical privileges at a hospital or ambulatory surgery center and primarily provides surgical services. This subsection does not apply to a board-eligible or board-certified medical specialist who has also completed a fellowship in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who is board eligible or board certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties or the American Osteopathic Association and performs interventional pain procedures of the type routinely billed using surgical codes. This subsection does not apply to a physician who prescribes medically necessary controlled substances for a patient during an inpatient stay in a hospital licensed under chapter 395 or to a resident in a facility licensed under part II of chapter 400. This subsection does not apply to any physician licensed under chapter 458 or chapter 459 who writes fewer than 50 prescriptions for a controlled substance for all of his or her patients during a 1-year period.

Section 4. Subsection (3) of section 458.326, Florida Statutes, is amended to read:

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458.326 Intractable pain; authorized treatment.—

(3) (a) Notwithstanding any other provision of law, a physician may prescribe or administer any controlled substance under Schedules II-V, as provided for in s. 893.03, to a person for the treatment of intractable pain, provided the physician does so in accordance with that level of care, skill, and treatment recognized by a reasonably prudent physician under similar conditions and circumstances.

(b) Before or during a new patient's visit for pain-treatment services, a physician shall consult the prescription drug monitoring program database provided under s. 893.055(2) (a) before prescribing a controlled substance listed in Schedule II or Schedule III in s. 893.03. The physician may designate an agent under his or her supervision to consult the database. The board shall adopt rules to establish a penalty for a physician who does not comply with this paragraph.

Section 5. Paragraphs (a) and (d) of subsection (1) of section 458.3265, Florida Statutes, are amended, present subsections (5) and (6) of that section are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

458.3265 Pain-management clinics.—

(1) REGISTRATION.—

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

a. "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association for a period of 6 years from successful

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320 completion of such residency program.

321 b. "Chronic nonmalignant pain" means pain unrelated to
322 cancer which persists beyond the usual course of disease or the
323 injury that is the cause of the pain or more than 90 days after
324 surgery.

325 c. "Pain-management clinic" or "clinic" means any publicly
326 or privately owned facility:

327 (I) That advertises in any medium for any type of pain-
328 management services; or

329 (II) Where in any month a majority of patients are
330 prescribed opioids, benzodiazepines, barbiturates, or
331 carisoprodol for the treatment of chronic nonmalignant pain.

332 2. Each pain-management clinic must register with the
333 department unless:

334 a. That clinic is licensed as a facility pursuant to
335 chapter 395;

336 b. The majority of the physicians who provide services in
337 the clinic primarily provide surgical services;

338 ~~e. The clinic is owned by a publicly held corporation whose~~
339 ~~shares are traded on a national exchange or on the over the~~
340 ~~counter market and whose total assets at the end of the~~
341 ~~corporation's most recent fiscal quarter exceeded \$50 million;~~

342 c.d. The clinic is affiliated with an accredited medical
343 school at which training is provided for medical students,
344 residents, or fellows;

345 d.e. The clinic does not prescribe controlled substances
346 for the treatment of pain;

347 ~~f. The clinic is owned by a corporate entity exempt from~~
348 ~~federal taxation under 26 U.S.C. s. 501(c)(3);~~

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349 ~~e.g.~~ The clinic is wholly owned and operated by one or more
350 board-eligible or board-certified anesthesiologists,
351 physiatrists, rheumatologists, or neurologists; or

352 ~~f.h.~~ The clinic is wholly owned and operated by a physician
353 multispecialty practice where one or more board-eligible or
354 board-certified medical specialists who have also completed
355 fellowships in pain medicine approved by the Accreditation
356 Council for Graduate Medical Education, or who are also board-
357 certified in pain medicine by the American Board of Pain
358 Medicine or a board approved by the American Board of Medical
359 Specialties, the American Association of Physician Specialists,
360 or the American Osteopathic Association and perform
361 interventional pain procedures of the type routinely billed
362 using surgical codes.

363 (d) The department shall deny registration to any clinic
364 that is not fully owned by a physician licensed under this
365 chapter or chapter 459 or a group of physicians, each of whom is
366 licensed under this chapter or chapter 459; or that is not a
367 health care clinic licensed under part X of chapter 400 which is
368 fully owned by such physician or group of physicians.

369 (5) PREEMPTION.—This chapter preempts to the state all
370 regulation of the licensure and activity of a physician licensed
371 under this chapter who owns, operates, or works in a pain-
372 management clinic or provides pain-management services. A local
373 government or political subdivision of the state may not enact
374 or enforce an ordinance that imposes a levy, charge, or fee
375 upon, or that otherwise regulates, a physician licensed under
376 this chapter who owns, operates, or works in a pain-management
377 clinic or provides pain-management services, except that this

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preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding the following:

(a) A registered pain-management clinic as defined in subsection (1).

(b) Local business taxes adopted pursuant to chapter 205.

(c) Land use development regulations adopted pursuant to chapter 163, which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health care services, or the prescribing of controlled substances. However, a health care facility or clinic that treats pain or provides pain-management services is a permissible use in a land use or zoning category that permits hospitals, other health care facilities, or clinics as defined in chapter 395, s. 408.07, or part X of chapter 400.

Section 6. Paragraphs (a) and (d) of subsection (1) of section 459.0137, Florida Statutes, are amended, present subsections (5) and (6) of that section are renumbered as subsections (6) and (7), respectively, and a new subsection (5) is added to that section, to read:

459.0137 Pain-management clinics.—

(1) REGISTRATION.—

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

a. "Board eligible" means successful completion of an anesthesia, physical medicine and rehabilitation, rheumatology, or neurology residency program approved by the Accreditation Council for Graduate Medical Education or the American

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Osteopathic Association for a period of 6 years from successful completion of such residency program.

b. "Chronic nonmalignant pain" means pain unrelated to cancer which persists beyond the usual course of disease or the injury that is the cause of the pain or more than 90 days after surgery.

c. "Pain-management clinic" or "clinic" means any publicly or privately owned facility:

(I) That advertises in any medium for any type of pain-management services; or

(II) Where in any month a majority of patients are prescribed opioids, benzodiazepines, barbiturates, or carisoprodol for the treatment of chronic nonmalignant pain.

2. Each pain-management clinic must register with the department unless:

a. That clinic is licensed as a facility pursuant to chapter 395;

b. The majority of the physicians who provide services in the clinic primarily provide surgical services;

~~c. The clinic is owned by a publicly held corporation whose shares are traded on a national exchange or on the over the counter market and whose total assets at the end of the corporation's most recent fiscal quarter exceeded \$50 million;~~

c.d. The clinic is affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows;

~~d.e.~~ The clinic does not prescribe controlled substances for the treatment of pain;

~~f. The clinic is owned by a corporate entity exempt from~~

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~~federal taxation under 26 U.S.C. s. 501(e)(3);~~

~~e.g.~~ The clinic is wholly owned and operated by one or more board-eligible or board-certified anesthesiologists, physiatrists, rheumatologists, or neurologists; or

~~f.h.~~ The clinic is wholly owned and operated by a physician multispecialty practice where one or more board-eligible or board-certified medical specialists who have also completed fellowships in pain medicine approved by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, or who are also board-certified in pain medicine by the American Board of Pain Medicine or a board approved by the American Board of Medical Specialties, the American Association of Physician Specialists, or the American Osteopathic Association and perform interventional pain procedures of the type routinely billed using surgical codes.

(d) The department shall deny registration to any clinic that is not fully owned by a physician licensed under chapter 458 or this chapter or a group of physicians, each of whom is licensed under chapter 458 or this chapter; or that is not a health care clinic licensed under part X of chapter 400 which is fully owned by such physician or group of physicians.

(5) PREEMPTION.—This chapter preempts to the state all regulation of the licensure and activity of an osteopathic physician licensed under this chapter who owns, operates, or works in a pain-management clinic or provides pain-management services. A local government or political subdivision of the state may not enact or enforce an ordinance that imposes a levy, charge, or fee upon, or that otherwise regulates, an osteopathic physician licensed under this chapter who owns, operates, or

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works in a pain-management clinic, except that this preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding the following:

(a) A registered pain-management clinic as defined in subsection (1).

(b) Local business taxes adopted pursuant to chapter 205.

(c) Land use development regulations adopted pursuant to chapter 163, which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health care services, and the prescribing of controlled substances. However, a health care facility or clinic that treats pain or provides pain-management services is a permissible use in a land use or zoning category that permits hospitals, other health care facilities, or clinics as defined in chapter 395, s. 408.07, or part X of chapter 400.

Section 7. Present subsections (1) through (17) of section 465.003, Florida Statutes, are renumbered as subsections (2) through (18), respectively, paragraph (a) of present subsection (11) of that section is amended, and a new subsection (1) is added to that section, to read:

465.003 Definitions.—As used in this chapter, the term:

(1) "Abandoned" means the status of a pharmacy permit of a person or entity that was issued the permit but fails to commence pharmacy operations within 180 days after issuance of the permit without good cause or fails to follow pharmacy closure requirements as set by the board.

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494 (12)~~(11)~~(a) "Pharmacy" includes a community pharmacy, an
495 institutional pharmacy, a nuclear pharmacy, a special pharmacy,
496 and an Internet pharmacy.

497 1. The term "community pharmacy" includes every location
498 where medicinal drugs are compounded, dispensed, stored, or sold
499 or where prescriptions are filled or dispensed on an outpatient
500 basis.

501 2. The term "institutional pharmacy" includes every
502 location in a hospital, clinic, nursing home, dispensary,
503 sanitarium, extended care facility, or other facility,
504 hereinafter referred to as "health care institutions," where
505 medicinal drugs are compounded, dispensed, stored, or sold.

506 3. The term "nuclear pharmacy" includes every location
507 where radioactive drugs and chemicals within the classification
508 of medicinal drugs are compounded, dispensed, stored, or sold.
509 The term "nuclear pharmacy" does not include hospitals licensed
510 under chapter 395 or the nuclear medicine facilities of such
511 hospitals.

512 4. The term "special pharmacy" includes every location
513 where medicinal drugs are compounded, dispensed, stored, or sold
514 if such locations are not otherwise defined in this subsection.

515 5. The term "Internet pharmacy" includes locations not
516 otherwise licensed or issued a permit under this chapter, within
517 or outside this state, which use the Internet to communicate
518 with or obtain information from consumers in this state and use
519 such communication or information to fill or refill
520 prescriptions or to dispense, distribute, or otherwise engage in
521 the practice of pharmacy in this state. Any act described in
522 this definition constitutes the practice of pharmacy as defined

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in subsection (14)~~(13)~~.

Section 8. Section 465.0065, Florida Statutes, is created to read:

465.0065 Notices; form and service.—Each notice served by the department pursuant to this chapter must be in writing and must be delivered personally by an agent of the department or by certified mail to the pharmacy permittee or licensee. If the pharmacy permittee or licensee refuses to accept service or evades service or if the agent is otherwise unable to carry out service after due diligence, the department may post the notice in a conspicuous place at the pharmacy or at the home or business address for the licensee.

Section 9. Paragraphs (e) and (s) of subsection (1) of section 465.016, Florida Statutes, are amended, and paragraph (u) is added to that subsection to read:

465.016 Disciplinary actions.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(e) Violating chapter 499; 21 U.S.C. ss. 301-392, known as the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse Prevention and Control Act; or chapter 893 or rules adopted thereunder.

(s) Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined by s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship.

(u) Misappropriating drugs, supplies, or equipment from a pharmacy permittee.

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552 Section 10. Paragraph (j) of subsection (5) of section
553 465.022, Florida Statutes, is amended, present subsections (10)
554 through (14) are renumbered as subsections (11) through (15),
555 respectively, present subsection (10) of that section is
556 amended, and a new subsection (10) is added to that section, to
557 read:

558 465.022 Pharmacies; general requirements; fees.—

559 (5) The department or board shall deny an application for a
560 pharmacy permit if the applicant or an affiliated person,
561 partner, officer, director, or prescription department manager
562 or consultant pharmacist of record of the applicant:

563 (j) Has dispensed any medicinal drug based upon a
564 communication that purports to be a prescription as defined by
565 s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 when the pharmacist knows
566 or has reason to believe that the purported prescription is not
567 based upon a valid practitioner-patient relationship that
568 includes a documented patient evaluation, including history and
569 a physical examination adequate to establish the diagnosis for
570 which any drug is prescribed and any other requirement
571 established by board rule under chapter 458, chapter 459,
572 chapter 461, chapter 463, chapter 464, or chapter 466.

573
574 For felonies in which the defendant entered a plea of guilty or
575 nolo contendere in an agreement with the court to enter a
576 pretrial intervention or drug diversion program, the department
577 shall deny the application if upon final resolution of the case
578 the licensee has failed to successfully complete the program.

579 (10) The permittee shall commence pharmacy operations
580 within 180 days after issuance of the permit, or show good cause

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581 to the department why pharmacy operations were not commenced.
582 Commencement of pharmacy operations includes, but is not limited
583 to, acts within the scope of the practice of pharmacy, ordering
584 or receiving drugs, and other similar activities. The board
585 shall establish rules regarding commencement of pharmacy
586 operations.

587 (11)(10) A pharmacy permittee shall be supervised by a
588 prescription department manager or consultant pharmacist of
589 record at all times. A permittee must notify the department, on
590 a form approved by the board, within 10 days after any change in
591 prescription department manager or consultant pharmacist of
592 record.

593 Section 11. Subsection (1) of section 465.023, Florida
594 Statutes, is amended to read:

595 465.023 Pharmacy permittee; disciplinary action.—

596 (1) The department or the board may revoke or suspend the
597 permit of any pharmacy permittee, and may fine, place on
598 probation, or otherwise discipline any pharmacy permittee if the
599 permittee, or any affiliated person, partner, officer, director,
600 or agent of the permittee, including a person fingerprinted
601 under s. 465.022(3), has:

602 (a) Obtained a permit by misrepresentation or fraud or
603 through an error of the department or the board;

604 (b) Attempted to procure, or has procured, a permit for any
605 other person by making, or causing to be made, any false
606 representation;

607 (c) Violated any of the requirements of this chapter or any
608 of the rules of the Board of Pharmacy; of chapter 499, known as
609 the "Florida Drug and Cosmetic Act"; of 21 U.S.C. ss. 301-392,

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known as the "Federal Food, Drug, and Cosmetic Act"; of 21
U.S.C. ss. 821 et seq., known as the Comprehensive Drug Abuse
Prevention and Control Act; or of chapter 893 or rules adopted
thereunder;

(d) Been convicted or found guilty, regardless of
adjudication, of a felony or any other crime involving moral
turpitude in any of the courts of this state, of any other
state, or of the United States;

(e) Been convicted or disciplined by a regulatory agency of
the Federal Government or a regulatory agency of another state
for any offense that would constitute a violation of this
chapter;

(f) Been convicted of, or entered a plea of guilty or nolo
contendere to, regardless of adjudication, a crime in any
jurisdiction which relates to the practice of, or the ability to
practice, the profession of pharmacy;

(g) Been convicted of, or entered a plea of guilty or nolo
contendere to, regardless of adjudication, a crime in any
jurisdiction which relates to health care fraud; or

(h) Dispensed any medicinal drug based upon a communication
that purports to be a prescription as defined by s. 465.003 ~~or~~
~~465.003(14)~~ or s. 893.02 when the pharmacist knows or has reason
to believe that the purported prescription is not based upon a
valid practitioner-patient relationship that includes a
documented patient evaluation, including history and a physical
examination adequate to establish the diagnosis for which any
drug is prescribed and any other requirement established by
board rule under chapter 458, chapter 459, chapter 461, chapter
463, chapter 464, or chapter 466.

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Section 12. Section 465.1902, Florida Statutes, is created to read:

465.1902 Preemption.—This chapter preempts to the state all regulation of the licensure, activity, and operation of pharmacies and pharmacists as defined in this chapter. A local government or political subdivision of the state may not enact or enforce an ordinance that imposes a levy, charge, or fee upon, or that otherwise regulates, pharmacies and pharmacists as defined in this chapter, except that this preemption does not prohibit a local government or political subdivision from enacting an ordinance regarding the following:

(1) Local business taxes adopted pursuant to chapter 205.

(2) Land use development regulations adopted pursuant to chapter 163, which include regulation of any aspect of development, including a subdivision, building construction, sign regulation, and any other regulation concerning the development of land, landscaping, or tree protection, and which do not include restrictions on pain-management services, health care services, or the prescribing of controlled substances.

Section 13. Paragraph (b) of subsection (2), subsection (10), and paragraph (c) of subsection (11) of section 893.055, Florida Statutes, are amended to read:

893.055 Prescription drug monitoring program.—

(2)

(b) ~~The department, when the direct support organization receives at least \$20,000 in nonstate moneys or the state receives at least \$20,000 in federal grants for the prescription drug monitoring program,~~ shall adopt rules as necessary concerning the reporting, accessing the database, evaluation,

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668 management, development, implementation, operation, security,
669 and storage of information within the system, including rules
670 for when patient advisory reports are provided to pharmacies and
671 prescribers. The patient advisory report shall be provided in
672 accordance with s. 893.13(7)(a)8. The department shall work with
673 the professional health care licensure boards, such as the Board
674 of Medicine, the Board of Osteopathic Medicine, and the Board of
675 Pharmacy; other appropriate organizations, such as the Florida
676 Pharmacy Association, the Florida Medical Association, the
677 Florida Retail Federation, and the Florida Osteopathic Medical
678 Association, including those relating to pain management; and
679 the Attorney General, the Department of Law Enforcement, and the
680 Agency for Health Care Administration to develop rules
681 appropriate for the prescription drug monitoring program.

682 (10) All costs incurred by the department in administering
683 the prescription drug monitoring program shall be funded through
684 state funds, federal grants, or private funding applied for or
685 received by the state. The department may not commit funds for
686 the monitoring program without ensuring funding is available.
687 ~~The prescription drug monitoring program and the implementation~~
688 ~~thereof are contingent upon receipt of the nonstate funding.~~ The
689 department and state government shall cooperate with the direct-
690 support organization established pursuant to subsection (11) in
691 seeking state funds, federal grant funds, other nonstate grant
692 funds, gifts, donations, or other private moneys for the
693 department ~~if so long as~~ the costs of doing so are not
694 considered material. Nonmaterial costs for this purpose include,
695 but are not limited to, the costs of mailing and personnel
696 assigned to research or apply for a grant. Notwithstanding the

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exemptions to competitive-solicitation requirements under s. 287.057(3)(f), the department shall comply with the competitive-solicitation requirements under s. 287.057 for the procurement of any goods or services required by this section. Funds provided, directly or indirectly, by prescription drug manufacturers may not be used to implement the program.

(11) The department may establish a direct-support organization that has a board consisting of at least five members to provide assistance, funding, and promotional support for the activities authorized for the prescription drug monitoring program.

(c) The State Surgeon General shall appoint a board of directors for the direct-support organization. Members of the board shall serve at the pleasure of the State Surgeon General. The State Surgeon General shall provide guidance to members of the board to ensure that moneys received by the direct-support organization are not received from inappropriate sources. Inappropriate sources include, but are not limited to, donors, grantors, persons, and ~~or~~ organizations, excluding pharmaceutical companies, that may monetarily or substantively benefit from the purchase of goods or services by the department in furtherance of the prescription drug monitoring program.

Section 14. Subsection (1) of section 409.9201, Florida Statutes, is amended to read:

409.9201 Medicaid fraud.—

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

(a) "Prescription drug" means any drug, including, but not limited to, finished dosage forms or active ingredients that are subject to, defined by, or described by s. 503(b) of the Federal

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Food, Drug, and Cosmetic Act or by s. 465.003 ~~s. 465.003(8)~~, s. 499.003(46) or (53) or s. 499.007(13).

(b) "Value" means the amount billed to the Medicaid program for the property dispensed or the market value of a legend drug or goods or services at the time and place of the offense. If the market value cannot be determined, the term means the replacement cost of the legend drug or goods or services within a reasonable time after the offense.

The value of individual items of the legend drugs or goods or services involved in distinct transactions committed during a single scheme or course of conduct, whether involving a single person or several persons, may be aggregated when determining the punishment for the offense.

Section 15. Paragraph (pp) of subsection (1) of section 458.331, Florida Statutes, is amended to read:

458.331 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(pp) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499,

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the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s.

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458.3265(2).

Section 16. Paragraph (rr) of subsection (1) of section 459.015, Florida Statutes, is amended to read:

459.015 Grounds for disciplinary action; action by the board and department.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(rr) Applicable to a licensee who serves as the designated physician of a pain-management clinic as defined in s. 458.3265 or s. 459.0137:

1. Registering a pain-management clinic through misrepresentation or fraud;

2. Procuring, or attempting to procure, the registration of a pain-management clinic for any other person by making or causing to be made, any false representation;

3. Failing to comply with any requirement of chapter 499, the Florida Drug and Cosmetic Act; 21 U.S.C. ss. 301-392, the Federal Food, Drug, and Cosmetic Act; 21 U.S.C. ss. 821 et seq., the Drug Abuse Prevention and Control Act; or chapter 893, the Florida Comprehensive Drug Abuse Prevention and Control Act;

4. Being convicted or found guilty of, regardless of adjudication to, a felony or any other crime involving moral turpitude, fraud, dishonesty, or deceit in any jurisdiction of the courts of this state, of any other state, or of the United States;

5. Being convicted of, or disciplined by a regulatory agency of the Federal Government or a regulatory agency of another state for, any offense that would constitute a violation of this chapter;

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6. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to the practice of, or the ability to practice, a licensed health care profession;

7. Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a crime in any jurisdiction of the courts of this state, of any other state, or of the United States which relates to health care fraud;

8. Dispensing any medicinal drug based upon a communication that purports to be a prescription as defined in s. 465.003 ~~s. 465.003(14)~~ or s. 893.02 if the dispensing practitioner knows or has reason to believe that the purported prescription is not based upon a valid practitioner-patient relationship; or

9. Failing to timely notify the board of the date of his or her termination from a pain-management clinic as required by s. 459.0137(2).

Section 17. Subsection (1) of section 465.014, Florida Statutes, is amended to read:

465.014 Pharmacy technician.—

(1) A person other than a licensed pharmacist or pharmacy intern may not engage in the practice of the profession of pharmacy, except that a licensed pharmacist may delegate to pharmacy technicians who are registered pursuant to this section those duties, tasks, and functions that do not fall within the purview of s. 465.003 ~~s. 465.003(13)~~. All such delegated acts shall be performed under the direct supervision of a licensed pharmacist who shall be responsible for all such acts performed by persons under his or her supervision. A pharmacy registered

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842 technician, under the supervision of a pharmacist, may initiate
843 or receive communications with a practitioner or his or her
844 agent, on behalf of a patient, regarding refill authorization
845 requests. A licensed pharmacist may not supervise more than one
846 registered pharmacy technician unless otherwise permitted by the
847 guidelines adopted by the board. The board shall establish
848 guidelines to be followed by licensees or permittees in
849 determining the circumstances under which a licensed pharmacist
850 may supervise more than one but not more than three pharmacy
851 technicians.

852 Section 18. Paragraph (c) of subsection (2) of section
853 465.015, Florida Statutes, is amended to read:

854 465.015 Violations and penalties.—

855 (2) It is unlawful for any person:

856 (c) To sell or dispense drugs as defined in s. 465.003 ~~s.~~
857 ~~465.003(8)~~ without first being furnished with a prescription.

858 Section 19. Subsection (8) of section 465.0156, Florida
859 Statutes, is amended to read:

860 465.0156 Registration of nonresident pharmacies.—

861 (8) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes
862 of this section, the registered pharmacy and the pharmacist
863 designated by the registered pharmacy as the prescription
864 department manager or the equivalent must be licensed in the
865 state of location in order to dispense into this state.

866 Section 20. Subsection (4) of section 465.0197, Florida
867 Statutes, is amended to read:

868 465.0197 Internet pharmacy permits.—

869 (4) Notwithstanding s. 465.003 ~~s. 465.003(10)~~, for purposes
870 of this section, the Internet pharmacy and the pharmacist

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designated by the Internet pharmacy as the prescription department manager or the equivalent must be licensed in the state of location in order to dispense into this state.

Section 21. Section 465.1901, Florida Statutes, is amended to read:

465.1901 Practice of orthotics and pedorthics.—The provisions of chapter 468 relating to orthotics or pedorthics do not apply to any licensed pharmacist or to any person acting under the supervision of a licensed pharmacist. The practice of orthotics or pedorthics by a pharmacist or any of the pharmacist's employees acting under the supervision of a pharmacist shall be construed to be within the meaning of the term "practice of the profession of pharmacy" as set forth in s. 465.003 ~~s. 465.003(13)~~, and shall be subject to regulation in the same manner as any other pharmacy practice. The Board of Pharmacy shall develop rules regarding the practice of orthotics and pedorthics by a pharmacist. Any pharmacist or person under the supervision of a pharmacist engaged in the practice of orthotics or pedorthics is not precluded from continuing that practice pending adoption of these rules.

Section 22. Subsection (43) of section 499.003, Florida Statutes, is amended to read:

499.003 Definitions of terms used in this part.—As used in this part, the term:

(43) "Prescription drug" means a prescription, medicinal, or legend drug, including, but not limited to, finished dosage forms or active pharmaceutical ingredients subject to, defined by, or described by s. 503(b) of the Federal Food, Drug, and Cosmetic Act or s. 465.003 ~~s. 465.003(8)~~, s. 499.007(13), or

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subsection (11), subsection (46), or subsection (53), except that an active pharmaceutical ingredient is a prescription drug only if substantially all finished dosage forms in which it may be lawfully dispensed or administered in this state are also prescription drugs.

Section 23. Subsection (22) of section 893.02, Florida Statutes, is amended to read:

893.02 Definitions.—The following words and phrases as used in this chapter shall have the following meanings, unless the context otherwise requires:

(22) "Prescription" means and includes an order for drugs or medicinal supplies written, signed, or transmitted by word of mouth, telephone, telegram, or other means of communication by a duly licensed practitioner licensed by the laws of the state to prescribe such drugs or medicinal supplies, issued in good faith and in the course of professional practice, intended to be filled, compounded, or dispensed by another person licensed by the laws of the state to do so, and meeting the requirements of s. 893.04. The term also includes an order for drugs or medicinal supplies so transmitted or written by a physician, dentist, veterinarian, or other practitioner licensed to practice in a state other than Florida, but only if the pharmacist called upon to fill such an order determines, in the exercise of his or her professional judgment, that the order was issued pursuant to a valid patient-physician relationship, that it is authentic, and that the drugs or medicinal supplies so ordered are considered necessary for the continuation of treatment of a chronic or recurrent illness. However, if the physician writing the prescription is not known to the

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929 pharmacist, the pharmacist shall obtain proof to a reasonable
930 certainty of the validity of said prescription. A prescription
931 order for a controlled substance shall not be issued on the same
932 prescription blank with another prescription order for a
933 controlled substance which is named or described in a different
934 schedule, nor shall any prescription order for a controlled
935 substance be issued on the same prescription blank as a
936 prescription order for a medicinal drug, as defined in s.
937 465.003 ~~s. 465.003(8)~~, which does not fall within the definition
938 of a controlled substance as defined in this act.

939 Section 24. This act shall take effect July 1, 2013.



344792

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (43) is added to section 403.061,
Florida Statutes, to read:

403.061 Department; powers and duties.—The department shall
have the power and the duty to control and prohibit pollution of
air and water in accordance with the law and rules adopted and
promulgated by it and, for this purpose, to:

(43) (a) Implement ss. 403.067 and 403.088 in flowing waters
consistent with the attainment and maintenance of:



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13 1. The narrative criterion for nutrients and any in-stream
14 numeric interpretation of the narrative water quality criterion
15 for nutrients adopted by the department in streams, canals, and
16 other conveyances; and

17 2. Nutrient water quality standards applicable to
18 downstream waters.

19 (b) The loading of nutrients to downstream waters from a
20 stream, canal, or other conveyance shall be limited to provide
21 for the attainment and maintenance of nutrient water quality
22 standards in the downstream waters.

23 1. If the downstream water does not have a total maximum
24 daily load adopted under s. 403.067 and has not been verified as
25 impaired by nutrient loadings, then the department shall
26 implement its authority in a manner that prevents impairment of
27 the downstream water due to loadings from the upstream water.

28 2. If the downstream water does not have a total maximum
29 daily load adopted under s. 403.067 but has been verified as
30 impaired by nutrient loadings, then the department shall adopt a
31 total maximum daily load under s. 403.067.

32 3. If the downstream water has a total maximum daily load
33 adopted under s. 403.067 that interprets the narrative water
34 quality criterion for nutrients, then allocations shall be set
35 for upstream water bodies in accordance with s. 403.067(6), and
36 if applicable, the basin management action plan established
37 under s. 403.067(7).

38 (c) Compliance with an allocation calculated under s.
39 403.067(6) or, if applicable, the basin management action plan
40 established under s. 403.067(7) for the downstream water shall
41 constitute reasonable assurance that a discharge does not cause



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42 or contribute to the violation of the downstream nutrient water
43 quality standards.

44
45 The department shall implement such programs in conjunction
46 with its other powers and duties and shall place special
47 emphasis on reducing and eliminating contamination that presents
48 a threat to humans, animals or plants, or to the environment.

49 Section 2. The Department of Environmental Protection may
50 implement its adopted nutrient standards for streams, springs,
51 lakes, and estuaries consistent with the document entitled
52 "Implementation of Florida's Numeric Nutrient Standards," which
53 was proposed for adoption by the department in the Florida
54 Administrative Register, Vol. 39, No. 54, pages 1397-1398. This
55 document shall be subject to the provisions of rule 62-
56 302.531(9), Florida Administrative Code, and exempt from
57 ratification under s. 120.541(3), Florida Statutes.

58 Section 3. When the United States Environmental Protection
59 Agency withdraws all federal numeric nutrient criteria rules in
60 the State of Florida, and otherwise ceases all federal nutrient
61 rulemaking in the State of Florida, then rule 62-302.531(9),
62 Florida Administrative Code, shall stand repealed. Thereafter,
63 upon certification by the Secretary of Environmental Protection
64 filed with the Department of State, the rule shall be deleted
65 from the Florida Administrative Code.

66 Section 4. Any nutrient criteria rules for estuaries
67 adopted by the Department of Environmental Protection in 2013
68 are subject to the provisions of rule 62-302.531(9), Florida
69 Administrative Code, and exempt from ratification under s.
70 120.541(3), Florida Statutes.



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71 Section 5. The Department of Environmental Protection shall
72 establish by rule or final order the estuary specific numeric
73 interpretations of the narrative nutrient criterion for total
74 nitrogen, total phosphorus, and chlorophyll a for any estuaries
75 not already subject to the department's numeric nutrient
76 criteria, and establish chlorophyll a interpretations of the
77 narrative nutrient criterion for non-estuarine coastal waters by
78 December 1, 2014, subject to the provisions of chapter 120,
79 Florida Statutes. The water quality standard pursuant to s.
80 403.061(11), Florida Statutes, for total nitrogen, total
81 phosphorus, and chlorophyll a in estuaries, and chlorophyll a in
82 non-estuarine coastal waters, shall be the current conditions of
83 those unimpaired waters, accounting for climactic and hydrologic
84 cycles, until such time as a numeric interpretation of the
85 narrative water quality criterion for nutrients is established
86 by rule or final order. The Department of Environmental
87 Protection shall submit a report to the Governor, the President
88 of the Senate, and the Speaker of the House of Representatives
89 by August 1, 2013, conveying the status of establishing numeric
90 interpretations of the narrative nutrient criterion pursuant to
91 this section and including the department's calculation of the
92 numeric values that represent the current conditions of those
93 unimpaired waters as stated in this section for those estuaries
94 and non-estuarine coastal waters without numeric interpretations
95 of the narrative nutrient criterion established by rule or final
96 order as of the date of the report.

97 Section 6. This act shall take effect upon becoming a law.
98
99



344792

===== 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 numeric nutrient criteria; amending s.
403.061, F.S.; authorizing the Department of Environmental
Protection to implement specified provisions to control nutrient
load in state waters; authorizing the department to implement
specified nutrient standards; providing for deletion of a
specified rule from the Florida Administrative Code; providing
that specified nutrient criteria rules are subject to specified
provisions of the Florida Administrative Code; exempting such
nutrient criteria rules from ratification by Legislature under
s. 120.541(3), F.S.; directing the department to establish
numeric interpretations of the narrative nutrient criterion for
certain estuaries and waters, subject to specified provisions
and standards; directing the department to submit a specified
report to the Governor and Legislature; providing an effective
date.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic Numeric Nutrient

Bill Number 1808
(if applicable)

Name David Cruz

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address P.O. Box 1757
Street

Phone 701-3676

Tally FL 32302
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL League of cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic NUMERIC NUTRIENT CRITERIA Bill Number 1808
Name DAVID CULLEN Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY PKWY #296 Phone 941.323.2404
Street
City _____ State _____ Zip _____
E-mail cullen@secc

Speaking: ☐ For ☒ Against ☐ Information

Representing SIERRA CLUB FLORIDA

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic NNL

Bill Number 1808
(if applicable)

Name Pierce Schwessler

Amendment Barcode _____
(if applicable)

Job Title DEP - Leg Affairs Director

Address 3900 Commonwealth Drive

Phone 245-2140

Tallahassee FL 32399
City State Zip

E-mail Pierce Schwessler
@dep.state.fl.us

Speaking: ☒ For ☐ Against ☐ Information

Representing DEP

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
APPEARANCE RECORD

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

4/9

Meeting Date

Topic _____

Bill Number 1808
(if applicable)

Name Jim Spratt

Amendment Barcode _____
(if applicable)

Job Title _____

Address PO Box 10011
Street

Phone 850-228-1296

TALLY FL 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Nursery, Growers & LANDSCAPE 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 9, 2013
Meeting Date

Topic Nutrient Criteria

Bill Number 1808
(if applicable)

Name David Childs

Amendment Barcode _____
(if applicable)

Job Title Counsel

Address 119 S. Monroe St
Street

Phone 850 222-7500

Tallahassee FL 32301
City State Zip

E-mail DAVIDC@HGLAW.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing FWEA Utility Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/9/13

Meeting Date

Topic Numeric Nutrient Criteria Bill Number SB 1808
Name LANCE PIERCE Amendment Barcode _____
(if applicable)

Job Title ASST DIR STATE LEGISLATIVE AFFAIRS
Address 315 S CALHOUN ST. Phone _____
Street
TALLAHASSEE FL E-mail _____
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA FARM BUREAU

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/9/2013

Meeting Date

Topic Numeric Nutrient Criteria Bill Number 1808
(if applicable)

Name Leticia M Adams Amendment Barcode _____
(if applicable)

Job Title Director of Infrastructure Policy

Address 136 South Bronough Street Phone 850-544-6866
Street

Tallahassee FL 32301 E-mail ladams@flchamber.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-19-13

Meeting Date

Topic N. N. C.

Bill Number SB 1808
(if applicable)

Name Doug Mann

Amendment Barcode _____
(if applicable)

Job Title _____

Address 310 W. College Ave.

Phone 222-57535

Street

Tallahassee

City

FL

State

32301

Zip

E-mail doug.littlejohn@flsen.gov

Speaking: ☒ For ☐ Against ☐ Information

Representing AIF

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
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Numeric Nutrient Criteria Bill Number SB 1808
(if applicable)

Name Suzanne Goss Amendment Barcode _____
(if applicable)

Job Title Government Relations Specialist

Address 21 W. Church St. Phone 904-665-8331
Street

Jacksonville FL 32202 E-mail goss SE@jea.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

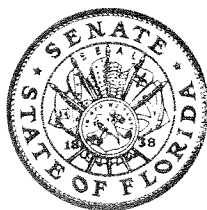
Representing JEPA

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

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

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR CHARLES S. DEAN, SR.

5th District

COMMITTEES:

Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

March 27, 2013

The Honorable Wilton Simpson
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request you place Senate Bill 1808, relating to Numeric Nutrient Criteria, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator District 5

cc: Tom Yeatman, Staff Director

REPLY TO:

- ☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- ☐ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- ☐ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1808

INTRODUCER: Community Affairs Committee and Environmental Preservation and Conservation Committee

SUBJECT: Numeric Nutrient Criteria

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino		ep SPB 7034 as introduced
2.	Anderson	Yeatman	CA	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 1808 provides guidance for setting numeric nutrient criteria (NNC) for flowing waters of the state.

The bill states the Department of Environmental Protection (DEP) may implement its adopted nutrient standards for streams, springs, lakes, and estuaries in accordance with the document, "Implementation of Florida's Numeric Nutrient Standards." The bill states the conditions that have to be met to trigger the repealing of Rule 62-302.531(9), Florida Administrative Code (F.A.C.). The bill subjects any nutrient criteria rules for estuaries adopted by the DEP in 2013 to the provisions of rule 62-302.531(9), F.A.C., and exempts them from legislative ratification.

The bill directs the DEP to establish estuary specific NNC for estuaries not already subject to DEP NNC, and set NNC for chlorophyll *a* for non-estuarine coastal waters by December 1, 2014. The bill establishes the water quality standard for non-estuarine coastal waters until such time as NNC are established for those waters. The bill directs the DEP to provide the Governor, the President of the Senate and the Speaker of the House of Representatives a report by

August 1, 2013, detailing the status of setting NNC for estuaries and non-estuarine coastal waters for which NNC have not been set.

This bill substantially amends s 403.061 of the Florida Statutes. It also creates four unnumbered sections of law.

