

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, April 8, 2014
TIME: 3:00 —5:00 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	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 746 Criminal Justice / Health Policy / Sobel (Similar H 959)	Health Care Clinic Act; Redefining the term "clinic"; providing that a clinic is subject to penalties if it engages physicians whose licenses have been suspended or revoked, etc. HP 03/11/2014 Fav/CS CJ 03/24/2014 Fav/CS CA 04/08/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0
2	CS/CS/SB 1630 Transportation / Agriculture / Montford (Similar H 7091, Compare H 5003)	Department of Agriculture and Consumer Services; Adding a representative to the Joint Task Force on State Agency Law Enforcement Communications, to be appointed by the Commissioner of Agriculture; requiring a person to retake an educational seminar when renewing an Apalachicola Bay oyster harvesting license; revising requirements for pesticide fact sheets and safety data sheets; revising the exemption from permit requirements for minor food outlets; authorizing the department to inspect food records to facilitate tracing of food products in certain circumstances, etc. AG 03/17/2014 Fav/CS TR 03/26/2014 Fav/CS CA 04/08/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0
3	SB 1198 Montford (Identical H 1379)	Florida Retirement System; Revising criteria for employment eligible for purchase of retirement credit, etc. CA 04/08/2014 Fav/CS GO AP	Fav/CS Yeas 8 Nays 0
4	CS/SB 820 Transportation / Bullard (Compare H 63, H 7149, S 158, S 258, S 716, S 1564)	Transportation Facility Designations; Providing honorary designations of certain transportation facilities in specified counties; directing the Department of Transportation to erect suitable markers, etc. TR 04/03/2014 Fav/CS CA 04/08/2014 Fav/CS	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 8, 2014, 3:00 —5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 1274 Banking and Insurance / Hays (Similar CS/H 1089, Compare S 1672)	Citizens Property Insurance Corporation; Providing exemptions from the restriction on obtaining coverage from the corporation for substantial improvement to major structures under certain conditions; authorizing the corporation to create an addendum to the uniform mitigation verification form for use by counties under certain circumstances, etc. BI 03/19/2014 Not Considered BI 03/25/2014 Fav/CS CA 04/08/2014 Fav/CS RC	Fav/CS Yeas 9 Nays 0
6	CS/CS/SB 296 Military and Veterans Affairs, Space, and Domestic Security / Criminal Justice / Brandes (Identical CS/CS/H 209)	Carrying a Concealed Weapon or a Concealed Firearm; Providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm while in the act of complying with a mandatory evacuation order during a declared state of emergency, etc. CJ 03/03/2014 Fav/CS MS 03/19/2014 Temporarily Postponed MS 03/25/2014 Temporarily Postponed MS 04/01/2014 Fav/CS CA 04/08/2014 Fav/CS	Fav/CS Yeas 8 Nays 1
7	CS/SB 396 Education / Bean (Compare CS/CS/H 277)	Joint Use and Public Access of Public School Facilities and Joint Community Projects; Authorizing district school boards to enter into joint-use agreements with a local government or a private organization or adopt public access policies; authorizing a district school board to enter into agreements with a county, municipality, or Florida College System institution to develop and operate joint community projects; requiring certain provisions to be included in joint-use agreements for joint community projects, including indemnification of district school boards and liability insurance, etc. ED 03/18/2014 Temporarily Postponed ED 03/25/2014 Fav/CS CA 04/08/2014 Fav/CS JU	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 8, 2014, 3:00 —5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	CS/SB 1146 Commerce and Tourism / Altman (Similar CS/CS/H 849)	Service Animals; Requiring a public accommodation to permit use of a service animal by an individual with a disability under certain conditions; providing conditions for a public accommodation to exclude or remove a service animal; revising penalties to include community service for certain persons or entities who interfere with use of a service animal in specified circumstances; providing equal access to housing accommodations for an individual with a disability accompanied by an emotional support animal; providing conditions under which a landlord may request documentation of a qualifying disability; providing a penalty for knowing and willful misrepresentation with respect to use or training of a service animal, etc. CM 03/31/2014 Fav/CS CA 04/08/2014 Not Considered JU	Not Considered
9	CS/SB 772 Transportation / Garcia (Similar CS/CS/H 353, Compare CS/CS/H 311, CS/CS/S 230)	Expressway Authorities; Requiring members of each expressway authority, transportation authority, bridge authority, or toll authority to comply with specified financial disclosure requirements; prohibiting certain activities by authority board members and executive directors during and after membership or employment; providing a penalty; revising the Legislative declaration of the Tampa-Hillsborough County Expressway Authority's purposes for the benefit of the people to include managed lanes, etc. TR 04/03/2014 Fav/CS CA 04/08/2014 Favorable AP	Favorable Yeas 9 Nays 0
10	SB 1714 Regulated Industries (Compare H 283, CS/H 1329, H 7075, CS/S 406)	Malt Beverages; Clarifying three-tier system exceptions and application with respect to the manufacture, distribution, and sale of malt beverages; revising requirements for licensure and operation of manufacturers and vendors; adding an exception to the come-to-rest requirement; authorizing the possession and transportation of a growler; providing requirements for and limitations on the filling, refilling, and sale or distribution of growlers, etc. CA 04/08/2014 Fav/CS RC	Fav/CS Yeas 8 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Community Affairs

Tuesday, April 8, 2014, 3:00 —5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	CS/SB 1464 Environmental Preservation and Conservation / Simpson (Similar CS/H 703)	Environmental Regulation; Revising procedures for the transmittal and adoption of a comprehensive plan or plan amendment; exempting certain lessees of sovereignty submerged lands from lease renewal processing fees under certain circumstances; specifying the authorized duration of consumptive use permits for certain developments; encouraging certain counties to establish water well construction advisory boards; providing that proof of insurance satisfies a specified requirement to obtain a mitigation bank permit; requiring that certain criteria be incorporated into a regional water supply plan, etc. EP 03/26/2014 Fav/CS CA 04/08/2014 Temporarily Postponed AP RC	Temporarily Postponed
12	CS/CS/SB 1184 Agriculture / Commerce and Tourism / Brandes (Similar CS/CS/CS/H 185, Compare CS/S 1272)	Gasoline Stations; Requiring self-service gasoline pumps to display an additional decal containing specified information; requiring the Department of Agriculture and Consumer Services to confirm compliance by a specified date; providing for preemption of local laws and regulations pertaining to fueling assistance for certain motor vehicle operators; providing that no motor fuel outlet shall be required to provide air or vacuum supply without charge; preempts to the state the power to regulate and set pricing for air and vacuum commodities, etc. CM 03/17/2014 Fav/CS AG 03/31/2014 Fav/CS CA 04/08/2014 Workshop-Discussed AP	Workshop-Discussed

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/CS/SB 746

INTRODUCER: Community Affairs Committee; Criminal Justice Committee; Health Policy Committee; and Senator Sobel

SUBJECT: Health Care Clinic Act

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Sumner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
3.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 746 amends the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The bill also makes clinics subject to additional inspections, administrative penalties,¹ and any applicable criminal penalties if an inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked or the licenses of two or more physicians have been suspended or revoked as a consequence of the physicians’ actions while engaged by the clinic. The bill exempts certain federally certified clinics from licensure under the act.

II. Present Situation:

Clinics in the state must be licensed by the Agency for Health Care Administration (AHCA);² however, there are numerous exclusions from the definition of “clinic” in s. 400.9905, F.S.,³ and from the requirement to obtain a license as a clinic. The definition of “clinic” only includes entities that “tender charges for reimbursement.” The AHCA interprets this phrase to only include entities that bill third parties, such as Medicare, Medicaid, and insurance companies.

¹ See s. 400.995, F.S., allowing the AHCA to deny, revoke, or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

² Section 400.991, F.S.

³ Section 400.9905(4)(a)-(n), F.S.

Entities that provide health care services on a “cash only” basis are excluded from the definition of “clinic” and, as such, need not be licensed by the AHCA.⁴

III. Effect of Proposed Changes:

Section 1 amends s. 400.9905, F.S., to broaden the definition of “clinic” to include any entity that “receives remuneration” rather than entities that “tender charges for reimbursement.” The effect of this change is to require “cash only” clinics to obtain a license as a clinic and, as a result, these facilities will be subject to periodic inspections which may help detect and deter unlawful practices. The bill exempts clinics subject to federal licensure requirements under 42 C.F.R. part 485, subpart H.

Section 2 amends s. 400.995, F.S., to subject clinics to additional inspections, administrative penalties,⁵ licensure suspension or revocation, any applicable criminal penalties⁶ or any combination thereof if:

- An inspection or investigation reveals that the clinic hired or continued to employ a physician whose license is suspended or revoked; or
- The licenses of two or more physicians have been suspended or revoked as a consequence of the physicians’ actions while engaged by the clinic.

Section 3 establishes an effective date of July 1, 2014.

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.

⁴ See AHCA bill analysis for SB 746.

⁵ See s. 400.995, F.S., allowing the AHCA to deny, revoke, or suspend a license and impose fines of up to \$5,000 for violations of the Health Care Clinic Act.

⁶ The criminal penalties are not specified, however, these penalties could include a felony of the third degree imposed by s. 458.327(1)(b), F.S., on physicians who attempt to use a license which is suspended or revoked to practice medicine.

B. Private Sector Impact:

“Cash only” clinics that are not currently licensed will be required to obtain a license from the AHCA and pay a \$2,000 licensing fee. Also, clinics that hire or continue to employ a physician whose license is suspended or revoked may be required to pay a fine of up to \$5,000.

C. Government Sector Impact:

The AHCA anticipates an increased workload for clinic licensure of approximately 10 percent and to require four new FTEs to manage the increased workload.⁷ The increased workload will generate an estimated one-time cost to the AHCA of approximately \$16,000 and estimated recurring costs of approximately \$60,000.⁸

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 400.9905 and 400.995.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Community Affairs on April 8, 2014:

Exempts certain federally certified clinics from the licensure requirements of the bill.

CS/CS by Criminal Justice on March 24, 2014:

The CS amends CS/SB 746 to subject clinics to additional inspections and licensure suspension or revocation (or any combination of penalties including administrative and criminal penalties) if an inspection or investigation reveals that the licenses of two or more physicians have been suspended or revoked as a consequence of the physicians' actions while engaged by the clinic.

CS by Health Policy on March 11, 2014:

The CS amends SB 746 to state that only a clinic that hires or continues to employ, directly or contractually, a physician whose license is suspended or revoked is liable for sanctions or criminal penalties.

⁷ Supra n. 4

⁸ *Id.*

B. Amendments:

None.

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

By the Committees on Criminal Justice; and Health Policy; and
Senator Sobel

591-03095-14

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1 A bill to be entitled
2 An act relating to the Health Care Clinic Act;
3 amending s. 400.9905, F.S.; redefining the term
4 "clinic"; amending s. 400.995, F.S.; providing that a
5 clinic is subject to penalties if it engages
6 physicians whose licenses have been suspended or
7 revoked; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Subsection (4) of section 400.9905, Florida
12 Statutes, is amended to read:

13 400.9905 Definitions.—

14 (4) "Clinic" means an entity that provides ~~where~~ health
15 care services ~~are provided~~ to individuals and that receives
16 remuneration ~~which tenders charges for reimbursement~~ for such
17 services, including a mobile clinic and a portable equipment
18 provider. As used in this part, the term does not include and
19 the licensure requirements of this part do not apply to:

20 (a) Entities licensed or registered by the state under
21 chapter 395; entities licensed or registered by the state and
22 providing only health care services within the scope of services
23 authorized under their respective licenses under ss. 383.30-
24 383.335, chapter 390, chapter 394, chapter 397, this chapter
25 except part X, chapter 429, chapter 463, chapter 465, chapter
26 466, chapter 478, part I of chapter 483, chapter 484, or chapter
27 651; end-stage renal disease providers authorized under 42
28 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.
29 part 485, subpart B or subpart H; or an ~~any~~ entity that provides

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30 neonatal or pediatric hospital-based health care services or
31 other health care services by licensed practitioners solely
32 within a hospital licensed under chapter 395.

33 (b) Entities that own, directly or indirectly, entities
34 licensed or registered by the state pursuant to chapter 395;
35 entities that own, directly or indirectly, entities licensed or
36 registered by the state and providing only health care services
37 within the scope of services authorized pursuant to their
38 respective licenses under ss. 383.30-383.335, chapter 390,
39 chapter 394, chapter 397, this chapter except part X, chapter
40 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
41 of chapter 483, chapter 484, or chapter 651; end-stage renal
42 disease providers authorized under 42 C.F.R. part 405, subpart
43 U; providers certified under 42 C.F.R. part 485, subpart B or
44 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
45 hospital-based health care services by licensed practitioners
46 solely within a hospital licensed under chapter 395.

47 (c) Entities that are owned, directly or indirectly, by an
48 entity licensed or registered by the state pursuant to chapter
49 395; entities that are owned, directly or indirectly, by an
50 entity licensed or registered by the state and providing only
51 health care services within the scope of services authorized
52 pursuant to their respective licenses under ss. 383.30-383.335,
53 chapter 390, chapter 394, chapter 397, this chapter except part
54 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter
55 478, part I of chapter 483, chapter 484, or chapter 651; end-
56 stage renal disease providers authorized under 42 C.F.R. part
57 405, subpart U; providers certified under 42 C.F.R. part 485,
58 subpart B or subpart H; or an ~~any~~ entity that provides neonatal

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59 or pediatric hospital-based health care services by licensed
60 practitioners solely within a hospital under chapter 395.

61 (d) Entities that are under common ownership, directly or
62 indirectly, with an entity licensed or registered by the state
63 pursuant to chapter 395; entities that are under common
64 ownership, directly or indirectly, with an entity licensed or
65 registered by the state and providing only health care services
66 within the scope of services authorized pursuant to their
67 respective licenses under ss. 383.30-383.335, chapter 390,
68 chapter 394, chapter 397, this chapter except part X, chapter
69 429, chapter 463, chapter 465, chapter 466, chapter 478, part I
70 of chapter 483, chapter 484, or chapter 651; end-stage renal
71 disease providers authorized under 42 C.F.R. part 405, subpart
72 U; providers certified under 42 C.F.R. part 485, subpart B or
73 subpart H; or an ~~any~~ entity that provides neonatal or pediatric
74 hospital-based health care services by licensed practitioners
75 solely within a hospital licensed under chapter 395.

76 (e) An entity that is exempt from federal taxation under 26
77 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan
78 under 26 U.S.C. s. 409 that has a board of trustees at least
79 two-thirds of which are Florida-licensed health care
80 practitioners and provides only physical therapy services under
81 physician orders, a ~~any~~ community college or university clinic,
82 and an ~~any~~ entity owned or operated by the federal or state
83 government, including agencies, subdivisions, or municipalities
84 thereof.

85 (f) A sole proprietorship, group practice, partnership, or
86 corporation that provides health care services by physicians
87 covered by s. 627.419, that is directly supervised by one or

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88 more of such physicians, and that is wholly owned by one or more
89 of those physicians or by a physician and the spouse, parent,
90 child, or sibling of that physician.

91 (g) A sole proprietorship, group practice, partnership, or
92 corporation that provides health care services by licensed
93 health care practitioners under chapter 457, chapter 458,
94 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
95 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,
96 chapter 490, chapter 491, or part I, part III, part X, part
97 XIII, or part XIV of chapter 468, or s. 464.012, and that is
98 wholly owned by one or more licensed health care practitioners,
99 or the licensed health care practitioners set forth in this
100 paragraph and the spouse, parent, child, or sibling of a
101 licensed health care practitioner if one of the owners who is a
102 licensed health care practitioner is supervising the business
103 activities and is legally responsible for the entity's
104 compliance with all federal and state laws. However, a health
105 care practitioner may not supervise services beyond the scope of
106 the practitioner's license, except that, for the purposes of
107 this part, a clinic owned by a licensee in s. 456.053(3)(b)
108 which provides only services authorized pursuant to s.
109 456.053(3)(b) may be supervised by a licensee specified in s.
110 456.053(3)(b).

111 (h) Clinical facilities affiliated with an accredited
112 medical school at which training is provided for medical
113 students, residents, or fellows.

114 (i) Entities that provide only oncology or radiation
115 therapy services by physicians licensed under chapter 458 or
116 chapter 459 or entities that provide oncology or radiation

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117 therapy services by physicians licensed under chapter 458 or
118 chapter 459 which are owned by a corporation whose shares are
119 publicly traded on a recognized stock exchange.

120 (j) Clinical facilities affiliated with a college of
121 chiropractic accredited by the Council on Chiropractic Education
122 at which training is provided for chiropractic students.

123 (k) Entities that provide licensed practitioners to staff
124 emergency departments or to deliver anesthesia services in
125 facilities licensed under chapter 395 and that derive at least
126 90 percent of their gross annual revenues from the provision of
127 such services. Entities claiming an exemption from licensure
128 under this paragraph must provide documentation demonstrating
129 compliance.

130 (l) Orthotic, prosthetic, pediatric cardiology, or
131 perinatology clinical facilities or anesthesia clinical
132 facilities that are not otherwise exempt under paragraph (a) or
133 paragraph (k) and that are a publicly traded corporation or are
134 wholly owned, directly or indirectly, by a publicly traded
135 corporation. As used in this paragraph, a publicly traded
136 corporation is a corporation that issues securities traded on an
137 exchange registered with the United States Securities and
138 Exchange Commission as a national securities exchange.

139 (m) Entities that are owned by a corporation that has \$250
140 million or more in total annual sales of health care services
141 provided by licensed health care practitioners where one or more
142 of the persons responsible for the operations of the entity is a
143 health care practitioner who is licensed in this state and who
144 is responsible for supervising the business activities of the
145 entity and is responsible for the entity's compliance with state

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146 law for purposes of this part.

147 (n) Entities that employ 50 or more licensed health care
148 practitioners licensed under chapter 458 or chapter 459 where
149 the billing for medical services is under a single tax
150 identification number. The application for exemption under this
151 subsection must ~~shall~~ contain information that includes: the
152 name, residence, and business address and phone number of the
153 entity that owns the practice; a complete list of the names and
154 contact information of all the officers and directors of the
155 corporation; the name, residence address, business address, and
156 medical license number of each licensed Florida health care
157 practitioner employed by the entity; the corporate tax
158 identification number of the entity seeking an exemption; a
159 listing of health care services to be provided by the entity at
160 the health care clinics owned or operated by the entity and a
161 certified statement prepared by an independent certified public
162 accountant which states that the entity and the health care
163 clinics owned or operated by the entity have not received
164 payment for health care services under personal injury
165 protection insurance coverage for the preceding year. If the
166 agency determines that an entity which is exempt under this
167 subsection has received payments for medical services under
168 personal injury protection insurance coverage, the agency may
169 deny or revoke the exemption from licensure under this
170 subsection.

171
172 Notwithstanding this subsection, an entity shall be deemed a
173 clinic and must be licensed under this part in order to receive
174 reimbursement under the Florida Motor Vehicle No-Fault Law, ss.

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175 627.730-627.7405, unless exempted under s. 627.736(5)(h).

176 Section 2. Present subsection (6) of section 400.995,
177 Florida Statutes, is renumbered as subsection (7), and a new
178 subsection (6) is added to that section, to read:

179 400.995 Agency administrative penalties.—

180 (6) A clinic is subject to additional inspections,
181 administrative penalties, licensure suspension or revocation,
182 applicable criminal penalties, or any combination of the above
183 if:

184 (a) An inspection or investigation reveals that the clinic
185 hired or continues to directly or contractually engage a
186 physician whose license is suspended or revoked; or

187 (b) The licenses of two or more physicians have been
188 suspended or revoked as a consequence of the physicians' actions
189 while engaged by the clinic.

190 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4 18 2014

Meeting Date

Topic _____

Bill Number 746

Name BRIAN PITTS

(if applicable)

Amendment Barcode _____

Job Title TRUSTEE

(if applicable)

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Health Care Clinic Act

Bill Number SB 745
(if applicable)

Name Brad C. Roush

Amendment Barcode #2
(if applicable)

Job Title General Counsel -

Address 1110 Shannee Rd,

Phone 419.221.6712

Lim, OH 45805
City State Zip

E-mail broush@corahealth.com

Speaking: For Against Information

Representing CORA Health Services, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic _____

Bill Number 746
(if applicable)

Name Chris Nuland

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1000 Riverside Ave #115

Phone 904-233-3051

Street

Jacksonville, FL 32204

E-mail nulandlaw@aol.com

City

State

Zip

Speaking: For Against Information

Representing Florida Society of Plastic Surgeons / 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.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Ethics and Elections, *Vice Chair*
Health Policy, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Regulated Industries
Rules

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act, *Vice Chair*

SENATOR ELEANOR SOBEL

33rd District

March 17, 2014

Senator Wilton Simpson, Chair
Committee on Community Affairs
322 Senate Office Building
404 South Monroe Street
Tallahassee, Florida 32399

Dear Chair Simpson:

This letter is to request that **SB 746**, "**Health Care Clinic Act**", be placed on the agenda of the next scheduled meeting of the Community Affairs Committee.

The proposed legislation would require anti-aging and cosmetic surgery clinics that take cash only (remuneration) to be licensed, with exceptions for federally-licensed clinics. Cosmetic surgery establishments and anti-aging clinics are avoiding licensure and regulation by taking cash only from their clients. **Many of these establishments are owned and operated by felons** who dole out illegal amounts of Human Growth Hormones (HGH) and anabolic steroids.

Thank you for your consideration of this request.

Respectfully,

A handwritten signature in cursive script that reads "Eleanor Sobel".

Eleanor Sobel
State Senator, 33rd District

cc: Tom Yeatman, Ann Whittaker

REPLY TO:

- The "Old" Library, First Floor, 2600 Hollywood Blvd., Hollywood, Florida 33020 (954) 924-3693 FAX: (954) 924-3695
- 410 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5033

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

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/CS/SB 1630

INTRODUCER: Community Affairs Committee; Transportation Committee; Agriculture Committee; and Senator Montford

SUBJECT: Department of Agriculture and Consumer Services

DATE: April 8, 2014 REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Akhavein	Becker	AG	Fav/CS
2. Price	Eichin	TR	Fav/CS
3. Stearns	Yeatman	CA	Fav/CS
4. _____	_____	AP	_____

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 1630 addresses issues relating to agriculture and certain powers and duties of the Department of Agriculture and Consumer Services (department). The bill:

- Reorganizes ch. 570, F.S., the department’s general authorizing statute, into five separate parts;
- Standardizes penalty language in the new part V which is cross-referenced in the various statutes enforced by the department;
- Removes obsolete language to ensure accuracy;
- Allows property owners to late file for an agricultural classification for assessment purposes under certain conditions;
- States that lands classified as agricultural and participating in a dispersed water storage program shall continue to be classified as agricultural;
- Provides private landowners participating in a water storage program with an option to establish a baseline condition determining the extent of wetlands;
- Adds a representative of the department to the Joint Task Force on State Agency Law Enforcement Communications;
- Revises requirements for registration and distribution of discontinued pesticides;
- Updates the department’s certification and licensure processes to include applying online;

- Expands the authority of the Florida Forest Service, under certain conditions, to grant leases, permits, privileges, and concessions for the use of state forest lands to include *any lands* leased by or assigned to the Florida Forest Service for management purposes;
- Authorizes the department to impose civil penalties for violations relating to private security, investigative, and repossession services;
- Removes security bond and certificate of deposit requirements for fertilizer license applicants, since the department has sufficient authority to impose fines or to revoke licensure for licensees who do not pay inspection fees;
- Adds additional criteria to determine whether commercial feed is adulterated;
- Simplifies the information required to register as a seed dealer;
- Revises food permit requirements, associated fees, and renewal procedures;
- Exempts manually operated vending stands serviced by the Department of Education's Division of Blind Services from permitting requirements;
- Authorizes the department to close a food facility if it finds it poses an immediate danger or threat to public health, safety, and welfare;
- Authorizes the department to inspect aquaculture facilities and to analyze their food samples;
- Repeals a pilot program and permit for the use of Australian pine trees as windbreaks for citrus groves; and
- Creates new requirements for qualifying as a "non-dealer" in limited sales of dressed poultry.

II. Present Situation:

Chapter 570, F.S., Revision

Chapter 570, F.S., is the primary authorizing chapter for the Department of Agriculture and Consumer Services (department). This chapter establishes the functions, powers, and duties of the department, as well as the Commissioner of Agriculture. It creates the divisions and offices within the department and their functions and duties. Over the years, ch. 570, F.S., has become a general "catch-all" for statutory language that does not clearly fall within another chapter. This bill reorganizes ch. 570, F.S., to promote accuracy and efficiency throughout the department.

Penalty Consolidation

Currently, penalties are located within specific statutory sections that contain the regulation being enforced. In an effort to be more consistent, as well as consumer friendly, the department has recommended consolidating its fines and penalties into one part of the statute and placing cross-references within the specific subject matter statutes to standardize penalty language.

Property Valuation in Florida

The Florida Constitution requires that all property be assessed at just value (fair market value) for ad valorem tax purposes. However, sections 3, 4, and 6, Article VII of the Florida Constitution, provide for specified assessment limitations, property classifications, and exemptions. After the property appraiser has considered any assessment limitation or use classification affecting the just value of a property, the assessed value is determined. The assessed value is then reduced by any applicable exemptions to produce the taxable value.

Agricultural Property Classification

Section 193.461, F.S., provides that each county's property appraiser shall, for assessment purposes on an annual basis, classify all lands within a county as agricultural or nonagricultural. For property to be classified as agricultural land, it must be used "primarily for bona fide agricultural purposes." Agricultural purposes include, but are not limited to: horticulture; floriculture; viticulture; forestry; dairy; livestock; poultry; bee; pisciculture, when the land is used principally for the production of tropical fish; aquaculture, including algaculture; sod farming; and all forms of farm products and farm production.

Property appraisers are required to reclassify lands as nonagricultural when they are diverted from an agricultural to a nonagricultural use or no longer utilized for agricultural purposes.

In response to the spread of citrus canker, the 2000 Legislature authorized lands to retain agricultural classification and be assessed at a de minimis value of no more than \$50 per acre if the owner took the land out of production due to a state or federal eradication or quarantine program. These lands retain the agricultural classification and de minimis assessment as long as they are not used to produce income or used for a nonagricultural use.

Property owners must submit applications for agricultural classification by March 1 of each year.¹ If a property owner submits an application after March 1, the property owner must petition the value adjustment board and show extenuating circumstances that warrant granting the classification; the property appraiser is not authorized to review late applications.

Agricultural Water Policy

The Office of Agricultural Water Policy was established in 1995, in s. 570.074, F.S. The purpose of the office is to facilitate communications among federal, state, and local agencies, and the agricultural industry on water quantity and quality issues involving agriculture.² The bill requires the office to enforce and implement the provisions of ch. 582, F.S., which establishes the soil and water conservation districts. This duty is currently performed by the department's Division of Agricultural Environmental Services.

Water Retention Programs

The Legislature has encouraged and supported development of creative public-private partnerships and programs that facilitate or further the restoration of the surface water resources of the Lake Okechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed. Since 2005, the South Florida Water Management District has been working with agencies, environmental organizations, land owners, and researchers to enhance opportunities for storing excess surface water on private and public lands. Over the years, these efforts have made thousands of acre-feet of water retention and storage available.

¹ Section 193.461(3)(a), F.S.

² Florida Dep't of Agric. and Cons. Servs., *Office of Agricultural Water Policy*, <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Water-Policy> (last visited April 4, 2014).

Water retention systems serve to control storm water volume before it is discharged to surface waters or floods urban areas. The systems also act to minimize point source and non-point source pollution prior to its entry into streams, natural wetlands, and other receiving waters. These systems vary widely in their pollutant removal capabilities, but can effectively remove a number of contaminants with removal rates as high as 95 and 99 percent for some non-dissolved nutrients and pesticides, respectively.

Eight Florida ranchers participated in a \$6 million pilot program run by the South Florida Water Management District called the “Florida Ranchlands Environmental Services Project.” The program, which ran from 2006 to 2011, paid ranchers to construct water retention areas on their properties that acted as natural phosphorous filters. In addition to construction costs, the program paid ranchers for annual maintenance and a participation fee for three years. The district also created a \$3 million water farming pilot project that paid citrus growers to build systems to store excess water on fallow citrus land before it can flow into estuaries.

When an agricultural landowner enters into an agreement with a water management district or the Department of Environmental Protection for water storage or water quality improvements on private land, the extent of existing wetlands and other surface waters must be established in the agreement.³ This “baseline determination” is later needed so that any increase in wetlands or surface water as a result of the project does not subject the landowner to increased regulatory requirements.

As part of Florida’s pollution control requirements, Florida establishes the amount of a pollutant that a water body may receive without exceeding water quality standards.⁴ The Department of Agriculture and Consumer Services is authorized to establish best management practices to reduce agricultural pollutants.⁵

Division of Food Safety

The Division of Food Safety is responsible for assuring a safe, wholesome and properly represented food supply. This is accomplished through permitting and inspection of food establishments, inspection of food products, and through specialized laboratory analyses on a variety of food products sold or produced in the state. The division monitors food from the farm gate through processing and distribution to the retail point of purchase.

The division is charged with administration and enforcement of food, poultry, and egg laws, and also provides support in the enforcement of other food safety laws. In addition to regulatory surveillance and enforcement, the division evaluates consumer complaints related to food.⁶ The bill would authorize the division to also inspect aquaculture facilities and to analyze food samples from those facilities.

³ Section 373.4591, F.S.

⁴ See Section 403.067(6)(a)2., F.S. (describing the total maximum daily load calculation).

⁵ Section 403.067(7)(c), F.S.

⁶ Florida Dep’t of Agric. and Cons. Servs., *Division of Food Safety*, <http://www.freshfromflorida.com/Divisions-Offices/Food-Safety> (last visited April 4, 2014).

Office of Energy

The Office of Energy is the primary organization for state energy and climate change programs and policies. The office works cooperatively with other state entities, including the Florida Public Service Commission and the Florida Energy Consortium, to develop state energy and climate change policies and programs.⁷ During the 2011 Legislative Session, the Office of Energy was transferred from the Governor's Office to the department. However, the Office of Energy was never specifically established in ch. 570, F.S.

Conservation Easements and Agreements

A conservation easement is a perpetual, undivided interest in property that may be created in a variety of ways. Section 570.71(12), F.S., authorizes the department to use funds from the following sources to implement certain conservation easements and agreements:

- State funds;
- Federal funds;
- Other governmental entities;
- Nongovernmental organizations; and
- Private individuals.

The bill specifies that the funds described above can be used for administrative and operating expenses related to appraisals, mapping, title process, personnel, and other real estate expenses.

Pesticide Regulation

The Bureau of Pesticides provides comprehensive pesticide regulatory programs that respond to state needs by ensuring the protection of public health and the environment. The bureau is responsible for registering pesticide products sold and distributed in Florida. The bureau also conducts scientific reviews to determine whether human health and the environment may be adversely affected when pesticides are used under Florida conditions and in accordance with label directions and applicable regulations.⁸

The Pesticide Registration Section registers federally accepted pesticides that are distributed, sold, or offered for sale in Florida as stipulated in ch. 487, F.S., and ch. 5E-2, Florida Administrative Code. The law requires biennial registration renewal for each pesticide product sold or distributed in Florida.⁹

⁷ Florida Dep't of Agric. and Cons. Servs., *Office of Energy*, <http://www.freshfromflorida.com/Divisions-Offices/Energy> (last visited April 4, 2014).

⁸ Florida Dep't of Agric. and Cons. Servs., *Division of Agricultural Environmental Services*, <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services> (last visited April 4, 2014).

⁹ Florida Dep't of Agric. and Cons. Servs., *Product Registration Procedures*, <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services/Bureaus-and-Sections2/Bureau-of-Pesticides/Product-Registration-Procedures> (last visited April 4, 2014).

Agricultural Fertilizers, Feed, and Seed

The Bureau of Compliance Monitoring ensures the more than 3,000 distributors of feed, seed, and fertilizer products in Florida are registered or licensed and that their products meet current regulatory standards and label guarantees.¹⁰ The Agricultural Feed, Seed, and Fertilizer Advisory Council is a 15-member statutorily charged stakeholder advisory council to the department which was created in 2012 and convened in 2013. The council advises the department regarding actions to be taken with respect to the regulation and enforcement of agricultural feed, seed, and fertilizer. Stakeholders include the department, the University of Florida's Institute of Food and Agricultural Sciences, and the aquaculture, dairy production, citrus, seed, feed, fertilizer, beef cattle, poultry, field/row crops, and vegetable industries.¹¹

Plant Industry

The Division of Plant Industry works to detect, intercept, and control plant and honey bee pests that threaten Florida's native and commercially grown plants and agricultural resources.¹² In 2008, the Legislature established a five-year pilot program within the department to permit the planting of *Casuarina cunninghamiana* (Australian pine trees) as a windbreak for commercial citrus groves growing fresh fruit in Indian River, St. Lucie, and Martin counties.¹³ The purpose of the pilot program was to determine if the use of the trees as an agricultural pest and disease windbreak poses any adverse environmental consequences. The five-year pilot project ended in 2012. A final report was issued that indicated that *Casuarina cunninghamiana* used as windbreaks did not demonstrate any invasive tendencies.

Florida Forest Service

The Florida Forest Service's mission is to protect and manage the forest resources of Florida. Wildfire prevention and suppression are key components of its efforts to protect homeowners from the threat of damage in a natural, fire-dependent environment. In addition to managing over one million acres of state forests for multiple public uses including timber, recreation, and wildlife habitat, the service also provides landowners throughout the state with technical information and grant programs.¹⁴

Goethe and Withlacoochee State Forests

Section 589.081, F.S., requires the Florida Forest Service to pay 15 percent of the gross receipts from Withlacoochee State Forest and the Goethe State Forest to each fiscally constrained county containing a portion of the forests. The funds must be equally divided between the board of

¹⁰ Florida Dep't of Agric. And Cons. Servs., *Bureau of Compliance Monitoring*, <http://www.freshfromflorida.com/Divisions-Offices/Agricultural-Environmental-Services/Bureaus-and-Sections2/Bureau-of-Compliance-Monitoring> (last visited April 4, 2014).

¹¹ Agric. Feed, Seed, and Fertilizer Advisory Council, *Agricultural Feed, Seed, and Fertilizer Advisory Council*, <http://consensus.fsu.edu/AFSFAC/index.html> (last visited April 4, 2014).

¹² Florida Dep't of Agric. And Cons. Servs., *Division of Plant Industry*, <http://www.freshfromflorida.com/Divisions-Offices/Plant-Industry> (last visited April 4, 2014).

¹³ Section 581.091(5), F.S.

¹⁴ Florida Dep't of Agric. And Cons. Servs., *Florida Forest Service*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service> (last visited April 4, 2014).

county commissioners and the school board of each fiscally-constrained county. The bill transfers this language to s. 589.08, F.S., in the department's statutory reorganization and deletes references to the Withlacoochee State Forest because it is not located in any fiscally-constrained counties.

Classification and Sale of Eggs and Poultry

Section 583.01, F.S., currently defines the term "dealer" to mean any person, firm, or corporation, including a producer, processor, retailer, or wholesaler, that sells, offers for sale, or holds for the purpose of sale in this state 30 dozen or more eggs or its equivalent in any one week, or in excess of 100 pounds of dressed poultry in any one week. Egg and poultry dealers are regulated under this chapter and are required to possess a valid food permit. The bill creates limited sale poultry requirements to benefit operators of small poultry farms by correcting a long-standing discrepancy between state law and federal law regarding what constitutes a "dealer." For the past several years, the department has been working with small farmers to provide a level of economic and regulatory relief relative to production and sale of limited poultry. This change will establish more realistic numbers for a "non-dealer."

III. Effect of Proposed Changes:

Section 1 amends s. 193.461, F.S., to allow a property owner to file with the property appraiser for an agricultural classification for assessment purposes after the deadline for filing has passed. The application must be filed within 25 days after the property appraiser mails the notices required under s. 194.011(1). The application must demonstrate that the applicant was unable to apply for the classification in a timely manner or otherwise demonstrate extenuating circumstances as judged by the property appraiser.

The bill provides that lands classified as agricultural for assessment purposes and which participate in a dispersed water storage program pursuant to a contract with the Department of Environmental Protection or a water management district shall continue to be classified as agricultural lands for the duration of the lands' participation in the program and shall be assessed as nonproductive agricultural lands. Lands diverted to a nonagricultural use shall be assessed under s. 193.011, F.S.

Section 2 amends s. 282.709, F.S., to add a representative of the department to the Joint Task Force on State Agency Law Enforcement Communications. This task force advises the Department of Management Services of member-agency needs relating to the planning, designing, and establishment of the statewide radio communication system.

Section 3 amends s. 373.4591, F.S., to provide that when the department and a private landowner enter into an agreement related to water storage on private agricultural lands and to implement best management practices pursuant to s. 403.067(7)(c), F.S., a baseline condition determining the extent of wetlands and other surface waters may be established at the option and expense of the private landowner. The bill provides procedures to be followed by the department and directs the department to coordinate with the Department of Environmental Protection and water management districts on a process for reviewing such requests by private landowners.