II. Present Situation:

Water Quality Standards for Surface Waters in Florida

Water quality standards (WQSs) are the foundation of the water quality-based pollution control program mandated by the Clean Water Act (CWA). The CWA establishes the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters.¹ The CWA governs all “waters of the United States” and activities impacting those waters. “Waters of the United States” are defined as:²

- All waters which are currently used, or were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
- All interstate waters including interstate wetlands;
- All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation or destruction of which could affect interstate or foreign commerce including any such waters:
 - Which are or could be used by interstate or foreign travelers for recreational or other purposes; or
 - From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or
 - Which are used or could be used for industrial purposes by industries in interstate commerce;
- All impoundments of waters otherwise defined as waters of the United States under this definition;
- Tributaries of waters identified in the preceding bullets;
- The territorial sea; and
- Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in the preceding bullets.

Waste treatment systems, including treatment ponds or lagoons designed to meet the CWA’s requirements (other than cooling ponds as defined in 40 CFR 423.11(m)) are not waters of the United States. The definition also expressly excludes prior converted cropland.

¹ Applicable water quality standards for purposes of the CWA are the minimum standards which must be used when the CWA and regulations implementing the CWA refer to WQSs, for example, in identifying impaired waters and calculating total maximum daily loads under section 303(d), developing NPDES permit limitations under section 301(b)(1)(C), evaluating proposed discharges of dredged or fill material under section 404, and in issuing certifications under section 401 of the Act. 40 CFR 131.21.

² 40 CFR 230.3(s).

The CWA requires states or the EPA to establish WQSs for pollutants flowing into surface waters and prohibits the discharge of any pollutant from a point source, such as a pipe, man-made ditch, or large animal feeding operation, into navigable waters without a National Pollutant Discharge Elimination System (NPDES) permit. In Florida, the water quality of surface waters is primarily regulated through Florida's implementation of the CWA. The CWA provides incentives to Florida to adopt CWA-compliant WQSs and administer the federal NPDES program on behalf of the EPA.³

Under the CWA, states adopt WQSs for their navigable waters and review and update those standards at least once every three years. States determine WQSs for surface waters in three steps by establishing:

- The designated uses for each water body, which may be for drinking, recreation and aquatic life propagation, and agricultural and industrial purposes;
- Water quality criteria, which can be either numeric or narrative standards, that define the amount of pollutant a water body can contain without impairing the designated use; and
- An anti-degradation policy to maintain and protect existing uses and high quality waters.

The CWA requires states to submit WQSs to the EPA for review and approval.⁴

The EPA Administrator must “promptly prepare and publish” proposed regulations setting forth a revised or new WQS for the navigable waters involved if a revised or new WQS submitted by the state is determined by the Administrator not to be consistent with the applicable requirements, or in any case where the Administrator determines that a revised or new standard is necessary to meet requirements of the CWA.⁵

The Administrator must promulgate any new or revised standards not later than 90 days after publication of the proposed standards, unless prior to such promulgation, the state adopts a revised or new WQS, which the Administrator determines to be in accordance with the CWA. After promulgation by the EPA, however, the promulgated rules become the state's WQSs until such time as the EPA withdraws the promulgation, again by rule.⁶ This may occur if the state proposes and the EPA approves the state's submission.

³ Under the U.S. Constitution, the federal government cannot compel states to enact legislation or take executive action to implement federal regulatory programs. However, Congress often offers funding as an incentive for states to do so. Congress may also create a “potential preemption” structure in which states must regulate the activity under state law according to federally approved standards, or have state regulation pre-empted by federal regulation. The CWA utilizes these techniques. In addition, a state agency in Florida must have legislative authorization to implement a federal law. The Florida Department of Environmental Protection receives federal funds to administer the NPDES permitting program in the state.

⁴ This section of the CWA represents the “potential preemption” structure previously mentioned. Apart from receiving federal funds to assist the state in meeting WQSs approved by the EPA, the state retains local control over its water quality programs, and provides to its NPDES applicants something the federal structure lacks – administrative deadlines for the agency to approve or deny a permit application.

⁵ 33 U.S.C. s.1251 et seq. (1972), s. 303(a)(3)(c).

⁶ Pursuant to 40 CFR 131.21(c), if the EPA finalizes a proposed rule, the EPA promulgated WQSs would be applicable WQSs for purposes of the CWA until the EPA withdraws the federally-promulgated standard. Withdrawing a federal standard would require rulemaking by the EPA pursuant to the requirements of the Administrative Procedure Act (5 U.S.C. 551 et seq.).

The CWA also requires that states identify impaired waters not meeting established WQSs. In such instances, a state establishes a total maximum daily load (TMDL), for those impaired waters. A TMDL is a value of the maximum amount of a pollutant that a body of water can receive and still meet WQSs.⁷ To enforce TMDLs, water quality-based effluent limitations must be developed and incorporated into NPDES permits for point sources. Each TMDL represents a goal that is implemented by adjusting pollutant discharge requirements in the individual NPDES permits, along with the implementation of nonpoint source controls, such as best management practices (BMPs).⁸ State-established TMDLs and NPDES water quality-based effluent limitations are submitted to the EPA for approval. The EPA may adjust the criteria on either if it determines the standard does not comply with the CWA.

The threshold limit on pollutants in surface waters (Florida's surface WQS on which TMDLs are based) are set in administrative rule. The state's impaired waters rule contains a table that catalogues over 100 substances, including subparts, with numerical thresholds for surface water classifications, including fresh and marine waters.⁹ Generally, a pollutant is expressed in a numerical threshold (e.g., 11mg/L, or 11 milligrams per liter) because certain chemicals (e.g., Benzene, Lead, Mercury), have threshold concentrations above which adverse biological damage is a scientific certainty.

The EPA and the DEP executed a Memorandum of Understanding in 2007 delineating the state and federal agencies' mutual responsibilities in the DEP's administration of the federal NPDES program (the approved program). Pursuant to the memorandum, the EPA acknowledges that the DEP has no veto authority over an act of the Florida Legislature. The EPA reserves the right to initiate procedures for withdrawal of the state NPDES program approval in the event the state legislature enacts legislation or issues any directive which substantially impairs the DEP's ability to administer the NPDES program or to otherwise maintain compliance with NPDES program requirements. If the approved program were withdrawn, entities requiring a NPDES permit for activities relating to wastewater, stormwater, construction, industry, pesticide application, power generation and some agricultural activities would need to acquire both federal and state permits independent of one another.

The memorandum anticipates situations when the EPA resumes authority over an individual permit and instances when DEP-submitted NPDES permits are disapproved by the EPA until the DEP adjusts the permit conditions to include EPA conditions on the permit. If the permit is issued by the DEP, the permit holder may seek an administrative challenge in the Florida Division of Administrative Hearings. If the permit is issued by the EPA, the permit holder may seek a federal appeal; however, in the interim, the permit holder would be required to comply with the federal permit.

⁷ Generally, the pollutant of concern and a numeric water quality target are, respectively, the chemical causing the impairment and the numeric criteria for that chemical (e.g., chromium) contained in the WQS. The TMDL expresses the relationship between any necessary reduction of the pollutant of concern and the attainment of the numeric water quality target. Guidelines for Reviewing TMDLs Under Existing Regulations Issued in 1992, are found at: <http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/final52002.cfm> (last visited Mar. 17, 2013).

⁸ When a water body is classified as impaired, Florida law also authorizes the DEP to adopt a Basin Management Action Plan, or BMAP, for that particular water body. A BMAP is designed to reduce the pollutant concentrations to meet the TMDL. Strategies may include educational programs, permit limits on wastewater facilities, BMPs, conservation programs, and financial assistance.

⁹ Rule 62-302.530, F.A.C.

Nutrients and Water Quality

Nutrients, such as nitrogen and phosphorus, are substances that are needed by organisms to live and grow. Nitrogen and phosphorus are essential to the production of plant and animal tissue. Phosphorus is essential to cellular growth and respiration. In aquatic systems, these nutrients feed the growth of bacteria, algae and other organisms. The DEP has relied on a narrative criterion (described in its impaired waters rule as “an imbalance in natural populations of flora or fauna”)¹⁰ for many years because nutrients are unlike any other pollutant regulated by the CWA.

Natural sources of nitrogen and phosphorus are the atmosphere, soils and the decay of plants and animals. Human sources include sewage disposal systems (wastewater treatment facilities and septic tanks), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.

Excessive amounts of nutrients may result in harmful algal blooms, nuisance aquatic weeds and alteration of the natural community of plants and animals. Dense, harmful blooms of algae can also cause human health problems, fish kills, problems for water treatment plants and generally impair the aesthetics and tastes of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities. Increased algal production as a result of increased nutrients can alter plant communities, which affects natural systems.

The derivation of specific NNC to complement the narrative standard is complex.¹¹ Since nutrients are essential to life, a balance must be maintained to provide adequate nutrients to sustain aquatic life while not providing excessive nutrients which alter the aquatic ecosystem through species shifts. Complicating the picture is the fact that each water body can have very different and unique nutrient requirements. To develop thresholds at which a healthy aquatic environment can be sustained, it is best to establish a reliable measure of the biological condition of the water body.

Florida’s Adoption of NNC Rules

On July 17, 2008, environmental groups sued the EPA, alleging failure on the part of the EPA to comply with the CWA. These groups initially alleged that the EPA’s 1998 National Strategy for the Development of Regional Nutrient Criteria was a necessity determination, pursuant to s. 303(c)(4)(B) of the CWA, requiring the EPA to promulgate numeric nutrient rules for Florida. Their amended complaint asserted the 1998 Clean Water Action Plan, coauthored with the U.S. Department of Agriculture, was the necessity determination. The EPA initially defended the suit and contested the plaintiffs’ arguments. However, in an EPA internal memorandum from December 2008, the writer warned that a judicial finding in favor of the plaintiffs could result in the EPA being required to promulgate numeric nutrient rules for the other 49 states. The internal memorandum proposes a strategy to avoid this possibility: if the EPA issues a s. 303(c)(4)(B)

¹⁰ Rule 62-302.530(47)(b), F.A.C.

¹¹ For insight into the process of developing NNC, in this case for lakes, spring vents, and streams, see, *Technical Support Document: Development of Numeric Nutrient Criteria for Florida Lakes, Spring Vents and Streams*, <http://www.dep.state.fl.us/water/wqssp/nutrients/docs/tsd-nnc-lakes-springs-streams.pdf> (last visited Mar. 16, 2013).

necessity determination, that may be used as a basis to settle the lawsuit and request a dismissal from the court.¹²

On January 14, 2009, the EPA placed the DEP on formal notice that numerical criteria for nutrients were necessary for compliance with the CWA. This notice triggered a deadline of one year for the EPA to develop numeric nutrient criteria for Florida's surface waters and 24 months to develop numeric criteria for coastal waters, unless the state proposed criteria acceptable to the EPA before final promulgation. On August 19, 2009, the EPA entered into a consent decree to settle the lawsuit filed by the five environmental groups. The EPA committed to propose numeric nutrient standards for inland waters (lakes and flowing waters), as well as for estuarine and coastal waters, by certain dates. The DEP did not formally submit NNC to the EPA before the deadline.

In drafting the proposed rule, the EPA drew from more than seven years of DEP data and analysis, DEP's nutrient plans, as well as technical support documentation. The DEP maintained contact with the EPA while the EPA formulated the proposed rule.

On January 14, 2010, EPA Administrator Jackson signed the EPA's rule proposing NNC for Florida's fresh waters. Ten months later, on November 14, 2010, Administrator Jackson signed the final rule adopting NNC for Florida's fresh waters. On December 6, 2010, the EPA published its final administrative rule.

The DEP has petitioned EPA to return the responsibility of NNC rulemaking to the state. The DEP has already established NNC for rivers, streams, lakes, and the majority of estuaries. The EPA has approved the criteria for rivers, streams, lakes, and south Florida estuaries. However, pursuant to the settlement agreement and consent decree, the EPA has proposed, though not set, criteria for coastal waters and the remaining estuaries, and re-proposed their river and stream criteria, which were invalidated by the U.S. District Court for the Northern District of Florida in a ruling handed down in February 2012.¹³

On November 30, 2012, the EPA approved state NNC standards for the prevention of nutrient pollution in Florida's waterways applicable to 100 percent of Florida's rivers, streams, lakes and to estuaries from Tampa Bay to Biscayne Bay, including the Florida Keys.¹⁴ Simultaneously, the EPA proposed draft federal NNC rules pursuant to a federal consent decree for waters not yet covered by state rules, which include:

- remaining estuaries;
- open ocean waters;
- the location where south Florida canals enter estuaries; and
- scientifically challenging areas like tidal creeks, headwaters that are dry for portions of the year (excluding drought conditions), and managed water conveyances.

¹² Fifteen months earlier, the EPA agreed with Florida's methodology and plan to finalize NNC rules by the end of 2010. The DEP was not a party to the lawsuit; however, several groups representing utilities, local governments, and agriculture in the state intervened.

¹³ *Florida Wildlife Federation, Inc. v. Jackson*, 853 F.Supp.2d 1138 (N.D.Fla. 2012).

¹⁴ Letter from James Giattina, Director, Water Protection Division, EPA, to DEP Secretary Herschel Vinyard, Nov. 30, 2012, http://www.dep.state.fl.us/water/wqssp/nutrients/docs/new/epa_approval_letter_113012.pdf (last visited Mar. 16, 2013).

As part of the November 30, 2012, action, the EPA also amended its previous January 2009 determination concluding that the DEP's rules provided sufficient quantitative procedures upstream to ensure the protection of water quality standards in downstream waters, as required by the CWA.

The only NNC that have taken full effect so far are those for the estuaries located in south Florida. The remainder of the Florida and EPA rules go into effect at various times. In the interim, narrative goals listed in state rules continue to apply to these waters, as well as any established restoration goals in existing TMDLs.¹⁵

The DEP is continuing its development of criteria for the rest of the estuaries in the state. In November 2012, the DEP adopted NNC for additional estuaries, expanding coverage to 72 percent of Florida estuaries. The DEP has committed to adopting criteria for the remaining estuaries by 2015 after data collection and analysis, which will require EPA approval.¹⁶ The DEP and the EPA are negotiating the requirements Florida must comply with in order for the EPA to request a release from the consent decree and return all NNC rulemaking to the state.

Rule 62-302.531(9), F.A.C., provides for the adoption of Florida's NNC rules if the EPA approves the rules in their entirety, concludes rulemaking that removes federal NNC in response to the approval of Florida's rules, and finds that the rules sufficiently address the EPA's January 14, 2009 determination. If any of the state rules are found to be invalid, then none of the state rules will be implemented.

Legislative Ratification of Agency Rules

Pursuant to s. 120.541, F.S., any rule that meets any of three thresholds must be ratified by the Legislature. The thresholds are:

- If it is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- If it is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- If it is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.¹⁷

If ratification is required, "the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the next regular legislative session, and the rule may not take effect until it is ratified by the Legislature."¹⁸

¹⁵ DEP, *Numeric Nutrient Criteria in the State of Florida: Status and Meaning of November 30, 2012 Action by EPA*, <http://www.dep.state.fl.us/water/wqssp/nutrients/docs/nnc-status-FS-dec2012.pdf> (last visited Mar. 16, 2013).

¹⁶ *Id.*

¹⁷ Section 120.541(2)(a)1.-3., F.S.

¹⁸ Section 120.541(3), F.S.

III. Effect of Proposed Changes:

Section 1 amends s. 403.061, F.S., to establish measures to protect downstream lakes and estuaries from pollutants coming from upstream waterbodies, particularly water management conveyances. Specifically, the bill directs the DEP to implement the TMDL program and water pollution discharge permitting consistent with attaining and maintaining in-stream and downstream water quality.

For waters downstream from a stream, canal, or other conveyance, the loading of nutrients must be limited to provide for the attainment and maintenance of nutrient WQSs. The bill provides the DEP with three options based on the downstream conditions:

- If the downstream water does not have a TMDL and has not been verified as impaired, the DEP is directed to implement its authority in a manner that prevents impairment of the downstream water due to upstream water loading
- If the downstream water does not have a TMDL and has been verified as impaired, then the DEP is directed to develop a TMDL for the waterbody.
- If the downstream water has a TMDL that interprets the narrative water quality criterion for nutrients, then allocations shall be set for upstream waterbodies in accordance with s. 403.067(6), F.S., and, if applicable, the BMAP established under s. 403.067(7), F.S.

The bill states that compliance with an allocation for the downstream water will constitute reasonable assurance that a discharge does not cause or contribute to the violation of the downstream nutrient WQSs.

Section 2 creates an unnumbered section of law stating the DEP may implement NNC consistent with “Implementation of Florida’s Numeric Nutrient Standards.” The document explicitly states how the DEP will apply nutrient standards to water management conveyances and has been proposed for adoption in the Florida Administrative Register.

Section 3 creates an unnumbered section of law providing that all NNC adopted by the DEP shall become effective when the EPA withdraws all federal NNC rules and ceases all federal nutrient rulemaking in the state. When this occurs, Rule 62-302.531(9), F.A.C., will stand repealed. Thereafter, upon certification by the Secretary of Environmental Protection filed with the Department of State, the rule shall be deleted from the Florida Administrative Code.

Section 4 creates an unnumbered section of law exempting from ratification any additional estuary NNC adopted by the DEP during 2013; however, these rules are still subject to Rule 62.-302.531(9), F.A.C., until its expiration.

Section 5 creates an unnumbered section of law directing the DEP to adopt NNC for total nitrogen, total phosphorous, and chlorophyll *a* for any estuaries not already subject to the DEP’s NNC, and establish chlorophyll *a* interpretations of the narrative nutrient criterion for non-estuarine coastal waters by December 1, 2014.

The bill states that until such time as numeric interpretation of narrative water quality criterion is established by final rule or order, the water quality standard for total nitrogen, total phosphorous

and chlorophyll *a* in estuaries, and chlorophyll *a* in non-estuarine coastal waters is the current conditions of those unimpaired waters.

The DEP is directed to provide the Governor, the Speaker of the House of Representatives, and the President of the Senate with a report by August 1, 2013, describing the status of establishing NNC pursuant to this bill.

Section 6 provides that the act takes effect upon becoming a law.

Other Potential Implications:

It is important to note that if the DEP does not set comprehensive NNC for Florida, the EPA will. If that occurs, the costs of compliance will likely be significantly more for the state and for the regulated community.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The regulated community anticipates that the DEP NNC rules, while still requiring significant investment, will be less expensive to implement than the EPA's NNC. The difference in the cost of compliance is attributable to the implementation of the DEP's NNC rules that account for site-specific criteria and allow for biological variations for Florida's waterbodies that the EPA's rules do not.

C. Government Sector Impact:

Like the private sector, government entities will likely see lower costs of compliance with the DEP's NNC rules. The bill requires DEP to submit a report to the Governor and legislature containing the current calculations of unimpaired conditions for nutrients for certain estuaries and coastal waters. According to DEP, the department will also incur certain costs associated with rulemaking to implement the provisions in the bill.

However, DEP has also stated that they will be able to absorb these costs within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs on April 9, 2013:

The committee substitute made technical and clarifying changes to the bill.

- B. **Amendments:**

None.

By the Committee on Environmental Preservation and Conservation

592-02848-13

20131808__

1 A bill to be entitled
2 An act relating to numeric nutrient criteria; amending
3 s. 403.061, F.S.; authorizing the Department of
4 Environmental Protection to implement ss. 403.088 and
5 403.067, F.S., to control nutrient load in state
6 waters; authorizing the department to implement its
7 adopted nutrient standards; directing the department
8 to remove rule 62-302.531(9), Florida Administrative
9 Code, when the United States Environmental Protection
10 Agency withdraws all federal numeric nutrient criteria
11 rules in the state; subjecting any numeric nutrient
12 rules for estuaries adopted in 2013 to the provisions
13 of rule 62-302.531(9), Florida Administrative Code,
14 and exempting them from ratification under s.
15 120.541(3), F.S.; directing the department to
16 establish estuary specific numeric interpretations of
17 the narrative nutrient criterion for total nitrogen,
18 total phosphorus, and chlorophyll a for any estuary
19 not already subject to department numeric nutrient
20 criteria; directing the department to send a report to
21 the Governor, the Speaker of the House of
22 Representatives, and the President of the Senate by
23 August 1, 2013, concerning the status of establishing
24 numeric nutrient criteria in the state; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (43) is added to section 403.061,

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Florida Statutes, to read:

403.061 Department; powers and duties.—The department shall have the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it and, for this purpose, to:

(43) (a) Implement ss. 403.088 and 403.067 in flowing waters consistent with the attainment and maintenance of:

1. The narrative criterion for nutrients and any in-stream numeric interpretation of the narrative water quality criterion for nutrients adopted by the department in streams, canals, and other conveyances; and

2. Nutrient water quality standards applicable to downstream waters.

(b) The loading of nutrients to downstream waters from a stream, canal, or other conveyance shall be limited to provide for the attainment and maintenance of nutrient water quality standards in the downstream waters.

1. If the downstream water does not have a total maximum daily load adopted under s. 403.067 and has not been verified as impaired by nutrient loadings, then the department shall implement its authority in a manner that prevents impairment of the downstream water due to loadings from the upstream water.

2. If the downstream water does not have a total maximum daily load adopted under s. 403.067 but has been verified as impaired by nutrient loadings, then the department shall adopt a total maximum daily load under s. 403.067.

3. If the downstream water has a total maximum daily load adopted under s. 403.067 that interprets the narrative water quality criterion for nutrients, then allocations shall be set

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59 for upstream water bodies in accordance with s. 403.067(6), and
60 if applicable, the basin management action plan established
61 under s. 403.067(7).

62 (c) Compliance with an allocation calculated under s.
63 403.067(6), or if applicable, the basin management action plan
64 established under s. 403.067(7) for the downstream water shall
65 constitute reasonable assurance that a discharge does not cause
66 or contribute to the violation of the downstream nutrient water
67 quality standards.

68
69 The department shall implement such programs in conjunction with
70 its other powers and duties and shall place special emphasis on
71 reducing and eliminating contamination that presents a threat to
72 humans, animals or plants, or to the environment.

73 Section 2. The Department of Environmental Protection is
74 authorized to implement its adopted nutrient standards for
75 streams, springs, lakes, and estuaries consistent with the
76 document entitled "Implementation of Florida's Numeric Nutrient
77 Standards," which was proposed for adoption by the department in
78 the Florida Administrative Register, Vol. xx, No. xx, pages xxx-
79 xxx. This document shall be subject to the provisions of rule
80 62-302.531(9), Florida Administrative Code, and exempt from
81 ratification under s. 120.541(3), Florida Statutes.

82 Section 3. When the United States Environmental Protection
83 Agency withdraws all federal numeric nutrient criteria rules in
84 the State of Florida, and otherwise ceases all federal nutrient
85 rulemaking in the State of Florida, then rule 62-302.531(9),
86 Florida Administrative Code, shall expire and the Department of
87 Environmental Protection shall remove it from the Florida

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Administrative Code pursuant to the provisions of chapter 120, Florida Statutes.

Section 4. Any nutrient criteria rules for estuaries adopted by the Department of Environmental Protection in 2013 are subject to the provisions of rule 62-302.531(9), Florida Administrative Code, and exempt from ratification under s. 120.541(3), Florida Statutes.

Section 5. The Department of Environmental Protection shall establish by rule or final order the estuary specific numeric interpretations of the narrative nutrient criterion for total nitrogen, total phosphorus, and chlorophyll a for any estuaries not already subject to the department's numeric nutrient criteria, and establish chlorophyll a interpretations of the narrative nutrient criterion for non-estuarine coastal waters by December 1, 2014, subject to the provisions of chapter 120, Florida Statutes. The water quality standard pursuant to s. 403.061(11), Florida Statutes, for total nitrogen, total phosphorus, and chlorophyll a in estuaries, and chlorophyll a in non-estuarine coastal waters, shall be the current conditions of those unimpaired waters, accounting for climactic and hydrologic cycles, until such time as a numeric interpretation of the narrative water quality criterion for nutrients is established by rule or final order. The Department of Environmental Protection shall send a report to the Governor, the Speaker of the House of Representatives, and the President of the Senate by August 1, 2013, conveying the status of establishing numeric interpretations of the narrative nutrient criterion pursuant to this section and including the department's calculation of the numeric values that represent the current conditions of those

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117 unimpaired waters as stated herein for those estuaries and non-
118 estuarine coastal waters without numeric interpretations of the
119 narrative nutrient criterion established by rule or final order
120 as of the date of the report.

121 Section 6. 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)

Meeting Date _____

Topic Retirement

Bill Number SB 1246
(if applicable)

Name Paige Carter - Smith

Amendment Barcode _____
(if applicable)

Job Title Governmental Consultant

Address 502 N Adams St

Phone 222-6050

1a11 Fl
City State Zip

E-mail Paige@govinc.net

Speaking: ☐ For ☐ Against ☐ Information

Representing Jacksonville Police Fire Pension

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: April 3, 2013

I respectfully request that **Senate Bill # 1246**, relating to Public Retirement Pensions, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1246

INTRODUCER: Senator Bean

SUBJECT: Public Retirement Plans

DATE: April 3, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McVaney	McVaney	GO	Favorable
2.	Toman	Yeatman	CA	Favorable
3.			AFT	
4.			AP	
5.				
6.				

I. Summary:

SB 1246 provides that a consolidated government that has entered into an interlocal agreement to provide police protection services to another incorporated municipality is eligible to receive the premium taxes reported for the other municipality under certain circumstances. The bill authorizes the municipality receiving the police protection services to enact an ordinance levying the premium tax as provided by law and to distribute those premium tax revenues reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

The bill may have an indeterminate negative fiscal impact on the state General Revenue Fund and corresponding indeterminate positive fiscal impact on local government revenues by shifting these tax revenues from the state to the local governments.

This bill substantially amends sections 185.03 and 185.08 of the Florida Statutes.

II. Present Situation:

State Excise Tax on Casualty Insurance Premiums

Chapter 185, F.S., provides funding for municipal police officers' pension plans. It provides for a "uniform retirement system" with defined benefit retirement plans for municipal police officers and sets standards for the operation and funding of these pension systems.¹ Each municipality with a municipal police officers' retirement trust fund is authorized to assess an excise tax of .85 percent of the gross amount of receipts of premiums from policyholders on casualty

¹ Section 185.01, F.S.

insurance policies covering property within its corporate limits.² Revenues from this excise tax are one of the funding sources for police officers' pension plans. Currently, a municipality is eligible to receive state premium taxes (or excise taxes) only on those premiums for casualty insurance policies covering property within its municipal limits even if providing police protection services outside of its municipal limits.³

In order to qualify for the premium taxes, a police officers' pension plan must meet certain requirements in ch. 185, F.S.⁴ The Department of Management Services (DMS) oversees and monitors these pension plans; however, day-to-day operational control rests with local boards of trustees.⁵ Any premium taxes collected by and distributed to a municipality for funding police officers' pension plans have a negative impact on the General Revenue Fund because those premium taxes paid by an insurance company under ch. 185, F.S., to a municipality are allowed as a credit against premium taxes the insurance company must pay to the state under s. 624.509, F.S.

State Excise Tax on Property Insurance

Under current law, a municipality may receive another municipality's premium tax revenues (associated with the tax on property insurance premiums) when there is an interlocal agreement in place to provide fire protection services.⁶ The municipality receiving fire services must levy the tax authorized by ch. 175, F.S., and copies of the interlocal agreement and the municipal ordinance levying the tax must be provided to the Division of Retirement within DMS.

Consolidation

Consolidation involves combining city and county governments so that the boundaries of the county and an affected city or cities become the same. Consolidation can be total or partial. Total consolidation occurs when all independent governmental units within a county are assimilated into the consolidated government. When some of the governments remain independent, the consolidation is partial. Nationally, few successful city-county consolidations exist. According to the National Association of Counties, only 31 of the 3,066 county governments in the United States are combined city/county governments.

Section 3, Article VIII, of the Florida Constitution, reads as follows:

Consolidation. —The government of a county and the government of one or more municipalities located therein may be consolidated into a single government which may exercise any and all powers of the county and the several municipalities. The consolidation plan may be proposed only by special law, which shall become effective if approved by vote of the electors of the county, or of the county and municipalities affected. Consolidation shall not extend the territorial scope of taxation for the payment of pre-existing debt except to areas

² Section 185.08, F.S.

³ *Id.*

⁴ See ss. 185.10, 185.085, F.S.

⁵ Section 185.05, F.S.

⁶ Section 175.041, F.S.

whose residents receive a benefit from the facility or service for which the indebtedness was incurred.

Prior to 1933, the Florida Constitution of 1885 was silent on the subject of consolidation. The 1933 Legislature passed a constitutional amendment specifically declaring its own power to establish a municipal corporation consolidating the governments of Duval County and any of the municipalities within its boundaries, subject to referendum approval of the affected voters. The electorate of Florida adopted this amendment in 1934.

The voters of the City of Jacksonville and Duval County did not adopt a municipal charter pursuant to this constitutional provision until 1967, and to date, only Duval County and the City of Jacksonville have taken advantage of the specific constitutional authority to consolidate. Section 9, of Article VIII, of the Constitution of 1885, establishes the Jacksonville/Duval County consolidated charter.

III. Effect of Proposed Changes:

Sections 1 and 2 amend ss. 185.03 and 185.08, F.S., respectively, to allow a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, to receive the distribution of premium tax revenues related to casualty insurance premiums covering property within the municipality. The consolidated government must notify the Division of Retirement of the Department of Management Services (division) when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08, F.S. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Chapter 185, F.S., applies only to municipalities organized and established pursuant to the laws of the state, and does not apply to the unincorporated areas of any county or counties or to any governmental entity whose police officers are eligible to participate in the Florida Retirement System.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Department of Revenue (DOR) will be notified by the Division of Retirement (within the Department of Management Services) of any additional taxing jurisdiction as a result of the language of this bill. DOR will need to add those jurisdictions to the insurance premium tax form in the annual form process. The form will be adopted in a rule in the annual form adoption process. Additionally, this bill will require changes to the Insurance Premium Database to determine situs of premiums for allocation purposes.

B. Private Sector Impact:

None. Although the bill authorizes a municipality to enact a tax on insurance premiums, the municipal taxes are fully credited against the state taxes on insurance premiums.

C. Government Sector Impact:

The bill specifies that a consolidated government is entitled to premium tax distributions provided by ch. 185, F.S. As a result, this bill may have a negative fiscal impact on state revenues because state premium taxes paid by a casualty insurer to fund a municipal police officers' retirement plan are credited against the premium taxes paid to the state by the insurance company.⁷ The negative fiscal impact on state revenues is indeterminate, but likely minimal.

The bill may result in a positive fiscal impact on local governments because the bill provides that a consolidated government may collect premium tax revenues collected by the municipality receiving police protection services if the consolidated government provides a municipal police officer retirement plan, as provided for in ch. 185, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In 2005, the Legislature made similar changes to ch. 175, F.S., relating to the Firefighters' Pension Trust Fund. Sections 175.041 and 175.101, F.S., allow a municipality to receive excise tax monies for firefighter pension plans from another municipality if there is an interlocal agreement in place to provide fire protection services.

⁷ Section 624.509(4), F.S.

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

By Senator Bean

4-00935-13

20131246__

1 A bill to be entitled
2 An act relating to public retirement plans; amending
3 ss. 185.03 and 185.08, F.S.; specifying applicability
4 of ch. 185, F.S., to certain consolidated governments;
5 providing that a consolidated government that has
6 entered into an interlocal agreement to provide police
7 protection services to a municipality within its
8 boundaries is eligible to receive the premium taxes
9 reported for the municipality under certain
10 circumstances; authorizing the municipality receiving
11 the police protection services to enact an ordinance
12 levying the tax as provided by law; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (2) of section 185.03, Florida
18 Statutes, is amended to read:

19 185.03 Municipal police officers' retirement trust funds;
20 creation; applicability of provisions; participation by public
21 safety officers.—For any municipality, chapter plan, local law
22 municipality, or local law plan under this chapter:

23 (2) (a) ~~The provisions of This chapter applies shall apply~~
24 only to municipalities organized and established pursuant to the
25 laws of the state, and does ~~said provisions shall~~ not apply to
26 the unincorporated areas of a ~~any~~ county or ~~counties nor shall~~
27 ~~the provisions hereof apply~~ to any governmental entity whose
28 police officers are eligible to participate in the Florida
29 Retirement System.

4-00935-13

20131246__

(b) With respect to the distribution of premium taxes, a single consolidated government consisting of a former county and one or more municipalities, consolidated pursuant to s. 3 or s. 6(e), Art. VIII of the State Constitution, is also eligible to participate under this chapter. The consolidated government shall notify the division when it has entered into an interlocal agreement to provide police services to a municipality within its boundaries. The municipality may enact an ordinance levying the tax as provided in s. 185.08. Upon being provided copies of the interlocal agreement and the municipal ordinance levying the tax, the division may distribute any premium taxes reported for the municipality to the consolidated government as long as the interlocal agreement is in effect.

Section 2. Subsection (1) of section 185.08, Florida Statutes, is amended to read:

185.08 State excise tax on casualty insurance premiums authorized; procedure.—For any municipality, chapter plan, local law municipality, or local law plan under this chapter:

(1)(a) Each incorporated municipality in this state described and classified in s. 185.03, as well as each other city or town of this state which on July 31, 1953, had a lawfully established municipal police officers' retirement trust fund or city fund, by whatever name known, providing pension or relief benefits to police officers as provided under this chapter, may assess and impose on every insurance company, corporation, or other insurer now engaged in or carrying on, or who shall hereafter engage in or carry on, the business of casualty insurance as shown by records of the Office of Insurance Regulation of the Financial Services Commission, an

4-00935-13

20131246__

59 excise tax in addition to any lawful license or excise tax now
60 levied by each of the ~~said~~ municipalities, respectively,
61 amounting to .85 percent of the gross amount of receipts of
62 premiums from policyholders on all premiums collected on
63 casualty insurance policies covering property within the
64 corporate limits of such municipalities, respectively.

65 (b) With respect to the distribution of premium taxes, a
66 single consolidated government consisting of a former county and
67 one or more municipalities, consolidated pursuant to s. 3 or s.
68 6(e), Art. VIII of the State Constitution, is also eligible to
69 participate under this chapter. The consolidated government
70 shall notify the division when it has entered into an interlocal
71 agreement to provide police services to a municipality within
72 its boundaries. The municipality may enact an ordinance levying
73 the tax as provided in this section. Upon being provided copies
74 of the interlocal agreement and the municipal ordinance levying
75 the tax, the division may distribute any premium taxes reported
76 for the municipality to the consolidated government as long as
77 the interlocal agreement is in effect.

78 Section 3. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13
Meeting Date

Topic FFA Children's Initiatives

Bill Number SB 1322
(if applicable)

Name Winnie HEGGINS

Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 111 N. Gadsden St
Street

Phone 921.2846

IAPA 32301
City State Zip

E-mail Wheggins@ounee.org

Speaking: ☒ For ☐ Against ☐ Information

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 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR AUDREY GIBSON
9th District

COMMITTEES:
Military Affairs, Space, and Domestic
Security, *Vice Chair*
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Communications, Energy, and Public Utilities
Criminal Justice
Regulated Industries

SELECT COMMITTEE:
Select Committee on Patient Protection
and Affordable Care Act

April 1, 2013

Senator Wilton Simpson, Chair
Committee on Community Affairs
515 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

Chair Simpson:

I respectfully request that SB 1322, relating to children's initiatives, be placed on the next committee agenda.

SB 1322, establishes the New Town Success Zone in Duval County and the Parramore Kidz Zone in Orange County. The initiatives will create community based service networks and programming for children and families residing in disadvantaged areas of these communities. As well as implanting the Miami Children's Initiative, Inc. which is already established.

Thank you for your time and consideration.

Sincerely,



Audrey Gibson
State Senator
District 9

REPLY TO:

- ☐ 101 E. Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553 FAX: (904) 359-2532
- ☐ 205 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1322

INTRODUCER: Senator Gibson and others

SUBJECT: Children's Initiatives

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Hendon	CF	Favorable
2.	Anderson	Yeatman	CA	Favorable
3.			AP	
4.				
5.				
6.				

I. Summary:

SB 1322 codifies two Florida children's initiatives that are currently in existence and that have been designated by the Ounce of Prevention Fund (Ounce) as a Florida children's initiative pursuant to section 409.147, Florida Statutes:

- The "New Town Success Zone" in Jacksonville; and
- The "Parramore Kidz Zone" in Orlando.

This bill provides that the initiatives are subject to Florida public records laws, public meeting laws, and procurement laws, and that the initiatives are designed to encompass an area large enough to include all necessary components of community life, but small enough to reach every member of each neighborhood who is willing to participate.

This bill also requires the Department of Children and Families (DCF or department) and the Miami Children's Initiative (MCI) to contract with a not-for-profit corporation to work in collaboration with the governing body to adopt the resolution, establish the planning team, and adopt the strategic community plan required by law to be designated as a children's initiative.

This bill is anticipated to have no fiscal impact on the state and has an effective date of July 1, 2013.

This bill substantially amends section 409.147 of the Florida Statutes.

II. Present Situation:

Harlem Children's Zone

The Harlem Children's Zone (HCZ) began in 1970 as an organization working with young children and their families as the city's first truancy-prevention program.¹ In the early 1990s, the HCZ ran a pilot project that brought a range of support services to a single block. The idea was to address all the problems that poor families were facing including crumbling apartments, failing schools, violent crime, and chronic health problems.²

Believing that for children to do well, their families have to do well, and for families to do well, their community must do well, the HCZ works to strengthen families as well as empowering them to have a positive impact on their children's development. The two fundamental principles of the HCZ are to help kids in a sustained way, starting as early in their lives as possible, and to create a critical mass of adults around them who understand what it takes to help children succeed.³

The HCZ Project began as a one-block pilot in the 1990s, then following a 10-year business plan to ensure its best-practice programs were operating as planned, it expanded to 24 blocks, then 60 blocks, then ultimately 97 blocks. The HCZ became a model among nonprofits that began carefully evaluating and tracking the results of their work. Those evaluation results enabled staff to see if programs were achieving their objectives and to take corrective actions if they were not.⁴

Children's Zones in Florida

Using the Harlem Children's Zone as a model, the Legislature created children's zones in Florida in 2008.⁵ The stated policy and purpose for the zones was:

It is the policy of this state to provide the necessary means to assist local communities, the children and families who live in those communities, and the private sector in creating a sound educational, social, and economic environment. To achieve this objective, the state intends to provide investments sufficient to encourage community partners to commit financial and other resources to severely disadvantaged areas. The purpose of this section is to establish a process that clearly identifies the severely disadvantaged areas and provides guidance for developing a new social service paradigm that systematically coordinates programs that address the critical needs of children and their families and for directing efforts to rebuild the basic infrastructure of the

¹ Harlem Children's Zone, available at <http://www.hcz.org/index.php/about-us/history> (last visited March 20, 2013). The organization was then known as Rheedlen.

² *Id.*

³ Harlem Children's Zone, available at <http://www.hcz.org/index.php/about-us/the-hcz-project> (last visited March 20, 2013).

⁴ *Id.*

⁵ Chapter 2008-96, Laws of Fla. In 2009, the term "children's zone" was changed to "children's initiative." Shortly after the 2008 legislation was signed into law, the HCZ notified the Florida Legislature that they had trademarked the term "children's zone" and the state was no longer able to use the term. Chapter 2009-43, Laws of Fla.

community. The Legislature, therefore, declares the creation of children's zones, through the collaborative efforts of government and the private sector, to be a public purpose.⁶

The 2008 legislation⁷ and the amending 2009 legislation⁸ relating to children's initiatives also contained the following provisions:

- Created a nominating process for areas within communities to be designated as children's zones,⁹ provides for the creation of a planning team, a strategic community plan, and focus areas to be included in the plan;
- Required the creation of a not for profit corporation to implement and govern a designated children's zone;
- Created a ten-year project within the Liberty City neighborhood in Miami to be known as the Miami Children's Initiative (MCI); and
- Required the department to contract with an existing private nonprofit corporation, incorporated for certain specified purposes, to implement the newly created Miami Children's Initiative.¹⁰

Miami Children's Initiative

The idea for the Miami Children's Initiative dates back to 2006, when a group of Liberty City community leaders, local politicians and residents came together to try and determine possible solutions to perceived problems in the community. Liberty City was once a thriving neighborhood for many African Americans, but the high concentration of low-income housing projects, the exit of the area's businesses, increased joblessness, low performing schools, growing poverty, crime, juvenile delinquency, drugs and poor health had eroded the quality of life.¹¹

Creation of the MCI in 2008 brought residents and local business people, as well as leaders in health care, education and human services, together to begin to formulate the foundation for this community-wide initiative. That extensive planning – professionally facilitated via 43 work groups and 18 focus groups – led to a plan and a strategy to achieve progress toward a “prosperous Liberty City.”¹²

⁶ *Id.*

⁷ *Id.*

⁸ Chapter 2009-43, Laws of Fla.

⁹ Section 409.147, F.S., provides that a county or municipality or other designated area may apply to the Ounce to designate an area as a children's initiative. The area must first adopt a resolution stating that the area has issues related to poverty, that changes are necessary for the area to improve, and that resources are necessary for revitalization of the area. The county or municipality must then establish a children's initiative planning team and develop and adopt a strategic community plan. Once a county or municipality has completed these steps, they must create a not-for-profit corporation to facilitate fundraising and secure broad community ownership of the children's initiative. The Ounce is a private, nonprofit corporation dedicated to shaping prevention policy and investing in innovative prevention programs that provide measurable benefits to Florida's children, families and communities.

¹⁰ Chapter 2009-43, Laws of Fla.

¹¹ Miami Children's Initiative, available at http://www.miamichildrensinitiative.org/aboutus_whoare.shtml (last visited March 21, 2013).

¹² *Id.*

New Town Success Zone

After review of a number of Jacksonville neighborhoods, the New Town community was selected by community leadership of Jacksonville in 2008 as the site for a Florida children's initiative.¹³ In 2009, a strategic plan was developed and work began on the New Town Success Zone.¹⁴ The initiative aims to assist parents and caregivers, business leaders, professionals, residents, teachers and other stakeholders create a safe environment and pipeline to success for children residing in the New Town area.¹⁵ The New Town Success Zone has reported higher FCAT scores, an improvement in school promotion rates, and a reduction in violent crimes, theft and truancy since 2008.¹⁶

Parramore Kidz Zone

The Parramore Kidz Zone was launched by the City of Orlando on July 1, 2006, as part of a comprehensive effort to revitalize Orlando's highest crime, highest poverty neighborhood. The Parramore Kidz Zone replicates some aspects of the Harlem Children's Zone to create positive child-rearing conditions that will result in lower teen pregnancy rates, improved school performance, and decreased juvenile crime and child abuse rates. The Parramore Kidz Zone was implemented by a coalition of nonprofit organizations and neighborhood residents and was designated by the Ounce as a Florida children's initiative in June 2009.¹⁷ The initiative was designed to invest in those things that make a difference in children's lives, such as quality early childhood education, after school programs, programs that build family economic success, youth development programs for teenagers, access to health care, and mentoring.¹⁸ Since 2006, the Parramore neighborhood has seen increased test scores and decreased juvenile arrest rates.¹⁹

III. Effect of Proposed Changes:

Florida children's initiatives were created to assist disadvantaged areas within the state in creating a community-based service network that develops, coordinates, and provides quality education, accessible health care, youth development programs, opportunities for employment, and safe and affordable housing for children and families living within its boundaries. There are currently three Florida children's initiatives, the Miami Children's Initiative, Inc., the New Town Success Zone, and Parramore Kidz Zone. The Miami Children's Initiative, Inc., is the only initiative codified.²⁰

¹³ The New Town Success Zone, available at: <http://www.newtownsuccesszone.com/why.html> (last visited March 21, 2013).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ New Town Success Zone Five Year Report to the Community, The New Town Success Zone, available at <http://www.newtownsuccesszone.com/5year.html> (last visited March 21, 2013).

¹⁷ The Ounce of Prevention Fund of Florida, Parramore Kidz Zone, available at http://www.ounce.org/Orlando_CI.html (last visited March 22, 2013).

¹⁸ City of Orlando, Parramore Kidz Zone, available at <http://www.cityoforlando.net/fpr/Html/Children/pkz.htm> (last visited March 22, 2013).

¹⁹ *Id.*

²⁰ Section 409.147, F.S.

Section 1 of the bill codifies two existing children’s initiatives:

- The New Town Success Zone in Council District 9 in Duval County – Jacksonville; and
- The Parramore Kidz Zone in Orange County – Orlando.

In addition, section 1 of the bill provides:

- Both initiatives must be managed by a not-for-profit corporation, in accordance with ch. 617, F.S.;
- The corporation is subject to ch. 119, F.S., relating to public records, ch. 286, F.S., relating to public meetings and records, and ch. 287, F.S., relating to procurement of commodities or contractual services. These requirements are consistent with existing law relating to the Miami Children’s Initiative;
- Clarifies that the “New Town Success Zone” and the “Parramore Kidz Zone” are not subject to control, supervision, or direction by any department of the state in any manner;
- Both initiatives are designed to encompass an area that is large enough to include all of the necessary components of community life, including, but not limited to, schools, places of worship, recreational facilities, commercial areas, and common space, yet small enough to allow programs and services to reach every member of the neighborhood who is willing to participate in the project; and
- The department and the Miami Children’s Initiative are required to contract with a not-for-profit corporation to work in collaboration with the governing body to adopt the resolution, establish the planning team, and adopt the strategic community plan required by law to be designated as a children’s initiative.

Section 2 of the bill provides an effective date of July 1, 2013.

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:

Section 409.147(9), F.S., was enacted in 2009 in order to provide for the implementation of the Miami Children's Initiative.²¹ At that time an appropriation was provided and the Ounce provided direction and oversight for the project. Proviso language in the 2008-2009 General Appropriations Act (GAA) provided \$3.6 million in non-recurring general revenue funds for the MCI. The Ounce was designated as the agent to develop a business plan and for the evaluation, fiscal management, and oversight of the pilot program. The funds were intended to be used as a grant over a three-year period to carry out activities in the zones.²² The department developed a three-year non-renewable contract with the Ounce with the first monthly payment being made in August 2008.

Lines 80-82 of the bill amend s. 409.147(9), F.S., to require the department and the Miami Children's Initiative to contract with a not-for-profit corporation to work in collaboration with the governing body to adopt the resolution, establish the planning team, and adopt the strategic community plan required by law to be designated as a children's initiative. It is unclear why the MCI **and** the department would be required to contract with a not-for-profit corporation to implement the law.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

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

²¹ Chapter 2009-43, Laws of Fla.

²² S. 3, General Appropriations Act of 2008, 2008-152 Laws of Fla.

By Senator Gibson

9-00323D-13

20131322__

1 A bill to be entitled
2 An act relating to children's initiatives; amending s.
3 409.147, F.S.; establishing the New Town Success Zone
4 in Duval County and the Parramore Kidz Zone in Orange
5 County; providing for the projects to be managed by
6 corporations not for profit that are not subject to
7 control, supervision, or direction by any department
8 of the state; requiring the corporations to be subject
9 to state public records and meeting requirements and
10 procurement of commodities and contractual services
11 requirements; requiring designated children's
12 initiatives to assist in the creation of community-
13 based service networks and programming that provides
14 certain services for children and families residing in
15 disadvantaged areas of the state; providing for
16 evaluation, fiscal management, and oversight of the
17 projects; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Present subsection (9) of section 409.147,
22 Florida Statutes, is renumbered as subsection (11) and amended,
23 and new subsections (9) and (10) are added to that section, to
24 read:

25 409.147 Children's initiatives.—

26 (9) CREATION OF THE NEW TOWN SUCCESS ZONE.—

27 (a) There is created within the City of Jacksonville
28 Council District 9 in Duval County a 10-year project that shall
29 be managed by an entity organized as a corporation not for

9-00323D-13

20131322__

profit that is registered, incorporated, organized, and operated
in compliance with chapter 617. The New Town Success Zone is not
subject to control, supervision, or direction by any department
of the state in any manner. The Legislature determines, however,
that public policy dictates that the corporation operate in the
most open and accessible manner consistent with its public
purpose. Therefore, the Legislature declares that the
corporation is subject to chapter 119, relating to public
records, chapter 286, relating to public meetings and records,
and chapter 287, relating to procurement of commodities or
contractual services.

(b) This initiative is designed to encompass an area that
is large enough to include all of the necessary components of
community life, including, but not limited to, schools, places
of worship, recreational facilities, commercial areas, and
common space, yet small enough to allow programs and services to
reach every member of the neighborhood who is willing to
participate in the project.

(10) CREATION OF THE PARRAMORE KIDZ ZONE.—

(a) There is created within the City of Orlando in Orange
County a 10-year project managed by an entity organized as a
corporation not for profit that is registered, incorporated,
organized, and operated in compliance with chapter 617. The
Parramore Kidz Zone program is not subject to the control,
supervision, or direction of any department of the state. The
Legislature determines, however, that public policy dictates
that the corporation operate in the most open and accessible
manner consistent with its public purpose. Therefore, the
Legislature specifically declares that the corporation is

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20131322__

59 subject to chapter 119, relating to public records, chapter 286,
60 relating to public meetings and records, and chapter 287,
61 relating to procurement of commodities or contractual services.

62 (b) This initiative is designed to encompass an area that
63 is large enough to include all of the necessary components of
64 community life, including, but not limited to, schools, places
65 of worship, recreational facilities, commercial areas, and
66 common space, yet small enough to allow programs and services to
67 reach every member of the neighborhood who is willing to
68 participate in the project.

69 (11)(9) IMPLEMENTATION.—

70 (a) The Miami's Children's Initiative, Inc., the New Town
71 Success Zone, and the Parramore Kidz Zone have been designated
72 as Florida Children's Initiatives consistent with the
73 legislative intent and purpose of s. 16, chapter 2009-43, Laws
74 of Florida, and as such shall each assist the disadvantaged
75 areas of the state in creating a community-based service network
76 and programming that develops, coordinates, and provides quality
77 education, accessible health care, youth development programs,
78 opportunities for employment, and safe and affordable housing
79 for children and families living within their boundaries.

80 (b) In order to implement this section, the Miami
81 Children's Initiative, Inc., and the Department of Children and
82 Families ~~Family Services~~ shall contract with a not-for-profit
83 corporation, to work in collaboration with the governing body to
84 adopt the resolution described in subsection (4), to establish
85 the planning team as provided in subsection (5), and to develop
86 and adopt the strategic community plan as provided in subsection
87 (6). The not-for-profit corporation is also responsible for the

9-00323D-13

20131322__

88 development of a business plan and for the evaluation, fiscal
89 management, and oversight of the Miami Children's Initiative,
90 Inc.

91 Section 2. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic Manufacturing Development Bill Number 582
Name Natalie King (if applicable)
Amendment Barcode _____ (if applicable)

Job Title _____

Address 235 W Brandon Blvd. Ste 410 Phone 813 924 0218
Street Brandon FL 33511 *City* *State* *Zip*
E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Tampa Bay Partnership

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)

4/9/2013

Meeting Date

Topic _____

Bill Number 582
(if applicable)

Name JOSE' L. GONZALEZ

Amendment Barcode _____
(if applicable)

Job Title DIRECTOR STATE AFFAIRS

Address 907 LASSWADE DRIVE
Street

Phone 294-4057

TALLAHASSEE, FL 32312
City State Zip

E-mail JOSE.GONZALEZ@
ANHEUSER-BUSCH.COM

Speaking: ☒ For ☐ Against ☐ Information

Representing ANHEUSER-BUSCH Companies

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
APPEARANCE RECORD

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

4/9/2013

Meeting Date

Topic Manufacturing Development

Bill Number SB 582
(if applicable)

Name Cari Roth

Amendment Barcode _____
(if applicable)

Job Title _____

Address 101 N. Monroe St. Suite 900
Street

Phone 850/222-8611

Tallahassee FL 32301
City State Zip

E-mail croth@bmo law.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Manatee 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/2013

Meeting Date

Topic Manufacturing Development

Bill Number 582
(if applicable)

Name Leticia M Adams

Amendment Barcode _____
(if applicable)

Job Title Director of Infrastructure Policy

Address 136 South Bronough Street

Phone 850-544-6866

Street

Tallahassee

FL

32301

City

State

Zip

E-mail ladams@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Manufacturing Development Bill Number 582
(if applicable)

Name Martha Chumbler Amendment Barcode _____
(if applicable)

Job Title Attorney/Consultant

Address 215 S. Monroe Street, Suite 500 Phone 850-224-1585
Street
Tallahassee FL 32301 E-mail mchumbler@carltonfields.com
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Associated Industries 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Manufacturing Development Bill Number 582
(if applicable)

Name Rheb Harbison Amendment Barcode _____
(if applicable)

Job Title Government Consultant

Address 215 S. Monroe Street, Suite 500 Phone 850-224-1585
Street
Tallahassee FL 32301 E-mail rharbison@carltonfields.com
City State Zip

Speaking: ☒ For ☐ Against ☐ Information

Representing Associated Industries of Florida

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

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

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S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Education, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Health
and Human Services
Education
Gaming
Health Policy
Regulated Industries
Rules

SENATOR BILL GALVANO
26th District

April 9, 2013

Senator Wilton Simpson
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

Please accept this email as notification that my Legislative Assistant, Allie Mattice, will be presenting SB 582, Manufacturing Development, scheduled for a hearing in the Committee on Community Affairs on April 9, 2013.

If I may be of assistance to you on this or any other matter, please do not hesitate to contact me. Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill", written in dark ink.

Bill Galvano

cc: Tom Yeatman
Ann Whittaker

REPLY TO:

- ☐ 1023 Manatee Avenue West, Suite 201, Bradenton, Florida 34205
- ☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 582

INTRODUCER: Commerce and Tourism Committee and Senator Galvano

SUBJECT: Manufacturing Development

DATE: April 4, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Hrdlicka	CM	Fav/CS
2.	Toman	Yeatman	CA	Favorable
3.			ATD	
4.			AP	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 582 creates the “Manufacturing Competitiveness Act,” and authorizes local governments to adopt a local manufacturing development program to grant master development approval for the development, expansion, or modification of manufacturing facilities located within its jurisdiction. The Department of Economic Opportunity (department) is tasked with developing a model ordinance for use by local governments by December 1, 2013.

If the local government enacts an ordinance establishing a local manufacturing development program, it must be submitted to the department within 20 days of enactment. The ordinance must remain in effect for at least 24 months. If the ordinance is repealed, any application for a master development plan received by the local government is vested and entitled to participate in the coordinated approval process.

The bill directs the participating agencies¹ to establish a manufacturing development coordinated approval process. The approval process must provide for coordinated and simultaneous review of

¹ The bill defines participating agencies as the Department of Environmental Protection, Department of Transportation, Fish and Wildlife Conservation Commission, and water management districts.

applications for permits by the participating agencies, under their respective authorities. A manufacturer may convene a meeting with one or more of the participating agencies to facilitate the process. The bill provides that each participating agency must take final agency action on the application within 60 days after the application is filed, unless the deadline is waived by the manufacturer or a federally delegated permitting program mandates a different deadline. If an application is not approved or denied within 60 days, it is deemed approved.

If a participating agency plans to deny an application, it must notify the manufacturer in writing and convene an informal meeting to facilitate a resolution, unless waived by the manufacturer. Throughout the process, the manufacturer may initiate an administrative hearing under ch. 120, F.S.

This bill creates sections 163.325, 163.3251, 163.3252, 163.3253, and 288.111, Florida Statutes.

II. Present Situation:

Manufacturing Industry in Florida

Florida's manufacturing industry includes companies in traditional manufacturing industries, such as plastics, food processing and printing, as well as those that are engaged in innovative technologies, like electronics, medical devices, and aviation/aerospace. The state is home to nearly 18,000 manufacturers accounting for approximately 5 percent of Florida's gross domestic product.² The manufacturing industry employs more than 311,000 individuals in Florida.³

Enterprise Florida, Inc. (EFI), has identified manufacturing as a targeted industry, along with corporate headquarters, research and development, clean technologies, life sciences, information technology, aviation/aerospace, homeland security/defense, financial/professional services, and emerging technologies. Of the 122 economic development incentive contracts project commitments by EFI for FY 2011-2012, manufacturing ranked highest in terms of the number of project commitments by industry (38), and expected capital investment (over \$425 million). These manufacturing projects contracted to create 2,474 jobs paying an average annual wage of \$37,352.⁴

Permits

Currently, the responsibility for issuance of permits for the development, expansion, or modification of manufacturing facilities resides in several state agencies, as well as local governments.

State Permits

² Enterprise Florida, Inc., *The Florida Economy* (Jan. 2013), available at http://www.eflorida.com/IntelligenceCenter/download/ER/SI_Florida_Economy_Glance.pdf (last visited Apr. 4, 2013).

³ *Id.*

⁴ Enterprise Florida, Inc., *2012 Annual Incentives Report* (2012), available at http://www.eflorida.com/IntelligenceCenter/download/ER/BRR_Incentives_Report.pdf (last visited on Apr. 4, 2013).

The Department of Transportation (DOT), Fish and Wildlife Conservation Commission (FWC), Department of Environmental Protection (DEP), and water management districts⁵ may each have responsibilities in the permitting process.

DOT is responsible for regulating work activities that impact state roads, such as access permits,⁶ utility permits,⁷ and drainage permits,⁸ among other things. FWC is responsible for is responsible for protecting threatened or endangered species.⁹ DEP works in conjunction with the water management districts to regulate and issue permits for such programs as stormwater management, surface water management, and consumptive use of water.¹⁰ DEP also issues permits for items relating to air quality, among other things.

Current State Expedited Permitting Programs

Section 403.973, F.S., directs DEP to create and implement regional permit action teams for the purpose of expediting the review of permit applications and local comprehensive plan amendments for certain projects.¹¹ Section 380.0657, F.S., directs DEP and the water management districts to adopt programs to expedite the processing of wetland resource and environmental resource permits for economic development projects that have been identified as a target industry business.¹²

The DOT has implemented a One Stop Permitting process for the permits it administers. DOT staff indicates that most applications are processed within 30 days of receipt of the completed application.¹³

Local Permits

Local governmental agencies are responsible for issuing building permits within their respective jurisdictions. Chapter 163, F.S., requires local governments to adopt comprehensive plans and land development regulations to regulate the development and growth in their jurisdictions. However, no uniform, statutory process exists for local governments to approve master development plans for manufacturing facilities.

⁵ There are five water management districts: Northwest Florida Water Management District, Suwannee River Water Management District, St. Johns River Water Management District, South Florida Water Management District, and Southwest Florida Water Management District.

⁶ Sections 335.18 – 335.199, F.S.

⁷ Section 337.401, F.S.

⁸ Section 334.044(15), F.S.

⁹ Section 379.2291, F.S.

¹⁰ DEP, Water Management Districts, available at <http://www.dep.state.fl.us/secretary/watman/default.htm> (last visited Apr 4, 2013).

¹¹ Those projects that may apply for expedited permitting under this provision include businesses creating at least 50 jobs (or at least 25 jobs if the project is located in an enterprise zone or in a county with limited population), projects located in a designated brownfield area, projects that are a part of the state-of-the-art biomedical research institution and campus, and certain projects relating to the production of biofuels. Certain other projects may be considered for expedited permitting at the request of the local government.

¹² Section 288.106, F.S.

¹³ Department of Transportation, *Legislative Bill Review HB 357* (Feb. 11, 2013) (on file with the Senate Commerce and Tourism Committee).

III. Effect of Proposed Changes:

Section 1 creates s. 163.325, F.S., and provides that the act may be cited as the “Manufacturing Competitiveness Act (the act).”

Section 2 creates s. 163.3251, F.S., and provides definitions for terms used in the act. The section defines the terms “department,” “local government development approval,” “local manufacturing development program,” “manufacturer,” “participating agency,” and “state development approval.” A “participating agency” means the Department of Environmental Protection, the Department of Transportation, the Fish and Wildlife Conservation Commission, and water management districts.

Section 3 creates s. 163.3252, F.S., and provides the process local governments may use to implement a local manufacturing develop program. Specifically, a local government is authorized to adopt an ordinance to establish a local manufacturing development program through which it can grant master development approval to manufacturers for the development or expansion of sites at specified locations within the local government’s geographic boundaries.

The establishment of a local manufacturing development program is voluntary; however, if a local government elects to establish one, it must submit a copy of the ordinance establishing the program to the department within 20 days of enactment of the ordinance.

The department must develop a model ordinance¹⁴ by December 1, 2013, which must include:

- Application procedures for a manufacturer to apply for a master development plan and procedures for the local government to review and approve a master development plan;
- Identification of those areas within the local government’s jurisdiction which are subject to the program;
- Minimum elements for a master development plan, including but not limited to:
 - A site map;
 - A list proposing the site’s land uses;
 - Maximum square footage, floor area ratio, and building heights for future development on the site;
 - Development conditions;
 - A list of development impacts which the local government will require to be addressed in a master development plan, such as drainage, wastewater, vehicular and pedestrian entrance and exit from the site, and offsite transportation impacts;
 - A provision vesting any existing development rights authorized by the local government prior to approval of a master development plan, if requested by the manufacturer;
 - If required, a provision stating that the expiration date of the master development plan may not be earlier than 10 years after the plan’s adoption;
 - A provision limiting the circumstances that require an amendment to an approved master development plan, such as the enactment of a state or local law that addresses a direct and immediate threat to public safety or a revision to the master development plan initiated by the manufacturer;

¹⁴ A local government is not required to adopt the model ordinance.

- A provision limiting the scope of review for an amendment to a master development plan to a review of the proposed amendment and no other provisions of the plan;
- A provision stating that during the term of a master development plan, a local government may not require additional local development approvals other than a building permit to ensure compliance with the state building code and any other applicable state-mandated life and safety code,
- A provision requiring the manufacturer, prior to commencement of work, to submit a certification signed by an appropriate professional attesting that the construction or site development work complies with the master development plan; and
- A provision establishing the form the local government will use to certify that a manufacturer is eligible to participate in the local manufacturing development program adopted by that jurisdiction.

Any local ordinance established must be consistent with the department's model ordinance and must establish procedures for the review and approval of a master development plan, the development of the site in a manner consistent with the master development plan without requiring additional local approvals other than building permits, and the certification that a manufacturer is eligible to participate in the local manufacturing development program. If the local government has enacted an ordinance prior to the effective date of the act, it is deemed to have established a local manufacturing development program, as long as it meets the minimum standards, as outlined above. A copy of such an ordinance must be submitted to the department on or before September 1, 2013.

If a local government establishes a local development program ordinance, the ordinance must remain in effect for at least 24 months. If the ordinance is repealed, any application for a master development plan submitted prior to the effective date of the repeal is vested and remains subject to the local manufacturing development plan in effect at the time the application is submitted.

Section 4 creates s. 163.3253, F.S., which outlines the manufacturing development coordinated approval process (process). Participating agencies must coordinate the manufacturing development approval process for manufacturers that are developing or expanding in a jurisdiction that has a local manufacturing development process. The participating agencies must coordinate, collaborate, and simultaneously review applications for the following state development approvals: wetland or environmental permits, surface water management permits, stormwater permits, consumptive water use permits, wastewater permits, air emission permits, permits relating to listed species, highway or roadway access permits, and any other state development approval within the scope of a participating agency's authority.

At the time the manufacturer files its application for state development approval with a participating agency, it must also file proof that its development or expansion is located in the jurisdiction of a local government that has a local development-manufacturing program. If the local government repeals its local manufacturing development program, a manufacturer that has submitted its application for a state or local government development application prior to the date of repeal, remains eligible to participate in the process. During the process, if a manufacturer requests a meeting with one or more of the participating agencies, such participating agency must convene and attend such meeting.

If a participating agency determines that the application is incomplete, it must notify the applicant in writing. Unless the manufacturer waives the deadline in writing, a request for additional information from a participating agency must be provided to the manufacturer within 20 days after the application is filed with the agency. If a participating agency fails to request additional information within the 20-day period, it cannot later deny the application based on the manufacturer's failure to provide such information. Once the manufacturer has responded to the request for additional information, the participating agency has 10 days to make a second request for additional information, but such request is limited to obtaining clarification of the manufacturer's response.

Unless the manufacturer waives the deadline in writing, each participating agency must take final agency action on a state development approval within 60 days after a complete application is filed.¹⁵ If a participating agency intends to deny an application, it must notify the manufacturer and timely convene an informal meeting to facilitate a resolution, unless waived by the manufacturer in writing. An application will be deemed approved if the approving agency failed to act within the specified time frames unless the time limit is waived by the manufacturer in writing:

- Within the 60-day period;
- Within the time allowed by a federally-delegated permit program; or
- Within 45 days of a recommended order issued under ss.120.569 and 120.57, F.S.¹⁶

If a manufacturer seeks to claim approval by default, it must notify the clerk of the participating agency in writing. No action may be taken by the manufacturer until such notification is received by the clerk.

The timeframes described above do not apply to permit applications for federally-delegated or approved permitting programs to the extent they are prohibited by, or inconsistent with, such program requirements.

If the manufacturer initiates a proceeding under ch. 120, F.S., it may, at any time, demand an expeditious resolution by noticing the administrative law judge (ALJ) and all other parties to the proceeding. The ALJ must set the matter for hearing within 30 days of receipt of the notice.

Section 5 creates s. 288.111, F.S., and provides that the department will develop materials identifying local governments that have established local manufacturing development programs. Enterprise Florida, Inc., must provide these materials to prospective, new, expanding, and relocating manufacturing businesses seeking to conduct business in Florida. Other state agencies are also authorized to distribute such materials.

Section 6 provides that this act shall take effect July 1, 2013.

¹⁵ The 60-day period is tolled if a proceeding is initiated under ch. 120, F.S.

¹⁶ Section 120.569, F.S., requires the agency to issue a final order within 90 days of the recommended order. Section 120.57, F.S., requires a final order to be issued within 30 days of the recommended order.

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:

Manufacturers may benefit in those communities that implement a local manufacturing development program.

C. Government Sector Impact:

The department may incur costs associated with developing the model ordinance and the materials identifying those local governments that establish a local manufacturing program as provided in the bill.¹⁷

To the extent that local governments adopt a local manufacturing development program, the streamlined process may reduce administrative costs for those communities.¹⁸

VI. Technical Deficiencies:

The bill requires that participating agencies simultaneously review applications for various state development approvals, but does not address how such a simultaneous review among participating agencies would function, or what repercussions would exist for participating agencies who fail to simultaneously review applications.

The bill may need to be clarified to indicate that the initial review period does not begin until the appropriate application fee is received.

¹⁷Florida Department of Economic Opportunity, *Agency Analysis of SB 582* (Feb. 18, 2013) available at <http://abar.laspsbs.state.fl.us/ABAR/Document.aspx?id=499&yr=2013>.

¹⁸*Id.*

VII. Related Issues:

According to the department, use of the term “vested” in the bill may need clarification. The department analysis of SB 582 noted in part:

“Vested” generally means a land use can be developed notwithstanding changes to statutes or regulations. It is unclear whether “vested” in this bill means the applicant is authorized to develop the program described in the application even if the local government and the reviewing agencies have not reviewed and approved the application. Another interpretation is that the application is entitled to be reviewed under the local manufacturing development program ordinance in effect when the application was submitted.¹⁹

VIII. Additional Information:

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

CS by Commerce and Tourism on April 1, 2013:

The committee substitute does the following:

- Places provisions of the bill under ch. 163, F.S., rather than ch. 288, F.S.
- Adds a definition for the term “department.”
- Deletes the definition for the term “local government.”
- Removes the Department of Economic Opportunity from the coordinated manufacturing development approval process.
- Deletes the grant of rule-making authority to the Department of Economic Opportunity.
- Requires Enterprise Florida, Inc., to distribute materials that identify local governments that have established a local manufacturing development program, as provided in the bill, to prospective, new, expanding, and relocating manufacturers seeking to conduct business in Florida.

- B. **Amendments:**

None.

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

¹⁹ *Id.*

By the Committee on Commerce and Tourism; and Senator Galvano

577-03301-13

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1 A bill to be entitled
2 An act relating to manufacturing development; creating
3 s. 163.325, F.S.; providing a short title;
4 establishing the Manufacturing Competitiveness Act;
5 creating s. 163.3251, F.S.; providing definitions;
6 creating s. 163.3252, F.S.; authorizing local
7 governments to establish a local manufacturing
8 development program that provides for master
9 development approval for certain sites; providing
10 specific time periods for action by local governments;
11 requiring the Department of Economic Opportunity to
12 develop a model ordinance containing specified
13 information and provisions; requiring a local
14 manufacturing development program ordinance to include
15 certain information; providing certain restrictions on
16 the termination of a local manufacturing development
17 program; creating s. 163.3253, F.S.; requiring
18 participating agencies to establish a manufacturing
19 development coordinated approval process for certain
20 manufacturers; requiring participating agencies to
21 coordinate and review applications for certain state
22 development approvals; requiring participating
23 agencies to convene and attend a meeting when
24 requested by a certain manufacturer; providing for
25 requests for additional information and specifying
26 time periods; requiring participating agencies to take
27 final action on applications within a certain time
28 period; requiring participating agencies to facilitate
29 the resolution of certain applications; providing for

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approval by default; providing for applicability with respect to permit applications governed by federally delegated or approved permitting programs; creating s. 288.111, F.S.; requiring the department to develop materials that identify local manufacturing development programs; requiring Enterprise Florida, Inc., and authorizing other state agencies, to distribute such material; providing an effective date.

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

Section 1. Section 163.325, Florida Statutes, is created to read:

163.325 Short title.—Sections 163.325-163.3253 may be cited as the “Manufacturing Competitiveness Act.”

Section 2. Section 163.3251, Florida Statutes, is created to read:

163.3251 Definitions.—As used in ss. 163.3251-163.3253, the term:

(1) “Department” means the Department of Economic Opportunity.

(2) “Local government development approval” means a local land development permit, order, or other approval issued by a local government, or a modification of such permit, order, or approval, which is required for a manufacturer to physically locate or expand and includes, but is not limited to, the review and approval of a master development plan required under s. 163.3252(2)(c).

(3) “Local manufacturing development program” means a

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59 program enacted by a local government for approval of master
60 development plans under s. 163.3252.

61 (4) "Manufacturer" means a business that is classified in
62 Sectors 31-33 of the National American Industry Classification
63 System (NAICS) and is located, or intends to locate, within the
64 geographic boundaries of an area designated by a local
65 government as provided under s. 163.3252.

66 (5) "Participating agency" means:

67 (a) The Department of Environmental Protection.

68 (b) The Department of Transportation.

69 (c) The Fish and Wildlife Conservation Commission, when
70 acting pursuant to statutory authority granted by the
71 Legislature.

72 (d) Water management districts.

73 (6) "State development approval" means a state or regional
74 permit or other approval issued by a participating agency, or a
75 modification of such permit or approval, which must be obtained
76 before the development or expansion of a manufacturer's site,
77 and includes, but is not limited to, those specified in s.
78 163.3253(1).

79 Section 3. Section 163.3252, Florida Statutes, is created
80 to read:

81 163.3252 Local manufacturing development program; master
82 development approval for manufacturers.—A local government may
83 adopt an ordinance establishing a local manufacturing
84 development program through which the local government may grant
85 master development approval for the development or expansion of
86 sites that are, or are proposed to be, operated by manufacturers
87 at specified locations within the local government's geographic

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88 boundaries.

89 (1) (a) A local government that elects to establish a local
90 manufacturing development program shall submit a copy of the
91 ordinance establishing the program to the department within 20
92 days after the ordinance is enacted.

93 (b) A local government ordinance adopted before the
94 effective date of this act establishes a local manufacturing
95 development program if it satisfies the minimum criteria
96 established in subsection (3) and if the local government
97 submits a copy of the ordinance to the department on or before
98 September 1, 2013.

99 (2) By December 1, 2013, the department shall develop a
100 model ordinance to guide local governments that intend to
101 establish a local manufacturing development program. The model
102 ordinance, which need not be adopted by a local government, must
103 include:

104 (a) Procedures for a manufacturer to apply for a master
105 development plan and procedures for a local government to review
106 and approve a master development plan.

107 (b) Identification of those areas within the local
108 government's jurisdiction which are subject to the program.

109 (c) Minimum elements for a master development plan,
110 including, but not limited to:

111 1. A site map.

112 2. A list proposing the site's land uses.

113 3. Maximum square footage, floor area ratio, and building
114 heights for future development on the site, specifying with
115 particularity those features and facilities for which the local
116 government will require the establishment of maximum dimensions.

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117 4. Development conditions.

118 (d) A list of the development impacts, if applicable to the
119 proposed site, which the local government will require to be
120 addressed in a master development plan, including, but not
121 limited to:

122 1. Drainage.

123 2. Wastewater.

124 3. Potable water.

125 4. Solid waste.

126 5. Onsite and offsite natural resources.

127 6. Preservation of historic and archeological resources.

128 7. Offsite infrastructure.

129 8. Public services.

130 9. Compatibility with adjacent offsite land uses.

131 10. Vehicular and pedestrian entrance to and exit from the
132 site.

133 11. Offsite transportation impacts.

134 (e) A provision vesting any existing development rights
135 authorized by the local government before the approval of a
136 master development plan, if requested by the manufacturer.

137 (f) Whether an expiration date is required for a master
138 development plan and, if required, a provision stating that the
139 expiration date may not be earlier than 10 years after the
140 plan's adoption.

141 (g) A provision limiting the circumstances that require an
142 amendment to an approved master development plan to the
143 following:

144 1. Enactment of state law or local ordinance addressing an
145 immediate and direct threat to the public safety that requires

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146 an amendment to the master development order.

147 2. Any revision to the master development plan initiated by
148 the manufacturer.

149 (h) A provision stating that the scope of review for any
150 amendment to a master development plan is limited to the
151 amendment and does not subject any other provision of the
152 approved master development plan to further review.

153 (i) A provision stating that, during the term of a master
154 development plan, the local government may not require
155 additional local development approvals for those development
156 impacts listed in paragraph (d) that are addressed in the master
157 development plan, other than approval of a building permit to
158 ensure compliance with the state building code and any other
159 applicable state-mandated life and safety code.

160 (j) A provision stating that, before commencing
161 construction or site development work, the manufacturer must
162 submit a certification, signed by a licensed architect,
163 engineer, or landscape architect, attesting that such work
164 complies with the master development plan.

165 (k) A provision establishing the form that will be used by
166 the local government to certify that a manufacturer is eligible
167 to participate in the local manufacturing development program
168 adopted by that jurisdiction.

169 (3) A local manufacturing development program ordinance
170 must, at a minimum, be consistent with subsection (2) and
171 establish procedures for:

172 (a) Reviewing an application from a manufacturer for
173 approval of a master development plan.

174 (b) Approving a master development plan, which may include

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175 conditions that address development impacts anticipated during
176 the life of the development.

177 (c) Developing the site in a manner consistent with the
178 master development plan without requiring additional local
179 development approvals other than building permits.

180 (d) Certifying that a manufacturer is eligible to
181 participate in the local manufacturing development program.

182 (4) (a) A local government that establishes a local
183 manufacturing development program may not abolish the program
184 until it has been in effect for at least 24 months.

185 (b) If a local government repeals its local manufacturing
186 development program ordinance:

187 1. Any application for a master development plan which is
188 submitted to the local government before the effective date of
189 the repeal is vested and remains subject to the local
190 manufacturing development program ordinance in effect when the
191 application was submitted; and

192 2. The manufacturer that submitted the application is
193 entitled to participate in the manufacturing development
194 coordinated approval process established in s. 163.3253.