Section 4 transfers and renumbers s. 570.0741, F.S., pertaining to the department's Office of Energy, as s. 377.805, F.S. It also deletes an obsolete web posting date.

Section 5 amends s. 379.361, F.S., to require a person to retake an educational seminar when renewing an Apalachicola Bay oyster harvesting license.

Section 6 amends s. 487.041, F.S., to revise requirements for registration and distribution of discontinued pesticides.

Section 7 amends s. 487.046, F.S., to update methods for filing pesticide applicator license applications.

Section 8 amends s. 487.048, F.S., to update methods for filing pesticide dealer's license applications.

Section 9 amends s. 487.159, F.S., to delete requirements for filing statements claiming damages and injuries from pesticide applications. It updates reporting requirements for pesticide applicators who observe unreasonable adverse effects of restricted-use pesticides.

Section 10 amends s. 487.160, F.S., to revise recordkeeping requirements for licensed private applicators.

Section 11 amends s. 487.2031, F.S., to revise the definition of "Material Safety Data Sheet" to "Safety Data Sheet."

Section 12 amends s. 487.2051, F.S., to revise requirements for pesticide fact sheets and safety data sheets.

Section 13 amends s. 493.6120, F.S., pertaining to private investigative, security, and repossession services. It authorizes the department to seek the imposition of certain civil penalties for violations and provides a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 14 transfers and renumbers s. 570.545, F.S., pertaining to unsolicited goods, as s. 501.0113, F.S.

Section 15 amends s. 500.03, F.S., to add a cross-reference to the definition of "food establishment." This will exempt the Department of Education's Division of Blind Services from obtaining permits from the department for vending machines it services at Department of Transportation rest areas. It will also exempt the Department of Transportation.

Section 16 amends s. 500.12, F.S., to revise criteria for certain food permit exemptions. It requires food establishments and retail food stores to obtain a food permit before beginning operation and clarifies that such permits are not transferable. It requires the department to adopt a food permit fee schedule by rule and updates terminology (occupational license to business tax certificate).

Section 17 amends s. 500.121, F.S., to conform it to changes made by this bill to the Florida Food Safety Act. It:

- Clarifies that the fine for violating the provisions of ch. 500, F.S., is an administrative fine to make it consistent with the newly created penalty section of the bill, s. 570.971, F.S.;
- Reduces a fine for mislabeling the country of origin of a food from \$10,000 per violation to \$5,000;
- Revises the time limit for payment of fines from 15 days to 21 days;
- Provides for permit revocation for failure to pay a fine;
- Authorizes the department to immediately close food establishments that fail to comply with ch. 500, FS., and are deemed a severe and immediate threat to public health;
- Provides a procedure for the department to follow in order to issue a final order to close a food establishment determined to be a severe and immediate threat to public health;
- Provides that a person who defaces or removes a closed-for-operation sign or an owner or operator that resists closure commits a second degree misdemeanor; and
- Authorizes the department to adopt rules to administer this subsection.

Section 18 amends s. 500.147, F.S., to authorize the department to inspect and have free access to any food establishment's food records. This will allow the department to trace food products in the event of a food-borne illness outbreak or to identify an adulterated or misbranded food item.

Section 19 amends s. 500.165, F.S., pertaining to shipments of food items, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 20 amends s. 500.172, F.S., to allow department employees access to food-processing or food storage areas if there has been probable cause of a food safety violation.

Section 21 amends s. 501.019, F.S., pertaining to penalties imposed for violations of health studio laws, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 22 amends s. 501.059, F.S., pertaining to telephone solicitation, to provide cross-references to penalties in the newly created s. 570.971, F.S. It also authorizes the department to adopt rules to implement this section.

Section 23 amends s. 501.922, F.S., pertaining to violations of the Antifreeze Act of 1978, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 24 transfers and renumbers s. 570.42, F.S., pertaining to the Dairy Technical Council, as s. 502.301, F.S. It amends the new section to make technical changes and to correct a cross-reference.

Section 25 creates part I of ch. 570, F.S., consisting of ss. 570.01 – 570.232, F.S., and entitled "General Provisions."

Section 26 renumbers s. 570.14, F.S., pertaining to the official seal that the department uses in official acts, as s. 570.031, F.S.

Section 27 renumbers s. 570.18, F.S., pertaining to the authority of the department to organize its work and to create maximum efficiency, as s. 570.041, F.S.

Section 28 renumbers s. 570.16, F.S., pertaining to penalties for interfering with department employees in the performance of their duties, as s. 570.051, F.S.

Section 29 amends s. 570.07, F.S., pertaining to the duties and responsibilities of the department, to correct a cross-reference.

Section 30 renumbers s. 570.17, F.S., pertaining to responsibilities between the department and the University of Florida's extension service and experiment stations, as s. 570.081, F.S.

Section 31 renumbers s. 570.531, F.S., pertaining to the Marketing Improvements Working Capital Trust Fund, as s. 570.209, F.S.

Section 32 amends s. 570.23, F.S., pertaining to the State Agricultural Advisory Council, to correct a cross-reference and to delete an obsolete date.

Section 33 renumbers s. 570.0705, F.S., pertaining to advisory committees, as s. 570.232, F.S.

Section 34 creates part II of ch. 570, F.S., consisting of ss. 570.30 – 570.693, F.S., and entitled "Program Services."

Section 35 amends s. 570.36, F.S., to change "laboratories" to "laboratory" since there is currently only one laboratory.

Section 36 amends s. 570.44, F.S., to delete a reference to the Pesticide Review Council which was abolished in 2013. It also removes responsibilities over the soil and water conservation districts from the Division of Agricultural Environmental Services, as Section 61 of the bill directs the Office of Agricultural Water Policy to enforce and implement the provisions of ch. 582, F.S., and any rules relating to soil and water conservation.

Section 37 amends s. 570.45, F.S., to delete a cross-reference. This amendment removes the duties of overseeing soil and water conservation districts from the director of the Division of Agricultural Environmental Services.

Section 38 amends s. 570.451, F.S., to correct a cross-reference and establish that the meetings, powers and duties, procedures, and recordkeeping of the Agricultural Feed, Seed, and Fertilizer Advisory Council be kept pursuant to s. 570.232, F.S.

Section 39 amends s. 570.50, F.S., to add aquaculture products to the list of items the Division of Food Safety may inspect and analyze. It also provides enforcement authority for aquaculture regulations.

Section 40 amends s. 570.51, F.S., to add ch. 597, F.S., (aquaculture) to the chapters that the Division of Food Safety has the authority to enforce.

Section 41 amends s. 570.543, F.S., to remove a reference to s. 570.0705, F.S., and establish that the meetings, powers, duties, procedures, and recordkeeping of the Florida Consumers' Council must be performed pursuant to s. 570.232, F.S.

Section 42 renumbers s. 570.073, F.S., pertaining to the Office of Agricultural Law Enforcement, as s. 570.65, F.S.

Section 43 renumbers s. 570.074, pertaining to the Office of Agricultural Water Policy, as s. 570.66, F.S. It also directs the office to provide oversight of the soil and water conservation districts, provisions of ch. 582, F.S., and rules relating to soil and water conservation.

Section 44 creates s. 570.67, F.S., to create the Office of Energy within the department. It provides for a senior manager, to be appointed by the Commissioner of Agriculture, and provides for duties of the office.

Section 45 renumbers s. 570.951, F.S., pertaining to the Florida Agriculture Center and Horse Park, as s. 570.681, F.S.

Section 46 renumbers s. 570.952, F.S., pertaining to the Florida Agriculture Center and Horse Park Authority, as s. 570.685, F.S. It amends the new section to correct cross-references and to remove obsolete dates.

Section 47 renumbers s. 570.953, F.S., pertaining to confidentiality of donors to the Agriculture Center and Horse Park Authority, as s. 570.686, F.S.

Section 48 renumbers s. 570.902, F.S., pertaining to definitions for the purpose of the department's direct-support organizations, as s. 570.69, F.S. It amends the new section to correct cross-references.

Section 49 renumbers s. 570.903, F.S., pertaining to direct-support organizations, as s. 570.691, F.S.

Section 50 renumbers s. 570.901, F.S., pertaining to the Florida Agricultural Museum, as s. 570.692, F.S.

Section 51 renumbers s. 570.91, F.S., pertaining to the Florida Agriculture in the Classroom program, as s. 570.693, F.S.

Section 52 creates part III of ch. 570, F.S., consisting of ss. 570.70 – 570.89, F.S., and entitled "Agricultural Development."

Section 53 amends s. 570.71, F.S., to remove an obsolete date for the initiation of the conservation easements and agreements program. It directs funds to be deposited into the Conservation and Recreation Lands Program Trust Fund and used for all related real estate costs, including administrative and operating expenses related to appraisals, mapping, title process, personnel, and other real estate-related expenses.

Section 54 transfers and renumbers s. 570.241, F.S., pertaining to the Agricultural Economic Development Act, as s. 570.73, F.S.

Section 55 renumbers s. 570.242, F.S., pertaining to definitions relating to the Agricultural Economic Development Act, as s. 570.74, F.S. It amends the new section to delete the terms “Commissioner” and “Department.”

Section 56 renumbers s. 570.243, F.S., pertaining to the department’s Agricultural Economic Development Program, as s. 570.75, F.S.

Section 57 renumbers s. 570.244, F.S., pertaining to the powers and duties of the department, as s. 570.76, F.S.

Section 58 renumbers s. 570.245, F.S., pertaining to the department’s interaction with other economic development agencies and groups, as s. 570.77, F.S.

Section 59 renumbers s. 570.246, F.S., pertaining to funds appropriated to agricultural economic development, as s. 570.78, F.S.

Section 60 renumbers s. 570.247, F.S., pertaining to promulgation of rules to implement the agricultural economic development program, as s. 570.79, F.S. It amends the new section to remove an obsolete date.

Section 61 renumbers s. 570.248, F.S., pertaining to the Agricultural Economic Development Project Review Committee, as s. 570.81, F.S.

Section 62 renumbers s. 570.249, F.S., pertaining to Agricultural Economic Development Program disaster loans, grants, and aid, as s. 570.82, F.S.

Section 63 renumbers s. 570.9135, F.S., pertaining to the Beef Market Development Act, as s. 570.83, F.S. It amends the new section to correct cross-references.

Section 64 renumbers s. 570.954, F.S., pertaining to the farm-to-fuel initiative, as s. 570.841, F.S.

Section 65 renumbers s. 570.96, F.S., pertaining to agritourism, as s. 570.85, F.S.

Section 66 renumbers s. 570.961, F.S., pertaining to definitions clarifying agritourism, as s. 570.86, F.S. It amends the new section to correct a cross-reference.

Section 67 renumbers s. 570.962, F.S., pertaining to the impact of agritourism activities on land classification for purposes of ad valorem taxation, as s. 570.87, F.S.

Section 68 renumbers s. 570.963, F.S., pertaining to liability for agritourism operators, as s. 570.88, F.S. It amends the new section to correct a cross-reference.

Section 69 renumbers s. 570.964, F.S., pertaining to notice requirements and the notice language that must be posted and given to patrons when engaging in agritourism activities, as s.570.89, F.S. It makes technical revisions to the new section.

Section 70 creates part IV of ch. 570, F.S., consisting of ss. 570.916 – 570.94, F.S., and entitled “Agricultural Water Policy.”

Section 71 renumbers s. 570.075, F.S., pertaining to water supply agreements with landowners in rural areas, as s. 570.916, F.S.

Section 72 renumbers s. 570.076, F.S., pertaining to the department’s Environmental Stewardship Certification Program, as s. 570.921, F.S. It also corrects a cross-reference.

Section 73 renumbers s. 570.085, F.S., pertaining to the department’s agricultural water conservation program and agricultural water supply planning, as s. 570.93, F.S.

Section 74 renumbers s. 570.087, F.S., pertaining to best management practices for wildlife, as s. 570.94, F.S.

Section 75 creates part V of ch. 570, F.S., consisting of s. 570.971, F.S., and entitled “Penalties.”

Section 76 creates s. 570.971, F.S., to establish levels of administrative and civil penalties for violations of department regulations. It provides applicability and authorizes the department to adopt rules.

Section 77 amends s. 576.021, F.S., to revise procedures for filing applications to distribute fertilizer. The change would allow for online certification and licensure.

Section 78 amends s. 576.031, F.S., to reduce the number of labels from five to two which registrants would have to provide a purchaser in order to distribute bulk fertilizer.

Section 79 amends s. 576.041, F.S., to delete a requirement that fertilizer license applicants provide surety bonds or certificates of deposit to ensure payment of inspection fees.

Section 80 amends s. 576.051, F.S., to revise the period of time a fertilizer sample must be retained from 90 days to 60 days.

Section 81 amends s. 576.061, F.S., pertaining to plant nutrient investigational allowances, deficiencies, and penalties, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 82 amends s. 576.071, F.S., to revise criteria for determining the commercial value of fertilizer nutrients. This change allows the department to utilize additional data sources, such as surveys of the Florida fertilizer industry, to obtain commercial values.

Section 83 amends s. 576.087, F.S., to revise antisiphon requirements for irrigation systems in response to constant changes in technology of these devices.

Section 84 amends s. 576.101, F.S., to remove the probationary status of fertilizer licensees whose fertilizer samples fail to meet minimum performance level requirements.

Section 85 amends s. 578.08, F.S., to revise application requirements and registration requirements for the sale of feed. It allows registrants to apply online or by paper application. It also adds categories in the fees section for businesses that sell the least amount of seed to make the registration process easier and to entice more small businesses to register with the department.

Section 86 amends s. 580.036, F.S., to re-insert a reference to the Commercial Feed Technical Council which a statutory revisers bill mistakenly removed in the 2013 Session.

Section 87 amends s. 580.041, F.S., to provide the option for online license applications for distributors of commercial feed and feedstuff.

Section 88 amends s. 580.071, F.S., to revise criteria for adulteration of commercial feed and feedstuff to include national standards established by the Association of American Feed Control Officials. This will make the definition of adulteration more consistent with national standards.

Section 89 amends s. 581.091, F.S., to delete a program for Australian pines used as windbreaks in citrus groves. The five-year pilot project ended in 2012 and a final report was issued.

Section 90 amends s. 581.131, F.S., to revise the timeframe from 60 days to 30 days before the annual renewal date in which the department must provide notices for registration renewal to nurserymen, stock dealers, agents, or plant brokers. This will bring the notice of need to renew into alignment with standards for billing used in the private sector.

Section 91 amends s. 583.01, F.S., to revise the definition of “dealer” to create limited sale poultry requirements. This change will make state law closer to federal law for a “non-dealer.”

Section 92 transfers and renumbers s. 570.38, F.S., pertaining to the Animal Industry Technical Council, as s. 585.008, F.S. It amends the new section to make technical changes and to correct a cross-reference.

Section 93 amends s. 589.08, F.S., to clarify the distribution of 15 percent of the gross receipts received by the Florida Forest Service from Goethe State Forest to fiscally constrained counties.

Section 94 amends s. 589.011, F.S., to provide conditions under which the Florida Forest Service is authorized to grant the use of certain lands. It provides criteria by which the Florida Forest Service determines certain fees, rentals, and charges.

Section 95 amends s. 589.20, F.S., to authorize the Florida Forest Service to cooperate with water management districts, municipalities, and other governmental entities in the designation and dedication of lands suitable for forestry purposes.

Section 96 amends s. 590.02, F.S., to rename the Florida Center for Wildfire and Forest Resources Management Training as the Withlacoochee Training Center.

Section 97 amends s. 590.125, F.S., to clarify requirements for non-certified burning and smoldering.

Section 98 transfers and renumbers s. 570.0725, F.S., pertaining to food recovery, as s. 595.420, F.S.

Section 99 amends s. 597.003, F.S., to authorize the department to provide training as necessary to lessees of certain lands.

Section 100 amends s. 597.004, F.S., to require an applicant for an aquaculture certificate to submit a certificate of training, if required.

Section 101 amends s. 597.020, F.S., to authorize the department to adopt training requirements for shellfish processors, by rule. It also provides a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 102 transfers and renumbers s. 570.481, F.S., pertaining to fruit and vegetable inspection fees and penalties, as s. 603.011, F.S.

Section 103 transfers and renumbers s. 570.55, F.S., pertaining to the Florida Tropical or Subtropical Fruit and Vegetables Sales Law, as s. 603.211, F.S.

Section 104 amends s. 604.16, F.S., to provide an exemption from the provisions of ss. 604.15– 604.34, F.S., for a dealer in agricultural products to the extent that the dealer purchases agricultural products from a producer owned by the exact same person as the dealer, owned solely by the dealer, or who solely owns the dealer. The dealer is not exempt from the recordkeeping requirements of s. 604.22(2), F.S.

Section 105 amends s. 604.22, F.S., pertaining to penalties for dealers in agricultural products, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 106 repeals the following sections:

Section 487.172, F.S., requires an educational program for organotin anti-fouling paints. It is obsolete since these products are now restricted-use pesticides, which are rarely used, and education is covered in the certification process.

Section 500.301, F.S., pertains to standards of enrichment for grain products. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.302, F.S., clarifies what constitutes an unlawful retail sale of a grain product. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.303, F.S., requires the department to establish by rule a state standard for each grain product. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.304, F.S., provides for enforcement of provisions found in ss. 500.301– 500.306, F.S. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.305, F.S., provides the department with the authority to inspect, take samples and investigate grain products for compliance with ss. 500.301-500.306, F.S. The department has adopted codes of federal regulation by reference in rule, making it obsolete and duplicative.

Section 500.306, F.S., provides penalties for violations of ss. 500.301-500.306, F.S., which Section 36 of the bill repeals.

Section 500.601, F.S., regulates the retail sale of meat. The department no longer carries out this function, because it falls under the jurisdiction of the United States Department of Agriculture.

Section 570.345, F.S., pertains to the Interstate Pest Control Compact. With the dissolution of the Compact in 2013, the statutory authority in this section is obsolete.

Section 570.542, F.S., creates the short title of the Florida Consumer’s Council and is not necessary.

Section 570.72, F.S., is a redundant definition of “department.”

Section 570.92, F.S., pertains to the department’s equestrian educational sports program which is an inactive program.

Section 589.081, F.S., details the payment of 15 percent of gross receipts received by the Florida Forest Service from the Goethe and Withlacoochee State Forests to the fiscally constrained counties within these forests. This statutory distribution has been moved to s. 589.08, F.S., in Section 92 of the bill.

Section 590.091, F.S., pertains to the designation of railroad rights-of-way as wildfire hazard areas. It is no longer needed due to underground pipelines and communications lines that run along railroad tracks.

Section 107 amends s. 193.461, F.S., pertaining to assessments of agricultural lands, to make grammatical changes and to correct a cross-reference.

Section 108 amends s. 253.74, F.S., pertaining to certain aquaculture violations, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 109 amends s. 288.1175, F.S., pertaining to an agriculture education and promotion facility, to correct a cross-reference.

Section 110 amends s. 320.08058, F.S., pertaining to Florida agricultural license plates, to correct cross-references.

Section 111 amends s. 373.621, F.S., pertaining to water conservation, to correct a cross-reference.

Section 112 amends s. 373.709, F.S., pertaining to regional water supply planning, to correct a cross-reference.

Section 113 amends s. 381.0072, F.S., pertaining to food service protection, to correct a cross-reference.

Section 114 amends s. 388.46, pertaining to the Florida Coordinating Council on Mosquito Control, to remove an obsolete reference to the Pesticide Review Council.

Section 115 amends s. 472.0351, F.S., pertaining to land surveyors and mappers, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 116 amends s. 472.036, F.S., pertaining to unlicensed practice of professional surveying and mapping, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 117 amends s. 482.161, F.S., pertaining to pest control, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 118 amends s. 482.165, F.S., pertaining to unlicensed practice of pest control, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 119 amends s. 482.243, F.S., pertaining to the Pest Control Enforcement Advisory Council, to correct a cross-reference.

Section 120 amends s. 487.047, F.S., to revise provisions for filing pesticide applicator license applications to allow for on-line certification and licensure.

Section 121 amends s. 487.091, F.S., pertaining to penalties relating to pesticide regulation and safety, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 122 amends s. 487.175, F.S., pertaining to violations of pesticide application, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 123 amends s. 493.6118, F.S., pertaining to administrative fines for offenses by private investigative, security, and repossession services, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 124 amends s. 496.420, F.S., pertaining to the solicitation of persons for donations, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 125 amends s. 500.70, F.S., pertaining to tomato food safety standards, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 126 amends s. 501.612, F.S., pertaining to commercial telephone sellers or salespersons, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 127 amends s. 501.619, F.S., pertaining to consumer protection, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 128 amends s. 502.231, F.S., pertaining to penalties for violations of regulatory laws governing the production, processing, and distribution of milk, milk products, frozen desserts, and frozen dessert mix. It provides cross-references to penalties in the newly created s. 570.971, F.S.

Section 129 amends s. 507.09, F.S., pertaining to household moving services, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 130 amends s. 507.10, F.S., pertaining to civil penalties and remedies for violations concerning household moving services, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 131 amends s. 509.032, F.S., pertaining to the department's duties during the inspection of food service establishments, to correct cross-references.

Section 132 amends s. 525.16, F.S., pertaining to penalties for gasoline and oil inspection violations, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 133 amends s. 526.311, F.S., pertaining to penalties for violations in the sale of liquid fuels, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 134 amends s. 526.55, F.S., pertaining to penalties for violations in the sale of brake fluid, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 135 amends s. 527.13, F.S., pertaining to penalties for violations in the sale of liquefied petroleum gas, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 136 amends s. 531.50, F.S., pertaining to penalties for violations of the Weights and Measures Act of 1971, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 137 amends s. 534.52, F.S., pertaining to penalties for violations of livestock market laws, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 138 amends s. 539.001, F.S., pertaining to penalties for violations of the Florida Pawnbroking Act, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 139 amends s. 559.921, F.S., pertaining to penalties for violations of the Florida Motor Vehicle Repair Act, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 140 amends s. 559.9355, pertaining to administrative remedies for violations of the Florida Sellers of Travel Act, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 141 amends s. 559.936, F.S., pertaining to civil penalties for violations of the Florida Sellers of Travel Act, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 142 amends s. 571.11, F.S., pertaining to seal of quality for eggs and poultry, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 143 amends s. 571.28, F.S., pertaining to the Florida Agricultural Promotional Campaign Advisory Council, to correct a cross-reference.

Section 144 amends s. 571.29, F.S., pertaining to unlawful use of logos of the Florida Agricultural Promotional Campaign, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 145 amends s. 578.181, F.S., pertaining to notice of infected plants and their destruction, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 146 amends s. 580.121, F.S., pertaining to penalties for violations of commercial feed and feedstuff laws, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 147 amends s. 581.141, F.S., pertaining to violations regarding certificates of registration or plant industry inspections, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 148 amends s. 581.186, F.S., pertaining to the Endangered Plant Advisory Council, to correct a cross-reference.

Section 149 amends s. 581.211, F.S., pertaining to penalties for violations of plant industry laws, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 150 amends s. 582.06, F.S., pertaining to the Soil and Water Conservation Council, to correct a cross-reference.

Section 151 amends s. 585.007, F.S., pertaining to violations of rules or laws governing the animal industry, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 152 amends s. 586.15, F.S., pertaining to violations of honey certification and honey bees, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 153 amends s. 586.161, pertaining to the Honeybee Technical Council, to correct a cross-reference.

Section 154 amends s. 590.14, F.S., pertaining to violations of forest protection, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 155 amends s. 595.701, F.S., pertaining to the Healthy Schools for Healthy Lives Council, to correct a cross-reference.

Section 156 amends s. 597.0041, F.S., pertaining to violations of prohibited acts relating to aquaculture, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 157 amends s. 599.002, F.S., pertaining to the Viticulture Advisory Council, to correct a cross-reference.

Section 158 amends s. 601.67, F.S., pertaining to disciplinary actions against citrus fruit dealers, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 159 amends s. 604.30, F.S., pertaining to violations of general agricultural laws, to provide cross-references to penalties in the newly created s. 570.971, F.S.

Section 160 amends s. 616.242, F.S., pertaining to violations of safety standards for amusement rides at public fairs and expositions, to provide a cross-reference to penalties in the newly created s. 570.971, F.S.

Section 161 provides that this act shall take effect July 1, 2014.

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:**

Refer to Private Sector Impact.

B. Private Sector Impact:

Section 1 allows landowners to late file for an agricultural classification and states that certain lands shall continue to be classified as agricultural for assessment purposes. Agricultural lands are assessed at de minimis levels, therefore, this aspect of the bill may have a positive impact on private landowners.

Section 5 (s. 487.046, F.S.), **Section 6** (s. 487.048, F.S.), **Section 75** (s. 576.021, F.S.), and **Section 118** (s. 487.047, F.S.) allow online registration, thus saving time and the cost of postage.

Section 14 (s. 500.12, F.S.) provides that persons who operate a minor food outlet selling non-potentially hazardous food whose shelf space does not exceed 20 linear feet are no longer require to obtain and pay for a food permit.

Section 77 (s. 576.041, F.S.) no longer requires licensees for agricultural fertilizers to post a surety bond with the department or to sign a certificate of deposit.

Section 83 (s. 578.08, F.S.) establishes two new lower registration fees for distributors of small amounts of seed (\$10/year for annual sales under \$500 and \$25/year for annual sales under \$1,000). This will reduce the fees these small distributors will have to pay, resulting in lower costs. The department estimates that a savings will be recognized by approximately 200 seed dealers.

Section 87 (s. 581.091, F.S.) simplifies the regulatory process for using Australian pines for windbreaks in commercial citrus groves. Nurseries wanting to obtain a permit to propagate Australian pines will continue the current process of submitting an application accompanied by a fee of \$200, adhering to permit requirements, and renewing the application and fee annually. Growers wanting to plant Australian pines for windbreaks must continue to submit an application accompanied by a fee not to exceed \$500 to receive a special permit valid for five years.

Section 88 (s. 581.131, F.S.) benefits nurserymen, stock dealers, agents, and plant brokers by allowing billing to be more in alignment with established business practices using a 30-day notice.

Section 89 (s. 583.01, F.S.) allows small farmers to be permitted as limited poultry and egg farm operations under department rule, resulting in a savings in reduced regulation and lower permit fees.

C. Government Sector Impact:

Section 1 allows landowners to late file for an agricultural classification and states that certain lands shall continue to be classified as agricultural for assessment purposes. Agricultural lands are assessed at reduced or de minimis levels, therefore, this aspect of the bill may have a negative impact on the tax receipts of local governments.

The reduction of fines and registrations that would result from passage of this bill are not anticipated to affect the department because these figures were never recognized by the department as a source of revenue.

Section 87 (s. 581.091, F.S.) terminates the Australian pine pilot program and moves it into a process with less regulation and more areas where the pines can be planted. The department does not anticipate a significant increase in permits issued, but it could result in a potential indeterminate increase in permitting revenues.

Section 83 (s. 578.08, F.S.) reduces registration fees for seed dealers. The anticipated total reduction in registration fees is \$13,725.¹⁵

The Division of Food Safety conducted a review of the penalty provisions provided in ch. 500 and ch. 502, F.S. Because trend analysis indicated the division has not assessed fines for these types of violations in several years, the division decided to lower the fine amounts. It is expected that the division will not experience any fiscal impact as a result of reducing the fine amounts, since the penalties for violations were never recognized by the division as a source of financial revenue.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 193.461, 253.74, 282.709, 288.1175, 320.08058, 373.4591, 373.621, 379.361, 373.709, 381.0072, 388.46, 472.0351, 472.036, 482.161, 482.165, 482.243, 487.041, 487.046, 487.047, 487.048, 487.091, 487.159, 487.160, 487.175, 487.2031, 487.2051, 493.6118, 493.6120, 496.420, 500.03, 500.12, 500.121, 500.147, 500.165, 500.172, 500.70, 501.019, 501.059, 501.612, 501.619, 507.09, 501.922, 507.10, 509.032, 525.16, 526.311, 526.55, 527.13, 531.50, 534.52, 539.001, 559.921, 559.9355, 559.936, 570.42, 570.14, 570.07, 570.23, 570.242, 570.36, 570.38, 570.44, 570.45, 570.451, 570.50, 570.51, 570.543, 570.074, 570.952, 570.902, 570.71, 570.247, 570.9135, 570.961, 570.963, 570.076, 571.11, 571.28, 571.29, 576.021, 576.031, 576.041, 576.051, 576.061, 576.071, 576.087, 576.101, 578.08, 578.181, 580.036, 580.041, 580.071, 580.091,

¹⁵ Florida Dep't of Agric. And Cons. Servs., *CS/SB 1630 Agency Analysis* (March 6, 2014).

580.121, 581.091, 581.131, 581.141, 581.186, 581.211, 582.06, 583.01, 585.007, 586.15, 586.161, 589.08, 589.011, 589.20, 590.02, 590.125, 590.14, 595.701, 597.003, 597.004, 597.0041, 597.020, 599.002, 601.67, 604.16, 604.22, 604.30, and 616.242.

This bill transfers and renumbers the following sections of the Florida Statutes: 507.545, 570.0741, 570.17, 570.531, 570.0725, 570.241, 570.481, and 570.55.

This bill renumbers the following sections of the Florida Statutes: 570.16, 570.18, 570.0705, 570.073, 570.17, 570.951, 570.953, 570.901, 570.903, 570.91, 570.243, 570.244, 570.245, 570.246, 570.248, 570.249, 570.954, 570.96, 570.962, 570.964, 570.075, 570.085, and 570.087.

This bill creates the following sections of the Florida Statutes: parts I, II, III, IV, and V of ch. 570, 570.67, and 570.971.

This bill repeals the following sections of the Florida Statutes: 487.172, 500.301, 500.302, 500.303, 500.304, 500.305, 500.306, 500.601, 570.345, 570.542, 570.72, 570.92, 589.081, and 590.091.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS/CS by Community Affairs on April 8, 2014:

Amends s. 193.461, F.S., to:

- Allow a property owner to file with the property appraiser for an agricultural classification after the deadline has passed under certain conditions.
- State that lands classified for assessment purposes as agricultural and which participate in a dispersed water storage program shall continue to be classified as agricultural lands under certain conditions. Lands under a dispersed water storage program diverted to a nonagricultural use shall be assessed under s. 193.011, F.S.

Amends s. 373.4591, F.S., to:

- Provide that when the department and a private landowner enter into an agreement related to water storage on private agricultural lands and to implement best management practices pursuant to s. 403.067(7)(c), F.S., a baseline condition determining the extent of wetlands and other surface waters may be established at the option and expense of the private landowner.
- Direct the department to submit the landowner's proposed baseline condition documentation to the lead agency for review and approval.
- Direct the department to coordinate with the Department of Environmental Protection and the water management district on a process for reviewing such requests.

CS/CS by Transportation on March 26, 2014:

- Removes from the bill language providing that certain acts relating to livery services are unfair or deceptive regulatory acts or practices.

- Removes from the bill language limiting the liability of lessees of certain Florida Forest Service lands and providing such lessees owe no duty of care to keep the leased area safe for entry or use by others.

CS by Agriculture on March 17, 2014:

- Makes technical and organizational changes.
- Provides that it is an unfair or deceptive regulatory act or practice for a special district to restrict the right of the public to freely bargain for lawful livery transit services, to create classifications within each type of livery service, or to fix or approve zones, rates, or fares for such classifications, which apply differently to individuals and businesses that compete with each other to provide similar services.
- Authorizes the department to adopt by rule training requirements for shellfish processors.

B. Amendments:

None.

By the Committees on Transportation; and Agriculture; and
Senator Montford

596-03275-14

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1 A bill to be entitled
2 An act relating to the Department of Agriculture and
3 Consumer Services; amending s. 282.709, F.S.; adding a
4 representative to the Joint Task Force on State Agency
5 Law Enforcement Communications, to be appointed by the
6 Commissioner of Agriculture; transferring,
7 renumbering, and amending s. 570.0741, F.S., relating
8 to the energy efficiency and conservation
9 clearinghouse; deleting an obsolete provision;
10 amending s. 379.361, F.S.; requiring a person to
11 retake an educational seminar when renewing an
12 Apalachicola Bay oyster harvesting license; amending
13 s. 487.041, F.S.; requiring a registrant to continue
14 the registration of a brand of pesticide that
15 continues to remain on retailers' shelves in this
16 state under certain circumstances; amending ss.
17 487.046 and 487.048, F.S.; authorizing applications
18 for certain licenses to be submitted through the
19 department's website; amending s. 487.159, F.S.;
20 deleting the requirements for filing statements
21 claiming damages and injuries from pesticide
22 application; amending s. 487.160, F.S.; requiring all
23 licensed private applicators to keep the same records
24 as licensed public applicators and licensed commercial
25 applicators with respect to the application of
26 restricted pesticides; amending s. 487.2031, F.S.;
27 revising the term "material safety data sheet";
28 amending s. 487.2051, F.S.; revising requirements for
29 pesticide fact sheets and safety data sheets; amending

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30 s. 493.6120, F.S.; authorizing the department to
31 impose certain civil penalties for violations relating
32 to private security, investigative, and repossession
33 services; transferring and renumbering s. 570.545,
34 F.S., relating to unsolicited goods; amending s.
35 500.03, F.S.; revising the definition of the term
36 "food establishment"; amending s. 500.12, F.S.;
37 revising the exemption from permit requirements for
38 minor food outlets; requiring an establishment to
39 apply for and receive a permit prior to the
40 commencement of operations; requiring the department
41 to adopt a schedule of fees to be paid by each food
42 establishment and retail food store; providing that
43 food permits are not transferable; updating
44 terminology; amending s. 500.121, F.S.; authorizing
45 the department to order the immediate closure of
46 certain establishments upon determination that the
47 establishment presents a severe and immediate threat
48 to the public health, safety, and welfare; specifying
49 the procedure the department must use in ordering
50 immediate closure; conforming provisions to changes
51 made by the act; providing criminal penalties;
52 authorizing the department to adopt rules; amending s.
53 500.147, F.S.; authorizing the department to inspect
54 food records to facilitate tracing of food products in
55 certain circumstances; amending s. 500.165, F.S.;
56 revising the administrative fine amount for violating
57 provisions relating to transporting shipments of food
58 items; amending s. 500.172, F.S.; authorizing the

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59 department to issue and enforce a stop-sale, stop-use,
60 removal, or hold order for certain food-processing or
61 food storage areas; amending s. 501.019, F.S.;
62 revising the administrative fine amount for violations
63 relating to health studios; amending s. 501.059, F.S.;
64 authorizing the department to adopt rules; conforming
65 provisions to changes made by the act; amending s.
66 501.922, F.S.; revising the administrative fine amount
67 for certain violations relating to the "Antifreeze
68 Act"; transferring, renumbering, and amending s.
69 570.42, F.S., relating to the Dairy Industry Technical
70 Council; conforming a cross-reference; creating part I
71 of ch. 570, F.S., entitled "General Provisions";
72 renumbering and amending s. 570.14, F.S., relating to
73 the seal of the department; restricting the seal of
74 the department from being used without written
75 approval by the department; renumbering ss. 570.18 and
76 570.16, F.S., relating to organization of departmental
77 work and the interference with department employees,
78 respectively; amending s. 570.07, F.S.; conforming a
79 cross-reference; transferring and renumbering ss.
80 570.17 and 570.531, F.S., relating to the regulatory
81 work of the state relating to the protection of
82 agricultural interests and the Market Improvements
83 Working Capital Trust Fund, respectively; amending s.
84 570.23, F.S.; conforming a cross-reference;
85 renumbering s. 570.0705, F.S., relating to advisory
86 committees; creating part II of ch. 570, F.S.,
87 entitled "Program Services"; amending s. 570.36, F.S.;

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88 making a technical change; amending s. 570.44, F.S.;

89 revising the duties of the Division of Agricultural

90 Environmental Services; amending s. 570.45, F.S.;

91 conforming provisions to changes made by the act;

92 amending s. 570.451, F.S.; conforming a cross-

93 reference; amending ss. 570.50 and 570.51, F.S.;

94 conforming provisions to changes made by the act;

95 amending s. 570.543, F.S.; conforming a cross-

96 reference; renumbering s. 570.073, F.S., relating to

97 the Office of Agricultural Law Enforcement;

98 renumbering and amending s. 570.074, F.S.; requiring

99 the Office of Agricultural and Water Policy to enforce

100 and implement ch. 582, F.S., and rules relating to

101 soil and water conservation; creating s. 570.67, F.S.;

102 codifying the creation of the Office of Energy;

103 providing for management and specifying duties;

104 renumbering s. 570.951, F.S., relating to the Florida

105 Agriculture Center and Horse Park; renumbering and

106 amending s. 570.952, F.S., relating to the Florida

107 Agricultural Center and Horse Park Authority;

108 conforming provisions to changes made by the act;