195 Section 4. Section 163.3253, Florida Statutes, is created
196 to read:

197 163.3253 Coordinated manufacturing development approval
198 process.—Participating agencies shall coordinate the
199 manufacturing development approval process, as set forth in this
200 section, for manufacturers that are developing or expanding in
201 the jurisdiction of a local government that has a local
202 manufacturing development program.

203 (1) Participating agencies shall collaborate and coordinate

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the simultaneous review of applications for the following state development approvals:

(a) Wetland or environmental resource permits.

(b) Surface water management permits.

(c) Stormwater permits.

(d) Consumptive water use permits.

(e) Wastewater permits.

(f) Air emission permits.

(g) Permits relating to listed species.

(h) Highway or roadway access permits.

(i) Any other state development approval within the scope of a participating agency's authority.

(2) (a) When filing its application for state development approval, a manufacturer shall file with each participating agency proof that its development or expansion is located in the jurisdiction of a local government that has a local manufacturing development program.

(b) If a local government repeals its local manufacturing development program ordinance, a manufacturer developing or expanding in that jurisdiction remains entitled to participate in the process if the manufacturer submitted its application for a local government development approval before the effective date of repeal.

(3) At any time during the process, if a manufacturer requests a meeting with one or more participating agencies to facilitate the process, such participating agency shall convene and attend such meeting.

(4) If a participating agency determines that an application is incomplete, the participating agency shall notify

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the applicant, in writing, of the additional information
necessary to complete the application.

(a) Unless the deadline is waived in writing by the
manufacturer, a participating agency shall provide a request for
additional information to the manufacturer within 20 days after
the date the application is filed with the participating agency.

(b) If the participating agency does not request additional
information within the 20-day period, the participating agency
may not subsequently deny the application based on the
manufacturer's failure to provide additional information.

(c) Within 10 days after the manufacturer's response to the
request for additional information, a participating agency may
make a second request for additional information for the sole
purpose of obtaining clarification of the manufacturer's
response.

(5) (a) Unless the deadline is waived in writing by the
manufacturer, each participating agency shall take final agency
action on a state development approval within its authority
within 60 days after a complete application is filed. The 60-day
period is tolled by the initiation of a proceeding under ss.
120.569 and 120.57.

(b) A participating agency shall notify the manufacturer if
the agency intends to deny a manufacturer's application and,
unless waived in writing by the manufacturer, the participating
agency shall timely convene an informal meeting to facilitate a
resolution.

(c) Unless waived in writing by the manufacturer, if a
participating agency does not approve or deny an application
within the 60-day period, within the time allowed by a federally

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262 delegated permitting program, or, if a proceeding is initiated
263 under ss. 120.569 and 120.57, within 45 days after a recommended
264 order is submitted to the agency and the parties, the state
265 development approval within the authority of the participating
266 agency is deemed approved. A manufacturer seeking to claim
267 approval by default under this subsection shall notify, in
268 writing, the clerk of the participating agency of that intent. A
269 manufacturer may not take action based on the default approval
270 until such notice is received by the agency clerk.

271 (d) At any time after a proceeding is initiated under ss.
272 120.569 and 120.57, the manufacturer may demand expeditious
273 resolution by serving notice on an administrative law judge and
274 all other parties to the proceeding. The administrative law
275 judge shall set the matter for final hearing no more than 30
276 days after receipt of such notice. After the final hearing is
277 set, a continuance may not be granted without the written
278 agreement of all parties.

279 (6) Subsections (4) and (5) do not apply to permit
280 applications governed by federally delegated or approved
281 permitting programs to the extent that subsections (4) and (5)
282 impose timeframes or other requirements that are prohibited by
283 or inconsistent with such federally delegated or approved
284 permitting programs.

285 Section 5. Section 288.111, Florida Statutes, is created to
286 read:

287 288.111 Information concerning local manufacturing
288 development programs.—The department shall develop materials
289 that identify each local government that establishes a local
290 manufacturing development program under s. 163.3252. The

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291 materials, which the department may elect to develop and
292 maintain in electronic format or in any other format deemed by
293 the department to provide public access, must be updated at
294 least annually. Enterprise Florida, Inc., shall, and other state
295 agencies may, distribute the materials to prospective, new,
296 expanding, and relocating manufacturing businesses seeking to
297 conduct business in this state.

298 Section 6. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic Road Designations Bill Number 300
Name Mike Prendegast (if applicable)
Job Title Agency Head FL Dept Vet Affairs Amendment Barcode _____ (if applicable)
Address Rm 2105 Capitol Phone 487-1533 ext 7707
City TLH State _____ Zip _____
E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Dept. 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 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

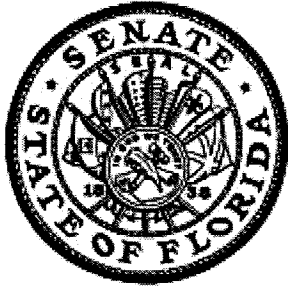
Date: April 3, 2013

I respectfully request that **Senate Bill #300**, relating to Transportation Facility Designations, be placed on the:

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

A handwritten signature in black ink, reading "Nancy Detert". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Senator Nancy C. Detert
Florida Senate, District 28



THE FLORIDA SENATE

Senator Maria Lorts Sachs
Minority Leader Pro Tempore
District 34

Committees:

Gaming
Vice Chair

Agriculture

Education

Appropriations
Subcommittee on
Education

Appropriations
Subcommittee on Finance
and Tax

Military Affairs, Space,
and Domestic Security

Regulated Industries

STAFF:

Matthew Damsky
Legislative Assistant

Joshua Freeman
Legislative Assistant

Caitlin Lewis
Legislative Assistant

April 3, 2013

The Office of Senator Simpson
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simpson:

I am writing to request that Senate Bill 300 (Transportation Facility Designations) be heard during the Community Affairs Committee Meeting on April 9th. If you have any questions feel free to contact me or my staff. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maria Lorts Sachs".

Sen. Maria Sachs,
District 34

Cc: Tom Yeatman
Ann Whittaker
Patty Harrison
Patrick Weightman

17th Avenue, Suite E, Delray Beach, Florida 33445 (561) 279-1427
Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5091

Senate's Website: www.flsenate.gov

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 300

INTRODUCER: Transportation Committee and Senator Detert

SUBJECT: Transportation Facility Designations

DATE: April 9, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Eichin	TR	Fav/CS
2. Anderson	Yeatman	CA	Favorable
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 300 creates a number of honorary designations of transportation facilities around the state as follows:

- The bridge (numbers 170169 and 170170) over the Intracoastal Waterway on U.S. Business 41/S.R. 45/Tamiami Trail in the City of Venice is designated as “KMI Kentucky Military Institute Bridge.”
- S.R. 73 between the Calhoun County Line and U.S. 231 in Jackson County is designated as “Governor Mixson Highway.”
- U.S. 98/S.R. 30 between Rosewood Drive and Sunrise Drive in Santa Rosa County is designated as “Warren E. ‘Charlie’ Brown Memorial Highway.”
- S.R. 589 and S.R. 568/Veterans Expressway between S.R. 60/Courtney Campbell Causeway and S.R. 597/Dale Mabry Highway in Hillsborough County is designated as “RADM LeRoy Collins, Jr., Veterans Expressway.”
- I-10/S.R. 8 between mile post 232 and mile post 233 in Jefferson County is designated as “Trooper James Herbert Fulford, Jr., Memorial Highway.”
- Bridge (Number 380047) on U.S. 98/S.R. 30 over the Aucilla River in Taylor County is designated as “SP4 Billy Jacob Hartsfield Bridge.”

- S.R. 269 between U.S. 90/S.R. 10 and S.R. 12 in Gadsden County is designated as “Julia Munroe Woodward Highway.”
- S.R. 293 between the Mid-Bay Bridge Toll Plaza and S.R. 85 in Okaloosa County as “Walter Francis Spence Parkway.”
- S.R. 992/S.W. 152nd Street/Coral Reef Drive from S.R. 821/Homestead Extension of the Florida Turnpike to S.W. 99th Court in Miami-Dade County is designated as “Reverend John A. Ferguson Street.”
- S.R. 415 between Acorn Lake Road and Reed Ellis Road in Volusia County is designated as “David G. Ledgerwood Memorial Highway.”
- U.S. 98/S.R. 30A/Tyndall Parkway between County Road 2327/Transmitter Road and S.R. 22 in Bay County is designated as “Lieutenant Colonel Carl John Luksic, USAF, Memorial Highway as described in subsection (1).
- 21st Avenue between 26th Street and S.R. 585/22nd Street in Hillsborough County is designated as “C. Blythe Andrews Road.”
- Palm Avenue between 15th Street and S.R. 45/Nebraska Avenue in Hillsborough County is designated as “Roland Manteiga Road.”
- S.R. 922/125th Street between N.E. 8th Avenue and N.E. 9th Avenue in Miami-Dade County is designated as “Sergeant Carl Mertes Street.”
- N.E. 126th Street between N.E. 8th Avenue and N.E. 9th Avenue in Miami-Dade County is designated as “Detective Sergeant Steven E. Bauer Street.”
- N.E. 127th Street between N.E. 8th Avenue and N.E. 9th Avenue in Miami-Dade County is designated as “Sergeant Lynette Hodge Street.”
- N.W. 40th Street between N.W. 2nd Avenue and N.W. 5th Avenue in Miami-Dade County is designated as “Full Gospel Assembly Street.”
- N.W. 39th Street between N.W. 2nd Avenue and N.W. 3rd Avenue in Miami-Dade County is designated as “Ebenezer Christian Academy Street.”
- N.W. 67th Street between N.W. 2nd Avenue and N.W. 4th Avenue in Miami-Dade County is designated as “Bishop Abe Randall Boulevard.”
- S.R. 934/N.W. 81st Street between U.S. 441/S.R. 7/N.W. 7th Avenue and N.W. 12th Avenue in Miami-Dade County is designated as “Jacob Fleishman Street.”
- S.R. 860/Miami Gardens Drive/N.W. 183rd Street between S.R. 817/N.W. 27th Avenue and N.W. 42nd Avenue in Miami-Dade County is designated as “Bishop Isaiah S. Williams, Jr., Street.”
- N.E. 73rd Street between N.E. 2nd Avenue and N.E. 3rd Court in Miami-Dade County is designated as “Reverend Wilner Maxi Street.”
- U.S. 90/S.R. 10 between Gretna and Chattahoochee in Gadsden County is designated as “James Harold Thompson Highway.”
- The intersection of S.W. 4th Street and S.R. 985/S.W. 107th Avenue in Miami-Dade County is designated as “Juan Armando Torga, Jr., Intersection.”
- The intersection of S.W. 127th Avenue and U.S. 41/S.R. 90/Tamiami Trail/S.W. 8th Street in Miami-Dade County is designated as “Belen Jesuit Preparatory School Intersection.”
- U.S. 90/S.R. 10 between N. 5th Street and N. Norwood Road in Walton County is designated as “Dr. Martin Luther King, Jr., Avenue.”
- Bridge (Number 780075) on U.S. 1/S.R. 5/Ponce de Leon Boulevard over the San Sebastian River in St. Johns County is designated as “Ponce de Leon Bridge.”

- 25th Street between East 8th Avenue and East 9th Avenue in Miami-Dade County as “Tomas-Minerva Vinuela Way.”
- Ramp number 8 at mile marker 40.7 on I-75/S.R. 93/Alligator Alley in Broward County is designated as “The Honorable Dale G. Bennett Boat Ramp.”
- U.S. 1/S.R. 5/N.E. 6th Avenue between Ponce de Leon Drive and S.R. 84/S.E. 24th Street in Broward County as “Robert L. Clark Memorial Highway.”

II. Present Situation:

Section 334.071, F.S., provides that legislative designations of transportation facilities are for honorary or memorial purposes, or to distinguish a particular facility. Such designations are not to be construed as requiring any action by local governments or private parties regarding the changing of any street signs, mailing addresses, or 911 emergency telephone number system listings, unless the legislation specifically provides for such changes.

When the Legislature establishes road or bridge designations, the Florida Department of Transportation (FDOT) is required to place markers only at the termini specified for each highway segment or bridge designated by the law creating the designation, and to erect any other markers it deems appropriate for the transportation facility.

FDOT may not erect the markers for honorary road or bridge designations unless the affected city or county commission enacts a resolution supporting the designation. When the designated road or bridge segment is located in more than one city or county, resolutions supporting the designations must be passed by each affected local government prior to the erection of the markers.

III. Effect of Proposed Changes:

Section 1 designates the bridge over the Intracoastal Waterway (basculer bridge numbers 170169 and 170170) on U.S. Business 41/S.R. 45/Tamiami Trail in the City of Venice, Sarasota County, as the “KMI Kentucky Military Institute Bridge.”

The Kentucky Military Institute (KMI), a military preparatory school, was located in Venice, Florida, from 1932 until 1973. Some KMI cadets and their families continue to live in the Venice community and others visit regularly for KMI reunions held every four years in Venice. On November 7, 2012, the City Council of the City of Venice, Florida, adopted Resolution No. 2012-16 expressing support for the “KMI Kentucky Military Institute Bridge” designation to preserve a part of the history of City of Venice.

Section 2 designates that portion of S.R. 73 between the Calhoun County Line and U.S. 231 in Jackson County as “Governor Mixson Highway.”

Governor John Wayne Mixson was born and raised in New Brocton, Alabama. Shortly after graduating from high school, Governor Mixson moved to Jackson County Florida. During WWII, Governor Mixson served our nation honorably in the United States Navy. Following the war, the Governor attended Columbia University, the University of Pennsylvania as well as the University of Florida. Following his higher education, Governor Mixson served six consecutive

terms in the Florida House of Representatives. In 1978, Governor Mixson chose not to run for another term in the House and instead ran for Lieutenant Governor alongside Governor Bob Graham. Governor Mixson served two terms as our State's Lieutenant Governor. Additionally, in 1979, Governor Mixson was appointed to serve as a Special Ambassador to Ecuador by President Jimmy Carter. Upon election to the United States Senate in 1986, Governor Mixson succeeded Governor Graham as the 39th Governor of Florida for the remainder of his term when he left office to serve Florida in the United States Senate.

Section 3 designates that portion of U.S. 98/S.R. 30 between Rosewood Drive and Sunrise Drive in Santa Rosa County as "Warren E. 'Charlie' Brown Memorial Highway."

Warren E "Charlie" Brown was born on January 8, 1932, in Hamlet, North Carolina. Charlie served our nation honorably for over 27 years in the United States Air Force. Charlie retired from military service as a Senior Master Sergeant in 1978. For over half of his career in the USAF, Charlie was stationed at Northwest Florida's Hurlburt Field and served in Special Operations. After his retirement from the military, Charlie and his wife of 55 years, Shirley L. Brown, made their home in Navarre. Shirley and Charlie had a passion for supporting and serving our Airmen in Northwest Florida and were often seen at military events throughout the panhandle offering their support. Additionally, Charlie was deeply involved in the business community of Santa Rosa County. He served as the director and executive director of the Navarre Beach Area Chamber of Commerce and was always active within the Military Affairs Committee for the Chamber. Charlie and Shirley were also active members in First Baptist Church of Fort Walton Beach.

Section 4 designates that portion of S.R. 589 and S.R. 568/Veterans Expressway between S.R. 60/Courtney Campbell Causeway and S.R. 597/Dale Mabry Highway in Hillsborough County as "RADM LeRoy Collins, Jr., Veterans Expressway."

LeRoy Collins, Jr., was a Rear Admiral in the Navy Reserve, a prominent businessman and civic leader, and the former Executive Director of the Florida Department of Veterans Affairs. He passed away on July 29, 2010.

Section 5 designates that portion of I-10/S.R. 8 between mile post 232 and mile post 233 in Jefferson County as "Trooper James Herbert Fulford, Jr., Memorial Highway."

Trooper James Herbert Fulford, Jr., was a 14-year member of the Florida Highway Patrol who died in the line of duty on February 1, 1992, when a bomb exploded while he was searching a car.

Section 6 designates the bridge (number 380047) on U.S. 98/S.R. 30 over the Aucilla River in Taylor County as "SP4 Billy Jacob Hartsfield Bridge."

Specialist Fourth Class Billy Jacob Hartsfield was a member of Bravo Battery, 14th Artillery, attached as FO Recon Sergeant and Aircraft Maintenance Crewman to Charlie Company, First Battalion, 46th Infantry, 196th Light Infantry Bridge, Americal Division, who lost his life when his aircraft crashed in Quang Tin Province, South Vietnam, in 1970. On September 17, 2012, the

Board of County Commissioners of Taylor County, Florida, adopted a resolution expressing its support for the “SP4 Billy Jacob Hartsfield Bridge” designation in honor of his memory.

Section 7 designates S.R. 269, upon completion of its construction, between U.S. 90/S.R. 10 and S.R. 12 in Gadsden County as “Julia Munroe Woodward Highway.”

Julia Munroe Woodward was a life-long resident of Quincy, Florida, who contributed her time, talent, and resources for the betterment of her community. Various Gadsden County schools, the Quincy Garden Club, Quincy Garden Center, Gadsden Arts Center, Quincy Music Theater, Pilot Club, Girl Scouts, Boy Scouts, the First Presbyterian Church of Quincy, and many other organizations benefited from her efforts on their behalf. Her appreciation for Gadsden County business, industry, and economic development was evidenced by her support of the Gadsden County Chamber of Commerce, and recognition of her service is evidenced by honors, awards, and accolades. Ms. Woodward passed away on December 9, 2012.

Section 8 designates S.R. 293 between the Mid-Bay Bridge Toll Plaza and S.R. 85 in Okaloosa County as “Walter Francis Spence Parkway.”

Walter Francis Spence was a supporter of a bridge across Choctawhatchee Bay for decades before creation of the Mid-Bay Bridge Authority. He was the President of the Niceville/Valparaiso Chamber of Commerce in 1975-1976; a Regional 380 Committee member, who assisted in the formulation of the basis for today’s local government comprehensive plans; a 1989 member of the Governor’s Commission of the Future of Florida’s Environment; a member of the Mid-Bay Bridge Authority in 1990-1991 and again from 1999-2005, and currently serves as a member of the Okaloosa-Walton Metropolitan Planning Organization and of the Okaloosa County’s Defense Support Initiative Group. On March 19, 2013, the Okaloosa County Board of Commissioners adopted Resolution No. 13-48 expressing support for the “Walter Francis Spence Parkway” designation.

Section 9 designates that portion of S.R. 992/S.W. 152nd Street/Coral Reef Drive from S.R. 821/Homestead Extension of the Florida Turnpike to S.W. 99th Court in Miami-Dade County as “Reverend John A. Ferguson Street.”

Reverend John A. Ferguson was the founder and long-time pastor of Second Baptist Church in Miami-Dade County. He was a native of Coconut Grove and a George Washington Carver Senior High School graduate. A career veteran of the U.S. Navy who enlisted after the 1941 Japanese attack on Pearl Harbor, Ferguson served for 21 years during three wars: World War II, Korea, and Vietnam. He founded the church after he retired from the service with the rank of chief petty officer and moved his family back to Miami from Norfolk, Va. At the time of his retirement, the church was involved in more than 30 ministries. Reverend Ferguson passed away on July 26, 2012.

Section 10 designates that portion of S.R. 415 between Acorn Lake Road and Reed Ellis Road in Volusia County as “David G. Ledgerwood Memorial Highway.”

David G. Ledgerwood was killed in action in Vietnam on April 29, 1968, just 25 days after his tour began.

Section 11 designates that portion of U.S. 98/S.R. 30A/Tyndall Parkway between County Road 2327/Transmitter Road and S.R. 22 in Bay County as “Lieutenant Colonel Carl John Luksic, USAF, Memorial Highway.”

Lieutenant Colonel Carl John Luksic, USAF, served in World War II, the Korean War, and the Vietnam War. He was a Prisoner of War during World War II. Colonel Luksic received many awards while serving in the Air Force, but most notable were the Distinguished Service Cross, Distinguished Flying Cross, and the Purple Heart. He passed away on May 24, 2009.

Section 12 designates that portion of 21st Avenue between 26th Street and S.R. 585/22nd Street in Hillsborough County as “C. Blythe Andrews Road.”

C. Blythe Andrews was a newspaperman, businessman, fraternal leader, and civic leader in the Tampa community. He passed away on April 2, 1977.

Section 13 designates that portion of Palm Avenue between 15th Street and S.R. 45/Nebraska Avenue in Hillsborough County as “Roland Manteiga Road.”

Roland Manteiga was in charge of the La Gaceta newspaper from 1961 until 1998. He was also active in the Tampa community. He passed away on September 25, 1998.

Section 14 designates that portion of S.R. 922/125th Street between N.E. 8th Avenue and N.E. 9th Avenue in Miami-Dade County as “Sergeant Carl Mertes Street.”

Sergeant Carl Mertes was a North Miami police officer killed in the line of duty on November 6, 1980, while assisting another officer on a traffic stop.

Section 15 designates that portion of N.E. 126th Street between N.E. 8th Avenue and N.E. 9th Avenue in Miami-Dade County as “Detective Sergeant Steven E. Bauer Street.”

Detective Sergeant Steven E. Bauer was a North Miami police officer who was killed while working off duty at a bank on January 3, 1992.

Section 16 designates that portion of N.E. 127th Street between N.E. 8th Avenue and N.E. 9th Avenue in Miami-Dade County as “Sergeant Lynette Hodge Street.”

Sergeant Lynette Hodge was a North Miami police officer killed in a vehicle accident while en route to assist a fellow officer on November 16, 1993.

Section 17 designates that portion of N.W. 40th Street between N.W. 2nd Avenue and N.W. 5th Avenue in Miami-Dade County as “Full Gospel Assembly Street.”

Full Gospel Assembly is a church founded in Miami on February 6, 1983.

Section 18 designates that portion of N.W. 39th Street between N.W. 2nd Avenue and N.W. 3rd Avenue in Miami-Dade County as “Ebenezer Christian Academy Street.”

Ebenezer Christian Academy is a private Christian school in Miami founded in 1992.

Section 19 designates that portion of N.W. 67th Street between N.W. 2nd Avenue and N.W. 4th Avenue in Miami-Dade County as “Bishop Abe Randall Boulevard.”

Bishop Abe Randall is pastor of St. Matthews Free Will Baptist Church in Miami, where he has served for 44 years.

Section 20 designates that portion of S.R. 934/N.W. 81st Street between U.S. 441/S.R. 7/N.W. 7th Avenue and N.W. 12th Avenue in Miami-Dade County as “Jacob Fleishman Street.”

Jacob Fleishman founded Jacob Fleishman Cold Storage in Miami, a fourth-generation family business. N.W. 81st Street forms a one-way pair with N.W. 79th Street. N.W. 79th Street was designated during the 2012 Session.

Section 21 designates that portion of S.R. 860/Miami Gardens Drive/N.W. 183rd Street between S.R. 817/N.W. 27th Avenue and N.W. 42nd Avenue in Miami-Dade County as “Bishop Isaiah S. Williams, Jr., Street.”

Bishop Isaiah S. Williams, Jr., was the founder and senior pastor of Jesus People Ministries Church International, Inc., in Miami. He passed away on July 2, 2009.

Section 22 designates that portion of N.E. 73rd Street between N.E. 2nd Avenue and N.E. 3rd Court in Miami-Dade County as “Reverend Wilner Maxi Street.”

Reverend Wilner Maxi is pastor of Emmanuel Haitian Baptist Church in Miami-Dade County.

Section 23 designates that portion of U.S. 90/S.R. 10 between Gretna and Chattahoochee in Gadsden County as “James Harold Thompson Highway.”

James Harold Thompson was a member of the Florida House of Representative from Gadsden County and served as Speaker from 1985 to 1986.

Section 24 designates the intersection of S.W. 4th Street and S.R. 985/S.W. 107th Avenue in Miami-Dade County as “Juan Armando Torga, Jr., Intersection.”

Juan Armando Torga, Jr., was in the United States Air Force, a Miami-Dade County police reserve officer, and a Miami-Dade County Firefighter. He passed away on March 17, 2009.

Section 25 designates the intersection of S.W. 127th Avenue and U.S. 41/S.R. 90/Tamiami Trail/S.W. 8th Street in Miami-Dade County as “Belen Jesuit Preparatory School Intersection.”

Belen Jesuit Preparatory School was founded in Cuba in 1854 and established as a private Christian school in Miami in 1961.

Section 26 designates that portion of U.S. 90/S.R. 10 between N. 5th Street and N. Norwood Road in Walton County as “Dr. Martin Luther King, Jr., Avenue.”

Dr. Martin Luther King, Jr., was a civil rights leader. He was killed on April 4, 1968.

Section 27 designates the bridge (number 780075) on U.S. 1/S.R. 5/Ponce De Leon Boulevard over the San Sebastian River in St. Johns County as “Ponce de Leon Bridge.”

Ponce de Leon was a Spanish explorer instrumental in the discovery of Florida by Europeans in 1513.

Section 28 designates 25th Street between East 8th Avenue and East 9th Avenue in Miami-Dade County as “Tomas-Minerva Vinuela Way.”

Tomas and Minerva Vinuela emigrated from Cuba in the 1960’s and later founded Hialeah Hardware. More than two decades after the founding, the Vinuelas continue to own and operate the family business.

Section 29 designates ramp number 8 at mile marker 40.7 on I-75/S.R. 93/Alligator Alley in Broward County as “The Honorable Dale G. Bennett Boat Ramp.”

Dale G. Bennett was the Mayor of Hialeah and an Everglades conservationist. He passed away in 1997.

Section 30 designates that portion of U.S.1/S.R.5/N.E. 6th Avenue between Ponce de Leon Drive and S.R. 84/S.E. 24th Street in Broward County as “Robert L. Clark Memorial Highway.”

Robert L. Clark served as a Broward County deputy sheriff and as President of the South Broward Drainage District. He passed away on August 17, 1968.

Section 31 provides the bill takes effect on July 1, 2013.

Other Implications:

The Ebenezer Christian Academy and the Belen Jesuit Preparatory School are private schools. The Federal Highway Administration (FHWA) may view the signs for these designations as commercial advertising, rather than as honorary or memorial designations. The FHWA could conclude that signs erected to mark the designations violate the federal Highway Beautification Act and the agreement between the U.S. Department of Transportation and the Florida Department of Transportation regarding effective control of outdoor advertising. Should the state be deemed to have lost effective control of outdoor advertising, the state is potentially subject to a federal funds penalty of 10 percent of federal highway construction funds for each year of noncompliance.

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 estimated cost to erect the designation markers required under this bill is \$30,000 for 60 signs at a cost of no less than \$500 each. The estimate includes sign fabrication, installation, and maintenance over time but does not include any additional expenses related to maintenance of traffic, dedication event costs, or replacement necessitated by damage, vandalism, or storm events.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Transportation on April 3, 2013:

The CS incorporated the following additional designations: “Governor Mixson Highway,” “Warren E. ‘Charlie’ Brown Memorial Highway,” “RADM LeRoy Collins, Jr., Veterans Expressway,” “Trooper James Herbert Fulford, Jr., Memorial Highway,” “SP4 Billy Jacob Hartsfield Bridge,” “Julia Munroe Woodward Highway,” “Walter

Francis Spence Parkway,” “Reverend John A. Ferguson Street,” “David G. Ledgerwood Memorial Highway,” “Lieutenant Colonel Carl John Luksic, USAF, Memorial Highway,” “C. Blythe Andrews Road,” “Roland Manteiga Road,” “Sergeant Carl Mertes Street,” “Detective Sergeant Steven E. Bauer Street,” “Sergeant Lynette Hodge Street,” “Full Gospel Assembly Street,” “Ebenezer Christian Academy Street,” “Bishop Abe Randall Boulevard,” “Jacob Fleishman Street,” “Bishop Isaiah S. Williams, Jr., Street,” “Reverend Wilner Maxi Street,” “James Harold Thompson Highway,” “Juan Armando Torga, Jr., Intersection,” “Belen Jesuit Preparatory School Intersection,” “Dr. Martin Luther King, Jr., Avenue,” “Ponce de Leon Bridge,” “Tomas-Minerva Vinuela Way,” “The Honorable Dale G. Bennett Boat Ramp,” and “Robert L. Clark Memorial Highway.”

B. Amendments:

None.

By the Committee on Transportation; and Senator Detert

596-03450-13

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1 A bill to be entitled
2 An act relating to transportation facility
3 designations; providing honorary designations of
4 certain transportation facilities in specified
5 counties; directing the Department of Transportation
6 to erect suitable markers; providing an effective
7 date.

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

10
11 Section 1. KMI Kentucky Military Institute Bridge
12 designated; Department of Transportation to erect suitable
13 markers.—

14 (1) Bascule bridges Numbers 170169 and 170170 on U.S.
15 Business 41/S.R. 45/Tamiami Trail in Sarasota County are
16 designated as "KMI Kentucky Military Institute Bridge."

17 (2) The Department of Transportation is directed to erect
18 suitable markers designating KMI Kentucky Military Institute
19 Bridge as described in subsection (1).

20 Section 2. Governor Mixson Highway designated; Department
21 of Transportation to erect suitable markers.—

22 (1) That portion of S.R. 73 between the Calhoun County Line
23 and U.S. 231 in Jackson County is designated as "Governor Mixson
24 Highway."

25 (2) The Department of Transportation is directed to erect
26 suitable markers designating Governor Mixson Highway as
27 described in subsection (1).

28 Section 3. Warren E. "Charlie" Brown Memorial Highway
29 designated; Department of Transportation to erect suitable

596-03450-13

2013300c1

30 markers.-

31 (1) That portion of U.S. 98/S.R. 30 between Rosewood Drive
32 and Sunrise Drive in Santa Rosa County is designated as "Warren
33 E. 'Charlie' Brown Memorial Highway."

34 Section 4. RADM LeRoy Collins, Jr., Veterans Expressway
35 designated; Department of Transportation to erect suitable
36 markers.-

37 (1) That portion of S.R. 589 and S.R. 568/Veterans
38 Expressway between S.R. 60/Courtney Campbell Causeway and S.R.
39 597/Dale Mabry Highway in Hillsborough County is designated as
40 "RADM LeRoy Collins, Jr., Veterans Expressway."

41 (2) The Department of Transportation is directed to erect
42 suitable markers designating RADM LeRoy Collins, Jr., Veterans
43 Expressway as described in subsection (1).

44 Section 5. Trooper James Herbert Fulford, Jr., Memorial
45 Highway designated; Department of Transportation to erect
46 suitable markers.-

47 (1) That portion of I-10/S.R. 8 between mile post 232 and
48 mile post 233 in Jefferson County is designated as "Trooper
49 James Herbert Fulford, Jr., Memorial Highway."

50 (2) The Department of Transportation is directed to erect
51 suitable markers designating Trooper James Herbert Fulford, Jr.,
52 Memorial Highway as described in subsection (1).

53 Section 6. SP4 Billy Jacob Hartsfield Bridge designated;
54 Department of Transportation to erect suitable markers.-

55 (1) Bridge number 380047 on U.S. 98/S.R. 30 over the
56 Aucilla River in Taylor County is designated as "SP4 Billy Jacob
57 Hartsfield Bridge."

58 (2) The Department of Transportation is directed to erect

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59 suitable markers designating SP4 Billy Jacob Hartsfield Bridge
60 as described in subsection (1).

61 Section 7. Julia Munroe Woodward Highway designated;
62 Department of Transportation to erect suitable markers.-

63 (1) Upon completion of construction, S.R. 269 between
64 U.S.90/S.R. 10 and S.R. 12 in Gadsden County is designated as
65 "Julia Munroe Woodward Highway."

66 (2) The Department of Transportation is directed to erect
67 suitable markers designating Julia Munroe Woodward Highway as
68 described in subsection (1).

69 Section 8. Walter Francis Spence Parkway designated;
70 Department of Transportation to erect suitable markers.-

71 (1) That portion of S.R. 293 between the Mid-Bay Bridge
72 Toll Plaza and S.R. 85 in Okaloosa County is designated as
73 "Walter Francis Spence Parkway."

74 (2) The Department of Transportation is directed to erect
75 suitable markers designating Walter Francis Spence Parkway as
76 described in subsection (1).

77 Section 9. Reverend John A. Ferguson Street designated;
78 Department of Transportation to erect suitable markers.-

79 (1) That portion of S.R. 992/S.W. 152nd Street/Coral Reef
80 Drive from S.R. 821/Homestead Extension of the Florida Turnpike
81 to S.W. 99th Court in Miami-Dade County is designated as
82 "Reverend John A. Ferguson Street."

83 (2) The Department of Transportation is directed to erect
84 suitable markers designating Reverend John A. Ferguson Street as
85 described in subsection (1).

86 Section 10. David G. Ledgerwood Memorial Highway
87 designated; Department of Transportation to erect suitable

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88 markers.—

89 (1) That portion of S.R. 415 between Acorn Lake Road and
90 Reed Ellis Road in Volusia County is designated as "David G.
91 Ledgerwood Memorial Highway."

92 (2) The Department of Transportation is directed to erect
93 suitable markers designating David G. Ledgerwood Memorial
94 Highway as described in subsection (1).

95 Section 11. Lieutenant Colonel Carl John Luksic, USAF,
96 Memorial Highway designated; Department of Transportation to
97 erect suitable markers.—

98 (1) That portion of U.S. 98/S.R.30A/Tyndall Parkway between
99 County Road 2327/Transmitter Road and S.R. 22 in Bay County is
100 designated as "Lieutenant Colonel Carl John Luksic, USAF,
101 Memorial Highway" as described in subsection (1).

102 (2) The Department of Transportation is directed to erect
103 suitable markers designating Lieutenant Colonel Carl John
104 Luksic, USAF, Memorial Highway as described in subsection (1).

105 Section 12. C. Blythe Andrews Road designated; Department
106 of Transportation to erect suitable markers.—

107 (1) That portion of 21st Avenue between 26th Street and
108 S.R. 585/22nd Street in Hillsborough County is designated as "C.
109 Blythe Andrews Road."

110 (2) The Department of Transportation is directed to erect
111 suitable markers designating C. Blythe Andrews Road as described
112 in subsection (1).

113 Section 13. Roland Manteiga Road designated; Department of
114 Transportation to erect suitable markers.—

115 (1) That portion of Palm Avenue between 15th Street and
116 S.R. 45/Nebraska Avenue in Hillsborough County is designated as

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117 "Roland Manteiga Road."

118 (2) The Department of Transportation is directed to erect
119 suitable markers designating Roland Manteiga Road as described
120 in subsection (1).

121 Section 14. Sergeant Carl Mertes Street designated;
122 Department of Transportation to erect suitable markers.—

123 (1) That portion of S.R. 922/125th Street between N.E. 8th
124 Avenue and N.E. 9th Avenue in Miami-Dade County is designated as
125 "Sergeant Carl Mertes Street."

126 (2) The Department of Transportation is directed to erect
127 suitable markers designating Sergeant Carl Mertes Street as
128 described in subsection (1).

129 Section 15. Detective Sergeant Steven E. Bauer Street
130 designated; Department of Transportation to erect suitable
131 markers.—

132 (1) That portion of N.E. 126th Street between N.E. 8th
133 Avenue and N.E. 9th Avenue in Miami-Dade County is designated as
134 "Detective Sergeant Steven E. Bauer Street."

135 (2) The Department of Transportation is directed to erect
136 suitable markers designating Detective Sergeant Steven E. Bauer
137 Street as described in subsection (1).

138 Section 16. Sergeant Lynette Hodge Street designated;
139 Department of Transportation to erect suitable markers.—

140 (1) That portion of N.E. 127th Street between N.E. 8th
141 Avenue and N.E. 9th Avenue in Miami-Dade County is designated as
142 "Sergeant Lynette Hodge Street."

143 (2) The Department of Transportation is directed to erect
144 suitable markers designating Sergeant Lynette Hodge Street as
145 described in subsection (1).

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146 Section 17. Full Gospel Assembly Street designated;
147 Department of Transportation to erect suitable markers.—

148 (1) That portion of N.W. 40th Street between N.W. 2nd
149 Avenue and N.W. 5th Avenue in Miami-Dade County is designated as
150 "Full Gospel Assembly Street."

151 (2) The Department of Transportation is directed to erect
152 suitable markers designating Full Gospel Assembly Street as
153 described in subsection (1).

154 Section 18. Ebenezer Christian Academy Street designated;
155 Department of Transportation to erect suitable markers.—

156 (1) That portion of N.W. 39th Street between N.W. 2nd
157 Avenue and N.W. 3rd Avenue in Miami-Dade County is designated as
158 "Ebenezer Christian Academy Street."

159 (2) The Department of Transportation is directed to erect
160 suitable markers designating Ebenezer Christian Academy Street
161 as described in subsection (1).

162 Section 19. Bishop Abe Randall Boulevard designated;
163 Department of Transportation to erect suitable markers.—

164 (1) That portion of N.W. 67th Street between N.W. 2nd
165 Avenue and N.W. 4th Avenue in Miami-Dade County is designated as
166 "Bishop Abe Randall Boulevard."

167 (2) The Department of Transportation is directed to erect
168 suitable markers designating Bishop Abe Randall Boulevard as
169 described in subsection (1).

170 Section 20. Jacob Fleishman Street designated; Department
171 of Transportation to erect suitable markers.—

172 (1) That portion of S.R. 934/N.W. 81st Street between U.S.
173 441/S.R. 7/N.W. 7th Avenue and N.W. 12th Avenue in Miami-Dade
174 County is designated as "Jacob Fleishman Street."

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175 (2) The Department of Transportation is directed to erect
176 suitable markers designating Jacob Fleishman Street as described
177 in subsection (1).

178 Section 21. Bishop Isaiah S. Williams, Jr., Street
179 designated; Department of Transportation to erect suitable
180 markers.—

181 (1) That portion of S.R. 860/Miami Gardens Drive/N.W. 183rd
182 Street between S.R. 817/N.W. 27th Avenue and N.W. 42nd Avenue in
183 Miami-Dade County is designated as "Bishop Isaiah S. Williams,
184 Jr., Street."