109 deleting obsolete provisions; renumbering s. 570.953,

110 F.S., relating to the identity of donors to the

111 Florida Agriculture Center and Horse Park Authority;

112 renumbering and amending s. 570.902, F.S., relating to

113 definitions; conforming provisions to changes made by

114 the act; renumbering ss. 570.903, 570.901, and 570.91,

115 F.S., relating to direct-support organizations, the

116 Florida Agricultural Museum, and Florida agriculture

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117 in the classroom, respectively; creating part III of
118 ch. 570, F.S., entitled "Agricultural Development";
119 amending s. 570.71, F.S.; authorizing the department
120 to use certain funds for administrative and operating
121 expenses related to appraisals, mapping, title
122 process, personnel, and other real estate expenses;
123 renumbering s. 570.241, F.S., relating to the
124 Agricultural Economic Development Act; renumbering and
125 amending s. 570.242, F.S., relating to the
126 Agricultural Economic Development Act; removing the
127 definition of the terms "commissioner" and
128 "department"; renumbering ss. 570.243, 570.244,
129 570.245, 570.246, F.S., relating to the Agricultural
130 Economic Development Program, the powers of the
131 department, interaction with other economic
132 development agencies and groups, and agricultural
133 economic development funding, respectively;
134 renumbering and amending s. 570.247, F.S., relating to
135 certain department rules; deleting obsolete
136 provisions; renumbering ss. 570.248 and 570.249, F.S.,
137 relating to the Agricultural Economic Development and
138 Project Review Committee and disaster loans and grants
139 and aid, respectively; renumbering and amending s.
140 570.9135, F.S., relating to the Beef Market
141 Development Act; conforming cross-references; making
142 technical changes; renumbering ss. 570.954 and 570.96,
143 F.S., relating to the farm-to-fuel initiative and
144 agritourism, respectively; renumbering and amending s.
145 570.961, F.S., relating to definitions; conforming

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146 cross-references; renumbering s. 570.962, F.S.,
147 relating to agritourism participation impact on land
148 classification; renumbering and amending s. 570.963,
149 F.S., relating to liability; conforming a cross-
150 reference; renumbering and amending s. 570.964, F.S.,
151 relating to posting and notification requirements for
152 agritourism operators; conforming provisions to
153 changes made by the act; creating part IV of ch. 570,
154 F.S., entitled "Agricultural Water Policy";
155 renumbering s. 570.075, F.S., relating to water supply
156 agreements; renumbering and amending s. 570.076, F.S.,
157 relating to Environmental Stewardship Certification;
158 conforming a cross-reference; renumbering ss. 570.085
159 and 570.087, F.S., relating to agricultural water
160 conservation and agricultural water supply planning
161 and best management practices for wildlife,
162 respectively; creating part V of ch. 570, F.S.,
163 entitled "Penalties"; creating s. 570.971, F.S.;
164 providing administrative fines and civil penalties;
165 authorizing the department to refuse to issue or renew
166 a license, permit, authorization, certificate, or
167 registration under certain circumstances; authorizing
168 the department to adopt rules; amending s. 576.021,
169 F.S.; updating terminology; authorizing applications
170 for registration for specialty fertilizers to be
171 submitted using the department's website; making
172 technical changes; amending s. 576.031, F.S.; revising
173 labeling requirements for distribution of fertilizer
174 in bulk; amending s. 576.041, F.S.; removing surety

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175 bond and certificate of deposit requirements for
176 fertilizer license applicants; amending s. 576.051,
177 F.S.; extending the period of retention for an
178 official check sample; amending s. 576.061, F.S.;
179 deleting the penalty imposed when it is determined by
180 the department that a fertilizer has been distributed
181 without being licensed or registered, or without
182 labeling; conforming provisions to changes made by the
183 act; making technical changes; amending s. 576.071,
184 F.S.; requiring the department to survey the
185 fertilizer industry of this state to determine the
186 commercial value used in assessing penalties for a
187 deficiency; amending s. 576.087, F.S.; deleting
188 certain requirements relating to antisiphon devices;
189 amending s. 576.101, F.S.; deleting the department's
190 authorization to place a licensee on probationary
191 status under certain circumstances; amending s.
192 578.08, F.S.; deleting the requirement that the
193 application for registration as a seed dealer include
194 the name and location of each place of business at
195 which the seed is sold, distributed, offered, exposed,
196 or handled for sale; requiring the application to be
197 made by submitting a form prescribed by department
198 rule or using the department's website; establishing a
199 registration fee for receipts of certain amounts;
200 amending s. 580.036, F.S.; requiring that standards
201 for the sale, use, and distribution of commercial feed
202 or feedstuff, if adopted, be developed in consultation
203 with the Agricultural Feed, Seed, and Fertilizer

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204 Advisory Council; amending s. 580.041, F.S.; removing
205 the requirement that the master registration form for
206 each distributor of commercial feed identify the
207 manufacturer's or guarantor's name and place of
208 business and the location of each manufacturing
209 facility; revising the requirement that the department
210 must mail a copy of the master registration in order
211 to signify that the administrative requirements have
212 been met; amending s. 580.071, F.S.; providing
213 additional factors that would make a commercial feed
214 or feedstuff be deemed adulterated; amending s.
215 581.091, F.S.; deleting the definition of the term
216 "commercial citrus grove"; deleting provisions
217 relating to special permits authorizing a person to
218 plant *Casuarina cunninghamiana* as part of a pilot
219 program; eliminating a requirement that the department
220 develop and implement a monitoring protocol to
221 determine invasiveness of *Casuarina cunninghamiana*;
222 amending s. 581.131, F.S.; revising the time in which
223 the department must provide certain notice and
224 certificate renewal forms; amending s. 583.01, F.S.;
225 redefining the term "dealer"; transferring,
226 renumbering, and amending s. 570.38, F.S., relating to
227 the Animal Industry Technical Council; conforming a
228 cross-reference; amending s. 589.08, F.S.; requiring
229 the Florida Forest Service to pay a certain percentage
230 of the gross receipts from the Goethe State Forest to
231 each fiscally constrained county; requiring such funds
232 to be equally divided between the board of county

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233 commissioners and the school board; amending s.
234 589.011, F.S.; providing conditions under which the
235 Florida Forest Service is authorized to grant use of
236 certain lands; providing criteria by which the Florida
237 Forest Service determines certain fees, rentals, and
238 charges; amending s. 589.20, F.S.; authorizing the
239 Florida Forest Service to cooperate with water
240 management districts, municipalities, and other
241 governmental entities; amending s. 590.02, F.S.;
242 renaming the Florida Center for Wildfire and Forest
243 Resources Management Training as the Withlacoochee
244 Training Center; making technical changes; amending s.
245 590.125, F.S.; providing that new authorization is not
246 required for smoldering that occurs within the
247 authorized burn area unless new ignitions are
248 conducted by certain persons; providing that
249 monitoring the smoldering activity of a burn does not
250 require an additional authorization; transferring and
251 renumbering s. 570.0725, F.S., relating to food
252 recovery; amending s. 597.003, F.S.; amending the
253 powers and duties of the department to include
254 providing training as necessary to lessees of certain
255 lands for aquaculture use; amending s. 597.004, F.S.;
256 requiring an applicant for an aquaculture certificate
257 to submit a certificate of training if required;
258 amending s. 597.020, F.S.; authorizing the department
259 to adopt training requirements for shellfish
260 processors by rule; transferring and renumbering ss.
261 570.481 and 570.55, F.S., relating to food recovery,

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262 fruit and vegetable inspection fees, and
263 identification of sellers or handlers of tropical or
264 subtropical fruit and vegetables, respectively;
265 amending s. 604.16, F.S.; providing an exemption for
266 certain dealers in agricultural products from certain
267 requirements; amending s. 604.22, F.S.; revising
268 certain penalties for dealers in agricultural
269 products; repealing s. 487.172, F.S., relating to an
270 educational program for organotin compounds in
271 antifouling paints; repealing ss. 500.301, 500.302,
272 500.303, 500.304, 500.305, 500.306, F.S., relating to
273 the standards of enrichment, sales, enforcement, and
274 inspection of certain grain products; repealing s.
275 500.601, F.S., relating to the retail sale of meat;
276 repealing s. 570.345, F.S., relating to the Pest
277 Control Compact; repealing s. 570.542, F.S., relating
278 to the Florida Consumer Services Act; repealing s.
279 570.72, F.S., relating to a definition; repealing s.
280 570.92, F.S., relating to an equestrian educational
281 sports program; repealing s. 589.081, F.S., relating
282 to the Withlacoochee State Forest and Goethe State
283 Forest; repealing s. 590.091, F.S., relating to the
284 designation of railroad rights-of-way as wildfire
285 hazard areas; amending ss. 193.461, 253.74, 288.1175,
286 320.08058, 373.621, 373.709, 381.0072, 388.46,
287 472.0351, 472.036, 482.161, 482.165, 482.243, 487.047,
288 487.091, 487.175, 493.6118, 496.420, 500.70, 501.612,
289 501.619, 502.231, 507.09, 507.10, 509.032, 525.16,
290 526.311, 526.55, 527.13, 531.50, 534.52, 539.001,

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291 559.921, 559.9355, 559.936, 571.11, 571.28, 571.29,
292 578.181, 580.121, 581.141, 581.186, 581.211, 582.06,
293 585.007, 586.15, 586.161, 590.14, 595.701, 597.0041,
294 599.002, 601.67, 604.30, 616.242, F.S.; conforming
295 provisions to changes made by the act; providing an
296 effective date.

297

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

299

300 Section 1. Paragraph (a) of subsection (2) of section
301 282.709, Florida Statutes, is amended to read:

302 282.709 State agency law enforcement radio system and
303 interoperability network.—

304 (2) The Joint Task Force on State Agency Law Enforcement
305 Communications is created adjunct to the department to advise
306 the department of member-agency needs relating to the planning,
307 designing, and establishment of the statewide communication
308 system.

309 (a) The Joint Task Force on State Agency Law Enforcement
310 Communications shall consist of the following members:

311 1. A representative of the Division of Alcoholic Beverages
312 and Tobacco of the Department of Business and Professional
313 Regulation who shall be appointed by the secretary of the
314 department.

315 2. A representative of the Division of Florida Highway
316 Patrol of the Department of Highway Safety and Motor Vehicles
317 who shall be appointed by the executive director of the
318 department.

319 3. A representative of the Department of Law Enforcement

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320 who shall be appointed by the executive director of the
321 department.

322 4. A representative of the Fish and Wildlife Conservation
323 Commission who shall be appointed by the executive director of
324 the commission.

325 5. A representative of the Department of Corrections who
326 shall be appointed by the secretary of the department.

327 6. A representative of the Division of State Fire Marshal
328 of the Department of Financial Services who shall be appointed
329 by the State Fire Marshal.

330 7. A representative of the Department of Transportation who
331 shall be appointed by the secretary of the department.

332 8. A representative of the Department of Agriculture and
333 Consumer Services who shall be appointed by the Commissioner of
334 Agriculture.

335 Section 2. Section 570.0741, Florida Statutes, is
336 transferred, renumbered as section 377.805, Florida Statutes,
337 and amended to read:

338 377.805 ~~570.0741~~ Energy efficiency and conservation
339 clearinghouse.—The Office of Energy within the Department of
340 Agriculture and Consumer Services, in consultation with the
341 Public Service Commission, the Florida Building Commission, and
342 the Florida Energy Systems Consortium, shall develop a
343 clearinghouse of information regarding cost savings associated
344 with various energy efficiency and conservation measures. The
345 Department of Agriculture and Consumer Services shall post the
346 information on its website ~~by July 1, 2013~~.

347 Section 3. Paragraph (e) of subsection (5) of section
348 379.361, Florida Statutes, is amended to read:

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349 379.361 Licenses.—

350 (5) APALACHICOLA BAY OYSTER HARVESTING LICENSE.—

351 (e) Each person who applies for an Apalachicola Bay oyster
352 harvesting license shall, ~~before receiving the license for the~~
353 ~~first time,~~ attend an educational seminar of not more than 16
354 hours length, developed and conducted jointly by the Department
355 of Environmental Protection's Apalachicola National Estuarine
356 Research Reserve, the Division of Law Enforcement of the Fish
357 and Wildlife Conservation Commission, and the Department of
358 Agriculture and Consumer Services' Apalachicola District
359 Shellfish Environmental Assessment Laboratory. The seminar shall
360 address, among other things, oyster biology, conservation of the
361 Apalachicola Bay, sanitary care of oysters, small business
362 management, and water safety. The seminar shall be offered five
363 times per year, and each person attending shall receive a
364 certificate of participation to present when obtaining an
365 Apalachicola Bay oyster harvesting license. ~~The educational~~
366 ~~seminar is not required for renewal of an Apalachicola Bay~~
367 ~~oyster harvesting license.~~

368 Section 4. Paragraph (d) of subsection (3) of section
369 487.041, Florida Statutes, is amended to read:

370 487.041 Registration.—

371 (3) The department, in addition to its other duties under
372 this section, has the power to:

373 (d) Require a registrant to continue the registration of a
374 brand of pesticide that remains on retailers' shelves in the
375 state unless the department receives the registrant's written
376 notification that it is discontinuing the distribution of the
377 brand of pesticide and the registrant then maintains the

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378 registration of that brand for a minimum of 2 years. The
379 discontinued brand of pesticide may remain on retailers' shelves
380 without further registration if the brand of pesticide is not
381 distributed by the registrant in the state during or after the
382 minimum 2-year period ~~who discontinues the distribution of a~~
383 ~~brand of pesticide in this state to continue the registration of~~
384 ~~the brand of the pesticide for a minimum of 2 years or until no~~
385 ~~more remains on retailers' shelves if such continued~~
386 ~~registration or sale is not specifically prohibited by the~~
387 ~~department or the United States Environmental Protection Agency.~~

388 Section 5. Subsection (1) of section 487.046, Florida
389 Statutes, is amended to read:

390 487.046 Application; licensure.—

391 (1) An application for a license shall be filed with ~~made~~
392 ~~in writing to~~ the department by using ~~on~~ a form prescribed
393 ~~furnished~~ by the department or by using the department's
394 website. Each application shall contain information regarding
395 the applicant's qualifications, proposed operations, and license
396 classification or subclassifications, as prescribed by rule.

397 Section 6. Subsection (1) of section 487.048, Florida
398 Statutes, is amended to read:

399 487.048 Dealer's license; records.—

400 (1) Each person holding or offering for sale, selling, or
401 distributing restricted-use pesticides must ~~shall~~ obtain a
402 dealer's license from the department. An application for a ~~the~~
403 license shall be filed with the department by using ~~made on~~ a
404 form prescribed by the department or by using the department's
405 website. The license must be obtained before entering into
406 business or transferring ownership of a business. The department

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407 may require examination or other proof of competency of
408 individuals to whom licenses are issued or of individuals
409 employed by persons to whom licenses are issued. Demonstration
410 of continued competency may be required for license renewal, as
411 set by rule. The license shall be renewed annually as provided
412 by rule. An annual license fee not exceeding \$250 shall be
413 established by rule. However, a user of a restricted-use
414 pesticide may distribute unopened containers of a properly
415 labeled pesticide to another user who is legally entitled to use
416 that restricted-use pesticide without obtaining a pesticide
417 dealer's license. The exclusive purpose of distribution of the
418 restricted-use pesticide is to keep it from becoming a hazardous
419 waste as defined in s. 403.703(13).

420 Section 7. Section 487.159, Florida Statutes, is amended to
421 read:

422 487.159 Damage or injury to property, animal, or person;
423 mandatory report of damage or injury; ~~time for filing; failure~~
424 ~~to file.~~-

425 ~~(1) The person claiming damage or injury to property,~~
426 ~~animal, or human beings from application of a pesticide shall~~
427 ~~file with the department a written statement claiming damages,~~
428 ~~on a form prescribed by the department, within 48 hours after~~
429 ~~the damage or injury becomes apparent. The statement shall~~
430 ~~contain, but shall not be limited to, the name of the person~~
431 ~~responsible for the application of the pesticide, the name of~~
432 ~~the owner or lessee of the land on which the crop is grown and~~
433 ~~for which the damages are claimed, and the date on which it is~~
434 ~~alleged that the damages occurred. The department shall~~
435 ~~investigate the alleged damages and notify all concerned parties~~

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436 ~~of its findings. If the findings reveal a violation of the~~
437 ~~provisions of this part, the department shall determine an~~
438 ~~appropriate penalty, as provided in this part. The filing of a~~
439 ~~statement or the failure to file such a statement need not be~~
440 ~~alleged in any complaint which might be filed in a court of law,~~
441 ~~and the failure to file the statement shall not be considered~~
442 ~~any bar to the maintenance of any criminal or civil action.~~

443 ~~(1)(2) A~~ It is the duty of any licensee shall to report
444 unreasonable adverse effects on the environment or damage to
445 property or injury to human beings, animals, plants, or other
446 property ~~a person~~ as the result of the application of a
447 restricted-use pesticide by the licensee or by an applicator or
448 mixer-loader under the licensee's direct supervision, if and
449 when the licensee has knowledge of such damage or injury. ~~It is~~
450 ~~also the express intent of this section to require all~~
451 Physicians shall to report all pesticide-related illnesses or
452 injuries to the nearest county health department, which shall
453 will notify the department so that the department may establish
454 a pesticide incident monitoring system within the Division of
455 Agricultural Environmental Services.

456 ~~(2)(3)~~ When damage or injury to human beings, animals,
457 plants, or other property as the result of the application of a
458 restricted-use pesticide is alleged to have been done, the
459 person claiming such damage or injury claimant shall allow
460 permit the licensee and the licensee's representatives to
461 observe within a reasonable amount of time ~~hours~~ the alleged
462 damage or injury in order that the damage or injury may be
463 examined. The failure of the person claiming such damage or
464 injury claimant to allow permit observation and examination of

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465 the alleged damage or injury shall automatically bar the claim
466 against the licensee.

467 Section 8. Section 487.160, Florida Statutes, is amended to
468 read:

469 487.160 Records.—Licensed private applicators, supervising
470 ~~15 or more unlicensed applicators or mixer-loaders~~ and licensed
471 public applicators, and licensed commercial applicators shall
472 maintain records as the department may determine by rule with
473 respect to the application of restricted pesticides, including,
474 but not limited to, the type and quantity of pesticide, method
475 of application, crop treated, and dates and location of
476 application. ~~Other licensed private applicators shall maintain~~
477 ~~records as the department may determine by rule with respect to~~
478 ~~the date, type, and quantity of restricted-use pesticides used.~~
479 Licensees shall keep records for a ~~period of 2 years~~ from the
480 date of the application of the pesticide to which the records
481 refer, and ~~shall~~ furnish to the department a copy of the records
482 upon written request by the department.

483 Section 9. Present subsection (8) of section 487.2031,
484 Florida Statutes, is redesignated as subsection (7), and present
485 subsection (7) of that section is amended to read:

486 487.2031 Definitions.—For the purposes of this part, the
487 term:

488 (8)-(7) "Material Safety data sheet" means written,
489 electronic, or printed material concerning an agricultural
490 pesticide that sets forth the following information:

491 (a) The chemical name and the common name of the
492 agricultural pesticide.

493 (b) The hazards or other risks in the use of the

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494 agricultural pesticide, including:

495 1. The potential for fire, explosions, corrosivity, and
496 reactivity.

497 2. The known acute health effects and chronic health
498 effects of exposure to the agricultural pesticide, including
499 those medical conditions that are generally recognized as being
500 aggravated by exposure to the agricultural pesticide.

501 3. The primary routes of entry and symptoms of
502 overexposure.

503 (c) The proper handling practices, necessary personal
504 protective equipment, and other proper or necessary safety
505 precautions in circumstances that involve the use of or exposure
506 to the agricultural pesticide, including appropriate emergency
507 treatment in case of overexposure.

508 (d) The emergency procedures for spills, fire, disposal,
509 and first aid.

510 (e) A description of the known specific potential health
511 risks posed by the agricultural pesticide, which is written in
512 lay terms and is intended to alert a ~~any~~ person who reads the
513 information.

514 (f) The year and month, if available, that the information
515 was compiled and the name, address, and emergency telephone
516 number of the manufacturer responsible for preparing the
517 information.

518 Section 10. Section 487.2051, Florida Statutes, is amended
519 to read:

520 487.2051 Availability of agricultural pesticide information
521 to workers and medical personnel.—

522 (1) An agricultural employer shall make available

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523 agricultural pesticide information concerning any agricultural
524 pesticide to a ~~any~~ worker:

525 (a) Who enters an agricultural-pesticide-treated area on an
526 agricultural establishment where:

527 1. An agricultural pesticide has been applied within 30
528 days of that entry; or

529 2. A restricted-entry interval has been in effect; or

530 (b) Who may be exposed to the agricultural pesticide during
531 normal conditions of use or in a foreseeable emergency.

532 (2) The agricultural pesticide information provided
533 pursuant to subsection (1) must be in the form of a fact sheet
534 or a ~~material~~ safety data sheet. The agricultural employer shall
535 provide a written copy of the information provided pursuant to
536 subsection (1) within 2 working days after a request for the
537 information by a worker or a designated representative. In the
538 case of a pesticide-related medical emergency, the agricultural
539 employer shall provide a written copy of the information
540 promptly upon the request of the worker, the designated
541 representative, or medical personnel treating the worker.

542 (3) Upon the initial purchase of a product and with the
543 first purchase after the fact sheet or ~~material~~ safety data
544 sheet is updated, the distributor, manufacturer, or importer of
545 agricultural pesticides shall obtain or develop and provide each
546 direct purchaser of an agricultural pesticide with a fact sheet
547 or ~~material~~ safety data sheet. If the fact sheet or ~~material~~
548 safety data sheet ~~or fact sheet~~ for the agricultural pesticide
549 is not available when the agricultural pesticide is purchased,
550 the agricultural employer shall take appropriate and timely
551 steps to obtain the fact sheet or ~~material~~ safety data sheet ~~or~~

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552 ~~fact sheet~~ from the distributor, the manufacturer, the
553 department, a federal agency, or another distribution source.

554 (4) The department shall produce and make available to a
555 trainer a one-page general agricultural pesticide safety sheet.
556 The pesticide safety sheet must be in a language understandable
557 to the worker and must include, but need not be limited to,
558 illustrated instructions on preventing agricultural pesticide
559 exposure and toll-free telephone numbers to the Florida Poison
560 Control Centers. The trainer shall provide the pesticide safety
561 sheet to the worker pursuant to the United States Environmental
562 Protection Agency Worker Protection Standard, 40 C.F.R. s.
563 170.130.

564 Section 11. Subsections (3) and (5) of section 493.6120,
565 Florida Statutes, are amended to read:

566 493.6120 Violations; penalty.—

567 (3) Except as otherwise provided in this chapter, a person
568 who violates any provision of this chapter except subsection (7)
569 commits a misdemeanor of the first degree, punishable as
570 provided in s. 775.082 or s. 775.083. The department may also
571 seek the imposition of a civil penalty in the Class II category
572 pursuant to s. 570.971 upon a withholding of adjudication of
573 guilt or an adjudication of guilt in a criminal case.

574 (5) A person who violates or disregards a cease and desist
575 order issued by the department commits a misdemeanor of the
576 first degree, punishable as provided in s. 775.082 or s.
577 775.083. In addition, the department may seek the imposition of
578 a civil penalty in the Class II category pursuant to s. 570.971
579 ~~not to exceed \$5,000.~~

580 Section 12. Section 570.545, Florida Statutes, is

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581 transferred and renumbered as section 501.0113, Florida
582 Statutes.

583 Section 13. Paragraph (p) of subsection (1) of section
584 500.03, Florida Statutes, is amended to read:

585 500.03 Definitions; construction; applicability.-

586 (1) For the purpose of this chapter, the term:

587 (p) "Food establishment" means a ~~any~~ factory, food outlet,
588 or ~~any~~ other facility manufacturing, processing, packing,
589 holding, or preparing food or selling food at wholesale or
590 retail. The term does not include any business or activity that
591 is regulated under s. 413.051, s. 500.80, chapter 509, or
592 chapter 601. The term includes tomato packinghouses and
593 repackers but does not include any other establishments that
594 pack fruits and vegetables in their raw or natural states,
595 including those fruits or vegetables that are washed, colored,
596 or otherwise treated in their unpeeled, natural form before they
597 are marketed.

598 Section 14. Paragraphs (a) and (b) of subsection (1) and
599 subsection (8) of section 500.12, Florida Statutes, are amended
600 to read:

601 500.12 Food permits; building permits.-

602 (1) (a) A food permit from the department is required of a
603 ~~any~~ person who operates a food establishment or retail food
604 store, except:

605 1. Persons operating minor food outlets, ~~including, but not~~
606 ~~limited to, video stores,~~ that sell food that is commercially
607 prepackaged, not potentially hazardous, and not time or
608 temperature controlled for safety if, ~~nonpotentially hazardous~~
609 ~~candy, chewing gum, soda, or popcorn,~~ provided the shelf space

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610 for those items does not exceed 12 total ~~linear~~ feet and no
611 other food is sold by the minor food outlet.

612 2. Persons subject to continuous, onsite federal or state
613 inspection.

614 3. Persons selling only legumes in the shell, either
615 parched, roasted, or boiled.

616 4. Persons selling sugar cane or sorghum syrup that has
617 been boiled and bottled on a premise located within the state.
618 Such bottles must contain a label listing the producer's name
619 and street address, all added ingredients, the net weight or
620 volume of the product, and a statement that reads: "This product
621 has not been produced in a facility permitted by the Florida
622 Department of Agriculture and Consumer Services."

623 (b) Each food establishment and retail food store regulated
624 under this chapter must apply for and receive a food permit
625 before operation begins. An application for a food permit from
626 the department must be accompanied by a fee in an amount
627 determined by department rule. The department shall adopt by
628 rule a schedule of fees, which may not exceed \$650, to be paid
629 by each food establishment and retail food store as a condition
630 of issuance or renewal of a food permit. Such fees ~~and~~ shall be
631 used solely for the recovery of costs for the services provided,
632 except that the fee accompanying an application for a food
633 permit for operating a bottled water plant may not exceed \$1,000
634 and the fee accompanying an application for a food permit for
635 operating a packaged ice plant may not exceed \$250. The fee for
636 operating a bottled water plant or a packaged ice plant shall be
637 set by rule of the department. Food permits are not transferable
638 from one person or physical location to another. Food permits

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639 must be renewed annually on or before January 1. If an
640 application for renewal of a food permit is not received by the
641 department within 30 days after its due date, a late fee, ~~in an~~
642 ~~amount~~ not exceeding \$100, must be paid in addition to the food
643 permit fee before the department may issue the food permit. The
644 moneys collected shall be deposited in the General Inspection
645 Trust Fund.

646 (8) A ~~Any person who, after October 1, 2000,~~ applies for or
647 renews a local business tax certificate ~~occupational license~~ to
648 engage in business as a food establishment or retail food store
649 must exhibit a current food permit or an active letter of
650 exemption from the department before the local business tax
651 certificate ~~occupational license~~ may be issued or renewed.

652 Section 15. Subsections (1) through (3) of section 500.121,
653 Florida Statutes, are amended, and subsection (7) is added to
654 that section, to read:

655 500.121 Disciplinary procedures.—

656 (1) In addition to the suspension procedures provided in s.
657 500.12, if applicable, the department may impose an
658 administrative fine in the Class II category pursuant to s.
659 570.971 ~~a fine not to exceed \$5,000~~ against any retail food
660 store, food establishment, or cottage food operation that
661 violates this chapter, which fine, when imposed and paid, shall
662 be deposited by the department into the General Inspection Trust
663 Fund. The department may revoke or suspend the permit of ~~any~~
664 such retail food store or food establishment if it is satisfied
665 that the retail food store or food establishment has:

666 (a) Violated ~~any of the provisions of~~ this chapter.

667 (b) Violated, or aided or abetted in the violation of, any

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668 law of this state or department rule relating governing or
669 applicable to retail food stores or food establishments ~~or any~~
670 ~~lawful rules of the department.~~

671 (c) Knowingly committed, or been a party to, any material
672 fraud, misrepresentation, conspiracy, collusion, trick, scheme,
673 or device whereby another ~~any other~~ person, lawfully relying
674 upon the word, representation, or conduct of a retail food store
675 or food establishment, acts to her or his injury or damage.

676 (d) Committed any act or conduct of the same or different
677 character than that enumerated which constitutes fraudulent or
678 dishonest dealing.

679 (2) A ~~Any~~ manufacturer, processor, packer, or distributor
680 who misrepresents or mislabels the country of origin of any food
681 may, in addition to any penalty provided in this chapter, be
682 subject to an additional administrative fine in the Class II
683 category pursuant to s. 570.971 for each of up to \$10,000 per
684 violation.

685 (3) An ~~Any~~ administrative order made and entered by the
686 department imposing a fine pursuant to this section shall
687 specify the amount of the fine and the time limit for payment
688 thereof, not exceeding 21 ~~15~~ days, and, upon failure of the
689 permit holder to pay the fine within that time, the permit is
690 subject to suspension or revocation.

691 (7) The department may determine that a food establishment
692 regulated under this chapter requires immediate closure when the
693 food establishment fails to comply with this chapter or rules
694 adopted under this chapter and presents an imminent threat to
695 the public health, safety, and welfare. The department may
696 accept inspection results from other state and local building

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697 officials and other regulatory agencies as justification for
698 such action. The department shall, upon such a determination,
699 issue an immediate final order to close a food establishment as
700 follows:

701 (a) The division director or designee shall determine that
702 the continued operation of a food establishment presents an
703 immediate danger to the public health, safety, and welfare.

704 (b) Upon such determination, the department shall issue an
705 immediate final order directing the owner or operator of the
706 food establishment to cease operation and close the food
707 establishment. The department shall serve the order upon the
708 owner or operator of the food establishment, or agent thereof.
709 The department may attach a closed-for-operation sign to the
710 food establishment while the order remains in place.

711 (c) The department shall inspect the food establishment
712 within 24 hours after the issuance of the order. Upon a
713 determination that the food establishment has met the applicable
714 requirements to resume operations, the department shall serve a
715 release upon the owner or operator of the food establishment, or
716 agent thereof.

717 (d) A food establishment ordered by the department to cease
718 operation and close under this section shall remain closed until
719 released by the department or by a judicial order to reopen.

720 (e) It is a misdemeanor of the second degree, punishable as
721 provided in s. 775.082 or s. 775.083, for a person to deface or
722 remove a closed-for-operation sign placed on a food
723 establishment by the department or for the owner or operator of
724 a food establishment to resist closure of the establishment by
725 the department. The department may impose administrative

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726 sanctions for violations of this paragraph.

727 (f) The department may adopt rules to administer this
728 subsection.

729 Section 16. Subsection (1) of section 500.147, Florida
730 Statutes, is amended to read:

731 500.147 Inspection of food establishments, food records,
732 and vehicles.—

733 (1) The department or its duly authorized agent shall have
734 free access at all reasonable hours to a any food establishment,
735 food record, or any vehicle being used to transport or hold food
736 in commerce for the purpose of inspecting such establishment,
737 record, or vehicle to determine whether ~~if any provision of~~ this
738 chapter or any rule adopted under this ~~the~~ chapter is being
739 violated; to secure a sample or a specimen of any food after
740 paying or offering to pay for such sample; to see that all
741 sanitary rules adopted by the department are complied with; to
742 facilitate tracing of food products in the event of a food-borne
743 illness outbreak or the identification of an adulterated or
744 misbranded food item; or to enforce the special-occupancy
745 provisions of the Florida Building Code which apply to food
746 establishments.

747 Section 17. Subsection (3) of section 500.165, Florida
748 Statutes, is amended to read:

749 500.165 Transporting shipments of food items; rules;
750 penalty.—

751 (3) A Any person who violates subsection (1) or the rules
752 adopted under subsection (2) is subject to an administrative
753 fine in the class III category pursuant to s. 570.971 for each
754 ~~not to exceed \$50,000 per~~ violation. In addition, a any person

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755 who violates subsection (1) commits ~~is guilty of~~ a misdemeanor
756 of the first degree, punishable as provided in s. 775.082 or s.
757 775.083.

758 Section 18. Section 500.172, Florida Statutes, is amended
759 to read:

760 500.172 Embargoing, detaining, destroying of food, ~~or~~ food-
761 processing equipment, food-processing areas, or food storage
762 areas that are ~~is~~ in violation.-

763 (1) If ~~When~~ the department or its duly authorized agent
764 finds, or has probable cause to believe, that any food article,
765 ~~or~~ food-processing equipment, food-processing area, or food
766 storage area is in violation of this chapter or any rule adopted
767 under this chapter so as to be dangerous, unwholesome,
768 fraudulent, or insanitary within the meaning of this chapter, an
769 agent of the department may issue and enforce a stop-sale, stop-
770 use, removal, or hold order, which ~~order~~ gives notice that such
771 article, ~~or~~ processing equipment, processing area, or storage
772 area is, or is suspected of being, in violation and has been
773 detained or embargoed and ~~which order~~ warns all persons not to
774 remove, use, or dispose of such article, ~~or~~ processing
775 equipment, processing area, or storage area by sale or otherwise
776 until permission for removal, use, or disposal is given by the
777 department or the court. A ~~It is unlawful for any person~~ may not
778 ~~to~~ remove, use, or dispose of such detained or embargoed
779 article, ~~or~~ processing equipment, processing area, or storage
780 area by sale or otherwise without such permission.

781 (2) If an article, ~~or~~ processing equipment, processing
782 area, or storage area detained or embargoed under subsection (1)
783 has been found by the department to be in violation of law or

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784 rule, the department may, within a reasonable period of time
785 after the issuance of such notice, petition the circuit court,
786 in the jurisdiction of which the article, ~~or~~ processing
787 equipment, processing area, or storage area is detained or
788 embargoed, for an order for condemnation of such article, ~~or~~
789 processing equipment, processing area, or storage area. When the
790 department has found that an article, ~~or~~ processing equipment,
791 processing area, or storage area so detained or embargoed is not
792 in violation, the department shall rescind the stop-sale, stop-
793 use, removal, or hold order.

794 (3) If the court finds that the detained or embargoed
795 article, ~~or~~ processing equipment, processing area, or storage
796 area is in violation, such article, ~~or~~ processing equipment,
797 processing area, or storage area shall, after entry of the
798 decree, be destroyed or made sanitary at the expense of the
799 claimant thereof under the supervision of the department, ~~and~~
800 all court costs, fees, and storage and other proper expenses
801 shall be taxed against the claimant of such article, ~~or~~
802 processing equipment, processing area, or storage area or her or
803 his agent. However, if the violation can be corrected by proper
804 labeling of the article or sanitizing of the processing
805 equipment, processing area, or storage area, and after such
806 costs, fees, and expenses have been paid and a good and
807 sufficient bond, conditioned that such article be so labeled or
808 processed or such processing equipment, processing area, or
809 storage area so sanitized, has been executed, the court may by
810 order direct that such article, ~~or~~ processing equipment,
811 processing area, or storage area be made available ~~delivered~~ to
812 the claimant thereof for such labeling, processing, or

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813 sanitizing under the supervision of the department. The expense
814 of such supervision shall be paid by the claimant. Such bond
815 shall be returned to the claimant of the article or processing
816 equipment, processing area, or storage area, on representation
817 to the court by the department that the article, ~~or~~ processing
818 equipment, processing area, or storage area is no longer in
819 violation of this chapter and that the expenses of such
820 supervision have been paid.

821 (4) When the department or any of its authorized agents
822 finds in any room, building, vehicle, or other structure any
823 meat, seafood, poultry, vegetable, fruit, or other perishable
824 articles which are unsound or contain any filthy, decomposed, or
825 putrid substances, or which may be poisonous or deleterious to
826 health or otherwise unsafe, the same is ~~being hereby~~ declared to
827 be a nuisance, and the department, ~~or its authorized agent,~~
828 shall ~~forthwith~~ condemn or destroy the same, ~~or in any other~~
829 manner render the same unsalable as human food.

830 Section 19. Subsection (3) and paragraph (b) of subsection
831 (4) of section 501.019, Florida Statutes, are amended to read:

832 501.019 Health studios; penalties.—

833 (3) The department may institute proceedings in the
834 appropriate circuit court to recover any penalties or damages
835 allowed in this section and for injunctive relief to enforce
836 compliance with ss. 501.012-501.019 or any rule or order of the
837 department. The department may seek a civil penalty in the Class
838 II category pursuant to s. 570.971 ~~of up to \$5,000~~ for each
839 violation of this section.

840 (4)

841 (b) Upon a finding as set forth in paragraph (a), the

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842 department may enter an order doing one or more of the
843 following:

844 1. Issuing a notice of noncompliance pursuant to s.
845 120.695.

846 2. For a violation of s. 501.015 or s. 501.016, imposing an
847 administrative fine in the Class II category pursuant to s.
848 570.971 for each not to exceed \$5,000 per violation.

849 ~~3. For a violation of s. 501.013, s. 501.017, or s.~~
850 ~~501.018, imposing an administrative fine not to exceed \$500 per~~
851 ~~violation.~~

852 3.4. Directing that the health studio cease and desist
853 specified activities.

854 4.5. Refusing to register or revoking or suspending a
855 registration.

856 5.6. Placing the registrant on probation for a period of 5
857 years, subject to such conditions as the department may specify
858 by rule.