185 (2) The Department of Transportation is directed to erect
186 suitable markers designating Bishop Isaiah S. Williams, Jr.,
187 Street as described in subsection (1).

188 Section 22. Reverend Wilner Maxi Street designated;
189 Department of Transportation to erect suitable markers.—

190 (1) That portion of N.E. 73rd Street between N.E. 2nd
191 Avenue and N.E. 3rd Court in Miami-Dade County is designated as
192 "Reverend Wilner Maxi Street."

193 (2) The Department of Transportation is directed to erect
194 suitable markers designating Reverend Wilner Maxi Street as
195 described in subsection (1).

196 Section 23. James Harold Thompson Highway designated;
197 Department of Transportation to erect suitable markers.—

198 (1) That portion of U.S. 90/S.R. 10 between Gretna and
199 Chattahoochee in Gadsden County is designated as "James Harold
200 Thompson Highway."

201 (2) The Department of Transportation is directed to erect
202 suitable markers designating James Harold Thompson Highway as
203 described in subsection (1).

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204 Section 24. Juan Armando Torga, Jr., Intersection
205 designated; Department of Transportation to erect suitable
206 markers.-

207 (1) The intersection of S.W. 4th Street and S.R. 985/S.W.
208 107th Avenue in Miami-Dade County is designated as "Juan Armando
209 Torga, Jr., Intersection."

210 (2) The Department of Transportation is directed to erect
211 suitable markers designating Juan Armando Torga, Jr.,
212 Intersection as described in subsection (1).

213 Section 25. Belen Jesuit Preparatory School Intersection
214 designated; Department of Transportation to erect suitable
215 markers.-

216 (1) The intersection of S.W. 127th Avenue and U.S. 41/S.R.
217 90/Tamiami Trail/S.W. 8th Street in Miami-Dade County is
218 designated as "Belen Jesuit Preparatory School Intersection."

219 (2) The Department of Transportation is directed to erect
220 suitable markers designating Belen Jesuit Preparatory School
221 Intersection as described in subsection (1).

222 Section 26. Dr. Martin Luther King, Jr., Avenue designated;
223 Department of Transportation to erect suitable markers.-

224 (1) That portion of U.S. 90/S.R. 10 between N. 5th Street
225 and N. Norwood Road in Walton County is designated as "Dr.
226 Martin Luther King, Jr., Avenue."

227 (2) The Department of Transportation is directed to erect
228 suitable markers designating Dr. Martin Luther King, Jr.,
229 Avenue."

230 Section 27. Ponce de Leon Bridge designated; Department of
231 Transportation to erect suitable markers.-

232 (1) Bridge number 780075 on U.S. 1/S.R. 5/Ponce de Leon

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233 Boulevard over the San Sebastian River in St. Johns County is
234 designated as "Ponce de Leon Bridge."

235 (2) The Department of Transportation is directed to erect
236 suitable markers designating Ponce de Leon Bridge as described
237 in subsection (1).

238 Section 28. Tomas-Minerva Vinuela Way designated;
239 Department of Transportation to erect suitable markers.—

240 (1) That portion of 25th Street in Miami-Dade County
241 between East 8th Avenue and East 9th Avenue is designated as
242 "Tomas-Minerva Vinuela Way."

243 (2) The Department of Transportation is directed to erect
244 suitable markers designating Tomas-Minerva Vinuela Way as
245 described in subsection (1).

246 Section 29. The Honorable Dale G. Bennett Boat Ramp
247 designated; Department of Transportation to erect suitable
248 markers.—

249 (1) Ramp number 8 at mile marker 40.7 on I-75/S.R.
250 93/Alligator Alley in Broward County is designated as "The
251 Honorable Dale G. Bennett Boat Ramp."

252 (2) The Department of Transportation is directed to erect
253 suitable markers designating The Honorable Dale G. Bennett Boat
254 Ramp as described in subsection (1).

255 Section 30. Robert L. Clark Memorial Highway designated;
256 Department of Transportation to erect suitable markers.—

257 (1) That portion of US 1/State Road 5/NE 6th Avenue between
258 Ponce de Leon Drive and SR 84/SE 24th Street in Broward County
259 is designated as "Robert L. Clark Memorial Highway."

260 (2) The Department of Transportation is directed to erect
261 suitable markers designating Robert L. Clark Memorial Highway as

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262 described in subsection (1).

263 Section 31. This act shall take effect July 1, 2013.



360876

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete line 51
and insert:
for which federal aid funds are available or to professional
services contracts procured in accordance with s. 287.055.

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

And the title is amended as follows:

Delete line 10
and insert:
services; providing an exception for certain



360876

13 professional services contracts; requiring counties
14 and municipalities to

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9
Meeting Date

Topic 684

Bill Number 684
(if applicable)

Name Casey Cook

Amendment Barcode _____
(if applicable)

Job Title Legislative Advocate

Address P.O. Box 1757
Street

Phone 850 701 3701

Tallahassee FL 32302
City State Zip

E-mail ccook@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

CC: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

Subject: Committee Agenda Request

Date: March 29, 2013

I respectfully request that **Senate Bill #684**, relating to Preference in Award of State Contracts, be placed on the:

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

A handwritten signature in black ink, reading "Alan Hays". The signature is fluid and cursive, with a long horizontal line extending from the left.

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 684

INTRODUCER: Senator Hays

SUBJECT: Preference in Award of State Contracts

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McVaney	GO	Favorable
2.	Anderson	Yeatman	CA	Pre-meeting
3.			AP	
4.			RC	
5.				
6.				

I. Summary:

SB 684 specifies that an existing preference for Florida-based businesses that currently applies to public entity purchases of commodities and services also applies to the purchase of construction services. The bill also provides that this preference preempts any local preference regulation in contracts for construction services in which state-appropriated funds are spent.

This bill substantially amends section 287.084 of the Florida Statutes.

II. Present Situation:

Procurement of Commodities and Services

Chapter 287, F.S., regulates state agency¹ procurement of personal property and services. The Department of Management Services (department) is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.² The department establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.³

¹ Section 287.012(1), F.S., defines agency as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. 'Agency' does not include the university and college boards of trustees or the state universities and colleges."

² See ss. 287.032 and 287.042, F.S.

³ *Id.*

Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods, which include:⁴

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposal, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and
- Invitations to negotiate, which are used when negotiations are determined to be necessary to obtain the best value and involve a request for highly complex, customized, mission-critical services.

For contracts for commodities or services in excess of \$35,000, agencies must utilize a competitive solicitation process.⁵ Section 287.012(6), F.S., provides that competitive solicitation means "the process of requesting and receiving two or more sealed bids, proposals, or replies submitted by responsive vendors in accordance with the terms of a competitive process, regardless of the method of procurement."

Local governmental units are not subject to the provisions of chapter 287, F.S.

Florida In-state Preference

State agencies, universities, colleges, school districts, and other political subdivisions are required to grant a preference in the award for contracts for the purchase of personal property, when competitive solicitation is required and when the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is in another state, or political subdivision of that state.⁶ The preference is mandatory and is utilized by the procuring entity to award a preference to the lowest responsible and responsive vendor having a principal place of business in this state. The preference awarded is the same preference provided by the out-of-state bidder's home state.

If the lowest responsible and responsive bid, proposal, or reply is by a vendor whose principal place of business is another state, or political subdivision of that state, and that state does not award a preference for in-state vendors, state agencies, universities, colleges, school districts, and other political subdivisions must award a 5 percent preference to Florida based vendors.⁷

A vendor whose principal place of business is outside of this state must submit with the bid, proposal, or reply documents a written opinion of an attorney at law licensed to practice law in

⁴ See ss. 287.012(6) and 287.057, F.S.

⁵ Section 287.057(1), F.S., requires all projects that exceed the Category Two (\$35,000) threshold contained in s. 287.017, F.S., to be competitively bid.

⁶ Section 287.084(1)(a), F.S.

⁷ *Id.*

that foreign state as to the preferences, if any, granted by the law of that state to a business entity whose principal place of business is in that foreign state.⁸

Florida's preference law does not apply to transportation projects for which federal aid funds are available,⁹ or to counties or cities.¹⁰ It also does not apply in the award of contracts for the purchase of construction services.

Procurement of Construction Services

Chapter 255, F.S., specifies the procedures to be followed in the procurement of construction services for public property and publicly owned buildings. The department is responsible for establishing by rule the following:¹¹

- Procedures for determining the qualifications and responsibility of potential bidders prior to advertisement for and receipt of bids for building construction contracts;
- Procedures for awarding each state agency construction project to the lowest qualified bidder;
- Procedures to govern negotiations for construction contracts and contract modifications when such negotiations are determined to be in the best interest of the state; and
- Procedures for entering into performance-based contracts for the development of public facilities those contracts are determined to be in the best interest of the state.

State contracts for construction projects that are projected to cost in excess of \$200,000 must be competitively bid.¹² Counties, municipalities, special districts, or other political subdivisions seeking to construct or improve a public building must competitively bid the project if the projected cost is in excess of \$300,000.¹³

Section 255.0525, F.S., requires the solicitation of competitive bids or proposals for any state construction project that is projected to cost more than \$200,000 to be publicly advertised in the Florida Administrative Weekly¹⁴ at least 21 days prior to the established bid opening. If the construction project is projected to exceed \$500,000, the advertisement must be published at least 30 days prior to the bid opening in the Florida Administrative Weekly, and at least once 30 days prior to the bid opening in a newspaper of general circulation in the county where the project is located.¹⁵

Florida Preference to State Residents

Section 255.04, F.S., provides that every board of the state, county, or municipality that is charged with the duty of erecting or constructing any public administrative or institutional

⁸ Section 287.084(2), F.S.

⁹ Section 287.084(1)(b), F.S.

¹⁰ Section 287.084(1)(c), F.S.

¹¹ Section 255.29, F.S.

¹² See chapters 60D-5.002 and 60D-5.0073, F.A.C.; see also s. 255.0525, F.S.

¹³ See s. 255.20(1), F.S. For electrical work, local governments must competitively bid projects estimated to cost more than \$75,000.

¹⁴ The Florida Administrative Weekly was renamed the Florida Administrative Register during the 2012 Session. Chapter 2012-63, L.O.F.

¹⁵ For counties, municipalities, and political subdivisions, similar publishing provisions apply. Section 255.0525(2), F.S.

building must give preference, in the purchase of material and in letting contracts for the construction of such building, to materialmen, contractors, builders, architects, and laborers who reside within the state whenever such material can be purchased or the services or such materialmen, contractors, builders, architects, and laborers can be employed at no greater expense than that which would obtain if such purchase was made from, or contract let, or employment given to a person residing outside of the state.

Another statute provides a preference for the employment of state residents in construction contracts funded by money appropriated with state funds. Such contracts must contain a provision requiring the contractor to give preference to the employment of state residents in the performance of the work if state residents have substantially equal qualifications¹⁶ to those of non-residents.¹⁷ If a construction contract is funded by local funds, the contract may contain such a provision.¹⁸ In addition, the contractor required to employ state residents must contact the Department of Economic Opportunity to post the contractor's employment needs in the state's job bank system.¹⁹

III. Effect of Proposed Changes:

Section 1 amends the existing preference to Florida businesses in the purchase of commodities and services in Ch. 287, F.S., by applying the preference to construction services, and expanding the required application of the preference to counties and municipalities.

The bill adds a preemption provision that applies to any competitive solicitation in which payment for personal property or construction services is to be made partially or wholly from state-appropriated funds. The provision applies to any local ordinance or regulation that restricts a contractor who possesses a certificate of competency issued by the Department of Business and Professional Regulation²⁰ from competing for an award based upon:

- The vendor maintaining an office or place of business within a particular local jurisdiction;
- The vendor hiring employees or subcontractors from within a particular local jurisdiction; or
- The vendor's prior payment of local taxes, assessments, or duties within a particular local jurisdiction.

In any solicitation subject to this provision, the public entity must disclose in the solicitation whether payment will come from state-appropriated funds, the amount of such funds, and the percentage of such funds compared to the total cost.

Section 2 provides the bill takes effect July 1, 2013.

¹⁶ Section 255.099(1)(a), F.S., defines substantially equal qualifications as the "qualifications of two or more persons among whom the employer cannot make a reasonable determination that the qualifications held by one person are better suited for the position than the qualifications held by the other person or persons."

¹⁷ Section 255.099(1), F.S.

¹⁸ *Id.*

¹⁹ Section 255.099(1)(b), F.S.

²⁰ Section 489.105(8), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, Sec. 18, of the Constitution of the State of Florida excuses local governments from complying with state mandates that impose negative fiscal consequences.

Subsection (a) provides, “No county or municipality shall be bound by any general law requiring such county or municipality to spend funds or to take an action requiring the expenditure of funds” unless certain requirements are met. However, several exemptions and exceptions exist.

Subsection (d) of Art. VII, Sec. 18, of the Constitution of the State of Florida, exempts those laws that have an insignificant fiscal impact from the requirements of the mandates provision. Whether a particular bill results in a significant impact must be determined on an aggregate, statewide basis. Laws determined to have an “insignificant fiscal impact,” which means an amount not greater than the average statewide population for the applicable fiscal year times \$0.10 (\$1.9 million for FY 2012-2013²¹), are exempt.²²

The Revenue Estimating Conference has not met on this bill, so the financial impact is unknown at this time. If the overall collective financial impact exceeds \$1.9 million per year in the aggregate, the bill would require the Legislature pass the bill by 2/3 of the membership of each chamber.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Commerce Clause

The U.S. Constitution provides that Congress shall have the power to “regulate commerce...among the states.”²³ The Commerce Clause acts not only as a positive grant of powers to Congress, but also as a negative constraint upon the states.²⁴ When a state or local government is acting as a “market participant” rather than a “market regulator,” it is

²¹ Based on the Demographic Estimating Conference’s final population estimate for April 1, 2012, which was adopted on November 7, 2012. The Executive Summary can be found at: <http://edr.state.fl.us/Content/conferences/population/demographicsummary.pdf> (last visited on March 5, 2013).

²² See Florida Senate Committee on Community Affairs, *Interim Report 2012-115: Insignificant Fiscal Impact*, (September 2011), available at: <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-115ca.pdf> (last visited on March 5, 2013).

²³ U.S. Const. art. I, s. 8, cl. 3.

²⁴ See *Gibbons v. Ogden*, 22 U.S. 1 (1824).

not subject to the limitations of the Commerce Clause.²⁵ A state is considered to be a “market participant” when it is acting as an economic actor such as a purchaser of goods and services.²⁶ Since the state is acting as a “market participant” under this bill, the in-state preference provisions herein are likely to be upheld as an exception to the Commerce Clause.

Equal Protection Clause

The United States Constitution provides that “[n]o State shall...deny to any person within its jurisdiction the equal protection of the laws.”²⁷ The expansion of the in-state preference provisions in this bill may constitute an equal protection violation. If such legislation is challenged, the court would use a rational basis test to determine the constitutionality of the alleged discriminatory treatment.²⁸ Under the rational basis test, a court must uphold a state statute so long as the classification bears a rational relationship to a legitimate state interest.²⁹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Florida-based businesses might obtain more public contracts.

C. Government Sector Impact:

Indeterminate. The application of the 5 percent Florida preference to construction contracts theoretically could increase costs of those projects, and the offsetting secondary economic benefits of awarding more contracts to Florida-based businesses are difficult to determine in advance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill amends a current preference applicable to purchases of personal property, located in Ch. 287, F.S., to apply to purchases of construction services. Public construction contracting is

²⁵ *National Collegiate Athletic Ass’n v. Associated Press*, 18 So.3d 1201, 1211-1212 (Fla. 1st DCA 2009) (citing *Brown-Forman Distillers Corp. v. New York State Liquor Authority*, 476 U.S. 573, 578-579).

²⁶ *Id.*

²⁷ U.S. Const. amend. XIV, s. 1; *see also* FLA. Const. art. I, s. 2.

²⁸ *Nordlinger v. Hahn*, 505 U.S. 1, 33-34 (1992) (stating that a “classification rationally furthers a state interest when there is some fit between the disparate treatment and the legislative purpose.”)

²⁹ *Id.*

regulated in Ch. 255, F.S., which also includes two existing preferences. The construction preference would be better placed in Ch. 255, F.S.

Principal Place of Business

Current law does not provide for a definition of “principal place of business.” There are two competing tests to determine where a company’s principal place of business is located.

The first is the “substantial predominance” test, which analyzes the following criteria: the location of its employees, where sales took place, its production activities, its tangible property, its sources of income, the value of land owned and leased, and the replacement cost of assets located in a certain state.³⁰

The second test is the “nerve center test.” Under this test, a company’s principal places of business refers to the place where the corporation’s high level officers direct, control, and coordinate the corporation’s activities.³¹ The Department of Management Services has previously utilized the “nerve center” test to determine the company’s principal place of business.³²

VIII. Additional Information:

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

None.

B. Amendments:

None.

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

³⁰ *Ghaderi v. United Airlines, Inc.*, 136 F.Supp.2d 1041, 1044-46 (N.D. Cal 2001).

³¹ *Hertz Corp v. Friend et al.*, 130 S.Ct. 1181 (2010).

³² In a 2010 memorandum to purchasing directors, the department indicated it intended to use the nerve center test when applying the Florida based business preference found in s. 49 of Ch. 2010-151, L.O.F., to both state term contracts and other department issued solicitations. Memorandum to Purchasing Directors, Department of Management Services, September 2, 2010 at 3.

By Senator Hays

11-00243B-13

2013684__

1 A bill to be entitled
2 An act relating to preference in award of state
3 contracts; amending s. 287.084, F.S.; expanding
4 provisions that require an agency, university,
5 college, school district, or other political
6 subdivision of the state to provide preferential
7 consideration to a Florida business in awarding
8 competitively bid contracts to purchase personal
9 property to include the purchase of construction
10 services; requiring counties and municipalities to
11 provide such preferential consideration; providing
12 that for specified competitive solicitations the
13 authority to grant preference supersedes any local
14 ordinance or regulation that restricts specified
15 contractors from competing for an award based upon
16 certain conditions; requiring a university, college,
17 county, municipality, school district, or other
18 political subdivision to make specified disclosures in
19 competitive solicitation documents; providing for
20 construction; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (1) of section 287.084, Florida
25 Statutes, is amended to read:

26 287.084 Preference to Florida businesses.—

27 (1)(a) When an agency, university, college, school
28 district, or other political subdivision of the state is
29 required to make purchases of personal property or construction

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30 services through competitive solicitation and the lowest
31 responsible and responsive bid, proposal, or reply is by a
32 vendor whose principal place of business is in a state or
33 political subdivision thereof which grants a preference for the
34 purchase of such personal property or construction services to a
35 person whose principal place of business is in such state, then
36 the agency, university, college, school district, or other
37 political subdivision of this state shall award a preference to
38 the lowest responsible and responsive vendor having a principal
39 place of business within this state, which preference is equal
40 to the preference granted by the state or political subdivision
41 thereof in which the lowest responsible and responsive vendor
42 has its principal place of business. In a competitive
43 solicitation in which the lowest bid is submitted by a vendor
44 whose principal place of business is located outside the state
45 and that state does not grant a preference in competitive
46 solicitation to vendors having a principal place of business in
47 that state, the preference to the lowest responsible and
48 responsive vendor having a principal place of business in this
49 state shall be 5 percent.

50 (b) Paragraph (a) does not apply to transportation projects
51 for which federal aid funds are available.

52 (c)1. For a competitive solicitation in which payment for
53 the personal property or construction services is to be made in
54 whole or in part from funds appropriated by the state, this
55 section preempts and supersedes any local ordinance or
56 regulation that restricts a contractor certified under s.
57 489.105(8) from competing for an award based upon:

58 a. The vendor maintaining an office or place of business

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59 within a particular local jurisdiction;

60 b. The vendor hiring employees or subcontractors from
61 within a particular local jurisdiction; or

62 c. The vendor's prior payment of local taxes, assessments,
63 or duties within a particular local jurisdiction.

64 2. In any competitive solicitation subject to this section,
65 a university, college, county, municipality, school district, or
66 other political subdivision shall disclose in the solicitation
67 document whether payment will come from funds appropriated by
68 the state and, if known, the amount of such funds or the
69 percentage of such funds as compared to the anticipated total
70 cost of the personal property or construction services.

71 3. Except as provided in subparagraph 1., this section does
72 not prevent a university, college, county, municipality, school
73 district, or other political subdivision of this state from
74 awarding a contract to any vendor in accordance with applicable
75 state laws or local ordinances or regulations.

76 ~~(c) As used in this section, the term "other political~~
77 ~~subdivision of this state" does not include counties or~~
78 ~~municipalities.~~

79 Section 2. This act shall take effect July 1, 2013.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

468.436 Disciplinary proceedings.—

(2) The following acts constitute grounds for which the
disciplinary actions in subsection (4) may be taken:

(b)1. Violation of any provision of this part.

2. Violation of any lawful order or rule rendered or
adopted by the department or the council.



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13 3. Being convicted of or pleading nolo contendere to a
14 felony in any court in the United States.

15 4. Obtaining a license or certification or any other order,
16 ruling, or authorization by means of fraud, misrepresentation,
17 or concealment of material facts.

18 5. Committing acts of gross misconduct or gross negligence
19 in connection with the profession.

20 6. Contracting, on behalf of an association, with any
21 entity in which the licensee has a financial interest that is
22 not disclosed.

23 7. Failing to report to the division as required in s.
24 720.303(13).

25 8. Violating any provision of chapters 718, 719, or 720
26 during the course of performing community association management
27 services pursuant to a contract with a community association.

28 Section 2. Subsection (5) and paragraph (d) of subsection
29 (6) of section 720.303, Florida Statutes, are amended, and
30 subsection (13) is added to that section, to read:

31 720.303 Association powers and duties; meetings of board;
32 official records; budgets; financial reporting; association
33 funds; recalls.—

34 (5) INSPECTION AND COPYING OF RECORDS.—The official records
35 shall be maintained within the state for at least 7 years and
36 shall be made available to a parcel owner for inspection or
37 photocopying within 45 miles of the community or within the
38 county in which the association is located within 10 business
39 days after receipt by the board or its designee of a written
40 request ~~must be open to inspection and available for~~
41 ~~photocopying by members or their authorized agents at reasonable~~



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~~times and places within 10 business days after receipt of a~~
~~written request for access.~~ This subsection may be complied with
by having a copy of the official records available for
inspection or copying in the community or, at the option of the
association, by making the records available to a parcel owner
electronically via the Internet or by allowing the records to be
viewed in electronic format on a computer screen and printed
upon request. If the association has a photocopy machine
available where the records are maintained, it must provide
parcel owners with copies on request during the inspection if
the entire request is limited to no more than 25 pages. An
association shall allow a member or his or her authorized
representative to use a portable device, including a smartphone,
tablet, portable scanner, or any other technology capable of
scanning or taking photographs, to make an electronic copy of
the official records in lieu of providing the member or his or
her authorized representative with a copy of such records. The
association may not charge a fee to a member or his or her
authorized representative for such use of a portable device.

(a) The failure of an association to provide access to the
records within 10 business days after receipt of a written
request submitted by certified mail, return receipt requested,
creates a rebuttable presumption that the association willfully
failed to comply with this subsection.

(b) A member who is denied access to official records is
entitled to the actual damages or minimum damages for the
association's willful failure to comply with this subsection.
The minimum damages are to be \$50 per calendar day up to 10
days, the calculation to begin on the 11th business day after



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71 receipt of the written request.

72 (c) The association may adopt reasonable written rules
73 governing the frequency, time, location, notice, records to be
74 inspected, and manner of inspections, but may not require a
75 parcel owner to demonstrate any proper purpose for the
76 inspection, state any reason for the inspection, or limit a
77 parcel owner's right to inspect records to less than one 8-hour
78 business day per month. The association may impose fees to cover
79 the costs of providing copies of the official records,
80 ~~including, without limitation,~~ the costs of copying and the
81 costs required for personnel to retrieve and copy the records if
82 the time spent retrieving and copying the records exceeds one-
83 half hour and if the personnel costs do not exceed \$20 per hour.
84 No personnel costs may be charged for records requests that
85 result in 25 or fewer pages. The association may charge up to 25
86 ~~50~~ cents per page for copies made on the association's
87 photocopier. If the association does not have a photocopy
88 machine available where the records are kept, or if the records
89 requested to be copied exceed 25 pages in length, the
90 association may have copies made by an outside duplicating
91 service ~~vendor or association management company personnel~~ and
92 may charge the actual cost of copying, as supported by the
93 vendor invoice ~~including any reasonable costs involving~~
94 ~~personnel fees and charges at an hourly rate for vendor or~~
95 ~~employee time to cover administrative costs to the vendor or~~
96 ~~association.~~ The association shall maintain an adequate number
97 of copies of the recorded governing documents, to ensure their
98 availability to members and prospective members. Notwithstanding
99 this paragraph, the following records are not accessible to



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members or parcel owners:

1. Any record protected by the lawyer-client privilege as described in s. 90.502 and any record protected by the work-product privilege, including, but not limited to, a record prepared by an association attorney or prepared at the attorney's express direction which reflects a mental impression, conclusion, litigation strategy, or legal theory of the attorney or the association and which was prepared exclusively for civil or criminal litigation or for adversarial administrative proceedings or which was prepared in anticipation of such litigation or proceedings until the conclusion of the litigation or proceedings.

2. Information obtained by an association in connection with the approval of the lease, sale, or other transfer of a parcel.

3. Personnel records of the association's employees, including, but not limited to, disciplinary, payroll, health, and insurance records. For purposes of this subparagraph, the term "personnel records" does not include written employment agreements with an association employee or budgetary or financial records that indicate the compensation paid to an association employee.

4. Medical records of parcel owners or community residents.

5. Social security numbers, driver's license numbers, credit card numbers, electronic mailing addresses, telephone numbers, facsimile numbers, emergency contact information, any addresses for a parcel owner other than as provided for association notice requirements, and other personal identifying information of any person, excluding the person's name, parcel



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129 designation, mailing address, and property address. However, an
130 owner may consent in writing to the disclosure of protected
131 information described in this subparagraph. The association is
132 not liable for the disclosure of information that is protected
133 under this subparagraph if the information is included in an
134 official record of the association and is voluntarily provided
135 by an owner and not requested by the association.

136 6. Any electronic security measure that is used by the
137 association to safeguard data, including passwords.

138 7. The software and operating system used by the
139 association which allows the manipulation of data, even if the
140 owner owns a copy of the same software used by the association.
141 The data is part of the official records of the association.

142 (d) The association or its authorized agent is not required
143 to provide a prospective purchaser or lienholder with
144 information about the residential subdivision or the association
145 other than information or documents required by this chapter to
146 be made available or disclosed. The association or its
147 authorized agent may charge a reasonable fee to the prospective
148 purchaser or lienholder or the current parcel owner or member
149 for providing good faith responses to requests for information
150 by or on behalf of a prospective purchaser or lienholder, other
151 than that required by law, if the fee does not exceed \$150 plus
152 the reasonable cost of photocopying and any attorney's fees
153 incurred by the association in connection with the response.

154 (6) BUDGETS.—

155 (d) An association is deemed to have provided for reserve
156 accounts if reserve accounts have been initially established by
157 the developer or if the membership of the association



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affirmatively elects to provide for reserves. If reserve accounts are established by the developer, the budget must designate the components for which the reserve accounts may be used. If reserve accounts are not initially provided by the developer, the membership of the association may elect to do so upon the affirmative approval of a majority of the total voting interests of the association. Such approval may be obtained by vote of the members at a duly called meeting of the membership or by the written consent of a majority of the total voting interests of the association. The approval action of the membership must state that reserve accounts shall be provided for in the budget and must designate the components for which the reserve accounts are to be established. Upon approval by the membership, the board of directors shall include the required reserve accounts in the budget in the next fiscal year following the approval and each year thereafter. Once established as provided in this subsection, the reserve accounts must be funded or maintained or have their funding waived in the manner provided in paragraph (f).

(13) REPORTING REQUIREMENT.—The community association manager, or the association when there is no community association manager, shall report to the division by November 22, 2013, and annually thereafter, in a manner and form prescribed by the division.

(a) The report shall include the association's:

1. Legal name.
2. Federal employer identification number.
3. Mailing and physical addresses.
4. Total number of parcels.



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187 5. Total amount of revenues and expenses from the
188 association's annual budget.

189 (b) For associations in which control of the association
190 has not been transitioned to nondeveloper members, as set forth
191 in s. 720.307, the report shall also include the developer's:

192 1. Legal name.

193 2. Mailing address.

194 3. Total number of parcels owned on the date of reporting.

195 (c) By October 1, 2013, the department shall establish and
196 implement a registration system through an Internet website that
197 provides for the reporting requirements of paragraphs (a) and
198 (b).

199 (d) On or before December 1, 2013, and annually thereafter
200 by December 1, the department shall submit a report to the
201 Governor, the President of the Senate, and the Speaker of the
202 House of Representatives providing the homeowner association
203 data reported pursuant to this subsection.

204 (e) The department may adopt rules pursuant to ss.
205 120.536(1) and 120.54 to implement the provisions of this
206 subsection.

207 (f) This subsection shall expire on July 1, 2016, unless
208 reenacted by the Legislature.

209 Section 3. Section 720.3033, Florida Statutes, is created
210 to read:

211 720.3033 Officers and directors.—

212 (1) (a) Within 90 days after being elected or appointed to
213 the board, each director shall certify in writing to the
214 secretary of the association that he or she has read the
215 association's declaration of covenants, articles of



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incorporation, bylaws, and current written rules and policies;
that he or she will work to uphold such documents and policies
to the best of his or her ability; and that he or she will
faithfully discharge his or her fiduciary responsibility to the
association's members. Within 90 days after being elected or
appointed to the board, in lieu of this written certification,
the newly elected or appointed director may submit a certificate
of having satisfactorily completed the educational curriculum
administered by a division-approved education provider within 1
year before or 90 days after the date of election or
appointment.

(b) The written certification or educational certificate is
valid for the uninterrupted tenure of the director on the board.
A director who does not timely file the written certification or
educational certificate shall be suspended from the board until
he or she complies with the requirement. The board may
temporarily fill the vacancy during the period of suspension.

(c) The association shall retain each director's written
certification or educational certificate for inspection by the
members for 5 years after the director's election. However, the
failure to have the written certification or educational
certificate on file does not affect the validity of any board
action.

(2) If the association enters into a contract or other
transaction with any of its directors or a corporation, firm,
association, or other entity in which an association director is
also a director or officer or is financially interested, the
board must:

(a) Comply with the requirements of s. 617.0832.



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245 (b) Enter the disclosures required by s. 617.0832 into the
246 written minutes of the meeting.

247 (c) Approve the contract or other transaction by an
248 affirmative vote of two-thirds of the directors present.

249 (d) At the next regular or special meeting of the members,
250 disclose the existence of the contract or other transaction to
251 the members. Upon motion of any member, the contract or
252 transaction shall be brought up for a vote and may be canceled
253 by a majority vote of the members present. If the members cancel
254 the contract, the association is only liable for the reasonable
255 value of goods and services provided up to the time of
256 cancellation and is not liable for any termination fee,
257 liquidated damages, or other penalty for such cancellation.

258 (3) An officer, director, or manager may not solicit, offer
259 to accept, or accept any good or service of value for which
260 consideration has not been provided for his or her benefit or
261 for the benefit of a member of his or her immediate family from
262 any person providing or proposing to provide goods or services
263 to the association. If the board finds that an officer or
264 director has violated this subsection, the board shall
265 immediately remove from office the officer or director. The
266 vacancy shall be filled according to law until the end of the
267 period of the end of the director's term of office. However, an
268 officer, director, or manager may accept food to be consumed at
269 a business meeting with a value of less than \$25 per individual
270 or a service or good received in connection with trade fairs or
271 education programs.

272 (4) A director or officer charged by information or
273 indictment with a felony theft or embezzlement offense involving



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the association's funds or property is removed from office. The board shall immediately remove such director or officer from office and shall fill the vacancy according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. However, if the charges are resolved without a finding of guilt or without acceptance of a plea of guilty or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office. A member who has such criminal charges pending may not be appointed or elected to a position as a director or officer.

(5) All associations shall maintain insurance or a fidelity bond for all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this subsection, the term "persons who control or disburse funds of the association" includes, but is not limited to, persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The association shall bear the cost of any insurance or bond.

Section 4. Paragraph (d) is added to subsection (1) and paragraph (a) of subsection (9) of section 720.306, Florida Statutes, are amended to read:

720.306 Meetings of members; voting and election procedures; amendments.—

(1) QUORUM; AMENDMENTS.—

(d) The Legislature finds that the procurement of mortgagee consent to amendments that do not affect the rights or interests



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of mortgagees is an unreasonable and substantial logistical and financial burden on the parcel owners and that there is a compelling state interest in enabling the members of an association to approve amendments to the association's governing documents through legal means. Accordingly, and notwithstanding any provision of this paragraph to the contrary:

1. As to any mortgage recorded on or after July 1, 2013, any provision in the association's governing documents that requires the consent or joinder of some or all mortgagees of parcels or any other portion of the association's common areas to amend the association's governing documents or for any other matter is enforceable only as to amendments to the association's governing documents that adversely affect the priority of the mortgagee's lien or the mortgagee's rights to foreclose its lien or that otherwise materially affect the rights and interests of the mortgagees.

2. As to mortgages recorded before July 1, 2013, any existing provisions in the association's governing documents requiring mortgagee consent are enforceable.

3. In securing consent or joinder, the association is entitled to rely upon the public records to identify the holders of outstanding mortgages. The association may use the address provided in the original recorded mortgage document, unless there is a different address for the holder of the mortgage in a recorded assignment or modification of the mortgage, which recorded assignment or modification must reference the official records book and page on which the original mortgage was recorded. Once the association has identified the recorded mortgages of record, the association shall, in writing, request



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of each parcel owner whose parcel is encumbered by a mortgage of record any information that the owner has in his or her possession regarding the name and address of the person to whom mortgage payments are currently being made. Notice shall be sent to such person if the address provided in the original recorded mortgage document is different from the name and address of the mortgagee or assignee of the mortgage as shown by the public record. The association is deemed to have complied with this requirement by making the written request of the parcel owners required under this subparagraph. Any notices required to be sent to the mortgagees under this subparagraph shall be sent to all available addresses provided to the association.

4. Any notice to the mortgagees required under subparagraph 3. may be sent by a method that establishes proof of delivery, and any mortgagee who fails to respond within 60 days after the date of mailing is deemed to have consented to the amendment.

5. For those amendments requiring mortgagee consent on or after July 1, 2013, in the event mortgagee consent is provided other than by properly recorded joinder, such consent shall be evidenced by affidavit of the association recorded in the public records of the county in which the declaration is recorded.

6. Any amendment adopted without the required consent of a mortgagee is voidable only by a mortgagee who was entitled to notice and an opportunity to consent. An action to void an amendment is subject to the statute of limitations beginning 5 years after the date of discovery as to the amendments described in subparagraph 1. and 5 years after the date of recordation of the certificate of amendment for all other amendments. This subparagraph applies to all mortgages, regardless of the date of



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recordation of the mortgage.

(9) (a) ELECTIONS AND BOARD VACANCIES.—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held; provided, however, that ~~or~~, if the election process allows candidates to nominate themselves ~~voting by absentee ballot~~, in advance of the balloting, the association is not required to allow nominations at the meeting. An election is not required unless more candidates are nominated than vacancies exist.

Except as otherwise provided in the governing documents, boards of directors must be elected by a plurality of the votes cast by eligible voters.

Section 5. Subsection (1) of section 720.307, Florida Statutes, is amended, present subsections (2) through (4) are renumbered as subsections (4) through (6), respectively, and new subsections (2) and (3) are added to that section, to read:

720.307 Transition of association control in a community.—
With respect to homeowners' associations:

(1) Members other than the developer are entitled to elect at least a majority of the members of the board of directors of the homeowners' association when the earlier of the following events occurs:

(a) Three months after 90 percent of the parcels in all phases of the community that will ultimately be operated by the homeowners' association have been conveyed to members; ~~or~~

(b) Such other percentage of the parcels has been conveyed



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to members, or such other date or event has occurred, as is set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels;

(c) Two years after the developer has ceased construction or ceased to offer parcels for sale in the ordinary course of business;

(d) Upon the developer abandoning or deserting its responsibility to maintain and complete the advertised amenities or infrastructure. There is a rebuttable presumption that the developer has abandoned and deserted the property if the developer has not engaged in construction or sale of properties or has unpaid assessments or guaranteed amounts under s. 720.308 for a period of more than 2 years;

(e) Upon the developer filing a petition seeking protection under chapter 7 of the federal Bankruptcy Code;

(f) Upon the developer losing title to the property through a foreclosure, or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of developer rights and responsibilities; or

(g) Upon a receiver for the developer being appointed by a circuit court and not being discharged within 30 days after such appointment, unless the court determines within 30 days after such appointment that transfer of control would be detrimental to the association or its members.

For purposes of this section, the term "members other than the developer" shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.



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(2) Members other than the developer are entitled to elect at least one member of the board of directors of the homeowners' association if 15 percent of the parcels in all phases of the community which will ultimately be operated by the association have been conveyed to members.

(3) Members other than the developer are entitled to elect at least two members of the board of directors of the homeowners' association if 50 percent of the parcels in all phases of the community which will ultimately be operated by the association have been conveyed to members.

Section 6. Subsection (5) is added to section 720.3075, Florida Statutes to read:

720.3075 Prohibited clauses in association documents.—

(5) The public policy described in subsection (1) prohibits the inclusion or enforcement of clauses that allow a developer the unilateral ability and right to make changes to the governing documents prior to transition of homeowners' association control in a community from the developer to the nondeveloper members, as set forth in s. 720.307, that unreasonably modify the original plan of development, prejudice the rights of parcel owners to use and enjoy the benefits of the common property without the consent of the parcels owners, radically change the community scheme, reduce the size of the common area, or limit the access of parcel owners to the common area.