859 Section 20. Subsection (9) of section 501.059, Florida
860 Statutes, is amended, and subsection (12) is added to that
861 section, to read:

862 501.059 Telephone solicitation.—

863 (9) (a) The department shall investigate any complaints
864 received concerning violations of this section. If, after
865 investigating a any complaint, the department finds that there
866 has been a violation of this section, the department or the
867 Department of Legal Affairs may bring an action to impose a
868 civil penalty and to seek other relief, including injunctive
869 relief, as the court deems appropriate against the telephone
870 solicitor. The civil penalty shall be in the Class III category

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871 pursuant to s. 570.971 for each ~~may not exceed \$10,000 per~~
872 violation and shall be deposited in the General Inspection Trust
873 Fund if the action or proceeding was brought by the department,
874 or the Legal Affairs Revolving Trust Fund if the action or
875 proceeding was brought by the Department of Legal Affairs. This
876 civil penalty may be recovered in any action brought under this
877 part by the department, or the department may terminate any
878 investigation or action upon agreement by the person to pay a
879 stipulated civil penalty. The department or the court may waive
880 any civil penalty if the person has previously made full
881 restitution or reimbursement or has paid actual damages to the
882 consumers who have been injured by the violation.

883 (b) The department may, as an alternative to the civil
884 penalties provided in paragraph (a), impose an administrative
885 fine in the Class I category pursuant to s. 570.971 ~~not to~~
886 ~~exceed \$1,000~~ for each act or omission that constitutes a
887 violation of this section. An administrative proceeding that
888 could result in the entry of an order imposing an administrative
889 penalty must be conducted pursuant to ~~in accordance with~~ chapter
890 120.

891 (12) The department may adopt rules to implement this
892 section.

893 Section 21. Paragraph (a) of subsection (1) of section
894 501.922, Florida Statutes, is amended to read:

895 501.922 Violation.—

896 (1) The department may enter an order imposing one or more
897 of the following penalties against any person who violates ss.
898 501.91-501.923 or who impedes, obstructs, or hinders the
899 department in performing its duties under those sections:

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900 (a) Imposition of an administrative fine in the Class II
901 category pursuant to s. 570.971 for each ~~of not more than \$1,000~~
902 ~~per violation for a first-time offender. For a second-time or~~
903 ~~repeat offender, or any person who willfully and intentionally~~
904 ~~violates ss. 501.91-501.923, the administrative fine may not~~
905 ~~exceed \$5,000 per violation.~~

906 Section 22. Section 570.42, Florida Statutes, is
907 transferred, renumbered as section 502.301, Florida Statutes,
908 and amended to read:

909 502.301 ~~570.42~~ Dairy Industry Technical Council.—

910 (1) COMPOSITION.—The Dairy Industry Technical Council is
911 ~~hereby~~ created within ~~in~~ the department and shall be composed of
912 seven members as follows:

913 (a) Two citizens of the state, one of whom shall be
914 associated with the Agricultural Extension Service of the
915 University of Florida and the other with the College of
916 Agricultural and Life Sciences ~~Agriculture~~ of the University of
917 Florida.

918 (b) An employee of the Department of Health.

919 (c) Two dairy farmers who are actively engaged in the
920 production of milk in this state and who earn a major portion of
921 their income from the production of milk. The commissioner shall
922 appoint the two members ~~provided for in this paragraph~~ from no
923 fewer than four nor more than six nominees submitted by the
924 recognized statewide organizations representing this group. In
925 the absence of nominations, the commissioner shall appoint other
926 persons qualified under ~~the provisions of~~ this paragraph.

927 (d) Two distributors of milk. "Distributor" means any milk
928 dealer who operates a milk gathering station or processing plant

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929 where milk is collected and bottled or otherwise processed and
930 prepared for sale. The commissioner shall appoint the two
931 members ~~provided for in this paragraph~~ from no fewer than four
932 nor more than six nominees submitted by the recognized statewide
933 organizations representing this group. In the absence of
934 nominations, the commissioner shall appoint other persons
935 qualified under ~~the provisions of~~ this paragraph.

936 (e) All members shall serve 4-year terms or until their
937 successors are duly qualified and appointed. If a vacancy
938 occurs, it shall be filled for the remainder of the term in the
939 manner of an initial appointment.

940 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.—The
941 meetings, powers and duties, procedures, and recordkeeping of
942 the Dairy Industry Technical Council shall be pursuant to s.
943 570.232 ~~governed by the provisions of s. 570.0705 relating to~~
944 ~~advisory committees established within the department.~~

945 Section 23. Part I of chapter 570, Florida Statutes,
946 consisting of ss. 570.01-570.232, Florida Statutes, is created
947 and entitled "General Provisions."

948 Section 24. Section 570.14, Florida Statutes, is renumbered
949 as section 570.031, Florida Statutes, and amended to read:

950 570.031 ~~570.14~~ Seal of department.—The department shall
951 have an official seal which shall be used for the authentication
952 of the orders and proceedings of the department and for such
953 other purposes as the department may prescribe. Use of the seal
954 or any likeness thereof requires written approval of the
955 department.

956 Section 25. Section 570.18, Florida Statutes, is renumbered
957 as section 570.041, Florida Statutes.

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958 Section 26. Section 570.16, Florida Statutes, is renumbered
959 as section 570.051, Florida Statutes.

960 Section 27. Subsection (33) of section 570.07, Florida
961 Statutes, is amended to read:

962 570.07 Department of Agriculture and Consumer Services;
963 functions, powers, and duties.—The department shall have and
964 exercise the following functions, powers, and duties:

965 (33) To assist local volunteer and nonprofit organizations
966 in soliciting, collecting, packaging, or delivering surplus
967 fresh fruit and vegetables for distribution pursuant to s.
968 595.420 ~~in accordance with s. 570.0725~~. The department also may
969 coordinate the development of food recovery programs in the
970 production areas of the state using local volunteer and
971 nonprofit organizations.

972 Section 28. Section 570.17, Florida Statutes, is renumbered
973 as section 570.081, Florida Statutes.

974 Section 29. Section 570.531, Florida Statutes, is
975 renumbered as section 570.209, Florida Statutes.

976 Section 30. Paragraph (d) of subsection (1) and subsection
977 (2) of section 570.23, Florida Statutes, are amended to read:

978 570.23 State Agricultural Advisory Council.—

979 (1) COMPOSITION.—The State Agricultural Advisory Council is
980 hereby created in the department.

981 (d) ~~On or after January 15, 1988,~~ Alternates shall be
982 appointed for each member and shall serve as alternates for the
983 remainder of the corresponding members' terms. As terms of
984 current members expire, members and their alternates shall be
985 appointed for 4-year terms and shall serve until their
986 successors are duly qualified and appointed. A vacancy shall be

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987 filled for the remainder of an unexpired term in the same manner
988 as an initial appointment.

989 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.—The
990 meetings, powers and duties, procedures, and recordkeeping of
991 the State Agricultural Advisory Council shall be pursuant to s.
992 570.232 ~~governed by the provisions of s. 570.0705 relating to~~
993 ~~advisory committees established within the department.~~

994 Section 31. Section 570.0705, Florida Statutes, is
995 renumbered as section 570.232, Florida Statutes.

996 Section 32. Part II of chapter 570, Florida Statutes,
997 consisting of ss. 570.30-570.693, Florida Statutes, is created
998 and entitled "Program Services."

999 Section 33. Subsection (5) of section 570.36, Florida
1000 Statutes, is amended to read:

1001 570.36 Division of Animal Industry; powers and duties.—The
1002 duties of the Division of Animal Industry include, but are not
1003 limited to:

1004 (5) Operating and managing the animal disease diagnostic
1005 laboratory ~~laboratories~~ provided for in chapter 585.

1006 Section 34. Subsections (3) and (4) of section 570.44,
1007 Florida Statutes, are amended to read:

1008 570.44 Division of Agricultural Environmental Services;
1009 powers and duties.—The duties of the Division of Agricultural
1010 Environmental Services include, but are not limited to:

1011 (3) ~~Supporting the Pesticide Review Council and Reviewing~~
1012 ~~and evaluating technical and scientific data associated with the~~
1013 ~~production, manufacture, storage, transportation, sale, or use~~
1014 ~~of any article or product with respect to any statutory~~
1015 ~~authority which is conferred on the department. The department~~

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1016 ~~may is authorized to~~ establish positions within the division for
1017 the employment of experts in the fields of toxicology,
1018 hydrology, and biology to conduct such reviews and evaluations
1019 ~~and may. The department is also authorized to~~ establish
1020 appropriate clerical support positions to implement the duties
1021 and responsibilities of the division.

1022 ~~(4) Enforcing and implementing the responsibilities of~~
1023 ~~chapter 582, and the rules relating to soil and water~~
1024 ~~conservation.~~

1025 Section 35. Subsection (2) of section 570.45, Florida
1026 Statutes, is amended to read:

1027 570.45 Director; duties.—

1028 (2) The director shall supervise, direct, and coordinate
1029 the activities of the division and enforce ~~the provisions of~~
1030 chapters 388, 482, 487, 501, 504, 531, 570, 576, 578, and 580,
1031 ~~and 582~~ and any other chapter necessary to carry out the
1032 responsibilities of the division.

1033 Section 36. Paragraph (d) of subsection (3) of section
1034 570.451, Florida Statutes, is amended to read:

1035 570.451 Agricultural Feed, Seed, and Fertilizer Advisory
1036 Council.—

1037 (3)

1038 (d) The meetings, powers and duties, procedures, and
1039 recordkeeping of the council shall be pursuant to s. 570.232 ~~in~~
1040 ~~accordance with the provisions of s. 570.0705 relating to~~
1041 ~~advisory committees established within the department.~~

1042 Section 37. Subsections (2) and (3) of section 570.50,
1043 Florida Statutes, are amended to read:

1044 570.50 Division of Food Safety; powers and duties.—The

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1045 duties of the Division of Food Safety include, but are not
1046 limited to:

1047 (2) Conducting those general inspection activities relating
1048 to food and food products being processed, held, or offered for
1049 sale in this state and enforcing those provisions of chapters
1050 500, 501, 502, 531, 583, 585, 586, 597, and 601 relating to
1051 foods as authorized by the department.

1052 (3) Analyzing samples of foods offered for sale in this
1053 state as required under chapters 500, 501, 502, 585, 586, 597,
1054 and 601.

1055 Section 38. Subsection (2) of section 570.51, Florida
1056 Statutes, is amended to read:

1057 570.51 Director; qualifications; duties.—

1058 (2) The director shall supervise, direct, and coordinate
1059 the activities of the division and enforce the provisions of
1060 chapters 500, 501, 502, 531, 583, 585, 597, and 601 and any
1061 other chapter necessary to carry out the responsibilities of the
1062 division.

1063 Section 39. Subsection (2) of section 570.543, Florida
1064 Statutes, is amended to read:

1065 570.543 Florida Consumers' Council.—The Florida Consumers'
1066 Council in the department is created to advise and assist the
1067 department in carrying out its duties.

1068 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.—The
1069 meetings, powers and duties, procedures, and recordkeeping of
1070 the Florida Consumers' Council shall be pursuant to s. 570.232
1071 ~~governed by the provisions of s. 570.0705 relating to advisory~~
1072 ~~committees established within the department.~~ The council
1073 members or chair may call no more than two meetings.

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1074 Section 40. Section 570.073, Florida Statutes, is
1075 renumbered as section 570.65, Florida Statutes.

1076 Section 41. Section 570.074, Florida Statutes, is
1077 renumbered as section 570.66, Florida Statutes, and amended to
1078 read:

1079 570.66 ~~570.074~~ Department of Agriculture and Consumer
1080 Services; Water Policy.—The commissioner may create an Office of
1081 Agricultural Water Policy under the supervision of a senior
1082 manager exempt under s. 110.205 in the Senior Management
1083 Service. The commissioner may designate the bureaus and
1084 positions in the various organizational divisions of the
1085 department that report to the ~~this~~ office relating to any matter
1086 over which the department has jurisdiction in matters relating
1087 to water policy affecting agriculture, application of such
1088 policies, and coordination of such matters with state and
1089 federal agencies. The office shall enforce and implement chapter
1090 582 and rules relating to soil and water conservation.

1091 Section 42. Section 570.67, Florida Statutes, is created to
1092 read:

1093 570.67 Office of Energy.—The Office of Energy is created
1094 within the department. The office shall be under the supervision
1095 of a senior manager, appointed by the commissioner, exempt under
1096 s. 110.205 in the Senior Management Service. The duties of the
1097 office must include, but are not limited to, administering and
1098 enforcing parts II and III of chapter 377, the rules adopted
1099 under those parts, and any other duties authorized by the
1100 commissioner.

1101 Section 43. Section 570.951, Florida Statutes, is
1102 renumbered as section 570.681, Florida Statutes.

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1103 Section 44. Section 570.952, Florida Statutes, is
1104 renumbered as section 570.685, Florida Statutes, and amended to
1105 read:

1106 570.685 ~~570.952~~ Florida Agriculture Center and Horse Park
1107 Authority.—

1108 (1) There is created within the Department of Agriculture
1109 and Consumer Services the Florida Agriculture Center and Horse
1110 Park Authority which shall be governed by this section and s.
1111 570.691 ~~s. 570.903~~.

1112 (2) The authority shall be composed of 21 members appointed
1113 by the commissioner.

1114 (a) Initially, the commissioner shall appoint 11 members
1115 for 4-year terms and 10 members for 2-year terms. Thereafter,
1116 each member shall be appointed for a term of 4 years from the
1117 date of appointment, except that a vacancy shall be filled by
1118 appointment for the remainder of the term.

1119 (b) A ~~Any~~ member of the authority who fails to attend three
1120 consecutive authority meetings without good cause shall be
1121 deemed to have resigned from the authority.

1122 ~~(c) Terms for members appointed prior to July 1, 2005,~~
1123 ~~shall expire on July 1, 2005.~~

1124 (3) The Florida Agriculture Center and Horse Park Authority
1125 shall ~~have the power and duty to:~~

1126 (a) Appoint, with approval from the commissioner, an
1127 executive director for the Florida Agriculture Center and Horse
1128 Park.

1129 (b) Establish rules of procedure for conducting its
1130 meetings and approving matters before the authority pursuant to
1131 s. 570.691 ~~that are consistent with s. 570.903.~~

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1132 (c) Develop, document, and implement strategies for the
1133 planning, construction, and operation of the Florida Agriculture
1134 Center and Horse Park.

1135 (d) Advise and consult with the commissioner on matters
1136 related to the Florida Agriculture Center and Horse Park.

1137 (e) Consider all matters submitted to the authority by the
1138 commissioner.

1139 (4) The authority shall meet at least semiannually and
1140 elect a chair ~~chairperson~~, a vice chair ~~chairperson~~, and a
1141 secretary for 1-year terms.

1142 (a) The authority shall meet at the call of its chair
1143 ~~chairperson~~, at the request of a majority of its membership, at
1144 the request of the commissioner, or at such times as may be
1145 prescribed by its rules of procedure.

1146 (b) The department shall be responsible for providing
1147 administrative and staff support services relating to the
1148 meetings of the authority and shall provide suitable space in
1149 the offices of the department for the meetings and the storage
1150 of records of the authority.

1151 (c) In conducting its meetings, the authority shall use
1152 accepted rules of procedure. The secretary shall keep a complete
1153 record of the proceedings of each meeting, which record shall
1154 show the names of the members present and the actions taken.
1155 These records shall be kept on file with the department, and
1156 such records and other documents regarding matters within the
1157 jurisdiction of the authority shall be subject to inspection by
1158 members of the authority.

1159 Section 45. Section 570.953, Florida Statutes, is
1160 renumbered as section 570.686, Florida Statutes.

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1161 Section 46. Section 570.902, Florida Statutes, is
1162 renumbered as section 570.69, Florida Statutes, and amended to
1163 read:

1164 570.69 ~~570.902~~ Definitions; ~~ss. 570.902 and 570.903.~~—For
1165 the purpose of this section and s. 570.691 ~~s. 570.903~~:

1166 (1) "Designated program" means the departmental program
1167 which a direct-support organization has been created to support.

1168 (2) "Direct-support organization" or "organization" means
1169 an organization which is a Florida corporation not for profit
1170 incorporated under ~~the provisions of~~ chapter 617 and approved by
1171 the department to operate for the benefit of a museum or a
1172 designated program.

1173 (3) "Museum" means the Florida Agricultural Museum which is
1174 designated as the museum for agriculture and rural history of
1175 the State of Florida.

1176 Section 47. Section 570.903, Florida Statutes, is
1177 renumbered as section 570.691, Florida Statutes.

1178 Section 48. Section 570.901, Florida Statutes, is
1179 renumbered as section 570.692, Florida Statutes.

1180 Section 49. Section 570.91, Florida Statutes, is renumbered
1181 as section 570.693, Florida Statutes.

1182 Section 50. Part III of chapter 570, Florida Statutes,
1183 consisting of ss. 570.70-570.89, Florida Statutes, is created
1184 and entitled "Agricultural Development."

1185 Section 51. Subsections (2) and (12) of section 570.71,
1186 Florida Statutes, are amended to read:

1187 570.71 Conservation easements and agreements.—

1188 (2) To achieve the purposes of this section act, ~~beginning~~
1189 ~~no sooner than July 1, 2002, and every year thereafter,~~ the

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1190 department may accept applications for project proposals to
1191 ~~that~~:

1192 (a) Purchase conservation easements, as defined in s.
1193 704.06.

1194 (b) Purchase rural-lands-protection easements pursuant to
1195 this section ~~act~~.

1196 (c) Fund resource conservation agreements pursuant to this
1197 section ~~act~~.

1198 (d) Fund agricultural protection agreements pursuant to
1199 this section ~~act~~.

1200 (12) The department may ~~is authorized to~~ use funds from the
1201 following sources to implement this section ~~act~~:

1202 (a) State funds;

1203 (b) Federal funds;

1204 (c) Other governmental entities;

1205 (d) Nongovernmental organizations; or

1206 (e) Private individuals.

1207

1208 Any such funds provided shall be deposited into the Conservation
1209 and Recreation Lands Program Trust Fund within the Department of
1210 Agriculture and Consumer Services and used for the purposes of
1211 this section, including administrative and operating expenses
1212 related to appraisals, mapping, title process, personnel, and
1213 other real estate-related expenses ~~act~~.

1214 Section 52. Section 570.241, Florida Statutes, is
1215 transferred and renumbered as section 570.73, Florida Statutes.

1216 Section 53. Section 570.242, Florida Statutes, is
1217 renumbered as section 570.74, and amended to read:

1218 570.74 ~~570.242~~ Definitions relating to Agricultural

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1219 Economic Development Act.—For purposes of this act, the term
 1220 ~~following terms shall have the following meanings:~~

1221 (1) "Agriculturally depressed area" means a rural area that
 1222 ~~which~~ has declining profitability from agricultural enterprises
 1223 and one or more of the following characteristics:

1224 (a) A stable or declining population.

1225 (b) A stable or declining real per capita income.

1226 (c) A traditional economy based on agriculture or
 1227 extraction of solid minerals.

1228 (d) A low ad valorem tax base.

1229 (e) A need for agribusiness and leadership training.

1230 (f) Crop losses or economic depression resulting from a
 1231 natural disaster or socioeconomic conditions or events that
 1232 ~~which~~ negatively impact a crop.

1233 (2) "Assistance" means financial or nonfinancial assistance
 1234 issued pursuant to ~~the provisions of~~ this act.

1235 ~~(3) "Commissioner" means the Commissioner of Agriculture.~~

1236 ~~(4) "Department" means the Department of Agriculture and
 1237 Consumer Services.~~

1238 (3)~~(5)~~ "Financial assistance" means the providing of funds
 1239 to an agribusiness.

1240 (4)~~(6)~~ "Nonfinancial assistance" means the providing of
 1241 personnel to work with an agribusiness to establish an
 1242 infrastructure, including, but not limited to, the development
 1243 of an accounting system, management procedures, and a marketing
 1244 plan. Nonfinancial assistance includes ~~shall also include~~ the
 1245 providing of equipment.

1246 Section 54. Section 570.243, Florida Statutes, is
 1247 renumbered as section 570.75, Florida Statutes.

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1248 Section 55. Section 570.244, Florida Statutes, is
1249 renumbered as section 570.76, Florida Statutes.

1250 Section 56. Section 570.245, Florida Statutes, is
1251 renumbered as section 570.77, Florida Statutes.

1252 Section 57. Section 570.246, Florida Statutes, is
1253 renumbered as section 570.78, Florida Statutes.

1254 Section 58. Section 570.247, Florida Statutes, is
1255 renumbered as section 570.79, Florida Statutes, and amended to
1256 read:

1257 570.79 ~~570.247~~ Adoption ~~Promulgation~~ of rules.—~~In~~
1258 ~~conjunction with funds specifically appropriated for the~~
1259 ~~purposes specified in this act,~~ The department shall adopt ~~begin~~
1260 ~~to promulgate rules no later than January 1, 1992, pursuant to~~
1261 ~~s. 120.54,~~ pertaining to:

1262 (1) Formal notification procedures for the availability of
1263 assistance, including publication in the Florida Administrative
1264 Register pursuant to s. 120.55.

1265 (2) Written evaluation criteria for selecting project
1266 proposals to receive assistance. The criteria for eligibility of
1267 assistance shall include a written business plan delineating the
1268 economic viability of the proposed project, including the
1269 financial commitment by project participants and a schedule for
1270 repayment of agricultural economic development funds.

1271 (3) Procedures for repayment of financial assistance by an
1272 assisted agribusiness into the General Inspection Trust Fund
1273 within the department. Repayment of financial assistance shall
1274 be based upon a percentage of future profits until repayment is
1275 complete.

1276 (4) Funding procedures for projects eligible for

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1277 assistance. These procedures shall include the amount of
1278 funding, the limits and requirements for the objects of
1279 expenditure, and the duration of assistance.

1280 (5) Other subject matter pertaining to the implementation
1281 of this act.

1282 Section 59. Section 570.248, Florida Statutes, is
1283 renumbered as section 570.81, Florida Statutes.

1284 Section 60. Section 570.249, Florida Statutes, is
1285 renumbered as section 570.82, Florida Statutes.

1286 Section 61. Section 570.9135, Florida Statutes, is
1287 renumbered as section 570.83, Florida Statutes, and subsection
1288 (6) of that section is amended, to read:

1289 570.83 ~~570.9135~~ Beef Market Development Act; definitions;
1290 Florida Beef Council, Inc., creation, purposes, governing board,
1291 powers, and duties; referendum on assessments imposed on gross
1292 receipts from cattle sales; payments to organizations for
1293 services; collecting and refunding assessments; vote on
1294 continuing the act; council bylaws.—

1295 (6) REFERENDUM ON ASSESSMENTS.—All producers in this state
1296 shall have the opportunity to vote in a referendum to determine
1297 whether the council shall be authorized to impose an assessment
1298 of not more than \$1 per head on cattle sold in the state. The
1299 referendum shall pose the question: "Do you approve of an
1300 assessment program, up to \$1 per head of cattle pursuant to
1301 section 570.83 ~~section 570.9135~~, Florida Statutes, to be funded
1302 through specific contributions that are mandatory and refundable
1303 upon request?"

1304 (a) A referendum held under this section must be conducted
1305 by secret ballot at extension offices of the Institute of Food

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1306 and Agricultural Sciences of the University of Florida or at
1307 offices of the United States Department of Agriculture with the
1308 cooperation of the department.

1309 (b) Notice of a referendum to be held under this act must
1310 be given at least once in trade publications, the public press,
1311 and statewide newspapers at least 30 days before the referendum
1312 is held.

1313 (c) Additional referenda may be held to authorize the
1314 council to increase the assessment to more than \$1 per head of
1315 cattle. Such referendum shall pose the question: "Do you approve
1316 of granting the Florida Beef Council, Inc., authority to
1317 increase the per-head-of-cattle assessment pursuant to section
1318 570.83 ~~section 570.9135~~, Florida Statutes, from ... (present
1319 rate)... to up to a maximum of ... (proposed rate)... per head?"
1320 Referenda may not be held more often than once every 3 years.

1321 (d) Each cattle producer is entitled to only one vote in a
1322 referendum held under this section ~~act~~. Proof of identification
1323 and cattle ownership must be presented before voting.

1324 (e) A simple majority of those casting ballots determines
1325 ~~shall determine~~ any issue that requires a referendum under this
1326 section ~~act~~.

1327 Section 62. Section 570.954, Florida Statutes, is
1328 renumbered as section 570.841, Florida Statutes.

1329 Section 63. Section 570.96, Florida Statutes, is renumbered
1330 as section 570.85, Florida Statutes.

1331 Section 64. Section 570.961, Florida Statutes, is
1332 renumbered as section 570.86, Florida Statutes, and amended to
1333 read:

1334 570.86 ~~570.961~~ Definitions.—As used in ss. 570.85-570.89

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1335 570.96-570.964, the term:

1336 (1) "Agritourism activity" means any agricultural related
1337 activity consistent with a bona fide farm or ranch or in a
1338 working forest which allows members of the general public, for
1339 recreational, entertainment, or educational purposes, to view or
1340 enjoy activities, including farming, ranching, historical,
1341 cultural, or harvest-your-own activities and attractions. An
1342 agritourism activity does not include the construction of new or
1343 additional structures or facilities intended primarily to house,
1344 shelter, transport, or otherwise accommodate members of the
1345 general public. An activity is an agritourism activity
1346 regardless of whether ~~or not~~ the participant paid to participate
1347 in the activity.

1348 (2) "Agritourism operator" means a ~~any~~ person who is
1349 engaged in the business of providing one or more agritourism
1350 activities, whether for compensation or not for compensation.

1351 (3) "Farm" means the land, buildings, support facilities,
1352 machinery, and other appurtenances used in the production of
1353 farm or aquaculture products, including land used to display
1354 plants, animals, farm products, or farm equipment to the public.

1355 (4) "Farm operation" has the same meaning as ~~defined~~ in s.
1356 823.14.

1357 (5) "Inherent risks of agritourism activity" means those
1358 dangers or conditions that are an integral part of an
1359 agritourism activity including certain hazards, such as surface
1360 and subsurface conditions; natural conditions of land,
1361 vegetation, and waters; the behavior of wild or domestic
1362 animals; and the ordinary dangers of structures or equipment
1363 ordinarily used in farming and ranching operations. The term

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1364 also includes the potential of a participant to act in a
1365 negligent manner that may contribute to the injury of the
1366 participant or others, including failing to follow the
1367 instructions given by the agritourism operator or failing to
1368 exercise reasonable caution while engaging in the agritourism
1369 activity.

1370 Section 65. Section 570.962, Florida Statutes, is
1371 renumbered as section 570.87, Florida Statutes.

1372 Section 66. Section 570.963, Florida Statutes, is
1373 renumbered as section 570.88, Florida Statutes, and subsection
1374 (1) of that section is amended, to read:

1375 570.88 ~~570.963~~ Liability.—

1376 (1) Except as provided in subsection (2), an agritourism
1377 operator, his or her employer or employee, or the owner of the
1378 underlying land on which the agritourism occurs is not liable
1379 for injury or death of, or damage or loss to, a participant
1380 resulting from the inherent risks of agritourism activities if
1381 the notice of risk required under s. 570.89 ~~s. 570.964~~ is posted
1382 as required. Except as provided in subsection (2), a
1383 participant, or a participant's representative, may not maintain
1384 an action against or recover from an agritourism operator, his
1385 or her employer or employee, or the owner of the underlying land
1386 on which the agritourism occurs for the injury or death of, or
1387 damage or loss to, an agritourism participant resulting
1388 exclusively from any of the inherent risks of agritourism
1389 activities.

1390 Section 67. Section 570.964, Florida Statutes, is
1391 renumbered as section 570.89, Florida Statutes, and subsection
1392 (3) of that section is amended, to read:

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1393 570.89 ~~570.964~~ Posting and notification.—

1394 (3) Failure to comply with ~~the requirements of this section~~
1395 ~~subsection~~ prevents an agritourism operator, his or her employer
1396 or employee, or the owner of the underlying land on which the
1397 agritourism occurs from invoking the privileges of immunity
1398 provided by this section.

1399 Section 68. Part IV of chapter 570, Florida Statutes,
1400 consisting of ss. 570.916-570.94, Florida Statutes, is created
1401 and entitled "Agricultural Water Policy."

1402 Section 69. Section 570.075, Florida Statutes, is
1403 renumbered as section 570.916, Florida Statutes.

1404 Section 70. Section 570.076, Florida Statutes, is
1405 renumbered as section 570.921, Florida Statutes, and paragraph
1406 (c) of subsection (2) of that section is amended to read:

1407 570.921 ~~570.076~~ Environmental Stewardship Certification
1408 Program.—The department may, by rule, establish the
1409 Environmental Stewardship Certification Program consistent with
1410 this section. A rule adopted under this section must be
1411 developed in consultation with state universities, agricultural
1412 organizations, and other interested parties.

1413 (2) The department shall provide an agricultural
1414 certification under this program for implementation of one or
1415 more of the following criteria:

1416 (c) Best management practices adopted by rule pursuant to
1417 s. 403.067(7)(c) or s. 570.93(1)(b) ~~s. 570.085(1)(b)~~.

1418 Section 71. Section 570.085, Florida Statutes, is
1419 renumbered as section 570.93, Florida Statutes.

1420 Section 72. Section 570.087, Florida Statutes, is
1421 renumbered as section 570.94, Florida Statutes.

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1422 Section 73. Part V of chapter 570, Florida Statutes,
1423 consisting of s. 570.971, Florida Statutes, is created and
1424 entitled "Penalties."

1425 Section 74. Section 570.971, Florida Statutes, is created
1426 to read:

1427 570.971 Penalties; administrative and civil.—

1428 (1) The department or enforcing authority may impose the
1429 following fine amount for the class category specified in the
1430 chapter or section of law violated:

1431 (a) Class I.—For each violation in the Class I category, a
1432 fine not to exceed \$1,000 may be imposed.

1433 (b) Class II.—For each violation in the Class II category,
1434 a fine not to exceed \$5,000 may be imposed.

1435 (c) Class III.—For each violation in the Class III
1436 category, a fine not to exceed \$10,000 may be imposed.

1437 (d) Class IV.—For each violation in the Class IV category,
1438 a fine of \$10,000 or more may be imposed.

1439 (2) (a) This section does not supersede a chapter or section
1440 of law or rule that limits the total fine amount that may be
1441 imposed for a violation.

1442 (b) The class categories under this section also apply to
1443 penalties provided by rule.

1444 (c) The penalties under this section are in addition to any
1445 other remedy provided by law.

1446 (3) A person who violates this chapter or any rule adopted
1447 under this chapter is subject to an administrative or civil fine
1448 in the Class II category in addition to any other penalty
1449 provided by law.

1450 (4) The department may refuse to issue or renew any

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1451 license, permit, authorization, certificate, or registration to
1452 a person who has not satisfied a penalty imposed by the
1453 department.

1454 (5) The department may adopt rules to implement this
1455 section or any section that references this section.

1456 Section 75. Subsection (1) and paragraph (a) of subsection
1457 (2) of section 576.021, Florida Statutes, are amended to read:

1458 576.021 Registration and licensing.—

1459 (1) A company the ~~person whose~~ name and address of which
1460 appears upon a label and which ~~who~~ guarantees a fertilizer may
1461 not distribute that fertilizer to a nonlicensee until a license
1462 to distribute has been obtained by the company ~~that person~~ from
1463 the department upon payment of a \$100 fee. All licenses shall
1464 expire on June 30 each year. An application for license shall
1465 include the following information:

1466 (a) The name and address of the applicant.

1467 (b) The name and address of the distribution point. The
1468 name and address shown on the license shall be shown on all
1469 labels, pertinent invoices, and storage facilities for
1470 fertilizer distributed by the licensee in this state.

1471 (2) (a) A company the name and address of which appear upon
1472 a label and which guarantees a fertilizer ~~person~~ may not
1473 distribute a specialty fertilizer in this state until it is
1474 registered with the department ~~by the licensee whose name~~
1475 ~~appears on the label~~. An application for registration of each
1476 brand and grade of specialty fertilizer shall be filed with the
1477 department by using ~~made on~~ a form prescribed ~~furnished~~ by the
1478 department or by using the department's website and shall be
1479 accompanied by an annual fee of \$100 for each specialty

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1480 fertilizer that is registered. All specialty fertilizer
1481 registrations expire June 30 each year. All licensing and
1482 registration fees paid to the department under this section
1483 shall be deposited into the State Treasury to be placed in the
1484 General Inspection Trust Fund to be used for the sole purpose of
1485 funding the fertilizer inspection program.

1486 Section 76. Subsection (2) of section 576.031, Florida
1487 Statutes, is amended to read:

1488 576.031 Labeling.—

1489 (2) If distributed in bulk, two ~~five~~ labels containing the
1490 information required in paragraphs (1)(a)-(f) shall accompany
1491 delivery and be supplied to the purchaser at time of delivery
1492 with the delivery ticket, which shall show the certified net
1493 weight.

1494 Section 77. Subsections (3), (4), (6), and (7) of section
1495 576.041, Florida Statutes, are amended to read:

1496 576.041 Inspection fees; records; ~~bond~~.—

1497 (3) In addition to any other penalty provided by this
1498 chapter, a ~~any~~ licensee who fails to timely pay the inspection
1499 ~~tonnage~~ fee shall be assessed a penalty of 1.5 percent for each
1500 month or part of a month that the fee or portion of the fee is
1501 not paid.

1502 (4) If the report is not filed and the inspection fee is
1503 not paid on the date due or if the report of tonnage is false,
1504 the amount of the inspection fee due is subject to a penalty of
1505 10 percent or \$25, whichever is greater. ~~The penalty shall be~~
1506 ~~added to the inspection fee due and constitutes a debt and~~
1507 ~~becomes a claim and lien against the surety bond or certificate~~
1508 ~~of deposit required by this chapter.~~

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1509 ~~(6) In order to guarantee faithful performance of the~~
1510 ~~provisions of subsection (2), the applicant for license shall~~
1511 ~~post with the department a surety bond, or assign a certificate~~
1512 ~~of deposit, in an amount required by rule of the department to~~
1513 ~~cover fees for any reporting period. The amount shall not be~~
1514 ~~less than \$1,000. The surety bond shall be executed by a~~
1515 ~~corporate surety company authorized to do business in this~~
1516 ~~state. The certificate of deposit shall be issued by any~~
1517 ~~recognized financial institution doing business in the United~~
1518 ~~States. The department shall establish, by rule, whether an~~
1519 ~~annual or continuous surety bond or certificate of deposit will~~
1520 ~~be required and shall approve each surety bond or certificate of~~
1521 ~~deposit before acceptance. The department shall examine and~~
1522 ~~approve as to sufficiency all such bonds and certificates of~~
1523 ~~deposit before acceptance. When the licensee ceases operation,~~
1524 ~~said bond or certificate of deposit shall be returned, provided~~
1525 ~~there are no outstanding fees due and payable.~~

1526 (6)~~(7)~~ In order to obtain information that will facilitate
1527 the collection of inspection fees and serve other useful
1528 purposes relating to fertilizer, the department may, by rule,
1529 require licensees, manufacturers, registrants, and dealers to
1530 report movements of fertilizer.

1531 Section 78. Subsection (3) of section 576.051, Florida
1532 Statutes, is amended to read:

1533 576.051 Inspection, sampling, analysis.—

1534 (3) The official analysis shall be made from the official
1535 sample. The department, before making the official analysis,
1536 shall take a sufficient portion from the official sample for
1537 check analysis and place that portion in a bottle sealed and

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1538 identified by number, date, and the preparer's initials. The
1539 official check sample shall be kept until the analysis of the
1540 official sample is completed. However, the licensee may obtain
1541 upon request a portion of the official check sample. Upon
1542 completion of the analysis of the official sample, a true copy
1543 of the fertilizer analysis report shall be mailed to the
1544 licensee of the fertilizer from whom the official sample was
1545 taken and to the dealer or agent, if any, and purchaser, if
1546 known. This fertilizer analysis report shall show all
1547 determinations of plant nutrients ~~nutrient~~ and pesticides. If
1548 the official analysis conforms with ~~the provisions of this~~
1549 section law, the official check sample may be destroyed. If the
1550 official analysis does not conform with ~~the provisions of this~~
1551 section law, the official check sample shall be retained for 60
1552 ~~a period of 90 days after~~ from the date of the fertilizer
1553 analysis report of the official sample. If, within that time,
1554 the licensee of the fertilizer from whom the official sample was
1555 taken, upon receipt of the fertilizer analysis report, makes
1556 written demand for analysis of the official check sample by a
1557 referee chemist, a portion of the official check sample
1558 sufficient for analysis shall be sent to a referee chemist who
1559 is mutually acceptable to the department and the licensee for
1560 analysis at the expense of the licensee. The referee chemist,
1561 upon completion of the analysis, shall forward to the department
1562 and to the licensee a fertilizer analysis report bearing a
1563 proper identification mark or number, † and the fertilizer
1564 analysis report shall be verified by an affidavit of the person
1565 making the analysis. If the results reported on the fertilizer
1566 analysis report agree within the matching criteria defined in

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1567 department rule with the department's analysis on each element
1568 for which analysis was made, the mean average of the two
1569 analyses shall be accepted as final and binding on all
1570 concerned. However, if the referee's fertilizer analysis report
1571 results do not agree within the matching criteria defined in
1572 department rule with the department's analysis in any one or
1573 more elements for which an analysis was made, upon demand of
1574 either the department or the licensee from whom the official
1575 sample was taken, a portion of the official check sample
1576 sufficient for analysis shall be submitted to a second referee
1577 chemist who is mutually acceptable to the department and to the
1578 licensee from whom the official sample was taken, at the expense
1579 of the party or parties requesting the referee analysis. If no
1580 demand is made for an analysis by a second referee chemist, the
1581 department's fertilizer analysis report shall be accepted as
1582 final and binding on all concerned. The second referee chemist,
1583 upon completion of the analysis, shall make a fertilizer
1584 analysis report as provided in this subsection for the first
1585 referee chemist. The mean average of the two analyses nearest in
1586 conformity to each other shall be accepted as final and binding
1587 on all concerned.

1588 Section 79. Subsections (4) and (5) of section 576.061,
1589 Florida Statutes, are amended to read:

1590 576.061 Plant nutrient investigational allowances,
1591 deficiencies, and penalties.—

1592 ~~(4) When it is determined by the department that a~~
1593 ~~fertilizer has been distributed without being licensed or~~
1594 ~~registered, or without labeling, the department shall require~~
1595 ~~the licensee to pay a penalty in the amount of \$100. The~~

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1596 ~~proceeds from any penalty payments shall be deposited by the~~
1597 ~~department in the General Inspection Trust Fund to be used for~~
1598 ~~the sole purpose of funding the fertilizer inspection program.~~

1599 ~~(4)-(5)~~ The department may enter an order imposing one or
1600 more of the following penalties against a ~~any~~ person who
1601 violates ~~any of the provisions of~~ this chapter or the rules
1602 adopted under this chapter hereunder or who impedes, obstructs,
1603 or hinders ~~shall impede, obstruct, hinder, or otherwise prevent~~
1604 ~~or attempt to prevent~~ the department in performing the
1605 ~~performance of its duties under~~ duty in connection with the
1606 ~~provisions of~~ this chapter:

1607 (a) Issuance of a warning letter.

1608 (b) Imposition of an administrative fine in the Class I
1609 category pursuant to s. 570.971 for each ~~of not more than \$1,000~~
1610 ~~per~~ occurrence after the issuance of a warning letter.

1611 (c) Cancellation, revocation, or suspension of any license
1612 issued by the department.

1613 Section 80. Section 576.071, Florida Statutes, is amended
1614 to read:

1615 576.071 Commercial value.—The commercial value used in
1616 assessing penalties for a ~~any~~ deficiency shall be determined by
1617 surveying the fertilizer industry in the state and using
1618 annualized plant nutrient values contained in one or more
1619 generally recognized journals.

1620 Section 81. Subsections (3) and (4) of section 576.087,
1621 Florida Statutes, are amended to read:

1622 576.087 Antisiphon requirements for irrigation systems.—
1623 ~~(3) The department shall establish specific requirements~~
1624 ~~for antisiphon devices.~~

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1625 ~~(4) Any governmental agency which requires antisiphon~~
1626 ~~devices on irrigation systems used for the application of~~
1627 ~~fertilizer shall use the specific antisiphon device requirements~~
1628 ~~adopted by the department.~~

1629 Section 82. Section 576.101, Florida Statutes, is amended
1630 to read:

1631 576.101 Cancellation, revocation, and suspension;
1632 ~~probationary status.~~

1633 ~~(1) The department may deny, suspend, or revoke a any~~
1634 ~~license issued by the department for a any violation of the~~
1635 ~~provisions of this chapter, the rules adopted under this chapter~~
1636 ~~thereunder, or any lawful order of the department.~~

1637 ~~(2) The department may place any licensee on a probationary~~
1638 ~~status when the deficiency levels of samples taken from that~~
1639 ~~licensee do not meet minimum performance levels established by~~
1640 ~~statute within the investigational allowances provided in s.~~
1641 ~~576.061.~~

1642 Section 83. Subsection (1) of section 578.08, Florida
1643 Statutes, is amended to read:

1644 578.08 Registrations.—

1645 (1) Every person, except as provided in subsection (4) and
1646 s. 578.14, before selling, distributing for sale, offering for
1647 sale, exposing for sale, handling for sale, or soliciting orders
1648 for the purchase of an any agricultural, vegetable, flower, or
1649 forest tree seed, or mixture thereof, shall first register with
1650 the department as a seed dealer. ~~The application for~~
1651 ~~registration shall include the name and location of each place~~
1652 ~~of business at which the seed is sold, distributed for sale,~~
1653 ~~offered for sale, exposed for sale, or handled for sale. The~~

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1654 application for registration shall be filed with the department
 1655 by using a form prescribed by the department or by using the
 1656 department's website and shall be accompanied by an annual
 1657 registration fee for each such place of business based on the
 1658 gross receipts from the sale of such seed for the last preceding
 1659 license year as follows:

1660 (a) 1. Receipts of less than \$500, a fee of.....\$10.

1661 2. Receipts of \$500 or more but less than \$1,000, a fee
 1662 of.....\$25.

1663 3.1. Receipts of \$1,000 or more but less than \$2,500
 1664 \$2,500.01, a fee of.....\$100.

1665 4.2. Receipts of ~~more than~~ \$2,500 or more but ~~and~~ less than
 1666 \$5,000 \$5,000.01, a fee of.....\$200.

1667 5.3. Receipts of ~~more than~~ \$5,000 or more but ~~and~~ less than
 1668 \$10,000 \$10,000.01, a fee of.....\$350.

1669 6.4. Receipts of ~~more than~~ \$10,000 or more but ~~and~~ less
 1670 than \$20,000 \$20,000.01, a fee of.....\$800.

1671 7.5. Receipts of ~~more than~~ \$20,000 or more but ~~and~~ less
 1672 than \$40,000 \$40,000.01, a fee of.....\$1,000.

1673 8.6. Receipts of ~~more than~~ \$40,000 or more but ~~and~~ less
 1674 than \$70,000 \$70,000.01, a fee of.....\$1,200.

1675 9.7. Receipts of ~~more than~~ \$70,000 or more but ~~and~~ less
 1676 than \$150,000 \$150,000.01, a fee of.....\$1,600.

1677 10.8. Receipts of ~~more than~~ \$150,000 or more but ~~and~~ less
 1678 than \$400,000 \$400,000.01, a fee of.....\$2,400.

1679 11.9. Receipts of ~~more than~~ \$400,000 or more, a fee
 1680 of.....\$4,600.

1681 (b) For places of business not previously in operation, the
 1682 fee shall be based on anticipated receipts for the first license

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1683 year.

1684 Section 84. Paragraph (g) of subsection (2) of section
1685 580.036, Florida Statutes, is amended to read:

1686 580.036 Powers and duties.—

1687 (2) The department is authorized to adopt rules pursuant to
1688 ss. 120.536(1) and 120.54 to enforce the provisions of this
1689 chapter. These rules shall be consistent with the rules and
1690 standards of the United States Food and Drug Administration and
1691 the United States Department of Agriculture, when applicable,
1692 and shall include:

1693 (g) Establishing standards for the sale, use, and
1694 distribution of commercial feed or feedstuff to ensure usage
1695 that is consistent with animal safety and well-being and, to the
1696 extent that meat, poultry, and other animal products for human
1697 consumption may be affected by commercial feed or feedstuff, to
1698 ensure that these products are safe for human consumption. Such
1699 standards, if adopted, must be developed in consultation with
1700 the Agricultural Feed, Seed, and Fertilizer Advisory Council
1701 created under s. 570.451.

1702 Section 85. Paragraphs (a), (b), and (d) of subsection (1)
1703 of section 580.041, Florida Statutes, are amended to read:

1704 580.041 Master registration; fee; refusal or cancellation
1705 of registration; reporting.—

1706 (1) (a) Each distributor of commercial feed must annually
1707 obtain a master registration before her or his brands are
1708 distributed in this state. Upon initial registration, ~~The~~
1709 ~~department shall furnish the registration forms requiring the~~
1710 ~~distributor shall agree to state that the distributor will~~
1711 comply with ~~all provisions of~~ this chapter and applicable rules.

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1712 ~~The registration form shall identify the manufacturer's or~~
 1713 ~~guarantor's name and place of business and the location of each~~
 1714 ~~manufacturing facility in the state and shall be signed by the~~
 1715 ~~owner; by a partner, if a partnership; or by an authorized~~
 1716 ~~officer or agent, if a corporation.~~ All registrations expire on
 1717 June 30 of each year.

1718 (b) The application for registration form shall be filed
 1719 with the department by using a form prescribed by the department
 1720 or by using the department's website and shall be accompanied by
 1721 a fee ~~that shall be~~ based on tons of feed distributed in this
 1722 state during the previous year. If a distributor has been in
 1723 business less than 1 year, the tonnage shall be estimated by the
 1724 distributor for the first year and based on actual tonnage
 1725 thereafter. These fees shall be as follows:

SALES IN TONS	FEE
Zero, up to and including 25.....	\$40
More than 25, up to and including 50.....	\$75
More than 50, up to and including 100.....	\$150
More than 100, up to and including 300.....	\$375
More than 300, up to and including 600.....	\$600
More than 600, up to and including 1,000.....	\$900
More than 1,000, up to and including 2,000.....	\$1,250
More than 2,000, up to and including 5,000.....	\$2,000
More than 5,000.....	\$3,500

1740 (d) The department shall provide ~~mail~~ a copy of the master

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1741 registration to the registrant to signify that administrative
1742 requirements have been met.

1743 Section 86. Subsection (1) of section 580.071, Florida
1744 Statutes, is amended to read:

1745 580.071 Adulteration.—No person shall distribute an
1746 adulterated commercial feed or feedstuff. A commercial feed or
1747 feedstuff shall be deemed to be adulterated:

1748 (1) (a) If it bears or contains any poisonous, deleterious,
1749 or nonnutritive substance that may render it injurious to animal
1750 or human health. However, if the substance is not an additive,
1751 the feed shall not be considered adulterated if the quantity of
1752 the substance does not ordinarily render it injurious to animal
1753 or human health;

1754 (b) If it bears or contains any food additive or added
1755 poisonous, deleterious, or nonnutritive substance that is unsafe
1756 within the meaning of s. 406 of the Federal Food, Drug, and
1757 Cosmetic Act, other than a pesticide chemical in or on a raw
1758 agricultural commodity;

1759 (c) If it is, or it bears or contains, any food additive or
1760 color additive that is unsafe within the meaning of s. 409 or s.
1761 512 of the Federal Food, Drug, and Cosmetic Act, respectively;

1762 (d) If it is a raw agricultural commodity and it bears or
1763 contains a pesticide chemical that is unsafe within the meaning
1764 of s. 408(a) of the Federal Food, Drug, and Cosmetic Act;
1765 however, if ~~where~~ a pesticide chemical has been used in or on a
1766 raw agricultural commodity in conformity with an exemption
1767 granted or a tolerance prescribed under s. 408 of the Federal
1768 Food, Drug, and Cosmetic Act and that raw agricultural commodity
1769 has been subjected to processing such as canning, cooking,

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1770 freezing, dehydrating, or milling, the processed feed will
1771 result, or is likely to result, in pesticide residue in the
1772 edible product of the animal which is unsafe within the meaning
1773 of s. 408(a) of the Federal Food, Drug, and Cosmetic Act; ~~or~~

1774 (e) If it is, or it bears or contains, a ~~any~~ new animal
1775 drug that is unsafe within the meaning of s. 512 of the Federal
1776 Food, Drug, and Cosmetic Act; ~~-~~

1777 (f) If it consists, in whole or in part, of a filthy,
1778 putrid, or decomposed substance, or if it is otherwise unfit for
1779 feed;

1780 (g) If it is prepared, packaged, or held under unsanitary
1781 conditions whereby it may have become contaminated with filth,
1782 or may have been rendered injurious to health; or

1783 (h) If it is, in whole or in part, the product of a
1784 diseased animal or of an animal that died by a means other than
1785 slaughter which is unsafe within the meaning of s. 402(a)(1) or
1786 (2) of the Federal Food, Drug, and Cosmetic Act.

1787 Section 87. Subsection (5) of section 581.091, Florida
1788 Statutes, is amended to read:

1789 581.091 Noxious weeds and infected plants or regulated
1790 articles; sale or distribution; receipt; information to
1791 department; withholding information.-

1792 (5) (a) Notwithstanding any other ~~provision of state law or~~
1793 rule, a person may obtain a special permit from the department
1794 to plant *Casuarina cunninghamiana* as a windbreak for a
1795 commercial citrus grove if ~~provided~~ the plants are produced in
1796 an authorized registered nursery and certified by the department
1797 as being vegetatively propagated from male plants. ~~A "commercial~~
1798 ~~citrus grove" means a contiguous planting of 100 or more citrus~~

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1799 ~~trees where citrus fruit is produced for sale.~~

1800 ~~(b) For a 5-year period, special permits authorizing a~~
1801 ~~person to plant *Casuarina cunninghamiana* shall be issued only as~~
1802 ~~part of a pilot program for fresh fruit groves in areas of~~
1803 ~~Indian River, St. Lucie, and Martin Counties where citrus canker~~
1804 ~~is determined by the department to be widespread. The pilot~~
1805 ~~program shall be reevaluated annually, and a comprehensive~~
1806 ~~review shall be conducted in 2013. The purpose of the annual and~~
1807 ~~5-year reviews is to determine if the use of *Casuarina*~~
1808 ~~*cunninghamiana* as an agricultural pest and disease windbreak~~
1809 ~~poses any adverse environmental consequences. At the end of the~~
1810 ~~5-year pilot program, if the Noxious Weed and Invasive Plant~~
1811 ~~Review Committee, created by the department, and the Department~~
1812 ~~of Environmental Protection, in consultation with a~~
1813 ~~representative of the citrus industry who has a *Casuarina*~~
1814 ~~*cunninghamiana* windbreak, determine that the potential is low~~
1815 ~~for adverse environmental impacts from planting *Casuarina*~~
1816 ~~*cunninghamiana* as windbreaks, the department may, by rule, allow~~
1817 ~~the use of *Casuarina cunninghamiana* windbreaks for commercial~~
1818 ~~citrus groves in other areas of the state. If it is determined~~
1819 ~~at the end of the 5-year pilot program that additional time is~~
1820 ~~needed to further evaluate *Casuarina cunninghamiana*, the~~
1821 ~~department will remain the lead agency.~~

1822 ~~(b)(e)~~ Each application for a special permit must ~~shall~~ be
1823 accompanied by a fee in an amount determined by ~~the~~ department,
1824 by rule, not to exceed \$500. A special permit is ~~shall be~~
1825 required for each noncontiguous commercial citrus grove and
1826 shall be renewed every 5 years. The property owner shall
1827 maintain and produce ~~is responsible for maintaining and~~

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1828 ~~producing~~ for inspection the original nursery invoice with
1829 certification documentation. If ownership of the property is
1830 transferred, the seller shall ~~must~~ notify the department and
1831 provide the buyer with a copy of the special permit and copies
1832 of all invoices and certification documentation before ~~prior to~~
1833 the closing of the sale.

1834 (c) ~~(d)~~ Each application must ~~shall~~ include a baseline
1835 survey of all lands within 500 feet of the proposed *Casuarina*
1836 *cunninghamiana* windbreak showing the location and identifying
1837 the identification to ~~species of all~~ existing *Casuarina spp.*

1838 (d) ~~(e)~~ Nurseries authorized to produce *Casuarina*
1839 *cunninghamiana* shall ~~must~~ obtain a special permit from the
1840 department certifying that the plants have been vegetatively
1841 propagated from sexually mature male source trees currently
1842 grown in the state. The importation of *Casuarina cunninghamiana*
1843 from any area outside the state for use ~~to be used~~ as a
1844 propagation source tree is prohibited. Each male source tree
1845 must be registered by the department as being a horticulturally
1846 true-to-type male plant and be labeled with a source tree
1847 registration number. Each nursery application for a special
1848 permit must ~~shall~~ be accompanied by a fee in an amount
1849 determined by ~~the~~ department, ~~by~~ rule, not to exceed \$200.
1850 Special permits shall be renewed annually. The department shall,
1851 by rule, set the amount of an annual fee, not to exceed \$50, for
1852 each *Casuarina cunninghamiana* registered as a source tree.
1853 ~~Nurseries may only sell *Casuarina cunninghamiana* to a person~~
1854 ~~with a special permit as specified in paragraphs (a) and (b).~~
1855 The source tree registration numbers of the parent plants must
1856 be documented on each invoice or other certification

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1857 documentation provided to the buyer.

1858 (e)~~(f)~~ All *Casuarina cunninghamiana* shall ~~must~~ be destroyed
1859 by the property owner within 6 months after:

1860 1. The property owner takes permanent action to no longer
1861 use the site for commercial citrus production;

1862 2. The site has not been used for commercial citrus
1863 production for a period of 5 years; or

1864 3. The department determines that the *Casuarina*
1865 *cunninghamiana* on the site has become invasive. This
1866 determination shall be based on, but not limited to, the
1867 recommendation of the Noxious Weed and Invasive Plant Review
1868 Committee and the Department of Environmental Protection and
1869 made in consultation with a representative of the citrus
1870 industry who has a *Casuarina cunninghamiana* windbreak.

1871
1872 If the owner or person in charge refuses or neglects to comply,
1873 the director or her or his authorized representative may, under
1874 authority of the department, ~~proceed to~~ destroy the plants. The
1875 expense of the destruction shall be assessed, collected, and
1876 enforced against the owner by the department. If the owner does
1877 not pay the assessed cost, the department may record a lien
1878 against the property.

1879 (f)~~(g)~~ The use of *Casuarina cunninghamiana* for windbreaks
1880 does ~~shall~~ not preclude the department from issuing permits for
1881 the research or release of biological control agents to control
1882 *Casuarina spp.* as provided in ~~in accordance with~~ s. 581.083.

1883 (g)~~(h)~~ The use of *Casuarina cunninghamiana* for windbreaks
1884 may ~~shall~~ not restrict or interfere with any other agency or
1885 local government effort to manage or control noxious weeds or

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1886 invasive plants, including *Casuarina cunninghamiana*. ~~An, nor~~
1887 ~~shall any other~~ agency or local government may not remove any
1888 *Casuarina cunninghamiana* planted as a windbreak under special
1889 permit issued by the department.

1890 ~~(i) The department shall develop and implement a monitoring~~
1891 ~~protocol to determine invasiveness of *Casuarina cunninghamiana*.~~
1892 ~~The monitoring protocol shall, at a minimum, require:~~

1893 ~~1. Inspection of the planting site by department inspectors~~
1894 ~~within 30 days following initial planting or any subsequent~~
1895 ~~planting of *Casuarina cunninghamiana* to ensure the criteria of~~
1896 ~~the special permit have been met.~~

1897 ~~2. Annual site inspections of planting sites and all lands~~
1898 ~~within 500 feet of the planted windbreak by department~~
1899 ~~inspectors who have been trained to identify *Casuarina spp.* and~~
1900 ~~to make determinations of whether *Casuarina cunninghamiana* has~~
1901 ~~spread beyond the permitted windbreak location.~~

1902 ~~3. Any new seedlings found within 500 feet of the planted~~
1903 ~~windbreak to be removed, identified to the species level, and~~
1904 ~~evaluated to determine if hybridization has occurred.~~

1905 ~~4. The department to submit an annual report and a final 5-~~
1906 ~~year evaluation identifying any adverse effects resulting from~~
1907 ~~the planting of *Casuarina cunninghamiana* for windbreaks and~~
1908 ~~documenting all inspections and the results of those inspections~~
1909 ~~to the Noxious Weed and Invasive Plant Review Committee, the~~
1910 ~~Department of Environmental Protection, and a designated~~
1911 ~~representative of the citrus industry who has a *Casuarina*~~
1912 ~~*cunninghamiana* windbreak.~~

1913 ~~(j) If the department determines that female flowers or~~
1914 ~~cones have been produced on any *Casuarina cunninghamiana* that~~

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1915 ~~have been planted under a special permit issued by the~~
1916 ~~department, the property owner shall be responsible for~~
1917 ~~destroying the trees. The department shall notify the property~~
1918 ~~owner of the timeframe and method of destruction.~~

1919 ~~(k) If at any time the department determines that~~
1920 ~~hybridization has occurred during the pilot program between~~
1921 ~~*Casuarina cunninghamiana* planted as a windbreak and other~~
1922 ~~*Casuarina spp.*, the department shall expeditiously initiate~~
1923 ~~research to determine the invasiveness of the hybrid. The~~
1924 ~~information obtained from this research shall be evaluated by~~
1925 ~~the Noxious Weed and Invasive Plant Review Committee, the~~
1926 ~~Department of Environmental Protection, and a designated~~
1927 ~~representative of the citrus industry who has a *Casuarina*~~
1928 ~~*cunninghamiana* windbreak. If the department determines that the~~
1929 ~~hybrids have a high potential to become invasive, based on, but~~
1930 ~~not limited to, the recommendation of the Noxious Weed and~~
1931 ~~Invasive Plant Review Committee, the Department of Environmental~~
1932 ~~Protection, and a designated representative of the citrus~~
1933 ~~industry who has a *Casuarina cunninghamiana* windbreak, this~~
1934 ~~pilot program shall be permanently suspended.~~

1935 ~~(l) Each application for a special permit must be~~
1936 ~~accompanied by a fee as described in paragraph (c) and an~~
1937 ~~agreement that the property owner will abide by all permit~~
1938 ~~conditions including the removal of *Casuarina cunninghamiana* if~~
1939 ~~invasive populations or other adverse environmental factors are~~
1940 ~~determined to be present by the department as a result of the~~
1941 ~~use of *Casuarina cunninghamiana* as windbreaks. The application~~
1942 ~~must include, on a form provided by the department, the name of~~
1943 ~~the applicant and the applicant's address or the address of the~~

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1944 ~~applicant's principal place of business; a statement of the~~
1945 ~~estimated cost of removing and destroying the *Casuarina*~~
1946 ~~*cunninghamiana* that is the subject of the special permit; and~~
1947 ~~the basis for calculating or determining that estimate. If the~~
1948 ~~applicant is a corporation, partnership, or other business~~
1949 ~~entity, the applicant must also provide in the application the~~
1950 ~~name and address of each officer, partner, or managing agent.~~
1951 ~~The applicant shall notify the department within 30 business~~
1952 ~~days of any change of address or change in the principal place~~
1953 ~~of business. The department shall mail all notices to the~~
1954 ~~applicant's last known address.~~

1955 1. Upon obtaining a permit, the permitholder must annually
1956 maintain the *Casuarina cunninghamiana* authorized by a special
1957 permit as required in the permit. If the permitholder ceases to
1958 maintain the *Casuarina cunninghamiana* as required by the special
1959 permit, if the permit expires, or if the permitholder ceases to
1960 abide by the conditions of the special permit, the permitholder
1961 must ~~shall~~ remove and destroy the *Casuarina cunninghamiana* in a
1962 timely manner as specified in the permit.

1963 2. If the department:

1964 a. Determines that the permitholder is no longer
1965 maintaining the *Casuarina cunninghamiana* subject to the special
1966 permit and has not removed and destroyed the *Casuarina*
1967 *cunninghamiana* authorized by the special permit;

1968 b. Determines that the continued use of *Casuarina*
1969 *cunninghamiana* as windbreaks presents an imminent danger to
1970 public health, safety, or welfare; or

1971 c. Determines that the permitholder has exceeded the
1972 conditions of the authorized special permit. †

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1973
1974 the department may issue an immediate final order, which is
1975 ~~shall be~~ immediately appealable or enjoinable pursuant to as
1976 ~~provided by~~ chapter 120, directing the permitholder to
1977 immediately remove and destroy the *Casuarina cunninghamiana*
1978 authorized to be planted under the special permit. A copy of the
1979 immediate final order shall be provided ~~mailed~~ to the
1980 permitholder.

1981 3. If, upon issuance by the department of an immediate
1982 final order to the permitholder, the permitholder fails to
1983 remove and destroy the *Casuarina cunninghamiana* subject to the
1984 special permit within 60 days after issuance of the order, or
1985 such shorter period as is designated in the order as public
1986 health, safety, or welfare requires, the department may remove
1987 and destroy the *Casuarina cunninghamiana* that are the subject of
1988 the special permit. If the permitholder makes a written request
1989 to the department for an extension of time to remove and destroy
1990 the *Casuarina cunninghamiana* that demonstrates specific facts
1991 showing why the *Casuarina cunninghamiana* could not reasonably be
1992 removed and destroyed in the applicable timeframe, the
1993 department may extend the time for removing and destroying
1994 *Casuarina cunninghamiana* subject to a special permit. The
1995 reasonable costs and expenses incurred by the department for
1996 removing and destroying *Casuarina cunninghamiana* subject to a
1997 special permit shall be paid out of the Citrus Inspection Trust
1998 Fund and shall be reimbursed by the party to which the immediate
1999 final order is issued. If the party to which the immediate final
2000 order has been issued fails to reimburse the state within 60
2001 days, the department may record a lien on the property. The lien

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2002 shall be enforced by the department.

2003 4. In order to carry out the purposes of this paragraph,
2004 the department or its agents may require a permitholder to
2005 provide verified statements of the planted acreage subject to
2006 the special permit and may review the permitholder's business or
2007 planting records at her or his place of business during normal
2008 business hours in order to determine the acreage planted. The
2009 failure of a permitholder to furnish such statement or to make
2010 such records available is cause for suspension of the special
2011 permit. If the department finds such failure to be willful, the
2012 special permit may be revoked.

2013 Section 88. Subsection (8) of section 581.131, Florida
2014 Statutes, is amended to read:

2015 581.131 Certificate of registration.—

2016 (8) The department shall provide to each person subject to
2017 this section written notice and renewal forms 30 ~~60~~ days before
2018 ~~prior to~~ the annual renewal date informing the person of the
2019 certificate of registration renewal date and the applicable fee.

2020 Section 89. Subsection (4) of section 583.01, Florida
2021 Statutes, is amended to read:

2022 583.01 Definitions.—For the purpose of this chapter, unless
2023 elsewhere indicated, the term:

2024 (4) "Dealer" means a ~~any~~ person, firm, or corporation,
2025 including a producer, processor, retailer, or wholesaler, that
2026 sells, offers for sale, or holds for the purpose of sale in this
2027 state 30 dozen or more eggs or its equivalent in any one week,
2028 or more than 384 ~~in excess of 100 pounds of dressed birds~~
2029 ~~poultry~~ in any one week.

2030 Section 90. Section 570.38, Florida Statutes, is

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2031 transferred, renumbered as section 585.008, Florida Statutes,
2032 and amended to read:

2033 585.008 ~~570.38~~ Animal Industry Technical Council.—

2034 (1) COMPOSITION.—The Animal Industry Technical Council is
2035 hereby created in the department and shall be composed of 14
2036 members as follows:

2037 (a) The beef cattle, swine, dairy, horse, independent
2038 agricultural market ~~markets~~, meat processing and packing
2039 establishment ~~establishments~~, veterinary medicine, and poultry
2040 representatives who serve on the State Agricultural Advisory
2041 Council and three additional representatives from the beef
2042 cattle industry, as well as three at-large members representing
2043 other animal industries in the state, who shall be appointed by
2044 the commissioner for 4-year terms or until their successors are
2045 duly qualified and appointed.

2046 (b) Each additional beef cattle representative shall be
2047 appointed subject to the qualifications and by the procedure as
2048 prescribed in s. 570.23 for membership to the council by the
2049 beef cattle representative. If a vacancy occurs in these three
2050 positions, it shall be filled for the remainder of the term in
2051 the same manner as an initial appointment.

2052 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.—The
2053 meetings, powers and duties, procedures, and recordkeeping of
2054 the Animal Industry Technical Council shall be pursuant to s.
2055 570.232 ~~governed by the provisions of s. 570.0705 relating to~~
2056 ~~advisory committees established within the department.~~

2057 Section 91. Subsection (3) is added to section 589.08,
2058 Florida Statutes, to read:

2059 589.08 Land acquisition restrictions.—

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2060 (3) The Florida Forest Service shall pay 15 percent of the
2061 gross receipts from the Goethe State Forest to each fiscally
2062 constrained county as described in s. 218.67(1) in which a
2063 portion of the Goethe State Forest is located in proportion to
2064 the forest acreage located in such county. The funds must be
2065 equally divided between the board of county commissioners and
2066 the school board of each fiscally constrained county.

2067 Section 92. Subsections (1) and (3) of section 589.011,
2068 Florida Statutes, are amended to read:

2069 589.011 Use of state forest lands; fees; rules.-

2070 (1) If authorized by a land management plan approved
2071 pursuant to chapter 253 or by an interim assignment letter that
2072 identifies the interim management activities issued by the
2073 Department of Environmental Protection pursuant to chapter 259,
2074 the Florida Forest Service of the Department of Agriculture and
2075 Consumer Services may grant privileges, permits, leases, and
2076 concessions for the use of state forest lands or any land leased
2077 by or otherwise assigned to the Florida Forest Service for
2078 management purposes, timber, and forest products pursuant to ~~for~~
2079 purposes not inconsistent with the provisions of this chapter.

2080 (3) The Florida Forest Service ~~may~~ ~~shall have the power to~~
2081 ~~set and collect charge~~ reasonable fees, rentals, or charges ~~or~~
2082 ~~rent~~ for the use or operation of facilities and concessions on
2083 state forests or any lands leased by or otherwise assigned to
2084 the Florida Forest Service for management purposes based on
2085 factors such as the cost and extent of recreational facilities
2086 and services, geographical location, seasonal public demand,
2087 fees charged by other governmental and private entities for
2088 comparable services and activities, and market value and demand

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2089 for forest products. Moneys collected from such fees, rentals,
2090 and charges ~~rent~~ shall be deposited into the Incidental Trust
2091 Fund of the Florida Forest Service.

2092 Section 93. Section 589.20, Florida Statutes, is amended to
2093 read:

2094 589.20 Cooperation by Florida Forest Service.—The Florida
2095 Forest Service may cooperate with other state agencies, water
2096 management districts, municipalities, or other governmental
2097 entities ~~who are custodians of lands which are suitable for~~
2098 ~~forestry purposes,~~ in the designation and dedication of ~~such~~
2099 lands that are suitable for forestry purposes ~~when in the~~
2100 ~~opinion of the state agencies concerned such lands are suitable~~
2101 ~~for these purposes and can be so administered.~~ Lands designated
2102 and dedicated by a state agency, water management district,
2103 municipality, or other government entity ~~Upon the designation~~
2104 ~~and dedication of said lands for forestry these purposes by the~~
2105 ~~agencies concerned, said lands~~ shall be administered by the
2106 Florida Forest Service.

2107 Section 94. Subsection (7) of section 590.02, Florida
2108 Statutes, is amended to read:

2109 590.02 Florida Forest Service; powers, authority, and
2110 duties; liability; building structures; Withlacoochee Training
2111 ~~Florida Center for Wildfire and Forest Resources Management~~
2112 ~~Training.~~—

2113 (7) The Florida Forest Service may organize, staff, equip,
2114 and operate the Withlacoochee ~~Florida Forest~~ Training Center.
2115 The center shall serve as a site where fire and forest resource
2116 managers can obtain current knowledge, techniques, skills, and
2117 theory as they relate to their respective disciplines.

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2118 (a) The center may establish cooperative efforts involving
2119 federal, state, and local entities; hire appropriate personnel;
2120 and engage others by contract or agreement with or without
2121 compensation to assist in carrying out the training and
2122 operations of the center.

2123 (b) The center shall provide wildfire suppression training
2124 opportunities for rural fire departments, volunteer fire
2125 departments, and other local fire response units.

2126 (c) The center shall ~~will~~ focus on curriculum related ~~to~~,
2127 but not limited to, fuel reduction, an incident management
2128 system, prescribed burning certification, multiple-use land
2129 management, water quality, forest health, environmental
2130 education, and wildfire suppression training for structural
2131 firefighters.

2132 (d) The center may assess appropriate fees for food,
2133 lodging, travel, course materials, and supplies in order to meet
2134 its operational costs and may grant free meals, room, and
2135 scholarships to persons and other entities in exchange for
2136 instructional assistance.

2137 Section 95. Subsection (2) of section 590.125, Florida
2138 Statutes, is amended to read:

2139 590.125 Open burning authorized by the Florida Forest
2140 Service.—

2141 (2) NONCERTIFIED BURNING.—

2142 (a) Persons may ~~be authorized to~~ broadcast burn or pile
2143 burn pursuant to ~~in accordance with~~ this subsection if:

2144 1. There is specific consent of the landowner or his or her
2145 designee;

2146 2. Authorization has been obtained from the Florida Forest

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2147 Service or its designated agent before starting the burn;

2148 3. There are adequate firebreaks at the burn site and
2149 sufficient personnel and firefighting equipment for the
2150 containment of the fire;

2151 4. The fire remains within the boundary of the authorized
2152 area;

2153 5. The person named responsible in the burn authorization
2154 or a designee is present at the burn site until the fire is
2155 completed;

2156 6. The Florida Forest Service does not cancel the
2157 authorization; and

2158 7. The Florida Forest Service determines that air quality
2159 and fire danger are favorable for safe burning.

2160 (b) A new authorization is not required for smoldering that
2161 occurs within the authorized burn area unless new ignitions are
2162 conducted by the person named responsible in the burn
2163 authorization or a designee.

2164 (c) Monitoring the smoldering activity of a burn does not
2165 require an additional authorization even if flames begin to
2166 spread within the authorized burn site due to ongoing smoldering
2167 activity.

2168 (d) ~~(b)~~ A person who broadcast burns or pile burns in a
2169 manner that violates ~~any requirement of~~ this subsection commits
2170 a misdemeanor of the second degree, punishable as provided in s.
2171 775.082 or s. 775.083.

2172 Section 96. Section 570.0725, Florida Statutes, is
2173 transferred and renumbered as section 595.420, Florida Statutes.

2174 Section 97. Paragraph (k) of subsection (1) of section
2175 597.003, Florida Statutes, is amended to read:

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2176 597.003 Powers and duties of Department of Agriculture and
2177 Consumer Services.—

2178 (1) The department is hereby designated as the lead agency
2179 in encouraging the development of aquaculture in the state and
2180 shall have and exercise the following functions, powers, and
2181 duties with regard to aquaculture:

2182 (k) Make available state lands and the water column for the
2183 purpose of producing aquaculture products when the aquaculture
2184 activity is compatible with state resource management goals,
2185 environmental protection, and proprietary interest and when such
2186 state lands and waters are determined to be suitable for
2187 aquaculture development by the Board of Trustees of the Internal
2188 Improvement Trust Fund pursuant to s. 253.68; provide training
2189 as necessary to lessees; and be responsible for all saltwater
2190 aquaculture activities located on sovereignty submerged land or
2191 in the water column above such land and adjacent facilities
2192 directly related to the aquaculture activity.

2193 1. The department shall act in cooperation with other state
2194 and local agencies and programs to identify and designate
2195 sovereignty lands and waters that would be suitable for
2196 aquaculture development.

2197 2. The department shall identify and evaluate specific
2198 tracts of sovereignty submerged lands and water columns in
2199 various areas of the state to determine where such lands and
2200 waters are suitable for leasing for aquaculture purposes.
2201 Nothing in this subparagraph or subparagraph 1. shall preclude
2202 the applicant from applying for sites identified by the
2203 applicant.

2204 3. The department shall provide assistance in developing

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2205 technologies applicable to aquaculture activities, evaluate
2206 practicable production alternatives, and provide agreements to
2207 develop innovative culture practices.

2208 Section 98. Paragraph (j) is added to subsection (1) of
2209 section 597.004, Florida Statutes, to read:

2210 597.004 Aquaculture certificate of registration.—

2211 (1) CERTIFICATION.—Any person engaging in aquaculture must
2212 be certified by the department. The applicant for a certificate
2213 of registration shall submit the following to the department:

2214 (j) A certificate of training, if required under the best
2215 management practices adopted pursuant to this section.

2216 Section 99. Subsection (1) of section 597.020, Florida
2217 Statutes, is amended to read:

2218 597.020 Shellfish processors; regulation.—

2219 (1) The department may:

2220 (a) is authorized to Adopt by rule regulations,
2221 specifications, training requirements, and codes relating to
2222 sanitary practices for catching, cultivating, handling,
2223 processing, packaging, preserving, canning, smoking, and storing
2224 ~~of~~ oysters, clams, mussels, scallops, and crabs.

2225 (b) The department is also authorized to License shellfish
2226 processors who handle oysters, clams, mussels, scallops, and
2227 crabs when such activities relate to quality control, sanitary,
2228 and public health practices pursuant to this section and chapter
2229 500.

2230 (c) The department is also authorized to License or
2231 certify, for a fee determined by rule, facilities used for
2232 processing oysters, clams, mussels, scallops, and crabs; ~~to~~
2233 levy an administrative fine in the Class I category pursuant to

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2234 s. 570.971 for each violation, for each day the violation exists
2235 ~~of up to \$1,000 per violation per day or to suspend or revoke~~
2236 such licenses or certificates upon satisfactory evidence of a
2237 ~~any~~ violation of rules adopted pursuant to this section;; ~~and to~~
2238 seize and destroy any adulterated or misbranded shellfish
2239 products as defined by rule.