Section 7. Paragraph (b) of subsection (2) of section 720.3085, Florida Statutes, is amended to read:

720.3085 Payment for assessments; lien claims.—

(2)



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(b) A parcel owner is jointly and severally liable with the previous parcel owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the present parcel owner may have to recover any amounts paid by the present owner from the previous owner. For the purposes of this subsection, the term "previous owner" shall not include an association that acquires title to a delinquent property through foreclosure or by deed in lieu of foreclosure. The present parcel owner's liability for unpaid assessments is limited to any unpaid assessments that accrued before the association acquired title to the delinquent property through foreclosure or by deed in lieu of foreclosure.

Section 8. Section 720.315, Florida Statutes, is amended to read:

720.315 Passage of ~~special~~ assessments.—

(1) Before turnover, if the board of directors controlled by the developer proposes a budget which requires assessments against parcel owners which are 5 percent greater than the assessments for the preceding fiscal year, the budget must be approved by a majority of all the members other than the developer at a duly called special meeting of the membership at which a quorum is present. For purposes of this section, the term "members other than the developer" does not include builders, contractors, or other persons who purchase a parcel for the purpose of constructing improvements thereon for resale.

(2) Before turnover, the board of directors controlled by the developer may not levy a special assessment unless a majority of the parcel owners other than the developer has approved the special assessment by a majority vote at a duly



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called special meeting of the membership at which a quorum is present.

Section 9. This act shall take effect July 1, 2013.

===== 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 homeowners' associations; amending s. 468.436, F.S.; providing grounds for disciplinary actions against community association managers; amending s. 720.303, F.S.; requiring official records to be maintained within a specified distance of the association for a specified time; authorizing associations to maintain such records online; requiring associations to allow a member to use a portable device to make an electronic copy of the official records and prohibiting associations from charging a fee for such an electronic copy; removing provisions allowing the association to charge fees for personnel costs related to records access; requiring budgets to designate permissible uses of reserve accounts; requiring a community association manager, or the association in the absence of a community association manager, to report certain information to the Division of Florida Condominiums, Timeshares, and Mobile Homes; providing an expiration date for the



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reporting requirements; creating s. 720.3033, F.S.;
requiring association directors to file with the
association secretary written certification that they
have read certain association documents, will uphold
the documents, and will uphold their fiduciary
responsibility to the members; providing for an
educational certificate in lieu of written
certification; providing that such certification is
valid while the director is on the board; providing
penalties for failure to file such certification;
requiring the association secretary to retain such
certification for 5 years; requiring the board to
follow specified procedures relating to contracts or
transactions between the association and certain
entities; providing for disclosure of the contract or
transaction to members; providing for the cancellation
of such contract or transaction under certain
circumstances; prohibiting any association officer,
director, or manager from soliciting or receiving
certain personal benefits from any person providing or
offering to provide goods or services to the
association and providing for removal for knowingly
taking such action; providing an exception; providing
for the removal of any director or officer charged
with a felony theft or embezzlement offense involving
association funds or property; providing for the
reinstatement of such person under certain
circumstances; prohibiting a member with pending
criminal charges from certain positions; requiring the



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association to maintain insurance or a bond to cover funds that will be in the custody of the association or its management agent; providing a definition; amending s. 720.306, F.S.; revising provisions relating to the amendment of homeowners' association declarations; providing legislative findings and a finding of compelling state interest; providing criteria for consent or joinder to an amendment; requiring notice to mortgagees regarding proposed amendments; providing criteria for notification; providing for voiding certain amendments; revising procedures for the election of directors; amending s. 720.307, F.S.; providing additional circumstances for authorizing members to elect a majority of association board members; providing circumstances under which members other than the developer are authorized to elect a specified number of members to the board of directors; amending s. 720.3075, F.S.; providing public policy regarding prohibited clauses in association documents; providing prohibited clauses in association documents; amending s. 720.315, F.S.; prohibiting increases in assessments levied pursuant to the annual budget under certain circumstances; providing an effective date.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Home Owner Assn.

Bill Number SB580
(if applicable)

Name DICK NUNTEL

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT

Address 307 W. PARK AVE Suite 214

Phone 850/681-2176

Street

307 West Park Ave - FL 32301

City

State

Zip

E-mail afcd@efcd.com

Speaking: ☐ For ☒ Against ☐ Information

Representing ASSN. of Fd. Community Developers, 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

4-10-13

Meeting Date

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

Topic _____

Bill Number 580

(if applicable)

Name Richard Pinsky

Amendment Barcode _____

(if applicable)

Job Title _____

Address 106 E. College Ave. #1200

Street

Phone _____

Tallahassee

City

State

Zip

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic Homeowners Associations

Bill Number 580
(if applicable)

Name Yeline Goin

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address ~~000~~ 204 S. Monroe St
Street

Phone 850-284-2460

Tall FL 32312
City State Zip

E-mail ygoinebecker-
pollakoff.com

Speaking: ☒ For ☐ Against ☐ Information

Representing CALL- Community Association Leadership Lobby

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)

APPEARANCE RECORD

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

4/9

Meeting Date

Topic HOA

Bill Number SB 580
(if applicable)

Name Doug Buck

Amendment Barcode _____
(if applicable)

Job Title _____

Address 201 E Park Ave
Street

Phone 221-1316

City _____ State _____ Zip 32301

E-mail

Speaking: ☐ For ☒ Against ☐ Information

Representing FLORIDA HOME BUILDERS ASSN

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/9/13
Meeting Date

Topic HOAs Bill Number SB 580
(if applicable)

Name Keith Hetrick Amendment Barcode _____
(if applicable)

Job Title OF Counsel Broad and Cassel

Address 215 So Monroe Suite 400 Phone 251-1838
Street

Tall. FL 32301 E-mail khhetrick@broadandcassel.com
City State Zip

Speaking: ☐ For ☒ Against ☒ Information waive in opposition

Representing FHBA & AFCD

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/9/13

Meeting Date

Topic _____

Bill Number SB580
(if applicable)

Name Diana Ferguson

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 119 S Monroe St Ste 202

Phone 850-641-6788

Street

Tall

City

FL

State

32301

Zip

E-mail dferguson@reghlaw.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Community Advocacy 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 (10/20/11)



The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

CC: Tom Yeatman , Staff Director
Ann Whittaker, Administrative Assistant

Subject: Committee Agenda Request

Date: April 3, 2013

I respectfully request that **Senate Bill #580**, relating to Homeowners' Associations, be placed on the:

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

A handwritten signature in black ink, reading "Alan Hays", is written over a horizontal line.

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 580

INTRODUCER: Community Affairs Committee; Regulated Industries Committee; and Senator Hays

SUBJECT: Homeowners' Associations

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Oxamendi	Imhof	RI	Fav/CS
2.	Oxamendi	Yeatman	CA	Fav/CS
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 580 revises requirements for the governance of homeowners' associations. The bill provides additional grounds for disciplining licensed community association managers, including failing to report specified information to the Department of Business and Professional Regulation (department), and failing to comply with the governing statutes for condominium, cooperative, and homeowners' associations. Regarding the homeowner's access to official records of the association, the bill:

- Requires that the official records must be maintained for seven years and maintained within 45 miles of the community or within the same county;
- Permits associations to maintain the records electronically;
- Permits members to photograph records using a camera or other electronic device at no charge;
- Permits associations to charge copying costs and personnel costs required to retrieve and copy records that exceed one half hour, but the cost may not exceed \$20 per hour, except that personnel costs may not be charged for requests that result in 25 or fewer pages; and
- Decreases the cost of copies provided on the association's photocopier from 50 cents per page to 25 cents per page.

The bill requires an annual reporting requirement for homeowners' associations. It requires the department to establish an Internet-based registration system and to submit an annual report to the Governor and, the President of the Senate, and the Speaker of the House of Representatives. This reporting requirement would expire on July 1, 2016, unless reenacted by the Legislature.

The bill provides that associations do not have to allow nominations at the meeting where the election is to be held if it permits nominations in advance of the balloting. It also provides that an election is not required unless more candidates are nominated than board vacancies exist.

The bill provides for the amending of the governing documents of the association without the procurement of mortgagee consent.

The bill limits the liability of associations for assessments that came due before the association acquired title through a foreclosure.

Regarding the officers and directors of homeowners' associations, the bill requires:

- Newly elected directors to certify that they have read, and will uphold, the governing documents;
- Contracts with interested directors to be disclosed and approved by a two-thirds vote of the board, and permits the contract to be cancelled by a vote of the members;
- The removal of officers and directors who solicit or accept things of value from anyone providing or offering to provide services to the association, with exceptions;
- The removal of officers or directors charged with theft or embezzlement of association funds; and
- Associations to maintain insurance or fidelity bonding.

Regarding developer control of homeowners' associations, the bill provides:

- Additional events that trigger control of the association by the non-developer members, including when the developer has ceased constructing or selling of parcels for two years, has failed to complete the amenities and infrastructure, has filed chapter 7 bankruptcy, has lost title through foreclosure, or when a receiver has been appointed;
- Entitles homeowners to elect at least one member to the board once 15 percent of the parcels are conveyed to non-developer members, and two members once 50 percent of the parcels are conveyed to non-developer members;
- Prohibits assessment increases in developer-controlled associations, unless the increase is approved by a majority of the non-developer members; and
- Prohibits certain clauses in the governing documents that permit the developer to make unilateral changes to the governing documents.

The bill provides an effective date of July 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 468.436, 720.303, 720.3033, 720.306, 720.307, 720.3075, 720.3085, and 720.315.

II. Present Situation:

Homeowners' Associations

Florida law provides statutory recognition to corporations that operate residential communities in this state and procedures for operating homeowners' associations, and protects the rights of association members without unduly impairing the ability of such associations to perform their functions.¹

A "homeowners' association" is defined as a:

Florida corporation responsible for the operation of a community or a mobile home subdivision in which the voting membership is made up of parcel owners or their agents, or a combination thereof, in which membership is a mandatory condition of parcel ownership, and which is authorized to impose assessments that, if unpaid, may become a lien on the parcel.²

Homeowners' associations are also governed by ch. 607, F.S., relating to for-profit corporations, or by ch. 617, F.S., relating to not-for-profit corporations.³

Section 720.301(4), F.S., defines the terms "declaration of covenants," or "declaration," to mean:

a recorded written instrument in the nature of covenants running with the land which subjects the land comprising the community to the jurisdiction and control of an association or associations in which the owners of the parcels, or their association representatives, must be members.

Section 720.301(8), F.S., defines the term "member" to mean "a member of an association, and may include, but is not limited to, a parcel owner or an association representing parcel owners or a combination thereof."

Section 720.301(10), F.S., defines the term "parcel owner" to mean the record owner of legal title to a parcel.

Section 720.301(11), F.S., defines the term "voting interest" to mean "the voting rights distributed to the members of the homeowners' association, pursuant to the governing documents."

Homeowners' associations are administered by a board of directors whose members are elected.⁴ The powers and duties of homeowners' associations include the powers and duties provided in ch. 720, F.S., and in the governing documents of the association, which include recorded declaration of covenants, bylaws, articles of incorporation, and duly adopted amendments to

¹ See s. 720.302(1), F.S.

² Section 720.301(9), F.S.

³ Section 720.302(5), F.S.

⁴ See ss. 720.303 and 720.307, F.S.

these documents.⁵ The officers and members of a homeowners' association have a fiduciary relationship to the members who are served by the association.⁶

State Regulation of Homeowners' Associations

Unlike condominium and cooperative associations,⁷ which are regulated by the Division of Florida Condominiums, Timeshares, and Mobile Homes (division) within the Department of Business and Professional Regulation (department), homeowners' associations are not regulated by a state agency.

Section 720.302(2), F.S., expresses the legislative intent regarding the regulation of homeowners' associations:

The Legislature recognizes that it is not in the best interest of homeowners' associations or the individual association members thereof to create or impose a bureau or other agency of state government to regulate the affairs of homeowners' associations. However, in accordance with s. 720.311, the Legislature finds that homeowners' associations and their individual members will benefit from an expedited alternative process for resolution of election and recall disputes and presuit mediation of other disputes involving covenant enforcement and authorizes the department to hear, administer, and determine these disputes as more fully set forth in this chapter. Further, the Legislature recognizes that certain contract rights have been created for the benefit of homeowners' associations and members thereof before the effective date of this act and that ss. 720.301-720.407 are not intended to impair such contract rights, including, but not limited to, the rights of the developer to complete the community as initially contemplated.

The number of homeowners' associations or persons living in homeowners' associations in Florida is unknown. Although homeowners' associations are required to file articles of incorporation with the Division of Corporations (division) in the Department of State, the division cannot identify corporations that are homeowners' associations under ch. 720, F.S.⁸

Division of Florida Condominiums, Timeshares, and Mobile Homes

The division is afforded complete jurisdiction to investigate complaints and enforce compliance with ch. 718, F.S., and ch. 719, F.S., with respect to condominium and cooperative associations that are still under developer control.⁹ The division also has the authority to investigate complaints against developers involving improper turnover or failure to turnover, pursuant to s. 718.301, F.S. After control of the condominium is transferred from the developer to the unit owners, the division's jurisdiction is limited to investigating complaints related to financial issues, elections, and unit owner access to association records pursuant to s. 718.111(12), F.S.¹⁰

⁵ See ss. 720.301 and 720.303, F.S.

⁶ Section 720.303(1), F.S.

⁷ See chs. 718 and 719, F.S., respectively.

⁸ Homeowners' Association Task Force, *Final Report of the Homeowners' Association Task Force*, February 2004, page 5. A copy of the report is available on the internet at <http://www.ccfj.net/DBPRTFfinalreport.pdf> (last visited March 28, 2013).

⁹ Section 718.501(1), F.S., and s. 719.501(1), F.S., respectively.

¹⁰ Section 718.501(1), F.S. See Peter M. Dunbar, *The Condominium Concept: A Practical Guide for Officers, Owners, Realtors, Attorneys, and Directors of Florida Condominiums*, 12 ed. (2010-2011) s. 14.2.

As part of the division's authority to investigate complaints, s. 718.501(1), F.S., for condominium and s. 719.501(1)(c), F.S., for cooperatives, authorize the division to subpoena witnesses, take sworn statements from witnesses, issue cease and desist orders, and impose civil penalties (fines) against developers and associations.

In regards to homeowners' associations, the division's authority is limited to arbitration of recall election disputes.¹¹

Community Association Management

Community association managers are regulated and licensed pursuant to part VIII of ch. 468, F.S. To be licensed, a community association manager must satisfactorily complete an examination for licensure.

Section 468.431(2), F.S., defines "community association management" to mean:

any of the following practices requiring substantial specialized knowledge, judgment, and managerial skill when done for remuneration and when the association or associations served contain more than 10 units or have an annual budget or budgets in excess of \$100,000: controlling or disbursing funds of a community association, preparing budgets or other financial documents for a community association, assisting in the noticing or conduct of community association meetings, and coordinating maintenance for the residential development and other day-to-day services involved with the operation of a community association.

A license is not required for persons who perform clerical or ministerial functions under the direct supervision and control of a licensed manager or who only perform the maintenance of a community association and do not assist in any of the management services.¹²

Inspection and Copying of Homeowners' Association Records

Section 720.303(4), F.S., requires homeowners' associations to maintain the official records of the association. Section 720.303(5), F.S., requires that a homeowners' association permit members to inspect and copy its official records within 10 days of a written request for access. The official records must be maintained within the state and must be open to inspection and available for photocopying by members or their authorized agents at reasonable times and places within 10 business days after receipt of a written request for access.

If the association has a photocopy machine available where the records are maintained, it must provide parcel owners with copies on request during the inspection if the entire request is limited to no more than 25 pages. The association may impose fees to cover the cost of providing copies of the official records, including, without limitation, the cost of copying. The association may also charge any reasonable costs involving personnel fees and charges at an hourly rate to cover the association's or vendors administrative costs.

¹¹ See s. 720.303(10)(d), F.S.

¹² Section 468.431(2), F.S.

Any failure by the association to comply with a request in a timely fashion creates a rebuttable presumption that the association willfully failed to do so, and entitles the requesting party to actual damages, or a minimum fine of \$50 per calendar day, for up to 10 calendar days, commencing on the eleventh business day.

Reserves for Capital Expenditures and Deferred Maintenance

Reserve accounts are separate portion of the association's budget in which funds are set aside for capital expenditures and deferred maintenance. Reserves are used to fund expenses that do not occur on a regular basis, such as repaving roads.¹³ Associations are required to have reserve accounts if they were initially established by the developer or if the membership has affirmatively elected to provide for reserves by a majority of the total voting interests of the association at a duly called meeting of the membership or by the written consent.¹⁴ Associations may terminate and remove from the budget reserve accounts upon the approval of a majority of the total voting interests of the association.¹⁵ Current law does not specify that the budget must designate the components for which the reserve accounts may be used.

Post-Election Certification of Directors

Chapter 720, F.S. does not provide for the post-election certification of directors of the homeowners' association as is required for members of a condominium association's board.

Section 718.112(2)(d)4.b., F.S., outlines a post-election certification requirement for newly elected condominium board members. Within 90 days after being elected or appointed, a new board member must certify that he or she:

- Has read the declaration of condominium for all condominiums operated by the association and the association's articles of incorporation, bylaws, and current written policies;
- Will work to uphold such documents and policies to the best of his or her ability; and
- Will faithfully discharge his or her fiduciary responsibility to the association's members.

As an alternative to a written certification, the newly elected or appointed director may submit a certificate of satisfactory completion of the educational curriculum within one year before the election or 90 days after the election or appointment.¹⁶ The curriculum must be administered by a condominium education provider approved by the division.¹⁷ A certification is valid and does not have to be resubmitted as long as the director continuously serves on the board.

A board member is suspended from service on the board until he or she files the written certification or submits a certificate of completion of the educational curriculum.¹⁸ If a

¹³ See Peter M. Dunbar and Charles F.S. Dudley, *The Law of Florida Homeowners' Associations*, 9th ed. (2012-2013) s. 5.3.

¹⁴ Section 720.303(6)(d), F.S.

¹⁵ Section 720.303(6)(b), F.S.

¹⁶ *Id.* The department's Internet site provides a listing of approved educational providers. See Division of Florida Condominiums, Timeshares, and Mobile Homes, *Approved Education Providers*, available at <http://www.myfloridalicense.com/dbpr/lsc/condominiums/ApprovedEducationProviders.html> (Last visited March 28, 2013).

¹⁷ Section 718.112(2)(d)3.b., F.S.

¹⁸ *Id.*

suspension occurs, the board may temporarily fill the vacancy during the period of suspension. The secretary of the association must keep the written certification or educational certificate for inspection by the members for five years after a director's election or appointment.¹⁹ The validity of any action by the condominium board is not affected by the association's failure to have the certification on file.²⁰

Director Conflicts of Interest

Section 617.0832, F.S., provides for the process for the disclosure and approval of conflicts of interest related to contracts between the board of a not-for-profit corporation and a member or members of the board. Section 617.0832(1), F.S., provides that such a contract is not void or voidable, if:

- The relationship is disclosed to the board or committee that approves, or ratifies the contract or transaction by a vote or consent that does not count the interested director or directors;
- The fact of such relationship or interest is disclosed or known to the members of the board or committee entitled to vote on such contract or transaction, if any, and they authorize, approve, or ratify it by vote or written consent; or
- The contract or transaction is fair and reasonable as to the corporation at the time it is authorized by the board, a committee, or the members.

Sections 617.0832(2) and (3), F.S., require an affirmative vote of a majority of the directors on the board of directors, or on the committee, who have no relationship or interest in the transaction or contract. The contract or transaction may not be approved or ratified by a single director.

A quorum is present for the purpose of taking action if a majority of the directors who have no relationship or interest in the transaction vote to authorize, approve, or ratify the transaction.

The presence of, or a vote cast by, a director having a relationship or interest in the transaction does not invalidate the approval or ratification if the transaction is otherwise authorized, approved, or ratified as provided in s. 617.0832(1), F.S.

Amendments to the Governing Documents

The process for amending the governing documents of a homeowners' associations is determined by the association's articles of incorporation and its bylaws. Unless the governing documents provide otherwise, the governing documents may be amended by an affirmative vote of two-thirds of the voting interests.²¹ An amendment may materially and adversely alter the proportionate voting interest appurtenant to a parcel or increase the proportion or percentage by which a parcel shares in the common expenses of the association if the record parcel owner and all record owners of liens on the parcels join in the execution of the amendment or the governing documents as originally recorded, or chs. 617 or 720, F.S., permit such an amendment.²²

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 720.306(1)(b), F.S.

²² Section 720.306(1)(c), F.S.

A developer may reserve the power in the declaration of covenants to amend or modify the restrictions in the governing documents. However, the developer must exercise that power in a reasonable manner so as not to destroy the general plan of development.²³ An amendment is unenforceable if it alters the “relationship of lot owners to each other and the right of individual control over one’s own property.”²⁴ The consent of the owners is required to amend the governing documents in a manner that would prejudice the rights of parcel owners to use and enjoy the benefits of the common property.²⁵ The ability of the developer and the association to change the community scheme is also limited by the association’s articles of incorporation and its bylaws.²⁶

Elections

Section 720.306(9), F.S., provides the process for elections to the board. Section 720.306(9)(a), F.S., requires that elections of directors must be conducted according to the procedures set forth in the governing documents of the association. It provides that all members are eligible to serve on the board. A member may nominate himself or herself as a candidate for the board at a meeting where the election is to be held or, if the election process allows voting by absentee ballot, in advance of the balloting.

Representatives for homeowners’ associations have advised that many associations require, in their governing documents, that nominations for a seat on the board must be made before the meeting at which the election will be conducted. This gives the association the ability to produce ballots for the election. However, s. 720.306(9)(a), F.S., requires that that associations must still allow nominations from the floor, even if the election process allows nominations in advance of the balloting.

Transition of Association Control

Section 720.307, F.S., provides the situations in which the parcel owners other than the developer are entitled to elect at least a majority of the members of the board of directors:

- Three months after 90 percent of the parcels that will be operated ultimately by the association have been conveyed to purchasers; or
- When such other percentage of the parcels has been conveyed to members, or such other date or event has occurred, as is set forth in the governing documents in order to comply with the requirements of any governmentally chartered entity with regard to the mortgage financing of parcels.

Builders, contractors, or others who purchase a parcel for the purpose of constructing improvements on the parcel for resale are not considered members other than the developer.²⁷

In contrast, s. 718.301(1), F.S., provides the following circumstances that require transition of control of the condominium association from the developer to the non-developer unit owners:

²³ *Klinow v. Island Court at Boca west Property Owners’ Ass’n, Inc.*, 64 So. 3d 177 (Fla. 4th D.C.A. 2011).

²⁴ *Id.* at 180.

²⁵ *Blue Reef Holding Corp., Inc. v. Coyne*, 645 So. 2d 1053 (Fla. 4th D.C.A. 1994).

²⁶ *S&T Anchorage, Inc. v. Lewis*, 575 So. 2d 696 (Fla. 3rd D.C.A. 1991).

²⁷ Section 720.307(1), F.S.

- Three years after 50 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;
- Three months after 90 percent of the units that will be operated ultimately by the association have been conveyed to purchasers;
- When all the units that will be operated ultimately by the association have been completed, some of them have been conveyed to purchasers, and none of the others are being offered for sale by the developer in the ordinary course of business;
- When some of the units have been conveyed to purchasers and none of the others are being constructed or offered for sale by the developer in the ordinary course of business;
- When the developer files a petition seeking protection in bankruptcy;
- When a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the association or its members; or
- Seven years after recordation of the declaration of condominium with some conditions.

Liability for Unpaid Assessments

Section 720.3085(2)(b), F.S., provides that a parcel owner is jointly and severally liable with the previous parcel owner of all unpaid assessments that came due up to the time of transfer of title. The present parcel owner may recover any amounts paid by the present parcel owners from the previous owner. Section 718.116(1), F.S., provides a substantively similar liability for unpaid assessments for present and previous condominium unit owners. In *Aventura Management, L.L.C., v. Piaggia Ocean Condominium Association, Inc.*,²⁸ the Third District Court of Appeal held that a condominium association that had acquired title to a unit through foreclosure, was a previous owner for purposes of liability under s. 718.116(1), F.S. Consequently, the present owner of the unit, who had acquired the title from the association, was not liable for the unpaid assessments for time before the association acquired title.

Assessment Increases in a Developer-Controlled Association

Section 720.315, F.S., provides that, before turnover, the board of directors controlled by the developer may not levy a special assessment unless a majority of the parcel owners other than the developer have approved the special assessment by a majority vote at a duly called special meeting of the membership at which a quorum is present. Chapter 720, F.S., does not provide a similar limitation for increases of regular assessments.

III. Effect of Proposed Changes:

Community Association Managers

The bill amends s. 468.436(2)(b), F.S., to authorize the division to discipline community association managers for failure to report to the division as required in s. 720.303(13), F.S., as provided in the bill.

²⁸ *Aventura Management, L.L.C., v. Piaggia Ocean Condominium Association, Inc.*, 105 So. 3d 637 (Fla. 3rd D.C.A. 2013).

The bill also authorizes the division to discipline community association manager any provision of chs. 718, 719, and 720, F.S., during the course of performing community association management under a contract with an association.

Official Records

The bill amends s. 720.303(5), F.S., to require homeowners' associations to maintain official records seven years. It requires that the records must be maintained within 45 miles of the community or within the same county. It also permits associations the option of making records available electronically via the Internet or by allowing the records to be viewed on a computer screen and printed upon request.

The bill amends s. 720.303(5), F.S., to require homeowners' associations to permit members or their authorized representatives to photograph records using portable devices, tablets, portable scanners, and other devices capable of taking photographs. The member cannot be charged for taking the photograph.

The bill deletes the provision in s. 720.303(5)(c), F.S., that permits the association to impose fees to cover the cost of providing copies of the official records, including, without limitation, the cost of copying. It permits the association to charge copying costs and personnel costs required to retrieve and copy records that exceed one half hour may not exceed \$20 per hour.

The bill prohibits associations from charging personnel costs for records requests that result in 25 or fewer pages.

It also decreases the cost of copies provided on the association's photocopier from 50 cents per page to 25 cents per page.

The bill deletes the provision that permits the association to charge any reasonable costs involving personnel fees and charges at an hourly rate to cover the association's or vendors administrative costs. The bill deletes the provision that permits the association to charge for the actual cost using community association management personnel to make copies of official records. Instead, it permits the association to use an outside duplicating service to make copies of official records, and to charge the actual cost of copying as supported by an invoice.

Reserves for Capital Expenditures and Deferred Maintenance

The bill amends s. 720.303(6)(d), F.S., to require that, if reserve accounts are established by the developer, a homeowners' association's budget must designate the components for which the reserve accounts may be used. This provision does not require that the association establish or maintain a reserve account.

Reporting Requirement

The bill creates s. 720.303(13), F.S., to require community association managers, or the association if there is no manager, to report the following information to the division annually:

- The legal name of the association.
- The Federal Employee Identification Number of the association.
- The mailing and physical addresses of the association.

- The number of parcels.
- The total amount of revenues and expenses from the annual budget of the association.

For associations in which the developer retains control, the following additional information is required:

- The legal name of the developer.
- The mailing address of the developer.
- The number of parcels the developer owns as of the date of reporting.

The bill requires the department to establish and implement an Internet-based registration system by December 1, 2013 for associations to use for reporting the required information.

The bill requires the department to submit a report, on or before December 1, 2013, to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing the homeowner association data reported as required by the bill.

The bill authorizes the department to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement this reporting requirement.

The reporting requirement in s. 720.303(13), F.S., would expire on July 1, 2016, unless reenacted by the Legislature.

Post-Election Certification of Directors

The bill creates s. 720.3033(1), F.S., to require the post-election certification of homeowners' association directors. These provisions are similar to the post-election certification requirement for members of a condominium association board in s. 718.112(2)(d)4.b., F.S.

The bill requires that newly elected directors must certify in writing, within 90 days, that they have read the association's governing documents and policies, that they will work to uphold the documents and policies, and that they will faithfully discharge their fiduciary responsibility to the associations' members. A director who fails to comply with the certification requirement is suspended from the board until he or she complies. The association must maintain a copy of the certification for 5 years after the director's election.

Contracts with Members of the Board

The bill creates s. 720.3033(2), F.S., to provide that contracts between homeowners' associations and directors, or entities in which a director has a financial interest, must:

- Comply with conflict of interest procedures outlined in s. 617.0832, F.S.;
- Comply with disclosure requirements outlined in s. 617.0832, F.S.;
- Be approved by a two-thirds vote of the directors present; and
- Be disclosed at the next regular or special meeting of the members.

If any member makes a motion at the next regular or special meeting of the members, the contract may be canceled by a majority vote of the members present.²⁹ If the contract is canceled, the association is only liable for the reasonable value of goods and service previously provided and is not liable for any fee or damages connected to the cancellation.

Prohibited Solicitations by Board Members

The bill creates s. 720.3033(3), F.S., to provide that officers, directors and managers may not solicit or accept anything of value from any person providing or offering to provide goods or services to the association. The bill requires that the board immediately remove from office any officer or director upon a finding by the board that the officer or director has violated this subsection.

The bill provides an exception from the prohibition for accepting food to be consumed at a business meeting with a value of less than \$25 per individual or services or items in connection to trade fairs or education programs.

Removal of Board Members for Crimes

The bill creates s. 720.3033(4), F.S., to provide that the board immediately remove from office any officer or director who is charged with felony theft or embezzlement involving association funds. If the charges are resolved without a finding of guilt or without acceptance of a plea of guilt or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office. It is not clear whether a director must be removed from office if the criminal case is resolved without an adjudication of guilt.

Insurance or Fiduciary Bond Requirement

The bill creates s. 720.3033(5), F.S., to require homeowners' associations to maintain insurance or fidelity bonding for anyone who controls or disburses association funds, which includes persons authorized to sign check on behalf of the association, and the president, secretary, and treasurer of the association. The association would bear the cost of the bond or insurance.

Amendment of Homeowner Association Documents

The bill creates s. 720.306(1)(d), F.S., to provide the legislative findings that the procurement of consent or joinder to amendments that do not materially affect the rights or interests of mortgagees is unreasonable and a substantial burden on homeowners' and associations. The bill provides that there is a compelling state interest in enabling homeowners' association members to approve amendments. This provision will facilitate attempts by homeowners to amend their documents without the approval of all mortgagees when a change to the association documents does not adversely affect the mortgagee's rights or interests.

The bill limits the enforceability of any mortgage or any provision or amendment to declarations, articles of incorporation, or bylaws of a homeowners' association recorded on or after July 1, 2013, or amendments thereto, that require the consent or joinder of some or all mortgagees of units or any other portion of the association property for those mortgages. Any such provisions

²⁹ Section 720.306(1)(a), F.S., provides that a quorum at a meeting of the members is 30 percent of the total voting interests, unless a lower number is provided in the bylaws. Decisions that require a vote of the members must be made by the concurrence of at least a majority of the voting interests present, in person or by proxy, at a meeting at which a quorum has been attained, unless otherwise provided in ch. 720, F.S., or in the articles of incorporation or bylaws.

or amendments recorded prior to July 2013, will remain enforceable. As to provisions or amendments created after July 1, 2013, the bill provides that provisions requiring consent or joinder are enforceable only if the provisions adversely affect the priority of the mortgagee's lien or the mortgagee's right to foreclose its lien or that otherwise materially affect the rights and interests of the mortgagees.

The bill provides a process for obtaining addresses of mortgagees and contacting them to obtain their consent or joinder. The association may rely upon the public records to identify the holders of outstanding mortgages. It may also rely on the address in the original recorded mortgage document unless there is a different address in a recorded assignment or modification of the mortgage.

Failure of any mortgagee to respond to a request for the consent or joinder to a proposed amendment within 60 days after the date that a request is sent to the mortgagee is deemed to have consented to the amendment.

For any amendments that require mortgage consent after July 1, 2013, the consent must be evidenced by an affidavit of the association recorded in the public records of the county in which the declaration is recorded.

An amendment may be voidable by any mortgagee who was entitled to notice and an opportunity to consent. An action to void an amendment is subject to a 5 year statute of limitations from the date of discovery or the date of recordation. This provision applies to all mortgages, regardless of the date of recordation of the mortgage.

There are comparable provisions for the amendment of condominium documents in s. 718.110(11), F.S.

Elections

The bill amends s. 720.306(9)(a), F.S., to provide that the association does not have to allow nomination at the meeting where the election is to be held if it permits members to nominate themselves in advance of the balloting.

The bill also provides that an election is not required unless more candidates are nominated than board vacancies exist.

Transition of Association Control

The bill amends s. 720.307(1), F.S., to provide the following additional events which would entitle the non-developer parcel owners to elect the majority of the members of the board:

- Two years after the developer has ceased construction or ceased to offer parcels for sale in the ordinary course of business;
- When the developer has abandoned or deserted his or her responsibility to maintain and complete the advertised amenities or infrastructure. There is a rebuttable presumption that the developer has abandoned and deserted the property, if the developer has not engaged in construction or sale of properties or has unpaid assessments or guaranteed amounts under s. 720.308, F.S., for a period of more than two years;

- When the developer files a petition seeking protection in bankruptcy under chapter 7 of the United States Bankruptcy Code;
- When the developer loses title to the property either through a foreclosure action or the transfer of a deed in lieu of foreclosure, unless the successor owner has accepted an assignment of developer rights and responsibilities; and
- When a receiver for the developer is appointed by a circuit court and is not discharged within 30 days after such appointment, unless the court determines within 30 days after appointment of the receiver that transfer of control would be detrimental to the association or its members.

The bill also amends s. 720.307(2), F.S., to provide that non-developer parcel owners are entitled to elect at least one member of the board of directors once 15 percent of the parcels in all phases of the community have been conveyed to members.

The bill also amends s. 720.307(3), F.S., to provide that non-developer parcel owners are entitled to elect at least two members of the board of directors once 50 percent of the parcels in all phases of the community have been conveyed to members.

Prohibited Clauses

The bill amends s. 720.3075, F.S., to prohibit the developer from making the following unilateral changes to the governing documents before the association is controlled by nondeveloper members:

- Unreasonably modifying the original plan of development;
- Prejudicing the rights of parcel owners to use and enjoy the benefits of the common property without the consent of the parcel owners;
- Radically changing the community scheme;
- Reducing the size of the common area; or
- Limiting the access of parcel owners to the common area.

Assessments

The bill amends s. 720.3085(2)(b), F.S., to provide that, for purposes of the liability of the previous parcel owner for unpaid assessments, the association is not considered a previous owner. An association that acquires title to a parcel through foreclosure, or by a deed in lieu of foreclosure, would not be liable for unpaid assessments that came due before the association acquired the title to the parcel. The bill would limit the liability of the present parcel owner to any assessments that came due before the association acquired title.

Assessment Increases in a Developer-Controlled Association

The bill amends s. 720.315, F.S., to limit the ability of developer-controlled associations to increase assessments. The bill requires that any assessment that is 5 percent greater than the assessments for the preceding fiscal year must be approved by a majority of the non-developer members. The non-developer members do not include builders, contractors, or other persons who purchase a parcel for the purpose of construction improvements thereon for resale.

Effective Date

The bill would take effect on July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The bill would impose several requirements on the governance and administration of homeowners' associations. The bill may affect existing homeowners' associations governing documents. The governing documents of homeowners' associations are generally considered to be contracts.³⁰ To the extent that the provisions of this bill may be applied retroactively, provisions of the bill may prompt concerns regarding the unconstitutional impairment of contract.

Article I, Section 10 of the United States Constitution prohibits state legislatures from enacting laws impairing the obligation of contracts. As early as 1880, the federal courts recognized that the contract clause does not override the police power of the states to establish regulations to promote the health, safety, and morals of the community.³¹ The severity of the impairment is a key issue when evaluating whether a state law impairs a contract.³² In *Exxon Corp. v. Eagerton*, 462 U.S. 176 (1983), the Supreme Court suggested it would uphold legislation that imposes a generally applicable rule of conduct designed to advance a broad societal interest that only incidentally disrupts existing contractual relationships.

Article I, s. 10 of the Florida Constitution also prohibits the state from enacting laws impairing the obligation of contracts. While Florida courts have historically strictly applied this restriction, they have exempted laws when they find there is an overriding public necessity for the state to exercise its police powers.³³ This exception extends to laws that are reasonable and necessary to serve an important public purpose,³⁴ to include protecting the public's health, safety or welfare.³⁵ For a statute to offend the

³⁰ See *Venetian Isles Homeowners' Assoc., Inc., v. Albrecht*, 823 So.2d 813 (Fla. 2nd D.C.A. 2002) and *Cudjoe Gardens Property Owners Assoc., Inc. v. Patne*, 779 So.2d 598 (Fla. 3rd D.C.A. 2001).

³¹ *Stone v. Mississippi*, 101 U.S. 814 (1880).

³² *General Motors Corp. v. Romein*, 503 U.S. 181 (1992).

³³ *Park Benziger & Co. v. Southern Wine & Spirits, Inc.*, 391 So2d 681 (Fla. 1980).

³⁴ *Yellow Cab Co. v. Dade County*, 412 So2d 395 (Fla. 3rd DCA 1982), petition den. 424 So2d 764 (Fla. 1982).