2240 Section 100. Section 570.481, Florida Statutes, is
2241 transferred and renumbered as section 603.011, Florida Statutes.

2242 Section 101. Section 570.55, Florida Statutes, is
2243 transferred and renumbered as section 603.211, Florida Statutes.

2244 Section 102. Subsection (2) of section 604.16, Florida
2245 Statutes, is amended, and subsection (5) is added to that
2246 section, to read:

2247 604.16 Exceptions to provisions of ss. 604.15-604.34.-
2248 Except for s. 604.22(2), the provisions of ss. 604.15-604.34 do
2249 not apply to:

2250 (2) A dealer in agricultural products who pays at the time
2251 of purchase with United States cash currency or a cash
2252 equivalent, such as a money order, cashier's check, wire
2253 transfer, electronic funds transfer, or PIN debit transaction
2254 ~~debit card.~~

2255 (5) A dealer in agricultural products to the extent that
2256 the dealer purchases agricultural products from a producer owned
2257 by the exact same person as the dealer, owned solely by the
2258 dealer, or who solely owns the dealer.

2259 Section 103. Section 604.22, Florida Statutes, is amended
2260 to read:

2261 604.22 Dealers to keep records; contents.-

2262 (1) (a) Each licensee, while acting as agent for a producer,

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2263 shall make and preserve for at least 1 year a record of each
2264 transaction, specifying the name and address of the producer for
2265 whom she or he acts as agent; the date of receipt; the kind,
2266 quality, and quantity of agricultural products received; the
2267 name and address of the purchaser of each package of
2268 agricultural products; the price for which each package was
2269 sold; the amount of any additional charges necessary to
2270 effectuate the sale; the amount and explanation of any
2271 adjustments given; and the net amount due from each purchaser.

2272 (b) An account of sales shall be furnished to each producer
2273 within 48 hours after the sale of such agricultural products
2274 unless otherwise agreed to in a written contract or verifiable
2275 oral agreement. Such account of sales shall clearly show the
2276 sale price of each lot of agricultural products sold; all
2277 adjustments to the original price, along with an explanation of
2278 such adjustments; and an itemized showing of all marketing costs
2279 deducted by the licensee, along with the net amount due the
2280 producer.

2281 (c) The licensee shall make the payment to the producer
2282 within 5 days after ~~of~~ the licensee's receipt of payment unless
2283 otherwise agreed to in a written contract or verifiable oral
2284 agreement.

2285 (2) (a) Notwithstanding ~~The provisions of~~ s. 604.16(2), (3),
2286 and (4) ~~notwithstanding~~, a any person, partnership, corporation,
2287 or other business entity, except a person described in s.
2288 604.16(1), who possesses and offers for sale agricultural
2289 products is required to possess and display, upon the request of
2290 a ~~any~~ department representative or state, county, or local law
2291 enforcement officer, an invoice, bill of sale, manifest, or

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2292 other written document showing the date of sale, the name and
2293 address of the seller, and the kind and quantity of products for
2294 all such agricultural products.

2295 (b) A ~~Any~~ person who violates ~~the provisions of this~~
2296 ~~section is subject to s. 604.30(2) and (3) subsection is guilty~~
2297 ~~of a misdemeanor of the second degree, punishable as provided in~~
2298 ~~s. 775.082 or s. 775.083.~~

2299 Section 104. Sections 487.172, 500.301, 500.302, 500.303,
2300 500.304, 500.305, 500.306, 500.601, 570.345, 570.542, 570.72,
2301 570.92, 589.081, and 590.091, Florida Statutes, are repealed.

2302 Section 105. Paragraph (c) of subsection (6) of section
2303 193.461, Florida Statutes, is amended to read:

2304 193.461 Agricultural lands; classification and assessment;
2305 mandated eradication or quarantine program.-

2306 (6)

2307 (c)1. For purposes of the income methodology approach to
2308 assessment of property used for agricultural purposes,
2309 irrigation systems, including pumps and motors, physically
2310 attached to the land are ~~shall be~~ considered a part of the
2311 average yields per acre and ~~shall~~ have no separately assessable
2312 contributory value.

2313 2. Litter containment structures located on producing
2314 poultry farms and animal waste nutrient containment structures
2315 located on producing dairy farms shall be assessed by the
2316 methodology described in subparagraph 1.

2317 3. Structures or improvements used in horticultural
2318 production for frost or freeze protection, ~~which structures or~~
2319 ~~improvements~~ are consistent with the interim measures or best
2320 management practices adopted by the Department of Agriculture

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2321 and Consumer Services ~~Services'~~ ~~interim measures or best~~
2322 ~~management practices adopted~~ pursuant to s. 570.93 ~~s. 570.085~~ or
2323 s. 403.067(7)(c), shall be assessed by the methodology described
2324 in subparagraph 1.

2325 Section 106. Subsection (1) of section 253.74, Florida
2326 Statutes, is amended to read:

2327 253.74 Penalties.—

2328 (1) A ~~Any~~ person who conducts aquaculture activities in
2329 excess of those authorized by the board or who conducts such
2330 activities on state-owned submerged lands without having
2331 previously obtained an authorization from the board commits a
2332 misdemeanor of the second degree, punishable as provided in s.
2333 775.082, is ~~and shall be~~ subject to a civil fine in the Class I
2334 category pursuant to s. 570.971 ~~imprisonment for not more than 6~~
2335 ~~months or fine of not more than \$1,000, or both.~~ In addition to
2336 such fine and imprisonment, all works, improvements, and animal
2337 and plant life involved in the project, may be forfeited to the
2338 state.

2339 Section 107. Paragraph (c) of subsection (5) of section
2340 288.1175, Florida Statutes, is amended to read:

2341 288.1175 Agriculture education and promotion facility.—

2342 (5) The Department of Agriculture and Consumer Services
2343 shall competitively evaluate applications for funding of an
2344 agriculture education and promotion facility. If the number of
2345 applicants exceeds three, the Department of Agriculture and
2346 Consumer Services shall rank the applications based upon
2347 criteria developed by the Department of Agriculture and Consumer
2348 Services, with priority given in descending order to the
2349 following items:

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2350 (c) The location of the facility in a brownfield site as
2351 defined in s. 376.79(3), a rural enterprise zone as defined in
2352 s. 290.004, an agriculturally depressed area as defined in s.
2353 570.74 ~~s. 570.242(1)~~, or a county that has lost its agricultural
2354 land to environmental restoration projects.

2355 Section 108. Paragraph (b) of subsection (14) and paragraph
2356 (b) of subsection (77) of section 320.08058, Florida Statutes,
2357 are amended to read:

2358 320.08058 Specialty license plates.—

2359 (14) FLORIDA AGRICULTURAL LICENSE PLATES.—

2360 (b) The proceeds of the Florida Agricultural license plate
2361 annual use fee must be forwarded to the direct-support
2362 organization created pursuant to s. 570.691 ~~in s. 570.903~~. The
2363 funds must be used for the sole purpose of funding and promoting
2364 the Florida agriculture in the classroom program established
2365 within the Department of Agriculture and Consumer Services
2366 pursuant to s. 570.693 ~~s. 570.91~~.

2367 (77) FLORIDA HORSE PARK LICENSE PLATES.—

2368 (b) The annual use fees shall be distributed to the Florida
2369 Agriculture Center and Horse Park Authority created by s.
2370 570.685 ~~s. 570.952~~, which shall retain all proceeds until all
2371 startup costs for developing and establishing the plate have
2372 been recovered. Thereafter, the proceeds shall be used as
2373 follows:

2374 1. A maximum of 5 percent of the proceeds from the annual
2375 use fees may be used for the administration of the Florida Horse
2376 Park license plate program.

2377 2. A maximum of 5 percent of the proceeds may be used to
2378 promote and market the license plate.

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2379 3. The remaining proceeds shall be used by the authority to
2380 promote the Florida Agriculture Center and Horse Park located in
2381 Marion County; to support continued development of the park,
2382 including the construction of additional educational facilities,
2383 barns, and other structures; to provide improvements to the
2384 existing infrastructure at the park; and to provide for
2385 operational expenses of the Florida Agriculture Center and Horse
2386 Park.

2387 Section 109. Section 373.621, Florida Statutes, is amended
2388 to read:

2389 373.621 Water conservation.—The Legislature recognizes the
2390 significant value of water conservation in the protection and
2391 efficient use of water resources. Accordingly, consideration in
2392 the administration of ss. 373.223, 373.233, and 373.236 shall be
2393 given to applicants who implement water conservation practices
2394 pursuant to s. 570.93 ~~s. 570.085~~ or other applicable water
2395 conservation measures as determined by the department or a water
2396 management district.

2397 Section 110. Paragraph (a) of subsection (2) of section
2398 373.709, Florida Statutes, is amended to read:

2399 373.709 Regional water supply planning.—

2400 (2) Each regional water supply plan must be based on at
2401 least a 20-year planning period and must include, but need not
2402 be limited to:

2403 (a) A water supply development component for each water
2404 supply planning region identified by the district which
2405 includes:

2406 1. A quantification of the water supply needs for all
2407 existing and future reasonable-beneficial uses within the

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2408 planning horizon. The level-of-certainty planning goal
2409 associated with identifying the water supply needs of existing
2410 and future reasonable-beneficial uses must be based upon meeting
2411 those needs for a 1-in-10-year drought event.

2412 a. Population projections used for determining public water
2413 supply needs must be based upon the best available data. In
2414 determining the best available data, the district shall consider
2415 the University of Florida's Bureau of Economic and Business
2416 Research (BEBR) medium population projections and population
2417 projection data and analysis submitted by a local government
2418 pursuant to the public workshop described in subsection (1) if
2419 the data and analysis support the local government's
2420 comprehensive plan. Any adjustment of or deviation from the BEBR
2421 projections must be fully described, and the original BEBR data
2422 must be presented along with the adjusted data.

2423 b. Agricultural demand projections used for determining the
2424 needs of agricultural self-suppliers must be based upon the best
2425 available data. In determining the best available data for
2426 agricultural self-supplied water needs, the district shall
2427 consider the data indicative of future water supply demands
2428 provided by the Department of Agriculture and Consumer Services
2429 pursuant to s. 570.93 ~~s. 570.085~~ and agricultural demand
2430 projection data and analysis submitted by a local government
2431 pursuant to the public workshop described in subsection (1), if
2432 the data and analysis support the local government's
2433 comprehensive plan. Any adjustment of or deviation from the data
2434 provided by the Department of Agriculture and Consumer Services
2435 must be fully described, and the original data must be presented
2436 along with the adjusted data.

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2437 2. A list of water supply development project options,
2438 including traditional and alternative water supply project
2439 options, from which local government, government-owned and
2440 privately owned utilities, regional water supply authorities,
2441 multijurisdictional water supply entities, self-suppliers, and
2442 others may choose for water supply development. In addition to
2443 projects listed by the district, such users may propose specific
2444 projects for inclusion in the list of alternative water supply
2445 projects. If such users propose a project to be listed as an
2446 alternative water supply project, the district shall determine
2447 whether it meets the goals of the plan, and, if so, it shall be
2448 included in the list. The total capacity of the projects
2449 included in the plan must exceed the needs identified in
2450 subparagraph 1. and take into account water conservation and
2451 other demand management measures, as well as water resources
2452 constraints, including adopted minimum flows and levels and
2453 water reservations. Where the district determines it is
2454 appropriate, the plan should specifically identify the need for
2455 multijurisdictional approaches to project options that, based on
2456 planning level analysis, are appropriate to supply the intended
2457 uses and that, based on such analysis, appear to be permissible
2458 and financially and technically feasible. The list of water
2459 supply development options must contain provisions that
2460 recognize that alternative water supply options for agricultural
2461 self-suppliers are limited.

2462 3. For each project option identified in subparagraph 2.,
2463 the following must be provided:

2464 a. An estimate of the amount of water to become available
2465 through the project.

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2466 b. The timeframe in which the project option should be
2467 implemented and the estimated planning-level costs for capital
2468 investment and operating and maintaining the project.

2469 c. An analysis of funding needs and sources of possible
2470 funding options. For alternative water supply projects, the
2471 water management districts shall provide funding pursuant to
2472 ~~assistance in accordance with~~ s. 373.707(8).

2473 d. Identification of the entity that should implement each
2474 project option and the current status of project implementation.

2475 Section 111. Paragraph (d) of subsection (2) of section
2476 381.0072, Florida Statutes, is amended to read:

2477 381.0072 Food service protection.—It shall be the duty of
2478 the Department of Health to adopt and enforce sanitation rules
2479 consistent with law to ensure the protection of the public from
2480 food-borne illness. These rules shall provide the standards and
2481 requirements for the storage, preparation, serving, or display
2482 of food in food service establishments as defined in this
2483 section and which are not permitted or licensed under chapter
2484 500 or chapter 509.

2485 (2) DUTIES.—

2486 (d) The department shall inspect each food service
2487 establishment as often as necessary to ensure compliance with
2488 applicable laws and rules. The department shall have the right
2489 of entry and access to these food service establishments at any
2490 reasonable time. In inspecting food service establishments ~~as~~
2491 ~~provided~~ under this section, the department shall provide each
2492 inspected establishment with the food recovery brochure
2493 developed under s. 595.420 ~~s. 570.0725~~.

2494 Section 112. Paragraph (c) of subsection (2) of section

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2495 388.46, Florida Statutes, is amended to read:

2496 388.46 Florida Coordinating Council on Mosquito Control;
2497 establishment; membership; organization; responsibilities.-

2498 (2) MEMBERSHIP, ORGANIZATION, AND RESPONSIBILITIES.-

2499 (c) *Responsibilities*.—The council shall:

2500 1. Develop and implement guidelines to assist the
2501 department in resolving disputes arising over the control of
2502 arthropods on publicly owned lands.

2503 2. Develop and recommend to the department a request for
2504 proposal process for arthropod control research.

2505 3. Identify potential funding sources for research or
2506 implementation projects and evaluate and prioritize proposals
2507 upon request by the funding source.

2508 4. Prepare and present reports, as needed, on arthropod
2509 control activities in the state to ~~the Pesticide Review Council~~
2510 ~~and other~~ governmental organizations, as appropriate.

2511 Section 113. Paragraph (c) of subsection (2) of section
2512 472.0351, Florida Statutes, is amended to read:

2513 472.0351 Grounds for discipline; penalties; enforcement.-

2514 (2) If the board finds a surveyor or mapper guilty of any
2515 of the grounds set forth in subsection (1) or a violation of
2516 this chapter which occurred before obtaining a license, the
2517 board may enter an order imposing one or more of the following
2518 penalties:

2519 (c) Imposition of an administrative fine in the Class I
2520 category pursuant to s. 570.971 ~~not to exceed \$1,000~~ for each
2521 count or separate offense.

2522 Section 114. Subsections (1) and (2) and paragraph (a) of
2523 subsection (3) of section 472.036, Florida Statutes, are amended

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2524 to read:

2525 472.036 Unlicensed practice of professional surveying and
2526 mapping; cease and desist notice; civil penalty; enforcement;
2527 citations; allocation of moneys collected.-

2528 (1) When the department has probable cause to believe that
2529 a ~~any~~ person not licensed by the department or the board has
2530 violated ~~any provision of~~ this chapter, or any rule adopted
2531 pursuant to this chapter, the department may issue and deliver
2532 to such person a notice to cease and desist from such violation.
2533 In addition, the department may issue and deliver a notice to
2534 cease and desist to a ~~any~~ person who aids and abets the
2535 unlicensed practice of surveying and mapping by employing such
2536 unlicensed person. The issuance of a notice to cease and desist
2537 does ~~shall~~ not constitute agency action for which a hearing
2538 under ss. 120.569 and 120.57 may be sought. For the purpose of
2539 enforcing a cease and desist order, the department may file a
2540 proceeding in the name of the state seeking issuance of an
2541 injunction or a writ of mandamus against a ~~any~~ person who
2542 violates ~~any provisions of~~ such order. In addition to the
2543 foregoing remedies, the department may impose an administrative
2544 fine in the Class II category pursuant to s. 570.971 for each
2545 ~~penalty not to exceed \$5,000 per~~ incident pursuant to ~~the~~
2546 ~~provisions of~~ chapter 120 or may issue a citation pursuant to
2547 ~~the provisions of~~ subsection (3). If the department is required
2548 to seek enforcement of the order for a penalty pursuant to s.
2549 120.569, it shall be entitled to collect its attorney ~~attorney's~~
2550 fees and costs, together with any cost of collection.

2551 (2) In addition to or in lieu of any remedy provided in
2552 subsection (1), the department may seek the imposition of a

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2553 civil penalty through the circuit court for any violation for
2554 which the department may issue a notice to cease and desist
2555 under subsection (1). The civil penalty shall be a fine in the
2556 Class II category pursuant to s. 570.971 ~~no less than \$500 and~~
2557 ~~no more than \$5,000~~ for each offense. The court may also award
2558 to the prevailing party court costs and reasonable attorney fees
2559 and, in the event the department prevails, may also award
2560 reasonable costs of investigation.

2561 (3) (a) Notwithstanding ~~the provisions of~~ s. 472.033, the
2562 department shall adopt rules for ~~to permit~~ the issuance of
2563 citations for unlicensed practice of a profession. The citation
2564 shall be issued to the subject and shall contain the subject's
2565 name and any other information the department determines to be
2566 necessary to identify the subject, a brief factual statement,
2567 the sections of the law allegedly violated, and the penalty
2568 imposed. The citation must clearly state that the subject may
2569 choose, in lieu of accepting the citation, to follow the
2570 procedure under s. 472.033. If the subject disputes the matter
2571 in the citation, the procedures set forth in s. 472.033 must be
2572 followed. However, if the subject does not dispute the matter in
2573 the citation with the department within 30 days after the
2574 citation is served, the citation shall become a final order of
2575 the department upon filing with the agency clerk. The penalty
2576 shall be a fine in the Class II category pursuant to s. 570.971
2577 ~~of not less than \$500 or more than \$5,000~~ or other conditions as
2578 established by rule.

2579 Section 115. Subsection (7) of section 482.161, Florida
2580 Statutes, is amended to read:

2581 482.161 Disciplinary grounds and actions; reinstatement.—

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2582 (7) The department, pursuant to chapter 120, in addition to
2583 or in lieu of any other remedy provided by state or local law,
2584 may impose an administrative fine in the Class II category
2585 pursuant to s. 570.971, ~~in an amount not exceeding \$5,000~~, for a
2586 ~~the violation of any of the provisions~~ of this chapter or of the
2587 rules adopted pursuant to this chapter. In determining the
2588 amount of fine to be levied for a violation, the following
2589 factors shall be considered:

2590 (a) The severity of the violation, including the
2591 probability that the death, or serious harm to the health or
2592 safety, of any person will result or has resulted; the severity
2593 of the actual or potential harm; and the extent to which ~~the~~
2594 ~~provisions of~~ this chapter or of the rules adopted pursuant to
2595 this chapter were violated;

2596 (b) Any actions taken by the licensee or certified operator
2597 in charge, or limited certificateholder, to correct the
2598 violation or to remedy complaints;

2599 (c) Any previous violations of this chapter or of the rules
2600 adopted pursuant to this chapter; and

2601 (d) The cost to the department of investigating the
2602 violation.

2603 Section 116. Subsections (3) and (5) of section 482.165,
2604 Florida Statutes, are amended to read:

2605 482.165 Unlicensed practice of pest control; cease and
2606 desist order; injunction; civil suit and penalty.—

2607 (3) In addition to or in lieu of any remedy provided under
2608 subsection (2), the department may institute a civil suit in
2609 circuit court to recover a civil penalty for a ~~any~~ violation for
2610 which the department may issue a notice to cease and desist

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2611 under subsection (2). The civil penalty shall be in Class II
2612 category pursuant to s. 570.971 ~~may not be less than \$500 or~~
2613 ~~more than \$5,000 for each offense~~. The court may also award to
2614 the prevailing party court costs and reasonable attorney
2615 ~~attorney's~~ fees.

2616 (5) In addition to or in lieu of any remedy provided under
2617 subsections (2) and (3), the department may, even in the case of
2618 a first offense, impose a fine not less than twice the cost of a
2619 pest control business license, but not more than a fine in the
2620 Class II category pursuant to s. 570.971 ~~\$5,000~~, upon a
2621 determination by the department that a person is in violation of
2622 subsection (1). For the purposes of this subsection, the lapse
2623 of a previously issued license for a period of less than 1 year
2624 is ~~shall~~ not be considered a violation.

2625 Section 117. Subsection (6) of section 482.243, Florida
2626 Statutes, is amended to read:

2627 482.243 Pest Control Enforcement Advisory Council.—

2628 (6) The meetings, powers and duties, procedures, and
2629 recordkeeping of the council shall be pursuant to s. 570.232 ~~in~~
2630 ~~accordance with the provisions of s. 570.0705 relating to~~
2631 ~~advisory committees established within the department.~~

2632 Section 118. Subsection (3) of section 487.047, Florida
2633 Statutes, is amended to read:

2634 487.047 Nonresident license; reciprocal agreement;
2635 authorized purchase.—

2636 (3) Restricted-use pesticides may be purchased by a ~~any~~
2637 person who holds a valid applicator's license or who holds a
2638 valid purchase authorization card issued by the department or by
2639 a licensee under chapter 388 or chapter 482. A nonlicensed

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2640 person may apply restricted-use pesticides under the direct
2641 supervision of a licensed applicator. An applicator's license
2642 shall be issued by the department pursuant to ~~on a form supplied~~
2643 ~~by it in accordance with the requirements of~~ this part.

2644 Section 119. Subsections (2) and (3) of section 487.091,
2645 Florida Statutes, are amended to read:

2646 487.091 Tolerances, deficiencies, and penalties.—

2647 (2) If a pesticide is found by analysis to be deficient in
2648 an active ingredient beyond the tolerance as provided in this
2649 part, the registrant is subject to a penalty for the deficiency
2650 in the Class III category pursuant to s. 570.971 for each, ~~not~~
2651 ~~to exceed \$10,000 per~~ violation. However, a no penalty may not
2652 ~~shall~~ be assessed when the official sample was taken from a
2653 pesticide that was in the possession of a consumer for more than
2654 45 days after ~~from~~ the date of purchase by that consumer, or
2655 when the product label specifies that the product should be used
2656 by an expiration date that has passed. Procedures for assessing
2657 penalties shall be established by rule, based on the degree of
2658 the deficiency. Penalties assessed shall be paid to the consumer
2659 or, in the absence of a known consumer, the department. If the
2660 penalty is not paid within the prescribed period ~~of time~~ as
2661 established by rule, the department may deny, suspend, or revoke
2662 the registration of any pesticide.

2663 (3) If a pesticide is found to be ineffective, it shall be
2664 deemed to be misbranded and subject to a penalty in the Class
2665 III category pursuant to s. 570.971 for each ~~as established by~~
2666 ~~rule, not to exceed \$10,000 per~~ violation.

2667 Section 120. Paragraph (e) of subsection (1) of section
2668 487.175, Florida Statutes, is amended to read:

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2669 487.175 Penalties; administrative fine; injunction.-

2670 (1) In addition to any other penalty provided in this part,
2671 when the department finds any person, applicant, or licensee has
2672 violated any provision of this part or rule adopted under this
2673 part, it may enter an order imposing any one or more of the
2674 following penalties:

2675 (e) Imposition of an administrative fine in the Class III
2676 category pursuant to s. 570.971 ~~not to exceed \$10,000~~ for each
2677 violation. When imposing a ~~any~~ fine under this paragraph, the
2678 department shall consider the degree and extent of harm caused
2679 by the violation, the cost of rectifying the damage, the amount
2680 of money the violator benefited from by noncompliance, whether
2681 the violation was committed willfully, and the compliance record
2682 of the violator.

2683 Section 121. Paragraph (c) of subsection (2) of section
2684 493.6118, Florida Statutes, is amended to read:

2685 493.6118 Grounds for disciplinary action.-

2686 (2) When the department finds any violation of subsection
2687 (1), it may do one or more of the following:

2688 (c) Impose an administrative fine in the Class I category
2689 pursuant to s. 570.971 ~~not to exceed \$1,000~~ for every count or
2690 separate offense.

2691 Section 122. Subsection (1) of section 496.420, Florida
2692 Statutes, is amended to read:

2693 496.420 Civil remedies and enforcement.-

2694 (1) In addition to other remedies authorized by law, the
2695 department may bring a civil action in circuit court to enforce
2696 ss. 496.401-496.424 or s. 496.426. Upon a finding that any
2697 person has violated any of these sections, a court may make any

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2698 necessary order or enter a judgment including, but not limited
2699 to, a temporary or permanent injunction, a declaratory judgment,
2700 the appointment of a general or special magistrate or receiver,
2701 the sequestration of assets, the reimbursement of persons from
2702 whom contributions have been unlawfully solicited, the
2703 distribution of contributions pursuant to ~~in accordance with~~ the
2704 charitable or sponsor purpose expressed in the registration
2705 statement or pursuant to ~~in accordance with~~ the representations
2706 made to the person solicited, the reimbursement of the
2707 department for investigative costs, and attorney ~~attorney's~~ fees
2708 and costs, and any other equitable relief the court finds
2709 appropriate. Upon a finding that a ~~any~~ person has violated any
2710 provision of ss. 496.401-496.424 or s. 496.426 with actual
2711 knowledge or knowledge fairly implied on the basis of objective
2712 circumstances, a court may enter an order imposing a civil fine
2713 in the Class III category pursuant to s. 570.971 for each
2714 ~~penalty in an amount not to exceed \$10,000 per~~ violation.

2715 Section 123. Paragraph (b) of subsection (3) of section
2716 500.70, Florida Statutes, is amended to read:

2717 500.70 Tomato food safety standards; inspections;
2718 penalties; tomato good agricultural practices; tomato best
2719 management practices.-

2720 (3)

2721 (b) The department may impose an administrative fine in the
2722 Class II category pursuant to s. 570.971 for each ~~not to exceed~~
2723 ~~\$5,000 per~~ violation, or issue a written notice or warning under
2724 s. 500.179, against a person who violates ~~any applicable~~
2725 ~~provision of~~ this section or any rule adopted under this
2726 section.

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2727 Section 124. Paragraph (b) of subsection (2) of section
2728 501.612, Florida Statutes, is amended to read:

2729 501.612 Grounds for departmental action against licensure
2730 applicants or licensees.—

2731 (2) Upon a finding as set forth in subsection (1), the
2732 department may enter an order:

2733 (b) Imposing an administrative fine in the Class III
2734 category pursuant to s. 570.971 ~~not to exceed \$10,000~~ for each
2735 act or omission which constitutes a violation under this part.

2736 Section 125. Section 501.619, Florida Statutes, is amended
2737 to read:

2738 501.619 Civil penalties.—A ~~Any~~ person who engages in any
2739 act or practice declared in this part to be unlawful is liable
2740 for a civil penalty in the Class III category pursuant to s.
2741 570.971 ~~of not more than \$10,000~~ for each such violation. This
2742 civil penalty may be recovered in any action brought under this
2743 part by the department, or the department may terminate any
2744 investigation or action upon agreement by the person to pay a
2745 stipulated civil penalty. The department or the court may waive
2746 any such civil penalty or other fines or costs if the person has
2747 previously made full restitution or reimbursement or has paid
2748 actual damages to the purchasers who have been injured by the
2749 unlawful act or practice.

2750 Section 126. Paragraph (b) of subsection (1) of section
2751 502.231, Florida Statutes, is amended to read:

2752 502.231 Penalty and injunction.—

2753 (1) The department may enter an order imposing one or more
2754 of the following penalties against any person who violates any
2755 provision of this chapter:

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2756 (b) Imposition of an administrative fine ~~not to exceed:~~

2757 1. In the Class II category pursuant s. 570.971 for each
2758 ~~Ten thousand dollars per~~ violation in the case of a frozen
2759 dessert licensee;

2760 2. Not to exceed ten percent of the license fee or \$100,
2761 whichever is greater, for failure to report the information
2762 described in s. 502.053(3) (d); or

2763 3. In the Class I category pursuant to s. 570.971 for each
2764 ~~One thousand dollars per~~ occurrence for any other violation.

2765
2766 When imposing a fine under this paragraph, the department must
2767 consider the degree and extent of harm caused by the violation,
2768 the cost of rectifying the damage, the benefit to the violator,
2769 whether the violation was committed willfully, and the
2770 violator's compliance record.

2771 Section 127. Subsection (1) of section 507.09, Florida
2772 Statutes, is amended to read:

2773 507.09 Administrative remedies; penalties.—

2774 (1) The department may enter an order doing one or more of
2775 the following if the department finds that a mover or moving
2776 broker, or a person employed or contracted by a mover or broker,
2777 has violated or is operating in violation of this chapter or the
2778 rules or orders issued pursuant to ~~in accordance with~~ this
2779 chapter:

2780 (a) Issuing a notice of noncompliance under s. 120.695.

2781 (b) Imposing an administrative fine in the Class II
2782 category pursuant to s. 570.971 ~~not to exceed \$5,000~~ for each
2783 act or omission.

2784 (c) Directing that the person cease and desist specified

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2785 activities.

2786 (d) Refusing to register or revoking or suspending a
2787 registration.

2788 (e) Placing the registrant on probation ~~for a period of~~
2789 ~~time~~, subject to the conditions specified by the department.

2790 Section 128. Subsection (2) of section 507.10, Florida
2791 Statutes, is amended to read:

2792 507.10 Civil penalties; remedies.—

2793 (2) The department may seek a civil penalty in the Class II
2794 category pursuant to s. 570.971 ~~of up to \$5,000~~ for each
2795 violation of this chapter.

2796 Section 129. Paragraph (g) of subsection (2) and paragraph
2797 (c) of subsection (3) of section 509.032, Florida Statutes, are
2798 amended to read:

2799 509.032 Duties.—

2800 (2) INSPECTION OF PREMISES.—

2801 (g) In inspecting public food service establishments, the
2802 department shall provide each inspected establishment with the
2803 food-recovery brochure developed under s. 595.420 ~~s. 570.0725~~.

2804 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE
2805 EVENTS.—The division shall:

2806 (c) Administer a public notification process for temporary
2807 food service events and distribute educational materials that
2808 address safe food storage, preparation, and service procedures.

2809 1. Sponsors of temporary food service events shall notify
2810 the division not less than 3 days before ~~prior to~~ the scheduled
2811 event of the type of food service proposed, the time and
2812 location of the event, a complete list of food service vendors
2813 participating in the event, the number of individual food

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2814 service facilities each vendor will operate at the event, and
2815 the identification number of each food service vendor's current
2816 license as a public food service establishment or temporary food
2817 service event licensee. Notification may be completed orally, by
2818 telephone, in person, or in writing. A public food service
2819 establishment or food service vendor may not use this
2820 notification process to circumvent the license requirements of
2821 this chapter.

2822 2. The division shall keep a record of all notifications
2823 received for proposed temporary food service events and shall
2824 provide appropriate educational materials to the event sponsors,
2825 including the food-recovery brochure developed under s. 595.420
2826 ~~s. 570.0725~~.

2827 3.a. A public food service establishment or other food
2828 service vendor must obtain one of the following classes of
2829 license from the division: an individual license, for a fee of
2830 no more than \$105, for each temporary food service event in
2831 which it participates; or an annual license, for a fee of no
2832 more than \$1,000, that entitles the licensee to participate in
2833 an unlimited number of food service events during the license
2834 period. The division shall establish license fees, by rule, and
2835 may limit the number of food service facilities a licensee may
2836 operate at a particular temporary food service event under a
2837 single license.

2838 b. Public food service establishments holding current
2839 licenses from the division may operate under the regulations of
2840 such a license at temporary food service events of 3 days or
2841 less in duration.

2842 Section 130. Paragraph (a) of subsection (1) of section

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2843 525.16, Florida Statutes, is amended to read:

2844 525.16 Administrative fine; penalties; prosecution of cases
2845 by state attorney.-

2846 (1) (a) The department may enter an order imposing one or
2847 more of the following penalties against a ~~any~~ person who
2848 violates ~~any of the provisions of~~ this chapter or the rules
2849 adopted under this chapter or impedes, obstructs, or hinders the
2850 department in the performance of its duty in connection with ~~the~~
2851 ~~provisions of~~ this chapter:

2852 1. Issuance of a warning letter.

2853 2. Imposition of an administrative fine in the Class II
2854 category pursuant to s. 570.971 for each ~~of not more than \$1,000~~
2855 ~~per violation for a first-time offender. For a second-time or~~
2856 ~~repeat offender, or any person who is shown to have willfully~~
2857 ~~and intentionally violated any provision of this chapter, the~~
2858 ~~administrative fine shall not exceed \$5,000 per violation.~~ When
2859 imposing any fine under this section, the department shall
2860 consider the degree and extent of harm caused by the violation,
2861 the cost of rectifying the damage, the amount of money the
2862 violator benefited from by noncompliance, whether the violation
2863 was committed willfully, and the compliance record of the
2864 violator.

2865 3. Revocation or suspension of any registration issued by
2866 the department.

2867 Section 131. Subsection (1) of section 526.311, Florida
2868 Statutes, is amended to read:

2869 526.311 Enforcement; civil penalties; injunctive relief.-

2870 (1) A ~~Any~~ person who knowingly violates this act shall be
2871 subject to a civil penalty in the Class III category pursuant to

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2872 s. 570.971 for each ~~not to exceed \$10,000 per~~ violation. Each
2873 day that a violation of this act occurs shall be considered a
2874 separate violation, but a ~~no~~ civil penalty may not ~~shall~~ exceed
2875 \$250,000. ~~Any~~ Such a person shall also be liable for attorney
2876 ~~attorney's~~ fees and shall be subject to an action for injunctive
2877 relief.

2878 Section 132. Subsection (2) of section 526.55, Florida
2879 Statutes, is amended to read:

2880 526.55 Violation and penalties.—

2881 (2) If the department finds that a person has violated or
2882 is operating in violation of ss. 526.50-526.56 or the rules or
2883 orders adopted thereunder, the department may, by order:

2884 (a) Issue a notice of noncompliance pursuant to s. 120.695;

2885 (b) Impose an administrative fine in the Class II category
2886 pursuant to s. 570.971 ~~not to exceed \$5,000~~ for each violation;

2887 (c) Direct that the person cease and desist specified
2888 activities;

2889 (d) Revoke or suspend a registration, or refuse to register
2890 a product; or

2891 (e) Place the registrant on probation for a period of time,
2892 subject to conditions as the department may specify.

2893 Section 133. Subsection (1) of section 527.13, Florida
2894 Statutes, is amended to read:

2895 527.13 Administrative fines and warning letters.—

2896 (1) If a ~~any~~ person violates ~~any provision of~~ this chapter
2897 or any rule adopted under this chapter ~~pursuant thereto~~ or a
2898 cease and desist order, the department may impose civil or
2899 administrative penalties in the Class II category pursuant to s.
2900 570.971, not to exceed \$3,000 for each offense, suspend or

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2901 revoke the license or qualification issued to such person, or
2902 any of the foregoing. The cost of the proceedings to enforce
2903 this chapter may be added to any penalty imposed. The department
2904 may allow the licensee a reasonable period, not to exceed 90
2905 days, within which to pay to the department the amount of the
2906 penalty so imposed. If the licensee fails to pay the penalty in
2907 its entirety to the department at its office at Tallahassee
2908 within the period so allowed, the licenses of the licensee shall
2909 stand revoked upon expiration of such period.

2910 Section 134. Subsection (1) of section 531.50, Florida
2911 Statutes, is amended to read:

2912 531.50 Administrative fine, penalties, and offenses.—

2913 (1) The department may enter an order imposing one or more
2914 of the following penalties against a ~~any~~ person who violates ~~any~~
2915 ~~provision of~~ this chapter or rule adopted under this chapter or
2916 impedes, obstructs, or hinders the department in performing ~~the~~
2917 ~~performance of~~ its duties under ~~in connection with the~~
2918 ~~provisions of~~ this chapter:

2919 (a) Issuance of a warning letter or notice.

2920 (b) Imposition of an administrative fine in the Class II
2921 category pursuant to s. 570.971 for each of:

2922 1. ~~Up to \$1,000 for a first violation;~~

2923 2. ~~Up to \$2,500 for a second violation within 2 years after~~
2924 ~~the first violation; or~~

2925 3. ~~Up to \$5,000 for a third violation within 2 years after~~
2926 ~~the first violation.~~

2927

2928 When imposing any fine under this section, the department shall
2929 consider the degree and extent of potential harm caused by the

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2930 violation, the amount of money by which the violator benefited
2931 from noncompliance, whether the violation was committed
2932 willfully, and the compliance record of the violator. All fines,
2933 monetary penalties, and costs received by the department shall
2934 be deposited in the General Inspection Trust Fund for the
2935 purpose of administering the provisions of this chapter.

2936 Section 135. Subsection (2) of section 534.52, Florida
2937 Statutes, is amended to read:

2938 534.52 Violations; refusal, suspension, revocation;
2939 penalties.—

2940 (2) In addition, or as an alternative to refusing,
2941 suspending, or revoking a license in cases involving violations,
2942 the department may impose an administrative a fine in the Class
2943 I category pursuant to s. 570.971 not to exceed \$500 for the
2944 first offense and not to exceed \$1,000 for the second or
2945 subsequent violations. When imposed and paid, such fines shall
2946 be deposited in the General Inspection Trust Fund.

2947 Section 136. Paragraphs (b) and (d) of subsection (7) of
2948 section 539.001, Florida Statutes, are amended to read:

2949 539.001 The Florida Pawnbroking Act.—

2950 (7) ORDERS IMPOSING PENALTIES.—

2951 (b) Upon a finding as set forth in paragraph (a), the
2952 agency may enter an order doing one or more of the following:

2953 1. Issuing a notice of noncompliance pursuant to s.
2954 120.695.

2955 2. Imposing an administrative fine in the Class II category
2956 pursuant to s. 570.971 ~~not to exceed \$5,000~~ for each act which
2957 constitutes a violation of this section or a rule or an order.

2958 3. Directing that the pawnbroker cease and desist specified

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2959 activities.

2960 4. Refusing to license or revoking or suspending a license.

2961 5. Placing the licensee on probation ~~for a period of time,~~
2962 subject to such conditions as the agency may specify.

2963 (d)1. When the agency, if a violation of this section
2964 occurs, has reasonable cause to believe that a person is
2965 operating in violation of this section, the agency may bring a
2966 civil action in the appropriate court for temporary or permanent
2967 injunctive relief and may seek other appropriate civil relief,
2968 including a civil penalty in the Class II category pursuant to
2969 s. 570.971 ~~not to exceed \$5,000 for each violation,~~ restitution
2970 and damages for injured customers, court costs, and reasonable
2971 attorney ~~attorney's~~ fees.

2972 2. The agency may terminate any investigation or action
2973 upon agreement by the offender to pay a stipulated civil
2974 penalty, to make restitution or pay damages to customers, or to
2975 satisfy ~~any~~ other relief authorized herein and requested by the
2976 agency.

2977 Section 137. Paragraph (b) of subsection (4) and paragraph
2978 (a) of subsection (5) of section 559.921, Florida Statutes, are
2979 amended to read:

2980 559.921 Remedies.—

2981 (4)

2982 (b) Upon a finding as set forth in paragraph (a), the
2983 department may enter an order doing one or more of the
2984 following:

2985 1. Issuing a notice of noncompliance pursuant to s.
2986 120.695.

2987 2. Imposing an administrative fine in the Class I category

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2988 pursuant to s. 570.971 ~~not to exceed \$1,000 per violation~~ for
2989 each act which constitutes a violation of this part or a rule or
2990 order.

2991 3. Directing that the motor vehicle repair shop cease and
2992 desist specified activities.

2993 4. Refusing to register or revoking or suspending a
2994 registration.

2995 5. Placing the registrant on probation ~~for a period of~~
2996 ~~time~~, subject to such conditions as the department may specify.

2997 (5) (a) The department or the state attorney, if a violation
2998 of this part occurs in his or her judicial circuit, is ~~shall be~~
2999 the enforcing authority for purposes of this part and may bring
3000 a civil action in circuit court for temporary or permanent
3001 injunctive relief and may seek other appropriate civil relief,
3002 including a civil penalty in the Class I category pursuant to s.
3003 570.971 ~~not to exceed \$1,000~~ for each violation, restitution and
3004 damages for injured customers, court costs, and reasonable
3005 attorney ~~attorney's~~ fees.

3006 Section 138. Subsection (1) of section 559.9355, Florida
3007 Statutes, is amended to read:

3008 559.9355 Administrative remedies; penalties.—

3009 (1) The department may enter an order doing one or more of
3010 the following if the department finds that a person has violated
3011 or is operating in violation of ~~any of the provisions of this~~
3012 part or the rules or orders issued thereunder:

3013 (a) Issuing a notice of noncompliance pursuant to s.
3014 120.695.

3015 (b) Imposing an administrative fine in the Class II
3016 category pursuant to s. 570.971 ~~not to exceed \$5,000~~ for each

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3017 act or omission.

3018 ~~(c) Imposing an administrative fine not to exceed \$10,000~~
 3019 ~~for each act or omission in violation of s. 559.9335(22) or~~
 3020 ~~(23).~~

3021 (c) ~~(d)~~ Directing that the person cease and desist specified
 3022 activities.

3023 (d) ~~(e)~~ Refusing to register or canceling or suspending a
 3024 registration.

3025 (e) ~~(f)~~ Placing the registrant on probation ~~for a period of~~
 3026 ~~time~~, subject to such conditions as the department may specify.

3027 (f) ~~(g)~~ Canceling an exemption granted under s. 559.935.

3028 Section 139. Subsections (2) and (3) of section 559.936,
 3029 Florida Statutes, are amended to read:

3030 559.936 Civil penalties; remedies.—

3031 (2) The department may seek a civil penalty in the Class II
 3032 category pursuant to s. 570.971 ~~of up to \$5,000~~ for each
 3033 violation of this part.

3034 (3) The department may seek a civil penalty in the Class
 3035 III category pursuant to s. 570.971 ~~of up to \$10,000~~ for each
 3036 act or omission in violation of s. 559.9335(22) or (23).

3037 Section 140. Subsection (1) of section 571.11, Florida
 3038 Statutes, is amended to read:

3039 571.11 Eggs and poultry; Seal of quality violations;
 3040 administrative penalties.—

3041 (1) The Department of Agriculture and Consumer Services may
 3042 impose an administrative ~~a~~ fine in the Class II category
 3043 pursuant to s. 570.971 ~~not exceeding \$5,000~~ against any dealer,
 3044 as defined in ~~under~~ s. 583.01(4), in violation of the guidelines
 3045 for the Florida seal of quality for eggs or poultry programs.

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3046 All fines, when imposed and paid, shall be deposited by the
3047 department into the General Inspection Trust Fund.

3048 Section 141. Subsection (2) of section 571.28, Florida
3049 Statutes, is amended to read:

3050 571.28 Florida Agricultural Promotional Campaign Advisory
3051 Council.—

3052 (2) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS.—The
3053 meetings, powers and duties, procedures, and recordkeeping of
3054 the Florida Agricultural Promotional Campaign Advisory Council
3055 shall be pursuant to s. 570.232 ~~governed by the provisions of s.~~
3056 ~~570.0705 relating to advisory committees established within the~~
3057 ~~department.~~

3058 Section 142. Paragraph (b) of subsection (3) of section
3059 571.29, Florida Statutes, is amended to read:

3060 571.29 Unlawful acts; administrative remedies; criminal
3061 penalties.—

3062 (3) The department may enter an order imposing one or more
3063 of the following penalties against any person who violates any
3064 of the provisions of this part or any rules adopted under this
3065 part:

3066 (b) Imposition of an administrative fine in the Class I
3067 category pursuant to s. 570.971 for each ~~of not more than \$1,000~~
3068 ~~per~~ violation for a first-time ~~first-time~~ offender. For a
3069 second-time ~~second-time~~ offender, or a ~~any~~ person who is shown
3070 to have willfully and intentionally violated ~~any provision of~~
3071 this part or any rules adopted under this part, the
3072 administrative fine shall be in the Class II category pursuant
3073 to s. 570.971 for each ~~may not exceed \$5,000 per~~ violation. The
3074 term "each ~~per~~ violation" means each incident in which a logo of

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3075 the Florida Agricultural Promotional Campaign has been used,
3076 reproduced, or distributed in any manner inconsistent with ~~the~~
3077 ~~provisions of~~ this part or the rules adopted under this part.

3078
3079 The administrative proceedings that could result in the entry of
3080 an order imposing any of the penalties specified in paragraphs
3081 (a)-(c) shall be conducted in accordance with chapter 120.

3082 Section 143. Subsection (1) of section 578.181, Florida
3083 Statutes, is amended to read:

3084 578.181 Penalties; administrative fine.—

3085 (1) The department may enter an order imposing one or more
3086 of the following penalties against a any person who violates any
3087 ~~of the provisions of~~ this chapter or the rules adopted under
3088 this chapter promulgated hereunder or who impedes, obstructs, or
3089 ~~hinders, or otherwise prevents or attempts to prevent~~ the
3090 department in performing ~~the performance of~~ its duties under
3091 ~~duty in connection with the provisions of~~ this chapter:

3092 (a) Issuance of a warning letter.

3093 (b) Imposition of an administrative fine in the Class I
3094 category pursuant to s. 570.971 for each ~~of not more than \$1,000~~
3095 ~~per~~ occurrence after the issuance of a warning letter.

3096 (c) Revocation or suspension of the registration as a seed
3097 dealer.

3098 Section 144. Paragraph (b) of subsection (1) of section
3099 580.121, Florida Statutes, is amended to read:

3100 580.121 Penalties; duties of law enforcement officers;
3101 injunctive relief.—

3102 (1) The department may impose one or more of the following
3103 penalties against any person who violates any provision of this

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3104 chapter:

3105 (b) Imposition of an administrative fine in the Class I
3106 category pursuant to s. 570.971 for each, by the department, of
3107 ~~not more than \$1,000 per~~ occurrence.

3108

3109 However, the severity of the penalty imposed shall be
3110 commensurate with the degree of risk to human or animal safety
3111 or the level of financial harm to the consumer that is created
3112 by the violation.

3113 Section 145. Paragraph (a) of subsection (2) of section
3114 581.141, Florida Statutes, is amended to read:

3115 581.141 Certificate of registration or of inspection;
3116 revocation and suspension; fines.—

3117 (2) FINES; PROBATION.—

3118 (a)1. The department may, after notice and hearing, impose
3119 an administrative a fine in the Class II category pursuant to s.
3120 570.971 not exceeding \$5,000 or probation not exceeding 12
3121 months, or both, for a ~~the~~ violation of ~~any of the provisions of~~
3122 this chapter or the rules adopted under this chapter upon a ~~any~~
3123 person, nurseryman, stock dealer, agent, or plant broker. The
3124 fine, when paid, shall be deposited in the Plant Industry Trust
3125 Fund.

3126 2. The imposition of a fine or probation pursuant to this
3127 subsection may be in addition to or in lieu of the suspension or
3128 revocation of a certificate of registration or certificate of
3129 inspection.

3130 Section 146. Subsection (2) of section 581.186, Florida
3131 Statutes, is amended to read:

3132 581.186 Endangered Plant Advisory Council; organization;

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3133 meetings; powers and duties.-

3134 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.-The
3135 meetings, powers and duties, procedures, and recordkeeping of
3136 the Endangered Plant Advisory Council shall be pursuant to s.
3137 570.232 ~~governed by the provisions of s. 570.0705 relating to~~
3138 ~~advisory committees established within the department.~~

3139 Section 147. Paragraph (a) of subsection (3) of section
3140 581.211, Florida Statutes, is amended to read:

3141 581.211 Penalties for violations.-

3142 (3) (a) 1. In addition to any other ~~provision of~~ law, the
3143 department may, after notice and hearing, impose an
3144 administrative fine in the Class II category pursuant to s.
3145 570.971 ~~not exceeding \$5,000~~ for each violation of this chapter,
3146 upon a ~~any~~ person, nurseryman, stock dealer, agent, or plant
3147 broker. The fine, when paid, shall be deposited in the Plant
3148 Industry Trust Fund. In addition, the department may place the
3149 violator on probation for up to 1 year, with conditions.

3150 2. The imposition of a fine or probation pursuant to this
3151 subsection may be in addition to or in lieu of the suspension or
3152 revocation of a certificate of registration or certificate of
3153 inspection.

3154 Section 148. Subsection (2) of section 582.06, Florida
3155 Statutes, is amended to read:

3156 582.06 Soil and Water Conservation Council; powers and
3157 duties.-

3158 (2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS.-The
3159 meetings, powers and duties, procedures, and recordkeeping of
3160 the Soil and Water Conservation Council shall be pursuant to s.
3161 570.232 ~~governed by the provisions of s. 570.0705 relating to~~

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3162 ~~advisory committees established within the department.~~

3163 Section 149. Subsection (1) of section 585.007, Florida
3164 Statutes, is amended to read:

3165 585.007 Violation of rules; violation of chapter.—

3166 (1) A ~~Any~~ person who violates ~~the provisions of this~~
3167 chapter or any rule of the department shall be subject to the
3168 imposition of an administrative fine in the Class III category
3169 pursuant to s. 570.971 ~~of up to \$10,000~~ for each offense. Upon
3170 repeated violation, the department may seek enforcement pursuant
3171 to s. 120.69.

3172 Section 150. Paragraph (a) of subsection (2) of section
3173 586.15, Florida Statutes, is amended to read:

3174 586.15 Penalty for violation.—

3175 (2) (a) The department may, after notice and hearing, impose
3176 an administrative a fine in the Class II category pursuant to s.
3177 570.971 ~~not exceeding \$5,000~~ for a ~~the~~ violation of ~~any of the~~
3178 ~~provisions of~~ this chapter or the rules adopted under this
3179 chapter upon any person. The fine, when paid, shall be deposited
3180 in the Plant Industry Trust Fund. The imposition of a fine
3181 pursuant to this subsection may be in addition to or in lieu of
3182 the suspension or revocation of a permit or a certificate of
3183 inspection or registration.

3184 Section 151. Subsection (3) of section 586.161, Florida
3185 Statutes, is amended to read:

3186 586.161 Honeybee Technical Council.—

3187 (3) MEETINGS; POWERS AND DUTIES; PROCEDURES; RECORDS.—The
3188 meetings, powers and duties, procedures, and recordkeeping of
3189 the Honeybee Technical Council shall be pursuant to s. 570.232
3190 ~~governed by the provisions of s. 570.0705 relating to advisory~~

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3191 ~~committees established within the department.~~

3192 Section 152. Subsection (3) of section 590.14, Florida
3193 Statutes, is amended to read:

3194 590.14 Notice of violation; penalties; legislative intent.-

3195 (3) The department may also impose an administrative fine
3196 in the Class I category pursuant to s. 570.971 for each, ~~not to~~
3197 ~~exceed \$1,000 per violation of any section of chapter 589 or~~
3198 ~~this chapter or violation of any rule adopted by the Florida~~
3199 ~~Forest Service to administer provisions of law conferring duties~~
3200 ~~upon the Florida Forest Service. The fine shall be based upon~~
3201 ~~the degree of damage, the prior violation record of the person,~~
3202 ~~and whether the person knowingly provided false information to~~
3203 ~~obtain an authorization. The fines shall be deposited in the~~
3204 ~~Incidental Trust Fund of the Florida Forest Service.~~

3205 Section 153. Subsection (2) of section 595.701, Florida
3206 Statutes, is amended to read:

3207 595.701 Healthy Schools for Healthy Lives Council.-

3208 (2) The meetings, powers, duties, procedures, and
3209 recordkeeping of the Healthy Schools for Healthy Lives Council
3210 shall be pursuant to s. 570.232 ~~governed by s. 570.0705,~~
3211 ~~relating to advisory committees established within the~~
3212 ~~department.~~

3213 Section 154. Subsection (2) of section 597.0041, Florida
3214 Statutes, is amended to read:

3215 597.0041 Prohibited acts; penalties.-

3216 (2) (a) A ~~Any~~ person who violates ~~any provision of this~~
3217 ~~chapter or any rule adopted under this chapter promulgated~~
3218 ~~hereunder~~ is subject to a suspension or revocation of his or her
3219 certificate of registration or license under this chapter. The

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3220 department may, in lieu of~~7~~ or in addition to the suspension or
3221 revocation, impose on the violator an administrative fine in the
3222 Class I category pursuant to s. 570.971 for each violation, for
3223 each day the violation exists ~~in an amount not to exceed \$1,000~~
3224 ~~per violation per day.~~

3225 (b) Except as provided in subsection (4), a ~~any~~ person who
3226 violates ~~any provision of this chapter7~~ or any rule adopted
3227 under this chapter hereunder7, commits a misdemeanor of the first
3228 degree, punishable as provided in s. 775.082 or s. 775.083.

3229 Section 155. Subsection (2) of section 599.002, Florida
3230 Statutes, is amended to read:

3231 599.002 Viticulture Advisory Council.—

3232 (2) The meetings, powers and duties, procedures, and
3233 recordkeeping of the Viticulture Advisory Council shall be
3234 pursuant to s. 570.232 governed by the provisions of s. 570.0705
3235 ~~relating to advisory committees established within the~~
3236 ~~department.~~

3237 Section 156. Section 601.67, Florida Statutes, is amended
3238 to read:

3239 601.67 Disciplinary action by Department of Agriculture
3240 against citrus fruit dealers.—

3241 (1) The Department of Agriculture may impose an
3242 administrative a fine in the Class IV category pursuant to s.
3243 570.971 not to exceed exceeding \$50,000 for each per violation
3244 against a any licensed citrus fruit dealer who violates for
3245 ~~violation of any provision of this chapter and, in lieu of7 or~~
3246 in addition to~~7~~ such fine, may revoke or suspend the license of
3247 ~~any~~ such a dealer when it has been satisfactorily shown that
3248 such dealer, in her or his activities as a citrus fruit dealer,

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3249 has:

3250 (a) Obtained a license by means of fraud,
3251 misrepresentation, or concealment;

3252 (b) Violated or aided or abetted in the violation of any
3253 law of this state governing or applicable to citrus fruit
3254 dealers or any lawful rules of the Department of Citrus;

3255 (c) Been guilty of a crime against the laws of this or any
3256 other state or government involving moral turpitude or dishonest
3257 dealing or has become legally incompetent to contract or be
3258 contracted with;

3259 (d) Made, printed, published, distributed, or caused,
3260 authorized, or knowingly permitted the making, printing,
3261 publication, or distribution of false statements, descriptions,
3262 or promises of such a character as to reasonably induce any
3263 person to act to her or his damage or injury, if such citrus
3264 fruit dealer then knew, or by the exercise of reasonable care
3265 and inquiry could have known, of the falsity of such statements,
3266 descriptions, or promises;

3267 (e) Knowingly committed or been a party to any material
3268 fraud, misrepresentation, concealment, conspiracy, collusion,
3269 trick, scheme, or device whereby another ~~any other~~ person
3270 lawfully relying upon the word, representation, or conduct of
3271 the citrus fruit dealer has acted to her or his injury or
3272 damage;

3273 (f) Committed any act or conduct of the same or different
3274 character than ~~of~~ that ~~hereinabove~~ enumerated which constitutes
3275 fraudulent or dishonest dealing; or

3276 (g) Violated ~~any of the provisions of~~ ss. 506.19-506.28,
3277 ~~both sections inclusive.~~

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3278 (2) The Department of Agriculture may impose an
3279 administrative ~~a~~ fine in the Class IV category pursuant to s.
3280 570.971 not to exceed ~~exceeding~~ \$100,000 for each ~~per~~ violation
3281 against a ~~any~~ person who operates as a citrus fruit dealer
3282 without a current citrus fruit dealer license issued by the
3283 Department of Agriculture pursuant to s. 601.60. In addition,
3284 the Department of Agriculture may order such person to cease and
3285 desist operating as a citrus fruit dealer without a license. An
3286 administrative order entered by the Department of Agriculture
3287 under this subsection may be enforced pursuant to s. 601.73.

3288 (3) The Department of Agriculture shall impose an
3289 administrative ~~a~~ fine in the Class IV category pursuant to s.
3290 570.971 not to exceed ~~of not less than \$10,000 nor more than~~
3291 \$100,000 for each ~~per~~ violation against a ~~any~~ licensed citrus
3292 fruit dealer and shall suspend, for 60 days during the first
3293 available period between September 1 and May 31, the license of
3294 a ~~any~~ citrus fruit dealer who:

3295 (a) Falsely labels or otherwise misrepresents that a fresh
3296 citrus fruit was grown in a specific production area specified
3297 in s. 601.091; or

3298 (b) Knowingly, falsely labels or otherwise misrepresents
3299 that a processed citrus fruit product was prepared solely with
3300 citrus fruit grown in a specific production area specified in s.
3301 601.091.

3302 (4) A ~~Any~~ fine imposed pursuant to subsection (1),
3303 subsection (2), or subsection (3), when paid, shall be deposited
3304 by the Department of Agriculture into its General Inspection
3305 Trust Fund.

3306 (5) Whenever an ~~any~~ administrative order has been made and

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3307 entered by the Department of Agriculture that imposes a fine
3308 pursuant to this section, such order shall specify a time limit
3309 for payment of the fine, not exceeding 15 days. The failure of
3310 the citrus fruit dealer ~~involved~~ to pay the fine within that
3311 time shall result in the immediate suspension of such citrus
3312 fruit dealer's current license, or any subsequently issued
3313 license, until ~~such time as~~ the order has been fully satisfied.
3314 An ~~Any~~ order suspending a citrus fruit dealer's license shall
3315 include a provision that the ~~such~~ suspension shall be for a
3316 specified period ~~of time~~ not to exceed 60 days, and such period
3317 of suspension may begin ~~commence~~ at any designated date within
3318 the current license period or subsequent license period.
3319 Whenever an order has been entered that suspends a citrus fruit
3320 dealer's license for a definite period ~~of time~~ and that license,
3321 by law, expires during the period of suspension, the suspension
3322 order shall continue automatically and shall be effective
3323 against any subsequent citrus fruit dealer ~~dealer's~~ license
3324 issued to such dealer until ~~such time as~~ the entire period of
3325 suspension has elapsed. Whenever any such administrative order
3326 of the Department of Agriculture is sought to be reviewed by the
3327 offending dealer involved in a court of competent jurisdiction,
3328 if such court proceedings should finally terminate in such
3329 administrative order being upheld or not quashed, such order
3330 shall ~~thereupon~~, upon the filing with the Department of
3331 Agriculture of a certified copy of the mandate or other order of
3332 the last court having to do with the matter in the judicial
3333 process, become immediately effective and shall then be carried
3334 out and enforced notwithstanding such time will be during a new
3335 and subsequent shipping season from that during which the

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3336 administrative order was first originally entered by the
3337 Department of Agriculture.

3338 Section 157. Paragraph (a) of subsection (3) of section
3339 604.30, Florida Statutes, is amended to read:

3340 604.30 Penalties; injunctive relief; administrative fines.-

3341 (3) (a) In addition to the penalties provided in this
3342 section, the department may, after notice and hearing, impose an
3343 administrative ~~a~~ fine in the Class II category pursuant to s.
3344 570.971, not to exceed ~~exceeding~~ \$2,500 for a ~~the~~ violation of
3345 ~~any of the provisions of~~ ss. 604.15-604.34 or the rules adopted
3346 thereunder against a ~~any~~ dealer in agricultural products. ~~†~~ Such
3347 fine, when imposed and paid, shall be deposited by the
3348 department into the General Inspection Trust Fund.

3349 Section 158. Paragraph (a) of subsection (19) of section
3350 616.242, Florida Statutes, is amended to read:

3351 616.242 Safety standards for amusement rides.-

3352 (19) ENFORCEMENT AND PENALTIES.-

3353 (a) The department may deny, suspend for a period not to
3354 exceed 1 year, or revoke a ~~any~~ permit or inspection certificate.
3355 In addition to denial, suspension, or revocation, the department
3356 may impose an administrative fine in the Class II category
3357 pursuant to s. 570.971, not to exceed ~~of up to~~ \$2,500 for each
3358 per violation, for each day the violation exists ~~per day~~,
3359 against the owner of the amusement ride if it finds that:

3360 1. An amusement ride has operated or is operating:

3361 a. With a mechanical, structural, or electrical defect that
3362 affects patron safety, of which the owner or manager has
3363 knowledge, or, through the exercise of reasonable diligence,
3364 should have knowledge;

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- 3365 b. In a manner or circumstance that presents a risk of
3366 serious injury to patrons;
- 3367 c. At a speed in excess of its maximum safe operating
3368 speed;
- 3369 d. In violation of this section or any rule adopted under
3370 this section; or
- 3371 e. In violation of an ~~any~~ order of the department or order
3372 of any court; ~~or-~~
- 3373 2. A ~~Any~~ manager in the course of his or her duties is
3374 under the influence of drugs or alcohol.
- 3375 Section 159. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Apr. 8 2014
Meeting Date

Topic FDAC department bill

Bill Number 1630
(if applicable)

Name Grace Lovett

Amendment Barcode _____
(if applicable)

Job Title Dir. of legislative Affairs

Address PL 10 The Capital

Phone 850 617 7700

Street

Tallahassee FL 32399

City

State

Zip

E-mail grace.lovett@freshfromflorida.com

Speaking: For Against Information

Representing FL Dept. of Agriculture + Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Dept. of Ag & Consumer Services

Bill Number 1630

(if applicable)

Name Roger Singgs

Amendment Barcode

(if applicable)

Job Title Clay County Property Appraiser

Address 923 Live Oak Lane

Phone 904/278-3627

Street

Fleming Island, FL 32003

City

State

Zip

E-mail

Speaking: For Against Information

Representing FL. Assoc. of Property Appraisers

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

April 8, 2014 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)
Meeting Date

Topic _____

Bill Number 1630

Name Butch Calhoun

Amendment Barcode 433018
(if applicable)

Job Title _____

Address 119 S. Monroe Street, Suite 300

Phone 521-0455

Tallahassee, FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing Florida Fruit + Vegetable Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic _____

Bill Number 1630
(if applicable)

Name Adam Basford

Amendment Barcode 433018
(if applicable)

Job Title Director of Legislative Affairs

Address 315 S Calhoun St

Phone 222-2557

Tallahassee FL 32301
City State Zip

E-mail adam.basford@ffba.org

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.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Subcommittee on Education, *Vice Chair*
Education, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Gaming
Governmental Oversight and Accountability
Rules

SELECT COMMITTEE:

Select Committee on Indian River Lagoon
and Lake Okeechobee Basin, *Vice Chair*

SENATOR BILL MONTFORD

Democratic Policy Chair
3rd District

March 26, 2014

Senator Wilton Simpson, Chair
Senate Community Affairs Committee
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request that CS/CS/SB 1630 be scheduled for a hearing before the Senate Community Affairs Committee, upon receipt by your committee. CS/CS/SB 1630 is the Department of Agriculture and Consumer Services Legislative Package.

Your assistance and favorable consideration of my request is greatly appreciated

Sincerely,

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

William "Bill" Montford
State Senator, District 3

cc: Tom Yeatman, Staff Director

BJM/mam

REPLY TO:

- 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 58 Market Street, Apalachicola, Florida 32320 (850) 653-2656
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

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 1198

INTRODUCER: Community Affairs Committee and Senator Montford

SUBJECT: Florida Retirement System

DATE: April 8, 2014

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1198 modifies the type of previous employment that would qualify a pension plan member of the Florida Retirement System (FRS) to purchase retirement credits that may be applied towards FRS retirement service credit. Pension Plan members employed in a school that is accredited by the Florida Association of Academic Nonpublic Schools (FAANS) and the National Council for Private School Accreditation (NCPSA) would be authorized to purchase retirement credit.

II. Present Situation:

The Florida Retirement System

The FRS is the fourth largest public retirement system in the United States. It is a multi-employer, contributory plan, governed by the Florida Retirement System Act in ch. 121, F.S., and administered by the Department of Management Services (DMS).¹ The FRS consists of 1,000 total employers; it is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities, and also includes the 185 cities and 251 special districts that have elected to join the system.² Members of

¹ Section 121.021(5), F.S.

² The Florida Retirement System Annual Report, July 1, 2011 – June 30, 2012, at 38, available at https://www.rol.frs.state.fl.us/forms/2011-12_Annual_Report.pdf (last visited Feb. 14, 2013).

the FRS are required to make employee contributions of 3 percent of their salary.³ As of June 30, 2012, the FRS had 623,011 active members, 334,682 retired members and beneficiaries, and 40,556 active members of the Deferred Retirement Option Program (DROP).⁴

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the Pension Plan; and
- The defined contribution plan, also known as the Investment Plan.

Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (Investment Plan), a defined contribution plan offered to eligible employees as an alternative to the FRS Pension Plan. Benefits under the Investment Plan accrue in individual member accounts funded by both employee and employer contributions and earnings. Benefits are provided through employee-directed investments offered by approved investment providers.

A member vests immediately in all employee contributions paid to the Investment Plan.⁵ With respect to the employer contributions, a member vests after completing one work year with an FRS employer.⁶ Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.⁷ The Investment Plan also provides disability coverage for both inline-of-duty and regular disability retirement benefits.⁸ An FRS member who qualifies for disability while enrolled in the Investment Plan must apply for benefits as if the employee was a member of the Pension Plan. If approved for retirement disability benefits, the member is transferred to the Pension Plan.⁹

Pension Plan

The Pension Plan is administered by the secretary of the DMS through the Division of Retirement.¹⁰ Investment management is handled by the SBA. Any member initially enrolled in the Pension Plan before July 1, 2011, vests in the Pension Plan after completing six years of

³ Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

⁴ Florida Retirement System 2011-2012 Annual Report, at 54, 62, and 66.

⁵ Section 121.4501(6)(a), F.S.

⁶ If a member terminates employment before vesting in the Investment Plan, the nonvested money is transferred from the member's account to the SBA for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, then any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

⁷ Section 121.591, F.S.

⁸ See s. 121.4501(16), F.S.

⁹ Pension Plan disability retirement benefits, which apply for Investment Plan members who qualify for disability, compensate an inline-of-duty disabled member up to 65 percent of the average monthly compensation as of the disability retirement date for special risk class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If the disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. Section 121.091(4)(f), F.S.

¹⁰ Section 121.025, F.S.

service with an FRS employer.¹¹ For members enrolled on or after July 1, 2011, the member vests in the Pension Plan after eight years of creditable service.¹² Benefits payable under the Pension Plan are calculated based on years of service x accrual rate x average final compensation.¹³

For most members of the Pension Plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.¹⁴ For public safety employees in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.¹⁵ Members initially enrolled in the Pension Plan on or after July 1, 2011, have longer vesting requirements. For members initially enrolled after that date, the member must complete 33 years of service or attain age 65, and members in the Special Risk classes must complete 30 years of service or attain age 60.¹⁶

Purchase of Retirement Credits

The FRS Pension Plan members may receive credit for periods of employment with specified employers towards their FRS years of service. Retirement credit is provided for military service,¹⁷ and may be purchased for service with federal or state government,¹⁸ as well as nonpublic schools or colleges.¹⁹ Pension Plan members may purchase up to five years of retirement credit, on a year-for-year basis, for their period of employment with in-state charter schools, charter technical career centers, or any non-public school or college in Florida that is accredited by the Southern Association of Colleges and Schools.²⁰

Service credited for employment with charter schools, centers, and non-public schools and colleges is credited as service in the Regular Class, subject to s. 112.65, F.S. The cost to purchase retirement credit is calculated as 20 percent of the member's annual compensation for the first full work year of creditable service earned under the FRS, but not less than \$12,000, plus interest at 6.5 percent compounded annually from the date of first annual salary earned until full payment is made.²¹ Members may not receive credit if they are eligible to receive or are receiving a pension or benefit from a retirement or pension plan based on or including the same service.

Accreditation Authorities for Non-public Schools and Colleges

The Florida Department of Education does not act as an accrediting agency. Schools and colleges may seek accreditation from any of a number of organizations in order to strengthen their school and present the public with assurance that the school is fulfilling its published

¹¹ Section 121.021(45)(a), F.S.

¹² Section 121.021(45)(b), F.S.

¹³ Section 121.091, F.S.

¹⁴ Section 121.021(29)(a)1., F.S.

¹⁵ Section 121.021(29)(b)1., F.S.

¹⁶ Sections 121.021(29)(a)2. and (b)2., F.S.

¹⁷ Section 121.111, F.S.

¹⁸ Section 121.1115, F.S.

¹⁹ Section 121.1122, F.S.

²⁰ Section 121.1122(1)(b), F.S.

²¹ Section 121.1115(2), F.S.

purpose and philosophy. In Florida, accreditation of all schools and programs is entirely voluntary.

The mission of the Southern Association of Colleges and Schools (SACS) is to improve education in the South through accreditation. To gain or maintain accreditation with the SACS Commission on Colleges, an institution must comply with the standards contained in the Principles of Accreditation²² and with the policies and procedures of the Commission on Colleges. The Commission on Colleges applies the requirements of its principles to all applicant, candidate, and member institutions, regardless of type of institution (public, private for-profit, private not-for-profit). When accrediting schools, SACS applies the AdvancED Standards for Quality Schools, which are as follows:

- Purpose and Direction;
- Governance and Leadership;
- Teaching and Assessing for Learning;
- Resources and Support Systems; and
- Using Results for Continuous Improvement.²³

The Florida Association of Academic Nonpublic Schools (FAANS) is an umbrella agency that represents most of the private school accrediting agencies in Florida and 80 percent of all private schools in the state.²⁴ Each of the FAANS Accrediting Associations²⁵ has its own standards and evaluation procedures. Those vary in details and emphasis from one association to another, but all involve on-site evaluation and periodic reevaluation by peers and association officers. FAANS recognizes an association for accreditation only after reviewing the standards and procedures of the association. Before an association can be named an official FAANS accrediting body, the association must have a history of several years of successful experience in accrediting its schools; have its processes and standards reviewed and approved by the Board of FAANS; have a successful onsite visit by FAANS representatives during one of its regular accreditation visits of a member school; have the sponsorship of two FAANS accrediting associations; and receive a majority vote of support from the Board of Directors. Non-public schools that are accredited by FAANS member associations or organizations may not represent themselves or advertise as being accrediting members of FAANS.

Since 1993, the National Council for Private School Accreditation (NCPSA) has been a consortium of accrediting associations for the recognition of early childhood, elementary, and secondary private schools. NCPSA has established accreditation procedures to facilitate application, review, and recognition of qualified and credible accrediting associations serving

²² SACS, *Principles of Accreditation: Foundations for Quality Enhancement*, available at <http://www.sacscoc.org/principles.asp> (last visited Apr. 8, 2014).

²³ AdvancED, *Standards for Quality Schools*, http://www.advanc-ed.org/webfm_send/288 (last visited Apr. 8, 2014).

²⁴ Christian Schools of Florida, *FAANS & Legislation*, <http://csfla.org/faans> (last visited Apr. 8, 2014).

²⁵ For a list of the 23 FAANS Accrediting Associations, along with contact information, see, FAANS, *Member Associations*, <http://www.faans.org/memberassociations.html> (last visited Apr. 8, 2014).

private schools.²⁶ Before determining an applicant's status, NCPSA requires each organization applying for membership to:²⁷

- Complete an application;
- Participate in a multistep review process; and
- Participate in a multistep recognition process.

III. Effect of Proposed Changes:

Section 1 amends ss. 121.1122(1)(b), F.S., to allow FRS members to purchase retirement credit for periods of employment with an in-state charter school or in-state non-public school or charter technical career center or a non-public school or college that is accredited by the FAANS and the NCPSA.

By replacing the requirement that the school or college be accredited under the authority of the Southern Association of Colleges and Schools, the bill provides that the in-state non-public school or college be accredited according to specifications established by two other accreditation authorities.

Section 2 provides an effective date of July 1, 2014.

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.

²⁶ NCPSA, *Manual for the Recognition of Accrediting Associations for Early Childhood, Elementary, and Secondary Private Schools* (2010), available at http://www.ncpsa.org/client_data/files/2011/67_ncpsaaccreditationmanualrevisedmay2010.pdf (last visited Apr. 8, 2014).

²⁷ For a list of NCPSA's 17 member organizations, see, NCPSA, *Members Organizations*, http://www.ncpsa.org/accrediting_agencies/members (last visited Apr. 8, 2014).

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

There are six member accrediting organizations with overlapping membership in both the FAANS and NCPSA umbrella organizations:

- Association of Christian Teachers and Schools;
- Association of Independent Schools of Florida;
- Christian Schools of Florida;
- Florida Association of Christian Colleges and Schools;
- Florida Catholic Conference; and
- National Independent Private Schools Association.

The bill has the essential effect of making ss. 121.1122(1)(b), F.S., only pertain to a smaller number of schools that offer early learning, elementary, or secondary education. The bill essentially eliminates eligibility to those with periods of employment at the 77 colleges to which it currently applies. From the list above, only the Florida Association of Christian Colleges and Schools has member colleges in Florida:

- Florida Baptist College (Tampa, FL); and
- Landmark Baptist College (Haines City, FL).²⁸

The bill would only provide eligibility to purchase FRS retirement credits to pension plan members with periods of employment at non-public schools or colleges in the 6 organizations with overlapping memberships in both FAANS and NCPSA. Changing the word *and* to *or*, would extend the availability of the retirement credit purchases to pension plan members with periods of employment in schools (or colleges, although it does not appear there are any colleges) accredited by the following 28 accrediting associations:

- Association of Christian Schools International;
- Bilingual Private Schools Association;
- Bilingual Schools Association;
- Central Florida Episcopal Schools Association;
- Florida Association of Independent Special Education Facilities;
- Florida Conference of Seventh-Day Adventists;
- Florida Council of Independent Schools;
- Florida-Georgia District (Lutheran);
- Florida Kindergarten Council;
- Church of God Association of Christian Schools;
- Coalition of McKay Scholarship Schools;

²⁸ Florida Association of Christian Colleges & Schools, *FACCS Approved Colleges*, http://www.faccs.org/pages/page.asp?page_id=275880 (last visited Apr. 8, 2014).