³⁵ *Khoury v Carvel Homes South, Inc.*, 403 So2d 1043 (Fla. 1st DCA 1981), petition den. 412 So2d 467 (Fla. 1981).

constitutional prohibition against impairment of contract, the statute must have the effect of changing substantive rights of the parties to an existing contract. Any retroactive application of a statute affecting substantive contractual rights would be constitutionally suspect.³⁶

Historically, both the state and federal courts have attempted to find a rational and defensible compromise between individual rights and public welfare when laws are enacted that may impair existing contracts.³⁷

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires homeowners' associations to maintain insurance or fidelity bonding for anyone who controls or disburses association funds, which includes persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The association would bear the cost for the bond or insurance. According to information provided by representatives for homeowners' associations, the cost of the insurance coverage is dependent on the number of persons with access to the association's funds, the amount of the coverage, and the type of coverage desired. The annual insurance premium for an association with five or fewer persons handling funds and with \$10,000 coverage for employee theft and crime, \$10,000 for premises and in-transit coverage,³⁸ and \$10,000 coverage for forgery and computer and wire fraud would be approximately \$309. The same insurance coverage, but with limits of \$1,000,000, would require an annual insurance premium of approximately \$2,346.

The bill requires homeowners' associations to annually report to the division information about the association. Associations may incur costs related to gathering and reporting the information.

C. Government Sector Impact:

The bill requires the department to establish and implement an Internet-based registration system by December 1, 2013 for associations to use for reporting the information that the bill requires that they annually report to the division. It also requires the department to

³⁶ *Tri-Properties, Inc. v. Moonspinner Condominium Association, Inc.*, 447 So.2d 965 (Fla. 1st DCA 1984).

³⁷ *Pomponio v Claridge of Pompano Condominium, Inc.*, 378 So2d 774 (Fla. 1979).

³⁸ In-transit coverage includes coverage for the direct loss of money or securities directly caused by theft, disappearance, damage or destruction while in transit outside the insured's premises and in the care and custody of a messenger or armored vehicle company, e.g., this could cover theft of the association's funds from a delivery truck or messenger at a location other than the community's property. Premises coverage is coverage for the direct loss of money or securities located inside the premises directly caused by a theft, robbery, or burglary, e.g., this could cover the theft of funds from the association's office by a burglar. See <https://www.travelers.com/business-insurance/management-professional-liability/private-non-profit/crime/documents/59690.pdf> (Last visited April 5, 2013).

submit a report, on or before December 1, 2013 and then annually thereafter, to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing the homeowner association data reported as required by the bill. The reporting requirement is repealed on July 1, 2016, unless reenacted by the Legislature. The division may incur indeterminate expenses to comply with these requirements; however the department can absorb these costs within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS by Community Affairs Committee on April 9, 2013:

The committee substitute differs from CS/SB 580 as follows:

- Amends s. 468.436(2)(b), F.S., to authorize the division to discipline community association managers for violating chs. 718 and 719, F.S.
- Amends s. 720.303(5)(c), F.S., to prohibit associations from charging personnel costs for records requests that result in 25 or fewer pages.
- Does not amend s. 720.303(6)(b), F.S., to require that an association's budget must designate the components for which the reserve accounts may be used. Instead, it amends s. 720.303(6)(d), F.S., to provide that, if reserve accounts are established by the developer, the budget must designate the components for which the reserve accounts may be used.
- Creates s. 720.306(1)(d), F.S., to provide for the amending of the governing documents of the association without the procurement of mortgagee consent.
- Amends s. 720.307(1)(f), F.S., to provide that the non-developer parcel owners would not have the right to control of the association when the developer has lost title to the property if a successor owner has accepted an assignment of developer rights and responsibilities.
- Creates s. 720.3075, F.S., to prohibit the inclusion or enforcement of specified clauses in the governing documents that permit the developer to make changes to the governing documents.
- Does not amend s. 720.308, F.S., to provide that assessments levied pursuant to the annual budget may not be increased, or special assessments levied, without the approval of the majority of non-developer voting interests unless the budget specifically describes and justifies the reason or reasons for the increase or special assessment.
- Amends s. 720.3085(2)(b), F.S., to provide that, for purposes of the liability of the previous parcel owner for unpaid assessments, the association is not considered a

previous owner, and to limit the liability of the present parcel owner to any assessments that came due before the association acquired title.

- Amends s. 720.315, F.S., to limit the ability of developer-controlled associations to increase assessments.

CS by Regulated Industries Committee on April 2, 2013:

The committee substitute (CS) differs from SB 580 as follows:

- The CS amends s. 468.436(2)(b), F.S., to provide two additional grounds for the discipline of community association managers.
- The CS amends s. 720.303(5), F.S., to require homeowners' associations to maintain official records for seven years, and within 45 miles of the community or within the same county. It also permits associations the option of making records available electronically via the Internet or by allowing the records to be viewed on a computer screen and printed upon request. The CS amends s. 720.303(5)(c), F.S., that permits the association to impose fees to cover the cost of providing copies of the official records, including the cost of copying. It permits the association to charge copying costs and personnel costs required to retrieve and copy records that exceed one half hour, but the cost may not exceed \$20 per hour. It decreases the cost of copies provided on the association's photocopier from 50 cents per page to 25 cents per page. It permits the association to use an outside duplicating service to make copies of official records, and permits the association to charge the actual cost of copying as supported by an invoice.
- The CS amends s. 720.303(5), F.S., to include portable devices, tablets, portable scanners, and other devices capable of taking photographs among the type of devices that homeowners' associations must permit their member to use to make copies of official records. It permits authorized representatives of the member to make the photographic copies.
- The CS amends s. 720.303(6), F.S., to require that a homeowners' association's budget must designate the components for which the reserve accounts may be used.
- The CS creates s. 720.303(13), F.S., to provide an annual reporting requirement for community association managers, associations, and developers in developer-controlled associations. It also requires the department to establish and implement an Internet-based registration system and requires the department to submit an annual report to the Governor and, the President of the Senate, and the Speaker of the House of Representatives. It authorizes the department to adopt rules to implement this reporting requirement. It also provides that reporting requirement in s. 720.303(13), F.S., would expire on July 1, 2016, unless reenacted by the Legislature.
- The CS does not provide in s. 720.3033(1), F.S., that the post-election certification requirement may be satisfied by submission of a certificate of satisfactory completion of the educational curriculum approved by the Division of Florida Condominiums, Timeshares, and Mobile Homes. It also does not provide that failure to have the written certification or education certificate on file does not affect the validity of any board action.

- In s. 720.3033(3), F.S., the CS does not provide that managers must be removed from office if they violate the prohibition in this subsection. Regarding the officer or director's removal from office, the CS specifies that the board must immediately remove them from office upon a finding by the board that any officer or director has violated the prohibition in this subsection.
- The CS amends s. 720.306(9), F.S., to revise requirements for elections in homeowners' associations by providing that the association does not have to allow nominations at the meeting where the election is to be held if it permits members to nominate themselves in advance of the balloting. It also provides that an election is not required unless more candidates are nominated than board vacancies exist.
- The CS amends s. 720.307(1), F.S., to provide additional events which would entitle the non-developer parcel owners to elect the majority of the members of the board.
- The CS amends s. 720.307(2), F.S., to provide that non-developer parcel owners are entitled to elect at least one member of the board of directors once 15 percent of the parcels in all phases of the community have been conveyed to members.
- The CS amends s. 720.307(3), F.S., to provide that non-developer parcel owners are entitled to elect at least two member of the board of directors once 50 percent of the parcels in all phases of the community have been conveyed to members.
- The CS amend s. 720.308, F.S., to limit increases in assessments and the levying of special assessments in developer-controlled associations.

B. Amendments:

None.

By the Committee on Regulated Industries; and Senator Hays

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1 A bill to be entitled
2 An act relating to homeowners' associations; amending
3 s. 468.436, F.S.; providing grounds for disciplinary
4 actions against community association managers;
5 amending s. 720.303, F.S.; requiring official records
6 to be maintained within a specified distance of the
7 association for a specified time; authorizing
8 associations to maintain such records online;
9 requiring associations to allow a member to use a
10 portable device to make an electronic copy of the
11 official records and prohibiting associations from
12 charging a fee for such an electronic copy; removing
13 provisions allowing the association to charge fees for
14 personnel costs related to records access; requiring
15 budgets to designate permissible uses of reserve
16 accounts; requiring a community association manager,
17 or the association in the absence of a community
18 association manager, to report certain information to
19 the Division of Florida Condominiums, Timeshares, and
20 Mobile Homes; providing an expiration date for the
21 reporting requirements; creating s. 720.3033, F.S.;
22 requiring association directors to file with the
23 association secretary written certification that they
24 have read certain association documents, will uphold
25 the documents, and will uphold their fiduciary
26 responsibility to the members; providing that such
27 certification is valid while the director is on the
28 board; providing penalties for failure to file such
29 certification; requiring the association secretary to

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30 retain such certification for 5 years; requiring the
31 board to follow specified procedures relating to
32 contracts or transactions between the association and
33 certain entities; providing for disclosure of the
34 contract or transaction to members; providing for the
35 cancellation of such contract or transaction under
36 certain circumstances; prohibiting any association
37 officer, director, or manager from soliciting or
38 receiving certain personal benefits from any person
39 providing or offering to provide goods or services to
40 the association and providing for removal for
41 knowingly taking such action; providing an exception;
42 providing for the removal of any director or officer
43 charged with a felony theft or embezzlement offense
44 involving association funds or property; providing for
45 the reinstatement of such person under certain
46 circumstances; prohibiting a member with pending
47 criminal charges from certain positions; requiring the
48 association to maintain insurance or a bond to cover
49 funds that will be in the custody of the association
50 or its management agent; providing a definition;
51 amending s. 720.306, F.S.; revising procedures for the
52 election of directors; amending s. 720.307, F.S.;
53 providing additional circumstances for authorizing
54 members to elect a majority of association board
55 members; providing circumstances under which members
56 other than the developer are authorized to elect a
57 specified number of members to the board of directors;
58 amending s. 720.308, F.S.; prohibiting the levy of

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special assessments or an increase in assessments
levied pursuant to the annual budget under certain
circumstances; providing an effective date.

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

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

468.436 Disciplinary proceedings.—

(2) The following acts constitute grounds for which the
disciplinary actions in subsection (4) may be taken:

(b)1. Violation of any provision of this part.

2. Violation of any lawful order or rule rendered or
adopted by the department or the council.

3. Being convicted of or pleading nolo contendere to a
felony in any court in the United States.

4. Obtaining a license or certification or any other order,
ruling, or authorization by means of fraud, misrepresentation,
or concealment of material facts.

5. Committing acts of gross misconduct or gross negligence
in connection with the profession.

6. Contracting, on behalf of an association, with any
entity in which the licensee has a financial interest that is
not disclosed.

7. Failing to report to the division as required in s.
720.303(13).

8. Violating any provision of chapter 720 during the course
of performing community association management services pursuant
to a contract with a homeowners' association.

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88 Section 2. Subsection (5) and paragraph (b) of subsection
89 (6) of section 720.303, Florida Statutes, are amended, and
90 subsection (13) is added to that section, to read:

91 720.303 Association powers and duties; meetings of board;
92 official records; budgets; financial reporting; association
93 funds; recalls.—

94 (5) INSPECTION AND COPYING OF RECORDS.—The official records
95 shall be maintained within the state for at least 7 years and
96 shall be made available to a parcel owner for inspection or
97 photocopying within 45 miles of the community or within the
98 county in which the association is located within 10 business
99 days after receipt by the board or its designee of a written
100 request ~~must be open to inspection and available for~~
101 ~~photocopying by members or their authorized agents at reasonable~~
102 ~~times and places within 10 business days after receipt of a~~
103 ~~written request for access.~~ This subsection may be complied with
104 by having a copy of the official records available for
105 inspection or copying in the community or, at the option of the
106 association, by making the records available to a parcel owner
107 electronically via the Internet or by allowing the records to be
108 viewed in electronic format on a computer screen and printed
109 upon request. If the association has a photocopy machine
110 available where the records are maintained, it must provide
111 parcel owners with copies on request during the inspection if
112 the entire request is limited to no more than 25 pages. An
113 association shall allow a member or his or her authorized
114 representative to use a portable device, including a smartphone,
115 tablet, portable scanner, or any other technology capable of
116 scanning or taking photographs, to make an electronic copy of

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the official records in lieu of providing the member or his or her authorized representative with a copy of such records. The association may not charge a fee to a member or his or her authorized representative for such use of a portable device.

(a) The failure of an association to provide access to the records within 10 business days after receipt of a written request submitted by certified mail, return receipt requested, creates a rebuttable presumption that the association willfully failed to comply with this subsection.

(b) A member who is denied access to official records is entitled to the actual damages or minimum damages for the association's willful failure to comply with this subsection. The minimum damages are to be \$50 per calendar day up to 10 days, the calculation to begin on the 11th business day after receipt of the written request.

(c) The association may adopt reasonable written rules governing the frequency, time, location, notice, records to be inspected, and manner of inspections, but may not require a parcel owner to demonstrate any proper purpose for the inspection, state any reason for the inspection, or limit a parcel owner's right to inspect records to less than one 8-hour business day per month. The association may impose fees to cover the costs of providing copies of the official records, including, ~~without limitation,~~ the costs of copying and the costs required for personnel to retrieve and copy the records if retrieving the records exceeds one-half hour and if the personnel costs do not exceed \$20 per hour. The association may charge up to 25 ~~50~~ cents per page for copies made on the association's photocopier. If the association does not have a

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146 photocopy machine available where the records are kept, or if
147 the records requested to be copied exceed 25 pages in length,
148 the association may have copies made by an outside duplicating
149 service ~~vendor or association management company personnel~~ and
150 may charge the actual cost of copying, as supported by the
151 vendor invoice ~~including any reasonable costs involving~~
152 ~~personnel fees and charges at an hourly rate for vendor or~~
153 ~~employee time to cover administrative costs to the vendor or~~
154 ~~association~~. The association shall maintain an adequate number
155 of copies of the recorded governing documents, to ensure their
156 availability to members and prospective members. Notwithstanding
157 this paragraph, the following records are not accessible to
158 members or parcel owners:

159 1. Any record protected by the lawyer-client privilege as
160 described in s. 90.502 and any record protected by the work-
161 product privilege, including, but not limited to, a record
162 prepared by an association attorney or prepared at the
163 attorney's express direction which reflects a mental impression,
164 conclusion, litigation strategy, or legal theory of the attorney
165 or the association and which was prepared exclusively for civil
166 or criminal litigation or for adversarial administrative
167 proceedings or which was prepared in anticipation of such
168 litigation or proceedings until the conclusion of the litigation
169 or proceedings.

170 2. Information obtained by an association in connection
171 with the approval of the lease, sale, or other transfer of a
172 parcel.

173 3. Personnel records of the association's employees,
174 including, but not limited to, disciplinary, payroll, health,

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175 and insurance records. For purposes of this subparagraph, the
176 term "personnel records" does not include written employment
177 agreements with an association employee or budgetary or
178 financial records that indicate the compensation paid to an
179 association employee.

180 4. Medical records of parcel owners or community residents.

181 5. Social security numbers, driver's license numbers,
182 credit card numbers, electronic mailing addresses, telephone
183 numbers, facsimile numbers, emergency contact information, any
184 addresses for a parcel owner other than as provided for
185 association notice requirements, and other personal identifying
186 information of any person, excluding the person's name, parcel
187 designation, mailing address, and property address. However, an
188 owner may consent in writing to the disclosure of protected
189 information described in this subparagraph. The association is
190 not liable for the disclosure of information that is protected
191 under this subparagraph if the information is included in an
192 official record of the association and is voluntarily provided
193 by an owner and not requested by the association.

194 6. Any electronic security measure that is used by the
195 association to safeguard data, including passwords.

196 7. The software and operating system used by the
197 association which allows the manipulation of data, even if the
198 owner owns a copy of the same software used by the association.
199 The data is part of the official records of the association.

200 (d) The association or its authorized agent is not required
201 to provide a prospective purchaser or lienholder with
202 information about the residential subdivision or the association
203 other than information or documents required by this chapter to

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204 be made available or disclosed. The association or its
205 authorized agent may charge a reasonable fee to the prospective
206 purchaser or lienholder or the current parcel owner or member
207 for providing good faith responses to requests for information
208 by or on behalf of a prospective purchaser or lienholder, other
209 than that required by law, if the fee does not exceed \$150 plus
210 the reasonable cost of photocopying and any attorney's fees
211 incurred by the association in connection with the response.

212 (6) BUDGETS.—

213 (b) In addition to annual operating expenses, the budget
214 may include reserve accounts for capital expenditures and
215 deferred maintenance for which the association is responsible.
216 If reserve accounts are established, the budget must designate
217 the components for which the reserve accounts may be used. If
218 reserve accounts are not established pursuant to paragraph (d),
219 funding of such reserves is limited to the extent that the
220 governing documents limit increases in assessments, including
221 reserves. If the budget of the association includes reserve
222 accounts established pursuant to paragraph (d), such reserves
223 shall be determined, maintained, and waived in the manner
224 provided in this subsection. Once an association provides for
225 reserve accounts pursuant to paragraph (d), the association
226 shall thereafter determine, maintain, and waive reserves in
227 compliance with this subsection. This section does not preclude
228 the termination of a reserve account established pursuant to
229 this paragraph upon approval of a majority of the total voting
230 interests of the association. Upon such approval, the
231 terminating reserve account shall be removed from the budget.

232 (13) REPORTING REQUIREMENT.—The community association

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manager, or the association when there is no community association manager, shall report to the division by November 22, 2013, and annually thereafter, in a manner and form prescribed by the division.

(a) The report shall include the association's:

1. Legal name.

2. Federal employer identification number.

3. Mailing and physical addresses.

4. Total number of parcels.

5. Total amount of revenues and expenses from the association's annual budget.

(b) For associations in which control of the association has not been transitioned to nondeveloper members, as set forth in s. 720.307, the report shall also include the developer's:

1. Legal name.

2. Mailing address.

3. Total number of parcels owned on the date of reporting.

(c) By October 1, 2013, the department shall establish and implement a registration system through an Internet website that provides for the reporting requirements of paragraphs (a) and (b).

(d) On or before December 1, 2013, and annually thereafter by December 1, the department shall submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives providing the homeowner association data reported pursuant to this subsection.

(e) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this subsection.

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262 (f) This subsection shall expire on July 1, 2016, unless
263 reenacted by the Legislature.

264 Section 3. Section 720.3033, Florida Statutes, is created
265 to read:

266 720.3033 Officers and directors.—

267 (1) (a) Within 90 days after being elected or appointed to
268 the board, each director shall certify in writing to the
269 secretary of the association that he or she has read the
270 association's declaration of covenants, articles of
271 incorporation, bylaws, and current written rules and policies;
272 that he or she will work to uphold such documents and policies
273 to the best of his or her ability; and that he or she will
274 faithfully discharge his or her fiduciary responsibility to the
275 association's members.

276 (b) The written certification is valid for the
277 uninterrupted tenure of the director on the board. A director
278 who does not timely file the written certification shall be
279 suspended from the board until he or she complies with the
280 requirement. The board may temporarily fill the vacancy during
281 the period of suspension.

282 (c) The secretary shall retain each director's written
283 certification for inspection by the members for 5 years after
284 the director's election.

285 (2) If the association enters into a contract or other
286 transaction with any of its directors or a corporation, firm,
287 association, or other entity in which an association director is
288 also a director or officer or is financially interested, the
289 board must:

290 (a) Comply with the requirements of s. 617.0832.

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291 (b) Enter the disclosures required by s. 617.0832 into the
292 written minutes of the meeting.

293 (c) Approve the contract or other transaction by an
294 affirmative vote of two-thirds of the directors present.

295 (d) At the next regular or special meeting of the members,
296 disclose the existence of the contract or other transaction to
297 the members. Upon motion of any member, the contract or
298 transaction shall be brought up for a vote and may be canceled
299 by a majority vote of the members present. If the members cancel
300 the contract, the association is only liable for the reasonable
301 value of goods and services provided up to the time of
302 cancellation and is not liable for any termination fee,
303 liquidated damages, or other penalty for such cancellation.

304 (3) An officer, director, or manager may not solicit, offer
305 to accept, or accept any good or service of value for which
306 consideration has not been provided for his or her benefit or
307 for the benefit of a member of his or her immediate family from
308 any person providing or proposing to provide goods or services
309 to the association. If the board finds that an officer or
310 director has violated this subsection, the board shall
311 immediately remove from office the officer or director. The
312 vacancy shall be filled according to law until the end of the
313 period of the end of the director's term of office. However, an
314 officer, director, or manager may accept food to be consumed at
315 a business meeting with a value of less than \$25 per individual
316 or a service or good received in connection with trade fairs or
317 education programs.

318 (4) The board shall immediately remove from office a
319 director or officer charged by information or indictment with a

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felony theft or embezzlement offense involving the association's funds or property. The vacancy shall be filled according to general law until the end of the period of the suspension or the end of the director's term of office, whichever occurs first. However, if the charges are resolved without a finding of guilt or without acceptance of a plea of guilt or nolo contendere, the director or officer shall be reinstated for any remainder of his or her term of office. A member who has such criminal charges pending may not be appointed or elected to a position as a director or officer.

(5) All associations shall maintain insurance or a fidelity bond for all persons who control or disburse funds of the association. The insurance policy or fidelity bond must cover the maximum funds that will be in the custody of the association or its management agent at any one time. As used in this subsection, the term "persons who control or disburse funds of the association" includes, but is not limited to, persons authorized to sign checks on behalf of the association, and the president, secretary, and treasurer of the association. The association shall bear the cost of any insurance or bond.

Section 4. Paragraph (a) of subsection (9) of section 720.306, Florida Statutes, is amended to read:

720.306 Meetings of members; voting and election procedures; amendments.—

(9) (a) ELECTIONS AND BOARD VACANCIES.—Elections of directors must be conducted in accordance with the procedures set forth in the governing documents of the association. All members of the association are eligible to serve on the board of directors, and a member may nominate himself or herself as a

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349 candidate for the board at a meeting where the election is to be
350 held; provided, however, that ~~or~~, if the election process allows
351 candidates to nominate themselves ~~voting by absentee ballot~~, in
352 advance of the balloting, the association is not required to
353 allow nominations at the meeting. An election is not required
354 unless more candidates are nominated than vacancies exist.

355 Except as otherwise provided in the governing documents, boards
356 of directors must be elected by a plurality of the votes cast by
357 eligible voters.

358 Section 5. Subsection (1) of section 720.307, Florida
359 Statutes, is amended, present subsections (2) through (4) are
360 renumbered as subsections (4) through (6), respectively, and new
361 subsections (2) and (3) are added to that section, to read:

362 720.307 Transition of association control in a community.—
363 With respect to homeowners' associations:

364 (1) Members other than the developer are entitled to elect
365 at least a majority of the members of the board of directors of
366 the homeowners' association when the earlier of the following
367 events occurs:

368 (a) Three months after 90 percent of the parcels in all
369 phases of the community that will ultimately be operated by the
370 homeowners' association have been conveyed to members; ~~or~~

371 (b) Such other percentage of the parcels has been conveyed
372 to members, or such other date or event has occurred, as is set
373 forth in the governing documents in order to comply with the
374 requirements of any governmentally chartered entity with regard
375 to the mortgage financing of parcels;

376 (c) Two years after the developer has ceased construction
377 or ceased to offer parcels for sale in the ordinary course of

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business;

(d) Upon the developer abandoning or deserting its responsibility to maintain and complete the advertised amenities or infrastructure. There is a rebuttable presumption that the developer has abandoned and deserted the property if the developer has not engaged in construction or sale of properties or has unpaid assessments or guaranteed amounts under s. 720.308 for a period of more than 2 years;

(e) Upon the developer filing a petition seeking protection under chapter 7 of the federal Bankruptcy Code;

(f) Upon the developer losing title to the property through a foreclosure action or the transfer of a deed in lieu of foreclosure; or

(g) Upon a receiver for the developer being appointed by a circuit court and not being discharged within 30 days after such appointment, unless the court determines within 30 days after such appointment that transfer of control would be detrimental to the association or its members.

For purposes of this section, the term "members other than the developer" shall not include builders, contractors, or others who purchase a parcel for the purpose of constructing improvements thereon for resale.

(2) Members other than the developer are entitled to elect at least one member of the board of directors of the homeowners' association if 15 percent of the parcels in all phases of the community which will ultimately be operated by the association have been conveyed to members.

(3) Members other than the developer are entitled to elect

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407 at least two members of the board of directors of the
408 homeowners' association if 50 percent of the parcels in all
409 phases of the community which will ultimately be operated by the
410 association have been conveyed to members.

411 Section 6. Subsection (7) is added to section 720.308,
412 Florida Statutes, to read:

413 720.308 Assessments and charges.—

414 (7) Assessments levied pursuant to the annual budget may
415 not be increased, and special assessments may not be levied,
416 without the approval of the majority of nondeveloper voting
417 interests while the developer is in control of the association
418 and entitled to elect the majority of the members of the board,
419 unless the budget specifically describes and justifies the
420 increased assessment or the levy of the special assessment.

421 Section 7. This act shall take effect July 1, 2013.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9
Meeting Date

Topic Military Base Expansion

Bill Number 1784
(if applicable)

Name Eric Poole

Amendment Barcode _____
(if applicable)

Job Title Asst Leg Dir

Address 100 Monroe
Street

Phone _____

T-11
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Assoc. 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Military Installations

Bill Number SB 1784

(if applicable)

Name Leticia Adams

Amendment Barcode _____

(if applicable)

Job Title Policy Director

Address 136 S Bronough St

Phone 850-521-1279

Street

Tallahassee

FL

32301

City

State

Zip

E-mail ladams@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL 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 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR THAD ALTMAN

16th District

April 3, 2013

The Honorable Wilton Simpson
Senate Committee on Community Affairs, Chair
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that SB 1784, related to *Military Installations*, be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman
TA/rk

CC: Tom Yeatman, Staff Director, 315 Knott Building

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1784

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Military Installations

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon	Ryon		ms SPB 7028 as introduced
2.	Gudeman	Uchino	EP	Favorable
3.	Anderson	Yeatman	CA	Favorable
4.				
5.				
6.				

I. Summary:

SB 1784 amends the purpose and functions of the Military Base Protection Program (MBPP), within the Department of Economic Opportunity (DEO). The bill provides legislative findings related to encroachment of military installations, specifies functions of the MBPP, and provides funding authority for the Board of Trustees of the Internal Improvement Trust Fund (Board) to acquire non-conservation lands to buffer a military base against encroachment.

The bill specifies functions of the MBPP to include:

- Securing non-conservation lands to serve as a buffer to protect military installations against encroachment; and
- Supporting local community efforts to engage in service partnerships with military installations.

The bill revises the current funding appropriation purposes of the MBPP to include encroachment reduction or prevention. The bill authorizes the DEO to submit an annual list to the Board to acquire non-conservation lands, and directs the Board to consider the recommendations of the Florida Defense Support Task Force in making determinations to acquire non-conservation lands. The bill authorizes the Board to acquire non-conservation lands from the list submitted by the DEO for the purpose of buffering a military base against encroachment, subject to a specific appropriation. The bill does not preclude the acquisition of such lands by local governments.

The bill substantially amends the following sections of the Florida Statutes: 253.025 and 288.980.

II. Present Situation:

Military presence in Florida

Florida is home to 20 major military installations and three unified combatant commands. Defense related spending is estimated to be responsible for nearly \$73.4 billion of the state's gross domestic product and over 758,000 jobs around the state. The average earnings per military job in Florida is just over \$77,241, which is well above the state average earnings-per-worker level.¹ Only tourism and agriculture contribute more to Florida's economy.

The Department of Defense (DoD) has completed implementation of the 2005 round of base realignments and closures, commonly referred to as "BRAC."² The BRAC process reflects a desire to eliminate excess capacity, realize the savings from that reduction in capacity, and fund higher priority weapon platforms and troop training. There have been five BRAC rounds between 1988 and 2005. During the 1993 round, four Florida bases were closed.³

As a result of the 2005 BRAC round, a U.S. Army Special Forces Group of approximately 3,000 soldiers was moved from Ft. Bragg, North Carolina, to Eglin Air Force Base in Northwest Florida. Also, Eglin was selected to establish multi-service/multi-nation training facilities for the F-35 Joint Strike Fighter aircraft. In addition, the 2005 BRAC round brought the new Navy P-8 aircraft mission to Naval Air Station Jacksonville.⁴

In 2008 the U.S. Navy, in a decision unrelated to the BRAC process, announced its intention to homeport one of its nuclear powered aircraft carriers to Naval Station Mayport in Jacksonville. This basing decision will have significant positive economic impact on the Jacksonville area; however, as all nuclear powered aircraft carriers are currently homeported in Norfolk, Virginia, the Virginia Congressional delegation is actively trying to prevent this move.⁵

Due to constraints with the federal budget and the drawdown of troops overseas, the federal government is focusing on redefining the scope and structure of the U.S. military. While there has not yet been an official call for another BRAC round, federal budget cuts and restructuring have led to changes in the missions at military installations throughout the nation, including calls to reorganize the Air Armament Center at Eglin Air Force Base.

¹ Enterprise Florida, Inc., Florida Defense Factbook 2013 (on file with the Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

² See the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510, as amended through the National Defense Authorization Act of Fiscal Year 2003.

³ During the 1993 BRAC round, Florida lost the Naval Aviation Depot Pensacola, the Naval Aviation Station Cecil Field Jacksonville, the Naval Training Center Orlando, and Homestead Air Force Base. Florida did not have any major DoD closures or realignments during the 1998, 1991, and 1995 BRAC rounds.

⁴ Jeff Fanto, Department of Growth Management, Okaloosa County, FL, *Elgin Installation Growth Committee-Planning now for future BRAC-related growth*, available at <http://www.co.okaloosa.fl.us/hotline/eigc.pdf> (last visited Apr. 1, 2013).

⁵ Ronal O'Rourke, Congressional Research Service, *Navy Nuclear Aircraft Carrier Homeporting at Mayport: Background and Issues for Congress*, available at <http://www.fas.org/sgp/crs/weapons/R40248.pdf> (last visited Apr. 1, 2013).

Encroachment

Encroachment is a term used by the DoD to refer to incompatible uses of land, air, water, and other resources in close proximity to a military installation. The Legislature has found that incompatible development of land close to military installations can adversely affect the ability of the installation to carry out its mission, threaten public safety if accidents occur near the military installation, and may affect the economic vitality of a community when military operations or missions must be relocated because of urban encroachment.⁶ Also, from an environmental perspective, the loss of natural habitats through development on areas adjacent to military installations can negatively impact the biodiversity on military lands.⁷

At least 20 states, including Florida, have enacted land use-related laws to address encroachment concerns. The types of land use laws fall into three categories:

- Land Use Planning – requires local governments to include in their comprehensive plans criteria to be considered to ensure that land use adjacent to a military base is compatible with the military mission.
- Notification of Military – creates or expands procedural requirements to provide planning and zoning information to the military and creates a specific mechanism for the military to comment on how the proposed development or planning change affects the military mission.
- Land Conservation – allocates state resources for open space protection, such as acquisition of title or development rights to land, or conservation easements, or transfer of development rights to restore and preserve open space and farmland, or protect land from incompatible development.⁸

Lands bordering a military installation may or may not possess conservation value. The lands that have conservation value are eligible to be acquired using the state lands funding mechanism known as the Florida Forever program (Florida Forever).⁹ Those that do not have conservation value (non-conservation lands) are not eligible for Florida Forever.

The Florida Defense Support Task Force (Task Force)¹⁰ has expressed a need to develop and support a state non-conservation encroachment prevention plan. The Task Force has initially identified five military installations that have incompatible land use issues that would benefit from such a plan. However, a program or source of funding does not exist at the state level to provide funding for non-conservation lands which are desired to buffer a military base.

⁶ Section 163.3175, F.S.

⁷ J. Douglas Ripley, Legal and Policy Background, United States Department of Defense, *Conserving Biodiversity on Military Lands, A Guide for Natural Resources Managers*, <http://www.dodbiodiversity.org/ch3/index.html> (last visited Apr. 1, 2013).

⁸ The National Conference of State Legislatures, *Military Installations Sustainability (Updated June 18, 2010)*, provides the following states have enacted land-use related laws to address encroachment concerns: Arizona, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Massachusetts, Nebraska, New Jersey, North Carolina, Oklahoma, South Carolina, South Dakota, Texas, Virginia, Washington, and Wisconsin. See <http://www.ncsl.org/issues-research/env-res/military-installation-sustainability.aspx> (last visited Apr. 1, 2013).

⁹ Section 259.105, F.S.

¹⁰ Section 288.987, F.S.

Land Conservation

Florida Forever

The State of Florida has a history of land acquisition programs, each with differing goals, objectives and funding. Since 1963 there has been a series of land acquisition programs, including Outdoor Recreation and Conservation (1963), Environmentally Endangered Lands (EEL, 1972), Conservation and Recreation Lands (CARL, 1979), Save Our Rivers (SOR, 1981), Save Our Coast (SOC, 1981), Florida Communities Trust (FCT, 1989), Preservation 2000 (P2000, 1990),¹¹ and Florida Forever.¹²

Florida Forever is Florida's conservation and recreation lands acquisition program. The "Florida Forever Act" was created by the Legislature in 1999 and authorized the issuance of not more than \$3 billion in bonds for land acquisition, water resource development projects, preservation and restoration of open space and greenways, and outdoor recreation purposes. Florida Forever acquisitions may be carried out through fee simple (absolute ownership), less-than-fee interest (ownership of development rights or conservation easements), or other techniques, and must be scientifically based on Florida's natural resources.¹³

The Board of Trustees of the Internal Improvement Trust Fund

The Board is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by, or which may inure to the state or any of its agencies, departments, boards, or commissions, with certain exceptions.¹⁴ The Board is comprised of four trustees: the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.¹⁵

The procedures for state land acquisitions are provided in chs. 253 and 259, F.S., and Rule 18-24 of the Florida Administrative Code. The Department of Environmental Protection (DEP), Division of State Lands performs staff duties and functions related to the acquisition, administration, and disposition of state lands, where the Board holds title.

The lands that are titled in the Board include conservation lands (about 3.1 million acres) and non-conservation lands (about 200,000 acres), such as state hospitals, prisons, state and community colleges, office buildings, etc. The Board also owns land that is not for conservation purposes that is leased out for cattle grazing or other agricultural purposes.¹⁶

¹¹ In 1979, the Conservation CARL program was established to preserve Florida's unique natural heritage. In 1990, Florida established the Preservation 2000 (P2000) program in an effort to protect Florida's water resources, wildlife habitat, recreational areas, wetlands, and forests from a rapidly growing population. The Florida Forever program was enacted as a successor program to P2000.

¹² Section 259.105, F.S.

¹³ Chapter 99-247, Laws of Fla.

¹⁴ Section 253.03, F.S.

¹⁵ Section 259.03(2), F.S.

¹⁶ E-mail from Susan Grandin, Director of Division of State Lands, DEP, (Mar. 4, 2013) (on file with Senate Committee on Military and Veterans Affairs, Space, and Domestic Security).

Land Acquisition Process

Selection

Under Florida Forever, the Acquisition and Restoration Council (ARC) is responsible for evaluating, selecting and ranking state land acquisition projects for submission to the Board for approval. The ARC is composed of ten voting members, with four members appointed by the Governor. The remaining members are the Secretary of Environmental Protection, director of the Division of Forestry of the Department of Agriculture and Consumer Services, executive director of the Florida Wildlife Conservation Commission (FWC), director of the Division of Historical Resources of the Department of State,¹⁷ an appointment by the Commissioner of Agriculture, and an appointment by the FWC.¹⁸

A list of proposed acquisitions is developed by the ARC on an annual basis. The list includes acquisition applications that meet a combination of conservation goals. Applications are accepted from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals.¹⁹ Priority is given to projects that were placed on previous land acquisition lists or for which matching funds are available. The ARC is also directed to give increased priority to projects where the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions.²⁰

After the initial review, a project can only move forward with the approval of at least five ARC members. A Project Evaluation Report is prepared by the staff for ARC approval after a project is approved for full review. In preparing the Project Evaluation Report, DEP staff confirms or revises the information contained in the initial project application, provides a review of the natural resource and other application components to determine the number of Florida Forever criteria, goals and measures being met, confirms the project boundary as contained in the application, and includes a recommended manager for the project along with a management policy statement and a management prospectus.²¹

After a full review has been completed, the ARC develops a list of projects for consideration by the Board. At least five members of the ARC must vote to place a project on the Board's list. Projects of highest priority are on the "A" acquisition list. Projects that are not of the highest priority are ranked on the "B" acquisition list. Three sub-groups of projects are contained in both the "A" and "B" lists:

- Fee simple or large holdings;
- Multi-parcel or small holdings; and

¹⁷ Section 259.035(1)(b), F.S., authorizes the Secretary of Environmental Protection, the director of the Florida Forest Service of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission, and the director of the Division of Historical Resources of the Department of State to appoint a designee in their place.

¹⁸ Section 259.035, F.S.

¹⁹ Section 259.105(7)(a), F.S.

²⁰ Section 259.105(10), F.S.

²¹ James A. Farr, Ph.D., O. Greg Brock, Ph.D., *Florida's Landmark Programs for Conservation and Recreation Land Acquisition*. Sustain. Vol. 14 (Spring/Summer 2006) available at http://www.dep.state.fl.us/lands/files/Florida_LandAcquisition.pdf (last visited Apr. 1, 2013).

- Less-than-fee acquisitions.

Prior to approval of the list by the Board, the ARC must submit a report with the list of proposed projects which outlines the following:

- The stated purpose of each included project;
- Costs to achieve the acquisition goals;
- An interim management budget;
- Specific performance measures;
- Plans for public access;
- Identification of the essential parcels within the project boundary;
- Identification of parcels, within each project boundary, which should be acquired by fee simple or less-than-fee simple methods;
- Identification of lands being acquired for conservation purposes;
- A management policy statement and a management prospectus;
- An estimate of land value;
- A map delineating the project boundaries;
- An assessment of the project's ecological, recreational, forest, and wildlife value as well as ownership patterns, utilization and location;
- Identification of alternative uses for the property, and what those uses are; and
- A designation of the management agency or agencies.²²

Upon receipt, the Board must provide final approval of the Florida Forever acquisition list each year.²³ The Board may remove projects but may not add projects to the list or rearrange project rankings.

Acquisition

Once projects are approved for placement on the acquisition list by the Board, negotiations may begin with individual property owners. Agents of the Negotiation Section within the Bureau of Land Acquisition negotiate full fee acquisitions, conservation easements and other less-than-fee transactions. The active process begins with an appraisal of value for the listed parcel and ends with an approximate six-week process wherein the acquisition is presented to the Board for approval.

Agents from the Closing Section within the Bureau of Land Acquisition prepare the transaction for conveyance to state ownership.²⁴

The title to lands acquired under Florida Forever is vested in the Board, except that title to lands acquired by water management districts are vested in the name of that district and lands acquired by local governments are vested in the name of that local government.²⁵

²² Section 259.105(15), F.S.

²³ Section 259.105(16), F.S.

²⁴ Section 259.041, F.S.

²⁵ Section 259.105(7)(c), F.S.

Readiness and Environmental Protection Initiative

The DoD Readiness and Environmental Protection Initiative (REPI)²⁶ provides the opportunity for cost-sharing partnerships between the military, private conservation groups, and state and local governments to protect military testing and training capabilities and conserve land. These partnerships acquire easements or other interests in land to limit incompatible development, and protect valuable open space and habitat around key test and training areas to support military readiness. As such, REPI funds may be used to acquire either conservation or non-conservation lands.

The State of Florida has had a successful partnership with the DoD for over ten years to acquire conservation lands around military bases that also serve as encroachment buffers. This has been made possible by matching Florida Forever with REPI funds. As of June 2012, using this method, DEP has acquired almost 37,000 acres that conserve natural resources and help protect the mission of the adjacent military base.²⁷

Military Base Protection

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state. The legislative intent of this section encourages communities to initiate a coordinated program of response and plan of action in advance of future actions of the federal government relating to realignments and closures, recognizes the need for communities to develop and implement strategies to preserve and protect military installations, and recognizes that the state needs to coordinate all efforts that can support military installations through the state.²⁸

This section also provides for the Military Base Protection Program. The MBPP is authorized to use funds to address emergent needs relating to mission sustainment and base retention. In addition, these funds may be used to match federal funds. The Department of Economic Opportunity (DEO) is directed to coordinate and implement this program.²⁹ However, funds appropriated under the MBPP are not specifically authorized to be used to combat encroachment. Furthermore, specific functions of the MBPP are not provided.

Defense grant programs are administered by the Florida Defense Alliance, an organization within Enterprise Florida, Inc.,³⁰ and funded by the Legislature to assist Florida's communities hosting defense industries, bases, and installations. The DEO is authorized to award grants on a competitive basis through the Florida Defense Reinvestment Grant Program (DRG)³¹ and the Florida Defense Infrastructure Grant Program (DIG).³²

²⁶ 10 U.S.C s. 2684(A) (2003).

²⁷ Minutes from the Florida Defense Support Task Force Meeting, June 27, 2012, *available at* <http://www.eflora.com/fdstf/docs/meetings/Minutes/Meeting%20Minutes%20--%20June%202012,%202012.pdf> (last visited Apr. 1, 2013).

²⁸ Section 288.980(1)(a), F.S.

²⁹ Section 288.980(2), F.S.

³⁰ Section 288.980(1)(b), F.S., provides that the Florida Defense Alliance... shall serve as an overall advisory body for defense-related activity of Enterprise Florida, Inc., and may receive funding for that purpose from the DEO.

³¹ Section 288.980(4), F.S.

³² Section 288.980(5), F.S.

The DRG program provides communities hosting military installations with resources to support advocacy and military community relations. DRGs must be part of a plan to support the needs of an installation, or work in conjunction with defense-dependent communities in developing strategies that will help communities expand its non-defense economy, as appropriate. Activities may include studies, presentations, analyses, plans, marketing, modeling, and reasonable travel costs.³³ As such, DRG grants likely are not used for land acquisitions.

The DIG program provides support for local infrastructure projects including those associated with encroachment, transportation and access, utilities, communications, housing, environment, and security that have a positive impact on an installation's military value. Infrastructure grants may also be used to conduct studies, develop presentations, analyses, plans, and modeling in direct support of infrastructure projects.³⁴ Since DIG grants provide support for several types of projects in addition to encroachment, funding may not be sufficient to meet the needs of Florida's encroachment concerns as a whole.

III. Effect of Proposed Changes:

Section 1 amends s. 253.025, F.S., to authorize the Board of Trustees of the Internal Improvement Trust Fund to acquire non-conservation lands from the list of lands submitted to it from the Department of Economic Opportunity, subject to a specific appropriation, for the purpose of buffering a military base against encroachment.

The bill does not preclude the acquisition of such lands by local governments through fee simple purchase or through perpetual, less-than-fee interest, for the purpose of buffering a military base against encroachment.

Section 2 amends s. 288.980, F.S., to provide legislative findings related to encroachment of military installations, specify functions of the MBPP, and provide funding authority for the Board to acquire non-conservation lands to buffer a military base against encroachment, subject to a specific appropriation.

The bill specifies functions of the MBPP to include, but not be limited to:

- Securing non-conservation lands to serve as a buffer to protect military installations against encroachment; and
- Supporting local community efforts to engage in service partnerships with military installations.

The bill revises the current funding appropriation purposes of the MBPP to include encroachment reduction or prevention.

The bill authorizes the DEO to submit a list annually to the Board, to acquire non-conservation lands through fee simple purchase or through perpetual, less-than-fee interest in such lands, for the purpose of buffering a military base against encroachment.

³³ The Florida Defense Alliance, *Grant Information*, available at <http://www.floridadefense.org/grants.asp> (last visited Apr. 1, 2013).

³⁴ *Id.*

In making determinations for the purchase of non-conservation lands to secure and protect a military installation against encroachment, the bill directs the Board to consider the recommendations of the Florida Defense Support Task Force.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may reduce the type of development that can occur near a military base if non-conservation lands are purchased by the state. In addition, the buffering of military bases to ensure continued mission readiness may prevent future base closures in Florida. As stated in the analysis, military operations provide significant, positive economic impacts for the state.

C. Government Sector Impact:

The bill will likely have an insignificant fiscal impact on DEP as existing staff and resources will be used.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

- B. **Amendments:**

None.

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

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

583-02386-13

20131784__

A bill to be entitled

An act relating to military installations; amending s. 253.025, F.S.; authorizing the Board of Trustees of the Internal Improvement Trust Fund to acquire certain nonconservation lands to buffer a military installation against encroachment; amending s. 288.980, F.S.; providing legislative findings; providing functions of the Military Base Protection Program; authorizing the Department of Economic Opportunity to annually recommend nonconservation lands for acquisition through fee simple purchase or less-than-fee interest purchase to the Board of Trustees of the Internal Improvement Trust Fund for the purpose of preventing the encroachment of military installations; requiring the board of trustees to also consider land acquisition recommendations of the Florida Defense Support Task Force; authorizing funds appropriated to the Military Base Protection Program to be used for land acquisition to prevent or reduce encroachment of military installations; providing an effective date.

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

Section 1. Subsection (18) is added to section 253.025, Florida Statutes, to read:

253.025 Acquisition of state lands for purposes other than preservation, conservation, and recreation.—

(18) The board of trustees may acquire, pursuant to s.

583-02386-13

20131784__

30 288.980(2)(b), nonconservation lands from the annual list
31 submitted by the Department of Economic Opportunity for the
32 purpose of buffering a military installation against
33 encroachment.

34 Section 2. Subsections (1) and (2) of section 288.980,
35 Florida Statutes, are amended to read:

36 288.980 Military base retention; legislative intent; grants
37 program.—

38 (1)(a) It is the intent of this state to provide the
39 necessary means to assist communities with military
40 installations in supporting and sustaining those installations.
41 It is further the intent to encourage communities to initiate a
42 coordinated program of response and plan of action in advance of
43 future actions of the federal government relating to
44 realignments and closures. It is critical that communities
45 develop and implement strategies to preserve and protect
46 military installations. The Legislature hereby recognizes that
47 the state needs to coordinate all efforts that can support
48 military installations throughout the state. The Legislature,
49 therefore, declares that providing such assistance to support
50 the defense-related initiatives within this section is a public
51 purpose for which public money may be used.

52 (b) The Florida Defense Alliance, an organization within
53 Enterprise Florida, Inc., is designated as the organization to
54 ensure that Florida, its resident military bases and missions,
55 and its military host communities are in competitive positions
56 as the United States continues its defense realignment and
57 downsizing. The defense alliance shall serve as an overall
58 advisory body for defense-related activity of Enterprise

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20131784__

59 Florida, Inc. The Florida Defense Alliance may receive funding
60 from appropriations made for that purpose administered by the
61 department.

62 (c) The Legislature finds that encroachment of military
63 installations has been identified by local, state, and federal
64 leaders as a critical threat to protecting, preserving, and
65 enhancing military installations in this state. Encroachment can
66 be detrimental to the current and future missions of military
67 installations due to the incompatible use of adjacent land. The
68 Legislature recognizes the unique need to secure lands that have
69 no conservation value, but may present an encroachment threat to
70 a military installation.

71 (2)(a) The Military Base Protection Program is created. The
72 functions of the Military Base Protection Program includes, but
73 is not limited to:

74 1. Securing nonconservation lands to serve as a buffer to
75 protect military installations against encroachment; and

76 2. Supporting local community efforts to engage in service
77 partnerships with military installations.

78 (b) The department may annually submit a list to the Board
79 of Trustees of the Internal Improvement Trust Fund of
80 nonconservation lands to acquire, subject to a specific
81 appropriation, through fee simple purchase or through perpetual,
82 less-than-fee interest purchase, for the purpose of buffering a
83 military installation against encroachment. The Board of
84 Trustees of the Internal Improvement Trust Fund shall also
85 consider the recommendations of the Florida Defense Support Task
86 Force, created in s. 288.987, when selecting nonconservation
87 lands to purchase for the purpose of securing and protecting a

583-02386-13

20131784__

88 military installation against encroachment. This paragraph does
89 not preclude the acquisition of such lands by local governments
90 through fee simple purchase or through perpetual, less-than-fee
91 interest purchase, for the purpose of buffering a military
92 installation against encroachment.

93 (c) Funds appropriated to this program may be used to
94 address emergent needs relating to mission sustainment,
95 encroachment reduction or prevention, and base retention. All
96 funds appropriated for the purposes of this program are eligible
97 to be used for matching of federal funds. The department shall
98 coordinate and implement this program.

99 Section 3. This act shall take effect July 1, 2013.



545632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 125.022, Florida Statutes, is amended to
read:

125.022 Development permits.—When a county denies an
application for a development permit, the county shall give
written notice to the applicant. The notice must include a
citation to the applicable portions of an ordinance, rule,
statute, or other legal authority for the denial of the permit.
As used in this section, the term “development permit” has the



545632

13 same meaning as in s. 163.3164. For any development permit
14 application filed with the county after July 1, 2012, a county
15 may not require as a condition of processing or issuing a
16 development permit that an applicant obtain a permit or approval
17 from any state or federal agency unless the agency has issued a
18 final agency action that denies the federal or state permit
19 before the county action on the local development permit.
20 Issuance of a development permit by a county does not in any way
21 create any rights on the part of the applicant to obtain a
22 permit from a state or federal agency and does not create any
23 liability on the part of the county for issuance of the permit
24 if the applicant fails to obtain requisite approvals or fulfill
25 the obligations imposed by a state or federal agency or
26 undertakes actions that result in a violation of state or
27 federal law. A county shall ~~may~~ attach such a disclaimer to the
28 issuance of a development permit and shall ~~may~~ include a permit
29 condition that all other applicable state or federal permits be
30 obtained before commencement of the development. This section
31 does not prohibit a county from providing information to an
32 applicant regarding what other state or federal permits may
33 apply.

34 Section 2. Section 166.033, Florida Statutes, is amended to
35 read:

36 166.033 Development permits.—When a municipality denies an
37 application for a development permit, the municipality shall
38 give written notice to the applicant. The notice must include a
39 citation to the applicable portions of an ordinance, rule,
40 statute, or other legal authority for the denial of the permit.
41 As used in this section, the term “development permit” has the



545632

same meaning as in s. 163.3164. For any development permit application filed with the municipality after July 1, 2012, a municipality may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the municipal action on the local development permit. Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A municipality shall ~~may~~ attach such a disclaimer to the issuance of development permits and shall ~~may~~ include a permit condition that all other applicable state or federal permits be obtained before commencement of the development. This section does not prohibit a municipality from providing information to an applicant regarding what other state or federal permits may apply.

Section 3. This act shall take effect July 1, 2013.

===== 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



545632

71 An act relating to development permits; amending ss.
72 125.022 and 166.033, F.S.; requiring counties and municipalities
73 to attach certain disclaimers and include certain permit
74 conditions when issuing development permits; providing an
75 effective date.



392086

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
04/09/2013	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (545632) (with title amendment)

Between lines 62 and 63
insert:

Section 3. Subsection (3) of section 24 of chapter 2012-205, Laws of Florida, is amended to read:

Section 24. (3) The holder of a valid permit or other authorization that is eligible for the 2-year extension must notify the authorizing agency in writing by October 1, 2013 ~~December 31, 2012~~, identifying the specific authorization for which the holder intends to use the extension and the



392086

anticipated timeframe for acting on the authorization.

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

And the title is amended as follows:

Delete line 74

and insert:

conditions when issuing development permits; amending
chapter 2012-205, Laws of Florida; revising the
deadline for the holder of certain permits to notify
the authorizing agency of the automatic extension of
eligibility; providing an

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-9-13

Meeting Date

Topic Development Permits

Bill Number SB 1840
(if applicable)

Name Julie Roberts

Amendment Barcode _____
(if applicable)

Job Title External Affairs Director

Address 2555 Shumard Oak Blvd

Phone 850-590-9486

Street

Tallahassee

FL

32311

City

State

Zip

E-mail julie.roberts@em.
myflorida.co

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Division of Emergency mgmt

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

Wave in support - available for questions

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 Community Affairs

BILL: CS/SB 1840

INTRODUCER: Community Affairs Committee and Military and Veterans Affairs, Space and Domestic Security Committee

SUBJECT: Development Permits

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Spaulding	Ryon		ms SPB 7142 as introduced
2.	Anderson	Yeatman	CA	Fav/CS
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 1840 requires counties and municipalities to attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before the commencement of any development. These changes will ensure Florida is fully compliant with the National Flood Insurance Program administered by the Federal Emergency Management Agency.

The bill revises the deadline for the holder of certain permits to notify the authorizing agency of automatic extension eligibility.

The bill substantially amends sections 125.022 and 166.033 of the Florida Statutes.

II. Present Situation:

Division of Emergency Management

The Division of Emergency Management (Division) is administratively housed within the Executive Office of the Governor. The Division is a separate budget entity, as provided in the General Appropriations Act and must prepare and submit a budget request in accordance with chapter 216, Florida Statutes.¹ The Division is responsible for all professional, technical, and administrative support functions necessary to carry out its responsibilities. The Director of the Division is appointed by, and serves at the pleasure of, the Governor and is the head of the Division for all purposes. The Division is tasked with administering programs to rapidly apply all available aid to communities stricken by an emergency and serves as a liaison with federal agencies and other public and private agencies.²

The State Emergency Management Act³ establishes the powers of the Division. It tasks the Division with maintaining a comprehensive statewide program of emergency management efforts that includes coordinating efforts with the Federal Government, local governments, other state agencies, school boards, and private agencies that have a role in emergency management.⁴ The statewide program of emergency management includes but is not limited to:

- Preparation of a comprehensive statewide emergency management plan;
- Adopting standards and requirements for county emergency management plans;
- Assisting political subdivisions in preparing and maintaining emergency management plans;
- Ascertaining the requirements for equipment and supplies for use in an emergency;
- Instituting statewide public awareness programs;
- Coordinating federal, state, and local emergency management activities in advance of an emergency; and
- Using and employing the property, services, and resources within the state in accordance with the Act.⁵

After a disaster, the Division conducts damage assessment surveys and advises the Governor on whether to declare an emergency and seek federal relief funds. The Division maintains a primary Emergency Operations Center (EOC) in Tallahassee. The EOC serves as the communications and command center for reporting emergencies and coordinating state response activities. The Division also operates the State Warning Point, a state emergency communications center staffed 24 hours each day. The center maintains statewide communications with county emergency officials.⁶

¹ Division of Emergency Management (Executive Office of the Governor), Fiscal Year 2013-14 Base Budget Review, <http://www.flsenate.gov/UserContent/Topics/IntensiveBudgetReview/ATD/DEMBaseBudget.pdf>, last viewed March 29, 2013.

² Section 14.2016, F.S.

³ Section 252.31, F.S.

⁴ Section 252.35(1), F.S.

⁵ Section 252.35, F.S.

⁶ Florida Division of Emergency Management, Florida Disaster, http://floridadisaster.org/about_the_division.htm, last viewed March 28, 2013.

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by Congress in 1968 as a result of passage of the National Flood Insurance Act to address economic hardships caused by flood disasters. Congress found that it was "...uneconomic for the private insurance industry alone to make flood insurance available to those in need of such protection on reasonable terms and conditions; but a program of flood insurance with large-scale participation of the Federal Government and carried out to the maximum extent practicable by the private insurance industry is feasible."⁷ In response, NFIP was created as a voluntary program that provided affordable flood insurance for people that lived in communities that adopted floodplain management regulations that meet or exceed federal standards.⁸ In most instances, homeowners buy flood policies from an insurance agent but in the event of a flood disaster the insurance company does not pay the claim, the Federal Government does. NFIP provides coverage up to \$250,000 for the home and \$100,000 for personal possessions for private dwellings⁹ and up to \$500,000 for buildings and \$500,000 for property and belongings for commercial properties.¹⁰

NFIP in Florida

- There are 459 Florida communities actively participating in NFIP;
- More than 2 million flood insurance policies; and
- More than \$471 billion in flood coverage in the state.¹¹

In March 2012, FEMA expressed concern that HB 503 (2012) was inconsistent with federal law¹² that requires communities to review proposed developments to ensure they have received necessary permits pursuant to federal and state law. This requirement ensures that coordination occurs between levels of government on projects impacting flood plains and that all necessary permits have been secured before commencement of construction. FEMA warned that if HB 503 was implemented, Florida communities would be subject to challenge and face legal impediments as they tried to comply with NFIP requirements. If communities could not meet the requirements of NFIP, they could be subject to suspension from the program that would include the following consequences:

- No selling or renewing of flood insurance policies within a community that is not in compliance with NFIP requirements;
- Federal agencies would be prohibited from issuing grants, loans, or guarantees for the acquisition or construction of structures located in a Special Flood Hazard Area (SFHA);¹³

⁷ 42 U.S.C. § 4001(b)(1,2).

⁸ 42 U.S.C. §§ 4012(c), 4022; 44 C.F.R. §§ 60.1, 60.2.

⁹ Department of Homeland Security, FEMA, Reducing Damage from Localized Flooding: A Guide for Communities, p. 11-2, <http://www.fema.gov/pdf/fima/FEMA511-12-Chapter11.pdf>, last viewed March 28, 2013.

¹⁰ *Id*

¹¹ *Id* at 1.

¹² 44 C.F.R. § 60.3(a)(2), *Id* at 1.

¹³ This restriction applies to assistance from the Federal Housing Administration, the U.S. Department of Veterans Affairs, and the Small Business Administration, among other Federal agencies.

- Lending institutions may require private flood insurance for high-risk properties at significantly higher cost to the homeowner, assuming private insurance is even available in that area; and
- If a flood disaster occurs in a suspended community, many types of federal disaster assistance would not be available.¹⁴

Permit Extensions

A permit extension was provided by the 2011 Florida Legislature, “in recognition of 2011 real estate market conditions,” extending “any building permit, and any permit issued by the Department of Environmental Protection or by a water management district pursuant to part IV of chapter 373, Florida Statutes, which has an expiration date from January 1, 2012, through January 1, 2014,” and also “any local government-issued development order or building permit” (including certificates of levels of service), for a period of 2 years after its previously scheduled date of expiration.¹⁵ This extension is in addition to any existing permit extension, but cannot exceed four years total.¹⁶ To get this extension, the holder of such a permit or other authorization must have notified the authorizing agency in writing by December 31, 2011.¹⁷

The 2012 Florida Legislature revised the deadline for the holder of certain permits to notify the authorizing agency of automatic extension eligibility. The new deadline was December 31, 2012.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 125.022, F.S., to provide that counties will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development.

Section 2 amends s. 166.033, F.S., to provide that municipalities will attach disclaimers to development permits that include a condition that all other applicable state or federal permits must be obtained before commencement of the development.

Section 3 revises the deadline for the holder of certain permits to notify the authorizing agency of automatic extension eligibility. The new deadline would be October 1, 2013.

Section 4 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁴ *Id* at 1.

¹⁵ Section 79, ch. 2011-39, L.O.F. (HB 7207).

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ Section 24, ch. 2012-205, L.O.F (HB 503).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill ensures Florida is fully compliant with NFIP and will save communities from the threat of being suspended from the program for non-compliance with NFIB standards.

If a community were to be suspended for non-compliance with NFIB, lending institutions may require private flood insurance for high-risk properties at significantly higher cost to the homeowner. If a flood disaster occurs in a suspended community, many types of federal disaster assistance for the acquisition, construction, or repair of insurable structures within a SFHA normally available to individuals and households for housing and personal property will not be available.

The bill allows the holder of certain permits more time to notify the authorizing agency of automatic extension eligibility. This may help developers who have previously expired permits who would like to keep their projects eligible in the future.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Community Affairs on April 9, 2013:

The committee substitute deleted a provision regarding mapped flood hazard areas. Also, the CS extended the deadline for the holder of certain permits to notify the authorizing agency of automatic extension eligibility.

B. Amendments:

None.

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

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

583-03411-13

20131840__

A bill to be entitled
An act relating to development permits; amending ss.
125.022 and 166.033, F.S.; requiring counties and
municipalities to attach certain disclaimers and
include certain permit conditions when issuing
development permits; requiring counties and
municipalities to demonstrate that applicable permits
have been obtained prior to development in mapped
flood hazard areas; providing an effective date.

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

Section 1. Section 125.022, Florida Statutes, is amended to read:

125.022 Development permits.—When a county denies an application for a development permit, the county shall give written notice to the applicant. The notice must include a citation to the applicable portions of an ordinance, rule, statute, or other legal authority for the denial of the permit. As used in this section, the term “development permit” has the same meaning as in s. 163.3164. For any development permit application filed with the county after July 1, 2012, a county may not require as a condition of processing or issuing a development permit that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county action on the local development permit. Issuance of a development permit by a county does not in any way create any rights on the part of the applicant to obtain a

583-03411-13

20131840__

30 permit from a state or federal agency and does not create any
31 liability on the part of the county for issuance of the permit
32 if the applicant fails to obtain requisite approvals or fulfill
33 the obligations imposed by a state or federal agency or
34 undertakes actions that result in a violation of state or
35 federal law. A county shall ~~may~~ attach such a disclaimer to the
36 issuance of a development permit and shall ~~may~~ include a permit
37 condition that all other applicable state or federal permits be
38 obtained before commencement of the development. For development
39 in mapped flood hazard areas, the county must demonstrate that
40 all other applicable state and federal permits have been
41 obtained before the commencement of the development. This
42 section does not prohibit a county from providing information to
43 an applicant regarding what other state or federal permits may
44 apply.

45 Section 2. Section 166.033, Florida Statutes, is amended to
46 read:

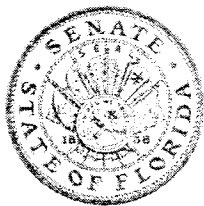
47 166.033 Development permits.—When a municipality denies an
48 application for a development permit, the municipality shall
49 give written notice to the applicant. The notice must include a
50 citation to the applicable portions of an ordinance, rule,
51 statute, or other legal authority for the denial of the permit.
52 As used in this section, the term "development permit" has the
53 same meaning as in s. 163.3164. For any development permit
54 application filed with the municipality after July 1, 2012, a
55 municipality may not require as a condition of processing or
56 issuing a development permit that an applicant obtain a permit
57 or approval from any state or federal agency unless the agency
58 has issued a final agency action that denies the federal or

583-03411-13

20131840__

59 state permit before the municipal action on the local
60 development permit. Issuance of a development permit by a
61 municipality does not in any way create any right on the part of
62 an applicant to obtain a permit from a state or federal agency
63 and does not create any liability on the part of the
64 municipality for issuance of the permit if the applicant fails
65 to obtain requisite approvals or fulfill the obligations imposed
66 by a state or federal agency or undertakes actions that result
67 in a violation of state or federal law. A municipality shall ~~may~~
68 attach such a disclaimer to the issuance of development permits
69 and shall ~~may~~ include a permit condition that all other
70 applicable state or federal permits be obtained before
71 commencement of the development. For development in mapped flood
72 hazard areas, the municipality must demonstrate that all other
73 applicable state and federal permits have been obtained before
74 the commencement of the development. This section does not
75 prohibit a municipality from providing information to an
76 applicant regarding what other state or federal permits may
77 apply.

78 Section 3. This act shall take effect July 1, 2013.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Ethics and Elections, *Chair*
Budget - Subcommittee on General Government
Appropriations
Budget - Subcommittee on Transportation, Tourism,
and Economic Development Appropriations
Community Affairs
Environmental Preservation and Conservation
Rules
Judiciary
Appropriations
Select Committee on Gaming

SENATOR JACK LATVALA
20th District

April 3, 2013

The Honorable Senator Wilton Simpson, Chair
Senate Committee on Community Affairs
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request consideration of Senate Bill 1480 regarding Interlocal Agreements at your earliest convenience.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Latvala".

Jack Latvala
State Senator
District 20

Cc: Tom Yeatman, Staff Director
Ann Whittaker, Administrative Assistant

REPLY TO

7 26133 U.S. Highway 19 North, Suite 201, Clearwater, FL 33763 (727) 793-2797
7 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

Senate's Website: www.flsenate.gov

Don Gaetz
President of the Senate

Garrett Richter
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 1480

INTRODUCER: Senator Latvala

SUBJECT: Interlocal Agreements

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Everette	Eichin	TR	Favorable
2.	Anderson	Yeatman	CA	Favorable
3.				
4.				
5.				
6.				

I. Summary:

SB 1480 modifies the definition of “public agency” as used in the Florida Interlocal Cooperation Act to include a public transit provider.

This bill amends section 163.01, Florida Statutes.

II. Present Situation:

Pinellas Suncoast Transit Authority (PSTA)

The Pinellas Suncoast Transit Authority, formerly known as Central Pinellas Transit Authority (CPTA), was created by the "Pinellas Suncoast Transit Authority Law"¹ by special act of the Legislature in 1970. Service began in 1973. In 1982 the Central Pinellas Transit Authority was renamed Pinellas Suncoast Transit Authority (PSTA) to more clearly describe the area served. In 1984 PSTA expanded the service area by merging with the St. Petersburg Municipal Transit System. PSTA serves most of the unincorporated area and 21 of the county's 24 municipalities, covering 98 percent of the county's population and 97 percent of its land area. The service area is defined in law.

Hillsborough Area Regional Transit Authority (HART)

The Hillsborough Transit Authority, operating and also known as Hillsborough Area Regional Transit Authority, or HART, was created as a body politic and corporate under Chapter 163,

¹ Chapters 70-907, 82-368, 82-416, 90-449, 91-338, 94-433, 94-438, 99-440, 00-424, and 02-341, L.O.F.

Part V, Sections 163.567, et seq., F.S., on October 3, 1979.^{2,3} HART was chartered for the purpose of providing mass transit service to its two charter members, the City of Tampa and the unincorporated areas of Hillsborough County. The Authority may admit to membership any county or municipality contiguous to one of its members upon application and after approval by a majority vote of the Board of Directors. The City of Temple Terrace has been admitted as a member of the Authority.

House Bill 599 (2012)

In 2012, the Legislature passed HB 599⁴ providing legislative intent to encourage and facilitate a review by PSTA and HART in order to search for possible improvements in regional transit connectivity and implementation of operational efficiencies and service enhancements that are consistent with the regional approach to transit identified in the Tampa Bay Area Regional Transportation Authority's (TBARTA) Regional Transportation Master Plan.⁵ The Legislature found that improvements and efficiencies can best be achieved through a joint review, evaluation, and recommendations by PSTA and HART.

HB 599 required the governing bodies or a designated subcommittee of both PSTA and HART to hold joint meetings in order to consider and identify opportunities for greater efficiency and service improvements, including specific methods for increasing service connectivity between jurisdictions of each agency. The elements to be reviewed must also include:

- governance structure, including governing board membership, terms, responsibilities, officers, powers, duties, and responsibilities;
- funding options and implementation;
- facilities ownership and management;
- current financial obligations and resources; and
- actions to be taken that are consistent with TBARTA's master plan.

The bill required PSTA and HART jointly submit a report to the Speaker of the House of Representatives and the President of the Senate by February 1, 2013, on the elements described above. The report was required to include proposed legislation to implement each recommendation and specific recommendations concerning the reorganization of each agency, the organizational merger of both agencies, or the consolidation of functions within and between each agency. The report was submitted on or about January 28, 2013.

² Sections 163.565 – 163.572, F.S., the Regional Transportation Authority Law, authorize the creation of regional transportation authorities by any two or more contiguous counties, cities or other political subdivisions. This law was created in the early 1970's to create the HART (Hillsborough Area Regional Transit) line transit agency in Hillsborough County and has not been used to create any other agency. The law provides for a charter committee to be formed consisting of representatives of the affected local governments (by population formula) to develop a charter defining the powers and duties of the transportation authority and submit the charter to the Department of State. Once the charter is filed the Governor must appoint two members to the board of directors of the transportation authority. The remaining membership of the board of directors is made up of representatives of the local governments. The authority is authorized to incur debt, levy taxes (up to 3 mills ad valorem tax, with county commission approval and by a majority of voters in the affected area), and has limited eminent domain powers.

³ This should not be confused with the statutory language in ch. 343, F.S., which creates other regional transportation authorities including TBARTA.

⁴ Ch 2012-174, L.O.F.

⁵ A copy of TBARTA's Master Plan is available at <http://www.tbarta.com/update> (last visited March 28, 2013).

One of the scenarios presented in the report was the establishment of a joint powers agency.⁶ Attached to the report, required by HB 599, was a legal opinion from the General Counsels of PSTA and HART discussing legal issues arising out of the consolidation study. One conclusion of the memorandum was transit authorities do not have the statutory authority to enter into joint power agreements.⁷

Florida Interlocal Cooperation Act

The Florida Interlocal Cooperation Act⁸ authorizes public agencies “of this state to exercise jointly with public agency of the state, of any other state or the United States government any power, privilege or authority which such agencies share in common and which might each exercise separately.”⁹ The joint exercise of power is to be made by contract in the form of an interlocal agreement. Pursuant to the statute, the agreements may address numerous terms and conditions including the agreement’s purpose and duration, personnel and financial issues, purchasing and contracting powers, accountability measures, and dispute resolution processes.¹⁰

“Public agency” is currently defined by law as a political subdivision, agency, or officer of this state or of any state of the United States, including, but not limited to, state government, county, city, school district, single and multipurpose special district, single and multipurpose public authority, metropolitan or consolidated government, a separate legal entity or administrative entity to administer or execute the agreement, an independently elected county officer, any agency of the United States Government, a federally recognized Native American tribe, and any similar entity of any other state of the United States.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 163.01(3)(b), F.S. modifying the definition of “public agency” as used in the Florida Interlocal Cooperation Act to provide that a public agency includes a public transit provider. This will allow all public transit providers to enter into interlocal agreements.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

⁶ PSTA/HART Consolidation Study (on file with the Senate Transportation Committee).

⁷ November 16, 2012, Report of General Counsels regarding Legal Issues Arising out of Consolidation Study (on file with the Senate Transportation Committee).

⁸ Section 163.01, F.S.

⁹ Section 163.01(4), F.S.

¹⁰ Section 163.01(5), F.S.

¹¹ Section 163.01(3)(b), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

After entering into interlocal agreements, public transit providers may see a reduction in expenditures due to efficiencies or service improvements. However, any reduction would depend upon the specific interlocal agreement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

By Senator Latvala

20-00566B-13

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1 A bill to be entitled
2 An act relating to interlocal agreements; amending s.
3 163.01, F.S.; modifying the definition of "public
4 agency" to include a public transit provider;
5 providing an effective date.
6

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

9 Section 1. Paragraph (b) of subsection (3) of section
10 163.01, Florida Statutes, is amended to read:

11 163.01 Florida Interlocal Cooperation Act of 1969.—

12 (3) As used in this section:

13 (b) "Public agency" means a political subdivision, agency,
14 or officer of this state or of any state of the United States,
15 including, but not limited to, state government, county, city,
16 school district, single and multipurpose special district,
17 single and multipurpose public authority, metropolitan or
18 consolidated government, a separate legal entity or
19 administrative entity created under subsection (7), a public
20 transit provider, an independently elected county officer, any
21 agency of the United States Government, a federally recognized
22 Native American tribe, and any similar entity of any other state
23 of the United States.

24 Section 2. This act shall take effect July 1, 2013.

CourtSmart Tag Report

Room: SB 301
Caption: Community Affairs Committee

Case:
Judge:

Type:

Started: 4/9/2013 1:33:42 PM
Ends: 4/9/2013 3:12:09 PM **Length:** 01:38:28

1:33:52 PM	Roll call
1:34:44 PM	SB 684 tp'd
1:35:00 PM	Tab 6 SB 1322 Senator Gibson
1:36:31 PM	Speaker
1:36:37 PM	Secretary calls roll
1:37:03 PM	Tab 10 SB 580 Senator Hays
1:40:00 PM	Speaker Diana Ferguson Representing Community Advocacy Network
1:42:11 PM	Speaker Dove Buck Representing HOA
1:46:43 PM	Senator Soto
1:49:07 PM	Senator Stargel
1:49:44 PM	Speaker Buck
1:51:10 PM	Speaker Yeline Golin Representing CAIL
1:52:55 PM	Speaker Richard Pinsky
1:55:08 PM	Senator Soto
1:55:51 PM	Senator Hays
1:57:46 PM	Senator Thrasher
2:00:56 PM	Senator Soto
2:02:11 PM	Senator Bradley
2:03:16 PM	Secretary calls roll on SB 580
2:03:42 PM	Tab 2 SB 1420 Senator Simmons
2:05:00 PM	Amendment 1 barcode 445222 withdrawn
2:05:10 PM	Amendment 2 barcode 911036
2:07:43 PM	Amendment 3 barcode 922782
2:07:59 PM	Amendment 4 barcode 454126
2:08:56 PM	Secretary calls roll on SB 1410
2:09:34 PM	Tab 4 SB 1808 Senator Dean
2:09:38 PM	Amendment 1 barcode 344958
2:10:42 PM	Senator Dean
2:12:12 PM	Speaker David Cullen Representing Sierra Club Florida
2:14:16 PM	Senator Latvala
2:14:56 PM	Senator Thompson
2:15:41 PM	Senator Soto
2:17:20 PM	Senator Dean closes
2:17:54 PM	Secretary calls roll on SB 1808
2:18:05 PM	Tab 3 SB 1192
2:18:20 PM	Amendment 1 barcode 314958
2:18:26 PM	Senator Grimsley
2:19:19 PM	Senator Latvala
2:21:46 PM	Speaker Lisa Hurley Representing Florida Association of Counties
2:23:12 PM	Speaker John Hill Representing clinics
2:26:09 PM	Speaker Gavin Meshad
2:31:09 PM	Senator Soto
2:32:44 PM	Speaker Tom Knight Sherriff
2:39:51 PM	Speaker Cindy Harney Representing FAADA
2:43:28 PM	Speaker Wayne Applebee Representing Sarasota Board of County Commissioners
2:48:31 PM	Senator Thompson
2:49:30 PM	Senator Grimsley
2:49:42 PM	Secretary calls roll on SB 1192
2:50:13 PM	Tab 1 Jesse Pannucio
2:53:53 PM	Secretary calls roll on Jesse Pannucio Exective director DEO
2:54:13 PM	Tab 11 SB 1784 Elizabeth Ryon
2:55:36 PM	Senator Bradley

2:56:00 PM	Senator Soto
2:56:33 PM	Senator Latvala
2:57:00 PM	Senator Thrasher
2:58:24 PM	Senator Bradley
2:59:31 PM	Secretary calls roll on SB 1784
2:59:56 PM	Tab 12 SB 1840 Elizabeth Ryon
3:00:21 PM	Amendment 1 barcode 545632
3:00:28 PM	Elizabeth Ryon
3:02:14 PM	Amendment to the Amendment barcode 392086
3:02:22 PM	Elizabeth Ryon
3:03:43 PM	Secretary calls roll on SB 1840
3:04:14 PM	Tab 8 SB 300
3:04:18 PM	Charlie Anderson
3:05:22 PM	Secretary calls roll on SB 300
3:05:47 PM	Tab 7 SB 582
3:05:51 PM	LA Hally
3:08:33 PM	Secretary calls roll on SB 582
3:09:03 PM	Tab 5 SB 1246
3:09:14 PM	Dee Alexander
3:10:41 PM	Secretary calls roll on SB 1246
3:11:00 PM	Tab 13 SB 1480
3:11:11 PM	Senator Latvala
3:11:31 PM	Secretary calls roll on SB 1480
3:12:03 PM	Meeting Adjourned