- Council of Bilingual Schools;
- Episcopal Diocese of Florida;
- Episcopal Diocese of Southeast Florida;
- Episcopal Diocese of Southwest Florida;
- Florida League of Christian Schools;
- Independent Schools of South Florida;
- Accreditation International;
- Accrediting Association of Seventh-day Adventist Schools;
- American Montessori Society;
- Association of Waldorf Schools of North America;
- Council on Occupational Education;
- E.A. Sutherland Education Association;
- Kentucky Non-Public School Commission;
- National Accreditation Board of Merkos L’Inyonei Chinuch
- North American Christian School Accrediting Agency;
- Southern Association of Independent Schools; and
- Wisconsin Evangelical Lutheran Synod School Accreditation.

VIII. Statutes Affected:

This bill substantially amends section 121.1122 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on April 8, 2014:

Provides that the non-public school or college, with which periods of employment are eligible for purchase of retirement credits, must be accredited by the FAANS *and* the NCPSA.

- B. **Amendments:**

None.

By Senator Montford

3-01174-14

20141198__

1 A bill to be entitled
 2 An act relating to the Florida Retirement System;
 3 amending s. 121.1122, F.S.; revising criteria for
 4 employment eligible for purchase of retirement credit;
 5 providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Subsection (1) of section 121.1122, Florida
 10 Statutes, is amended to read:

11 121.1122 Purchase of retirement credit for in-state public
 12 service and in-state service in accredited nonpublic schools and
 13 colleges, including charter schools and charter technical career
 14 centers.—Effective January 1, 1998, a member of the Florida
 15 Retirement System may purchase creditable service for periods of
 16 certain public or nonpublic employment performed in this state,
 17 as provided in this section.

18 (1) PURCHASE OF RETIREMENT CREDIT AUTHORIZED.—Subject to
 19 the provisions of subsections (2) and (3), a member of the
 20 Florida Retirement System may purchase up to 5 years of
 21 retirement credit for:

22 (a) Periods of public employment in this state; or

23 (b) Periods of employment in a charter school ~~schools~~ or
 24 charter technical career center ~~centers~~ or in an accredited ~~any~~
 25 nonpublic school or college in this state ~~that is accredited by~~
 26 ~~the Southern Association of Colleges and Schools.~~

27
 28 Credit for 1 year of such service may be purchased for each year
 29 of creditable service a member completes under the Florida

3-01174-14

20141198__

30 Retirement System.

31 Section 2. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Subcommittee on Education, *Vice Chair*
Education, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health
and Human Services
Banking and Insurance
Gaming
Governmental Oversight and Accountability
Rules

SELECT COMMITTEE:

Select Committee on Indian River Lagoon
and Lake Okeechobee Basin, *Vice Chair*

SENATOR BILL MONTFORD

Democratic Policy Chair
3rd District

March 11, 2014

Senator Wilton Simpson, Chair
Senate Committee on Community Affairs
525 Knott Building
Tallahassee, Florida 32399-1100

Dear Chairman Simpson;

I respectfully request that the following bill be scheduled for a hearing before the Senate Committee on Community Affairs:

SB 1198 Florida Retirement System

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

Sincerely,

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

William "Bill" Montford
State Senator, District 3

Cc: Tom Yeatman, Staff Director

WM/md

REPLY TO:

- 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 58 Market Street, Apalachicola, Florida 32320 (850) 653-2656
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

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/CS/SB 820

INTRODUCER: Community Affairs Committee; Transportation Committee; and Senator Bullard

SUBJECT: Transportation Facility Designations

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Miranda</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 820 creates a number of honorary designations of transportation facilities around the state as follows:

- S.R. 992/152nd Street between U.S. 1 and 117th Avenue in Miami-Dade County is designated as “Larcenia Bullard Way.”
- S.R. 73 between the Calhoun County Line and U.S. 231 in Jackson County is designated as “Governor Mixson Highway.”
- 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.”
- 25th Street between East 8th Avenue and East 9th Avenue in Miami-Dade County is designated as “Tomas-Minerva Vinuela Way.”
- Ramp number eight 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.”
- S.R. 40 between the western incorporated limits of the City of Ormond Beach and the Volusia County line in Volusia County is designated as “Fred Karl 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.”
- U.S. Route 301 between Martin Luther King, Jr. Blvd. and S.R. 60 in Hillsborough County is designated as “Sergeant Paul Smith, U.S. Route 301.”
- I-95/S.R. 9 between S.R. 834/Sample Road and the Palm Beach County line in Broward County is designated as “Trooper Kimberly Ann Hurd Memorial Highway.”

- S.R. 50 from U.S. 27 to Hancock Road in Lake County is designated as “Specialist Alexander Miller Memorial Highway.”
- S.R. 50 between the Sumter County Line and Lee Road in Lake County is designated as “Sergeant Jess Thomas Memorial Highway.”
- S.R. 44 between S.R. 44/County Road 44/Main Street and U.S. 27/S.R. 25/14th Street in Lake County is designated as “Staff Sergeant Michael A. Bock Memorial Highway.”
- S.R. 50 from the intersection with S.R. 33 to the intersection of S.R. 19 in Lake County is designated as “Specialist Ronald Gaffney Memorial Highway.”
- S.R. 269 between U.S.90/S.R. 10 and S.R. 12 in Gadsden County is designated as “Julia Munroe Woodward 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. 293 between the Mid-Bay Bridge Toll Plaza and S.R. 85 in Okaloosa County is designated as “Walter Francis Spence Parkway.”
- The Hurlburt Field Air Force Base overpass on U.S. Highway 98 in Okaloosa County is designated as “Colonel Bud Day Overpass.”
- S.R. 519 (Fiske Boulevard) located within the corporate limits of the City of Cocoa in Brevard County is designated as “Dr. Martin Luther King, Jr., Memorial Highway.”
- 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 is designated as “Robert L. Clark Memorial Highway.”
- U.S. 41/ S.R. 599/South 50th Street between Palm River Road and S.R. 676/Causeway Boulevard in Hillsborough County is designated as “Deputy Sheriff David Anthony Abella Memorial Highway.”
- 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.”
- U.S. 441/S.R. 7/NW 2nd Avenue between S.R. 860/NW 183rd Street and S.R. 852/NW 215th/County Line Road in Miami-Dade County is designated as “Nelson Mandela Boulevard.”
- S.R. 574 between I-75/S.R. 93A and I-4/S.R. 400 in Hillsborough County is designated as “POW/MIA Memorial Highway.”
- S.R. 948/NW 36th Street between NW South River Drive and Curtiss Parkway/NW 57th Avenue in Miami-Dade County is designated as “Miami Springs Boulevard.”
- 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 Marker 234 and the Madison County line in Jefferson County is designated as “CPT Tecarie "CZ" Czarnecki and TSgt David A Stone Memorial Highway.”
- S.R. 694/Park Boulevard between U.S. 19 and Gulf Boulevard in Pinellas County is designated as “C.W. “Bill” Young Memorial Highway.”
- Miami Gardens between NE 6th Avenue to U.S. 1, in Miami-Dade County is designated as “Ronald A. Silver Drive.”
- U.S. 1/U.S. 41/S.R. 5/Biscayne Boulevard between U.S. 1/U.S. 41/S.R. 5/S.E. 2nd Street and N.E. 3rd Street in Miami-Dade County is designated as “Ralph Sanchez Way.”
- S.R. 436 between S.R. 528 and S.R. 408 in Orange County is designated as “Elias ‘Rico’ Piccard Memorial Highway.”

- S.R. 85/N. Ferdon Boulevard between S.R. 10/U.S. 90 and C.R. 188/Airport Road/Old Bethel Road in Okaloosa County is designated as “C. Wayne Ansley Highway.”
- Washington Street between S.R. 423/North John Young Parkway and S.R. 526/North Crystal Lake Drive in Orange County is designated as “Bessie Coleman Street.”
- S.R. A1A/105/S. Fletcher Avenue between S.R. A1A/200/Atlantic Avenue and C.R. 105B/Simmons Road in Nassau County is designated as “Francis Gibbs 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.

The 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 that portion of S.R. 992/152nd Street between U.S. 1 and 117th Avenue in Miami-Dade County as “Larcenia Bullard Way.”

Larcenia Bullard was a Democratic member of the Florida State Senate and House of Representatives. Larcenia Bullard was born in Allendale, South Carolina, and moved to Florida in 1980. In 1992, she was elected to the Florida House of Representatives from the 118th District. She was re-elected without opposition in 1994, and in 1996. Bullard sought a final term in the House in 1998. In 2002, Bullard was elected to the Florida State Senate from the 39th District, which included parts of Collier, Hendry, Miami-Dade, Monroe, and Palm Beach Counties. She held this office until 2012. She was unable to seek re-election in 2012 due to term limits. Her son, Dwight Bullard, was elected to replace her. Larcenia Bullard died on March 16, 2013.

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 in New Brockton, 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, and 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. Governor Mixson succeeded Governor Graham as the 39th Governor of Florida for the remainder of his term after Governor Graham was elected to serve Florida in the United States Senate.

Section 3 designates the bridge over the Intracoastal Waterway (bascul 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 4 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 1960s and later founded Hialeah Hardware. More than two decades after the founding, the Vinuela family continues to own and operate the business.

Section 5 designates ramp number eight 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 6 designates that portion of S.R. 40 between the Lake County line and the City of Ormond Beach in Volusia County as "Fred Karl Memorial Highway."

Fred Karl served in the Florida House of Representatives, the Florida Senate, and as a justice of the Florida Supreme Court. He also served as the Hillsborough County Attorney and County Manager. He passed away on March 7, 2013.

Section 7 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 8 designates that portion of U.S. Route 301 between Martin Luther King, Jr. Blvd. and S.R. 60 in Hillsborough County as “Sergeant Paul Smith, U.S. Route 301.”

Sergeant First Class Paul R. Smith was a member of Bravo Company, 11th Engineer Battalion, 2nd Platoon during Operation Iraqi Freedom, who lost his life while defending Baghdad International Airport during an ambush orchestrated by the Iraqi Special Republican Guard on April 4, 2003. Sergeant First Class Paul R. Smith was able to secure safe passage for the wounded by organizing a line of defense and mounting a disabled armored vehicle’s .50-caliber machine-gun. His actions saved the lives of at least 100 soldiers, caused the failure of a deliberate enemy attack hours after the site was seized, and resulted in an estimated 20-50 enemy soldiers killed. Sergeant First Class Paul R. Smith is a Medal of Honor Recipient.

Section 9 designates that portion of I-95/S.R. 9 between S.R. 834/Sample Road and the Palm Beach County line in Broward County as “Trooper Kimberly Ann Hurd Memorial Highway.”

Trooper Kimberly Ann Hurd, a Florida Highway Patrol Trooper, was hit and killed by a drunk driver on July 16, 1992, as she walked to the truck of another driver she had pulled over on Interstate 95 just north of Sample Road in Pompano Beach. Officer Hurd is the only female Trooper killed in the line of duty of the FHP. She was a many time winner of the Mothers Against Drunk Drivers “100 Club”.

Section 10 designates that portion of S.R. 50 from U.S. 27 to Hancock Road in Lake County as “Specialist Alexander Miller Memorial Highway.”

Alexander Miller was born December 30, 1987, in Fort Lauderdale. His family moved to Lake County when he was three years old. He attended both South Lake High School and East Ridge High School. In January 2007, he joined the Army and went to basic training in Fort Benning, Georgia. After Alex’s basic training he became a mortar squad leader, stationed in Fort Drum, New York. He deployed to Afghanistan in January 2009, and died on July 31, 2009. He received a Bronze star, Purple Heart, and other service awards.

Section 11 designates that portion of S.R. 50 between the Sumter County line and Lee Road in Lake County as “Sergeant Jess Thomas Memorial Highway.”

Jess Thomas was born March 8, 1947, to Mr. and Mrs. Fred Thomas. He lived all of his short life in Mascotte. Jess graduated from Groveland High School in 1965. He was drafted soon after graduation. He completed his training and was sent to Vietnam in 1967 as a sergeant. On February 9, 1968, while on a mission, Jess was killed while saving the lives of his fellow men. He was honored by a military ceremony in Orlando. He was awarded two Purple Hearts and a Bronze Star at that time.

Section 12 designates that portion of S.R. 44 between S.R. 44/County Road 44/Main Street and U.S. 27/S.R. 25/14th Street in Lake County as “Staff Sergeant Michael A. Bock Memorial Highway.”

Staff Sergeant Michael A. Bock was born on September 11, 1983. Upon graduating from Leesburg High School in the Spring of 2002, he enlisted in the Marine Corps. Once he finished his Marine Corps Training he went on to Marine Corps Engineering School where he obtained the title of Combat Engineer. Staff Sergeant Bock received orders for deployment to Iraq in 2003 and 2005, followed by deployments to Afghanistan in 2009 and 2010. During his enlistment Staff Sergeant Bock received the Combat Action Badge, Marine Corps Good Conduct Medal, the Navy and Marine Corps Achievement Medal, Afghanistan Campaign Medal, Iraq Campaign Medal, Global War on Terrorism Service Medal, Global War on Terrorism Expeditionary Medal, National Defense Service Medal, Navy Unit Commendation, Presidential Unit Citation – Navy, NATO Medal – ISAF Afghanistan, Certificate of Commendation, the Purple Heart, and our nation’s third highest honor, the Silver Star Medal. In August of 2010 Staff Sergeant Michael A. Bock lost his life in Afghanistan in support of Operation Enduring Freedom. Staff Sergeant Bock is survived by his wife Tiffany Bock, son Zander Bock, parents David and Sandra Bock, sister Christine, and brothers David and Paul.

Section 13 designates that portion of S.R. 50 between S.R. 33 and County Road 565A in Lake County as “Specialist Ronald Gaffney Memorial Highway.”

Specialist Ronald Gaffney, a Groveland native, was born on April 6, 1943. He was his senior class vice president/secretary, president of the Beta Club, and vice president of the Key Club. He was in the Glee Club and Letter Club. He lettered in basketball, baseball, and football. He attended the Kiwanis International Convention and was a delegate to Boys State. He enlisted after high school and intended to make the military his career. At the time of his death, he was on his third tour of duty in Vietnam as a Special Forces Green Beret Combat Engineer. On February 19, 1965, at 21 years of age he died a hero at the Vung Ro Bay incident and was awarded the Bronze Star for meritorious services while on duty with First Special Forces Group.

Section 14 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 15 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 16 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 from Niceville has been instrumental in the growth and development of Niceville and Okaloosa County as a whole over the last 50 years. He graduated from Tulane University with an engineering degree and began working for Eglin Air Force Base in the 1950s. He also served as President of the Niceville area Chamber of Commerce and began steering the chamber towards constructing the Mid-Bay Bridge in the late 1970s. The Mid-Bay Bridge is now one of the main transportation arteries for residents and tourists alike, traveling to and from Destin and South Walton County. In the mid 1990s, Walter formed Spence Brothers Construction to develop and build commercial property in the surrounding area. He is still active in the company, the Mid-Bay Bridge Authority and does consulting work for the defense industry.

Section 17 designates that portion of the Hurlburt Field Air Force Base overpass on U.S. Highway 98 in Okaloosa County as “Colonel Bud Day Overpass.”

Colonel George Everett “Bud” Day (February 24, 1925 – July 27, 2013) served in the Marine Corps, the Army and the Air Force during his thirty-five years of military service. He was awarded ten Air Medals, four Purple Hearts, four Bronze Stars, the Silver Star, the Distinguished Flying Cross, the Legion of Merit, the Air Force Cross and the nation’s highest military honor, the Medal of Honor by President Gerald Ford in 1976. He was the most decorated member of the military since General Douglas MacArthur.

Section 18 designates that portion of S.R. 519 (Fiske Boulevard) located within the corporate limits of the City of Cocoa in Brevard County as “Dr. Martin Luther King, Jr., Memorial Highway.”

Dr. Martin Luther King, Jr. was a civil rights leader. He was killed on April 4, 1968.

Section 19 designates that portion of U.S. 1/S.R. 5/N.E. 6th Avenue between Ponce de Leon Drive and S.R. 84/SE 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.

Section 20 designates that portion of U.S. 41/S.R. 599/South 50th Street between Palm River Road and S.R. 676/Causeway Boulevard in Hillsborough County as “Deputy Sheriff David Anthony Abella Memorial Highway.”

Deputy Sheriff David Anthony Abella died while in uniform, serving with the Hillsborough County Sheriff’s Office on April 21, 2004. This location is where he lost his life. David was born on June 19, 1977, and was a very beloved citizen in the community.

Section 21 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 22 designates that portion of U.S. 441/S.R. 7/NW 2nd Avenue between S.R. 860/NW 183rd Street and S.R. 852/NW 215th/County Line Road in Miami-Dade County as “Nelson Mandela Boulevard.”

Nelson Mandela was born on July 18, 1918, in Mvezo, South Africa. Mr. Mandela joined the African National Congress and co-founded the African National Congress Youth League. In 1962 he was arrested for conspiracy to overthrow the apartheid government and sentenced to life imprisonment. He remained imprisoned for 27 years and his imprisonment prompted an international movement that lobbied for his release and an end to apartheid. Mr. Mandela was finally released from prison on February 11, 1990, and he continued his negotiations with the South African government as the leader of the African National Congress. Mr. Mandela earned the Nobel peace prize in 1993 for his considerable work in effectuating South Africa’s peaceful transition from a system of apartheid, to one of democratic equality and universal suffrage. Due in large part to Mr. Mandela’s efforts, South Africa held its first truly democratic election in April 1994. The outcome of South Africa’s 1994 elections led to the historic and peaceful transition of power from the National Party to the African National Congress. The newly elected government’s first act was to elect Nelson Mandela as the nation’s president. Mr. Mandela used his presidency to help heal and unify South Africa and, in so doing, showed the entire world that love and cooperation are more powerful tools than hatred and retribution. After his presidency, Mr. Mandela remained committed to the task of improving the lives of South Africans through his philanthropic work, which focused on combating HIV/AIDS, and improving rural development and school construction. Mr. Mandela died on December 5, 2013, at the age of 95.

Section 23 designates that portion of S.R. 574 between I-75/S.R. 93A and I-4/S.R. 400 in Hillsborough County as “POW/MIA Memorial Highway.”

In 1971, Mrs. Michael Hoff, an MIA wife and member of the National League of Families, recognized the need for a symbol of our POW/MIAs. Prompted by an article in the Jacksonville, Florida, TIMES-UNION, Mrs. Hoff contacted Norman Rivkees, Vice President of Annin &

Company and designed a flag to represent our missing men. Following League approval, the flags were manufactured for distribution. On March 9, 1989, an official League flag that flew over the White House on National POW/MIA Recognition Day 1988 was installed in the U.S. Capitol Rotunda as a result of legislation passed overwhelmingly during the 100th Congress. The League's POW/MIA flag is the only flag ever displayed in the U.S. Capitol Rotunda where it will stand as a powerful symbol of national commitment to America's POW/MIAs until the fullest possible accounting has been achieved for U.S. personnel still missing and unaccounted for from the Vietnam War. On August 10, 1990, the 101st Congress passed U.S. Public Law 101-355, which recognized the League's POW/MIA flag and designated it "as the symbol of our Nation's concern and commitment to resolving as fully as possible the fates of Americans still prisoner, missing and unaccounted for in Southeast Asia, thus ending the uncertainty for their families and the Nation".

Section 24 designates that portion of S.R. 948/NW 36th Street between NW South River Drive and Curtiss Parkway/NW 57th Avenue in Miami-Dade County as "Miami Springs Boulevard."

On July 7, 1981, the Dade County Board of County Commissioners designated the street generally aligned with NW 36th Street but which also includes NW 41st Street and NW 36th Street Extension, from NW 42nd Avenue westerly to its junction with the Florida Turnpike as "Doral Boulevard." The City of Doral was incorporated in 2003. That portion of SR 948/NW 36th Street between NW South River Drive and Curtiss Parkway/NW 57th Avenue runs directly adjacent to the municipal boundaries of the City of Miami Springs. As a result of this prior designation, there has been confusion and questions have arisen as to the location of the City of Miami Springs.

Section 25 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 26 designates that portion of I-10/S.R. 8 between Mile Marker 234 and the Madison County line in Jefferson County as "CPT Tecarie "CZ" Czarnecki and TSgt David A Stone Memorial Highway."

Both were members of the 44th Civil Support Team stationed at Camp Blanding, FL. CPT Czarnecki was full-time in the Florida Army National Guard and TSgt Stone was full-time in the Florida Air National Guard. They died in an accident a quarter mile east of Exit 225 heading west on I-10 in Jefferson County on September 8, 2013.

Section 27 designates that portion of S.R. 694/Park Boulevard between U.S. 19 and Gulf Boulevard in Pinellas County as "C.W. "Bill" Young Memorial Highway."

C.W. "Bill" Young was born in Harmarville, Pennsylvania, in 1930 and would move to the St. Petersburg area at the age of 16. Mr. Young served in the Florida Senate from 1961 to 1970, and

was minority leader in that chamber from 1966 to 1970. Young was elected to Congress in 1970 from what was then the 8th District. Mr. Young served in the United States House of Representatives from 1971 to 2013. Mr. Young served as chairman of the House Committee on Appropriations from 1999 to 2005. He was the longest-serving Republican member of Congress at the time of his death.

He passed away on October 18, 2013

Section 28 designates that portion of Miami Gardens between NE 6th Avenue to U.S. 1, in Miami-Dade County as “Ronald A. Silver Drive.”

Ronald A. Silver served in the Florida House of Representatives in 1978, and continued his tenure in that body until 1992. While in the Florida House, Mr. Silver held the title of Majority Whip (1984-1996), Majority Leader (1986-1998), and chaired various committees. Mr. Silver was elected to the Florida Senate in 1992 until 2002. Since serving as Senator, Mr. Silver sits on the Board of Directors of Our Kids of Miami-Dade/Monroe, Inc., Recording for the Blind & Dyslexic of Florida, Adrienne Arscht Performing Center Trust and the advisory board for Marquis Bank. Silver is married with two children and three grandchildren and resides with his family in North Miami Beach.

Section 29 designates that portion of U.S. 1/U.S. 41/S.R. 5/Biscayne Boulevard between U.S. 1/U.S. 41/S.R. 5/SE 2nd Street and N.E. 3rd Street in Miami-Dade County as “Ralph Sanchez Way.”

Ralph Sanchez was a Cuban-born businessman who brought Grand Prix to the streets of Miami in the 1980s and founded the Homestead-Miami Speedway. Mr. Sanchez was born in Cuba in 1948. He came to the United States alone as a child during the Operation Pedro Pan airlift, in which more than 14,000 unaccompanied children, some as young as six years old, were flown out of Cuba from December 1960 to October 1962 after the country’s Communist takeover. In the United States, he spent time in an orphanage until his parents arrived and were reunited with him.

He passed away on April 1, 2013.

Section 30 designates that portion of S.R. 436 between S.R. 528 and S.R. 408 in Orange County as “Elias ‘Rico’ Piccard Memorial Highway.”

Elias ‘Rico’ Piccard was a well-known activist in the Hispanic Community of Orange County. Piccard, a social worker and Vietnam veteran who came to Orlando to retire in 1994, was a key voice in the growing community. He was known for his work in organizing Hispanics on progressive causes, but also in making sure the community was not forgotten by politicians. In 2008 he organized United Front to make sure neighborhoods and businesses along S.R. 436 were not neglected by the local governments.

He passed away on November 27, 2013.

Section 31 designates that portion of S.R. 85/N. Ferdon Boulevard between S.R. 10/U.S. 90 and C.R. 188/Airport Road/Old Bethel Road in Okaloosa County as “C. Wayne Ansley Highway.”

C. Wayne Ansley, of Baker, is a retired Assistant Superintendent with the Okaloosa County School Board. He served in the Okaloosa County School system from 1969-2007. Ansley received his associate degree from Okaloosa-Walton Junior College, which is now Northwest Florida State College. In 2013, Governor Rick Scott appointed Mr. Ansley to serve on the Northwest Florida State College District Board of Trustees from March 21, 2013, until May 31, 2015.

Section 32 designates that portion of Washington Street between S.R. 423/North John Young Parkway and S.R. 526/North Crystal Lake Drive in Orange County as “Bessie Coleman Street.”

Bessie Coleman was the first black woman to earn a pilot’s license. Because flying schools in the United States denied her entry, she taught herself French and moved to France, earning her license from France’s well-known Caudron Brother’s School of Aviation in just seven months. Coleman specialized in stunt flying and parachuting, earning a living barnstorming and performing aerial tricks. She remains a pioneer of women in the field of aviation.

She tragically died on April 30, 1926, in an accident during a rehearsal for an aerial show.

Section 33 designates that portion of S.R. A1A/105/S. Fletcher Avenue between S.R. A1A/200/Atlantic Avenue and C.R. 105B/Simmons Road in Nassau County is designated as “Francis Gibbs Memorial Highway.”

Francis Gibbs was born on December 26, 1972, in Jacksonville and raised in Fernandina Beach. He graduated from Fernandina Beach High School in 1999 and earned both his B.S. and J.D. degrees at the University of Florida. He was admitted to the bar in 1999 and practiced law in Fernandina Beach, serving as Legislative Counsel for Congressman Ander Crenshaw and as Chief of Staff for Congressman Connie Mack, IV, in Washington, DC. He also served as Chief of Staff for the Florida Department of Transportation at Tallahassee, FL. Francis was a seasoned traveler from his childhood. He was an avid golfer and tennis player from his youth. He enjoyed flying and earned his private pilot's license. Francis was a member of the National Society of Sons of the American Revolution, through his mother. He took pride in the fact that several of his paternal ancestors were Florida residents before statehood.

He passed away at the age of 40 in his home on May 17, 2013.

Section 34 provides the bill takes effect on July 1, 2014.

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 \$32,000 for 64 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. Statutes Affected:

None. This bill creates an undesignated section of Florida Law.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS/CS by Community Affairs on April 8, 2014:**

Added three designations as follows:

- Elias “Rico” Piccard Memorial Highway in Orange County;
- C. Wayne Ansley Highway in Okaloosa County;
- Bessie Coleman Street in Orange County; and
- Francis Gibbs Memorial Highway in Nassau County.

CS by Transportation on April 3, 2014:

The committee adopted the proposed committee substitute and one amendment adding three additional designations as follows:

- C.W. “Bill” Young Memorial Highway in Pinellas County;
- Ronald A. Silver Drive in Miami-Dade County; and
- Ralph Sanchez Way in Miami-Dade County.

B. Amendments:

None.

By the Committee on Transportation; and Senator Bullard

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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. Larcenia Bullard Way designated; Department of
12 Transportation to erect suitable markers.-

13 (1) That portion of S.R. 992/152nd Street between U.S. 1
14 and 117th Avenue in Miami-Dade County is designated as "Larcenia
15 Bullard Way."

16 (2) The Department of Transportation is directed to erect
17 suitable markers designating Larcenia Bullard Way as described
18 in subsection (1).

19 Section 2. Governor Mixson Highway designated; Department
20 of Transportation to erect suitable markers.-

21 (1) That portion of S.R. 73 between the Calhoun County line
22 and U.S. 231 in Jackson County is designated as "Governor Mixson
23 Highway."

24 (2) The Department of Transportation is directed to erect
25 suitable markers designating Governor Mixson Highway as
26 described in subsection (1).

27 Section 3. KMI Kentucky Military Institute Bridge
28 designated; Department of Transportation to erect suitable
29 markers.-

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30 (1) Bascule bridges Numbers 170169 and 170170 on U.S.
31 Business 41/S.R. 45/Tamiami Trail in Sarasota County are
32 designated as "KMI Kentucky Military Institute Bridge."

33 (2) The Department of Transportation is directed to erect
34 suitable markers designating KMI Kentucky Military Institute
35 Bridge as described in subsection (1).

36 Section 4. Tomas-Minerva Vinuela Way designated; Department
37 of Transportation to erect suitable markers.-

38 (1) That portion of 25th Street in Miami-Dade County
39 between East 8th Avenue and East 9th Avenue is designated as
40 "Tomas-Minerva Vinuela Way."

41 (2) The Department of Transportation is directed to erect
42 suitable markers designating Tomas-Minerva Vinuela Way as
43 described in subsection (1).

44 Section 5. The Honorable Dale G. Bennett Boat Ramp
45 designated; Department of Transportation to erect suitable
46 markers.-

47 (1) Ramp number 8 at mile marker 40.7 on I-75/S.R.
48 93/Alligator Alley in Broward County is designated as "The
49 Honorable Dale G. Bennett Boat Ramp."

50 (2) The Department of Transportation is directed to erect
51 suitable markers designating The Honorable Dale G. Bennett Boat
52 Ramp as described in subsection (1).

53 Section 6. Fred Karl Memorial Highway designated;
54 Department of Transportation to erect suitable markers.-

55 (1) That portion of S.R. 40 between the western
56 incorporated limits of the City of Ormond Beach and the Volusia
57 County line in Volusia County is designated as "Fred Karl
58 Memorial Highway."

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59 (2) The Department of Transportation is directed to erect
60 suitable markers designating Fred Karl Memorial Highway as
61 described in subsection (1).

62 Section 7. SP4 Billy Jacob Hartsfield Bridge designated;
63 Department of Transportation to erect suitable markers.-

64 (1) Bridge number 380047 on U.S. 98/S.R. 30 over the
65 Aucilla River in Taylor County is designated as "SP4 Billy Jacob
66 Hartsfield Bridge."

67 (2) The Department of Transportation is directed to erect
68 suitable markers designating SP4 Billy Jacob Hartsfield Bridge
69 as described in subsection (1).

70 Section 8. Sergeant Paul Smith, U.S. Route 301 designated;
71 Department of Transportation to erect suitable markers.-

72 (1) That portion of U.S. Route 301 between Martin Luther
73 King, Jr. Blvd. and S.R. 60 in Hillsborough County is designated
74 as "Sergeant Paul Smith, U.S. Route 301."

75 (2) The Department of Transportation is directed to erect
76 suitable markers designating Sergeant Paul Smith, U.S. Route
77 301, as described in subsection (1).

78 Section 9. Trooper Kimberly Ann Hurd Memorial Highway
79 designated; Department of Transportation to erect suitable
80 markers.-

81 (1) That portion of I-95/S.R. 9 between S.R. 834/Sample
82 Road and the Palm Beach County line in Broward County is
83 designated as "Trooper Kimberly Ann Hurd Memorial Highway."

84 (2) The Department of Transportation is directed to erect
85 suitable markers designating Trooper Kimberly Ann Hurd Memorial
86 Highway, as described in subsection (1).

87 Section 10. Specialist Alexander Miller Memorial Highway

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88 designated; Department of Transportation to erect suitable
89 markers.-

90 (1) That portion of S.R. 50 from U.S. 27 to Hancock Road in
91 Lake County is designated as "Specialist Alexander Miller
92 Memorial Highway."

93 (2) The Department of Transportation is directed to erect
94 suitable markers designating Specialist Alexander Miller
95 Memorial Highway as described in subsection (1).

96 Section 11. Jess Thomas Memorial Highway designated;
97 Department of Transportation to erect suitable markers.-

98 (1) That portion of S.R. 50 between the Sumter County line
99 and Lee Road in Lake County is designated as "Jess Thomas
100 Memorial Highway."

101 (2) The Department of Transportation is directed to erect
102 suitable markers designating Jess Thomas Memorial Highway as
103 described in subsection (1).

104 Section 12. Staff Sergeant Michael A. Bock Memorial Highway
105 designated; Department of Transportation to erect suitable
106 markers.-

107 (1) That portion of S.R. 44 between S.R. 44/County Road
108 44/Main Street and U.S. 27/S.R. 25/14th Street in Lake County is
109 designated as "Staff Sergeant Michael A. Bock Memorial Highway."

110 (2) The Department of Transportation is directed to erect
111 suitable markers designating Staff Sergeant Michael A. Bock
112 Memorial Highway as described in subsection (1).

113 Section 13. Specialist Ronald Gaffney Memorial Highway
114 designated; Department of Transportation to erect suitable
115 markers.-

116 (1) That portion of S.R. 50 between S.R. 33 and County Road

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117 565A in Lake County is designated as "Specialist Ronald Gaffney
118 Memorial Highway."

119 (2) The Department of Transportation is directed to erect
120 suitable markers designating Specialist Ronald Gaffney Memorial
121 Highway as described in subsection (1).

122 Section 14. Julia Munroe Woodward Highway designated;
123 Department of Transportation to erect suitable markers.-

124 (1) Upon completion of construction, S.R. 269 between U.S.
125 90/S.R. 10 and S.R. 12 in Gadsden County is designated as "Julia
126 Munroe Woodward Highway."

127 (2) The Department of Transportation is directed to erect
128 suitable markers designating Julia Munroe Woodward Highway as
129 described in subsection (1).

130 Section 15. Warren E. "Charlie" Brown Memorial Highway
131 designated; Department of Transportation to erect suitable
132 markers.-

133 (1) That portion of U.S 98/S.R. 30 between Rosewood Drive
134 and Sunrise Drive in Santa Rosa County is designated as "Warren
135 E. 'Charlie' Brown Memorial Highway."

136 (2) The Department of Transportation is directed to erect
137 suitable markers designating Warren E. "Charlie" Brown Memorial
138 Highway as described in subsection (1).

139 Section 16. Walter Francis Spence Parkway designated;
140 Department of Transportation to erect suitable markers.-

141 (1) That portion of S.R. 293 between Mid-Bay Bridge Toll
142 Plaza and S.R. 85 in Okaloosa County is designated as "Walter
143 Francis Spence Parkway."

144 (2) The Department of Transportation is directed to erect
145 suitable markers designating Walter Francis Spence Parkway as

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146 described in subsection (1).

147 Section 17. Colonel Bud Day Overpass designated; Department
148 of Transportation to erect suitable markers.-

149 (1) The Hurlburt Field Air Force Base overpass on U.S.
150 Highway 98 in Okaloosa County is designated as "Colonel Bud Day
151 Overpass."

152 (2) The Department of Transportation is directed to erect
153 suitable markers designating Colonel Bud Day Overpass as
154 described in subsection (1).

155 Section 18. Dr. Martin Luther King, Jr. Memorial Highway
156 designated; Department of Transportation to erect suitable
157 markers.-

158 (1) That portion of S.R. 519 (Fiske Boulevard) located
159 within the corporate limits of the City of Cocoa in Brevard
160 County is designated as "Dr. Martin Luther King, Jr. Memorial
161 Highway."

162 (2) The Department of Transportation is directed to erect
163 suitable markers designating Dr. Martin Luther King, Jr.
164 Memorial Highway as described in subsection (1).

165 Section 19. Robert L. Clark Memorial Highway designated;
166 Department of Transportation to erect suitable markers.-

167 (1) That portion of U.S. 1/S.R. 5/NE 6th Avenue between
168 Ponce de Leon Drive and S.R. 84/SE 24th Street in Broward County
169 is designated as "Robert L. Clark Memorial Highway."

170 (2) The Department of Transportation is directed to erect
171 suitable markers designating Robert L. Clark Memorial Highway as
172 described in subsection (1).

173 Section 20. Deputy Sheriff David Anthony Abella Memorial
174 Highway designated; Department of Transportation to erect

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175 suitable markers.-

176 (1) That portion of U.S. 41/S.R. 599/South 50th Street
177 between Palm River Road and S.R. 676/Causeway Boulevard in
178 Hillsborough County is designated as "Deputy Sheriff David
179 Anthony Abella Memorial Highway."

180 (2) The Department of Transportation is directed to erect
181 suitable markers designating Deputy Sheriff David Anthony Abella
182 Memorial Highway as described in subsection (1).

183 Section 21. Trooper James Herbert Fulford, Jr., Memorial
184 Highway designated; Department of Transportation to erect
185 suitable markers.-

186 (1) That portion of I-10/S.R. 8 between mile post 232 and
187 mile post 233 in Jefferson County is designated as "Trooper
188 James Herbert Fulford, Jr., Memorial Highway."

189 (2) The Department of Transportation is directed to erect
190 suitable markers designating Trooper James Herbert Fulford, Jr.,
191 Memorial Highway as described in subsection (1).

192 Section 22. Nelson Mandela Boulevard designated; Department
193 of Transportation to erect suitable markers.-

194 (1) That portion of U.S. 441/S.R. 7/NW 2nd Avenue between
195 S.R. 860/NW 183rd Street and S.R. 852/NW 215th/County Line Road
196 in Miami-Dade County is designated as "Nelson Mandela
197 Boulevard."

198 (2) The Department of Transportation is directed to erect
199 suitable markers designating Nelson Mandela Boulevard as
200 described in subsection (1).

201 Section 23. POW/MIA Memorial Highway designated; Department
202 of Transportation to erect suitable markers.-

203 (1) That portion of S.R. 574 between I-75/S.R. 93A and I-

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204 4/S.R. 400 in Hillsborough County is designated as "POW/MIA
205 Memorial Highway."

206 (2) The Department of Transportation is directed to erect
207 suitable markers designating POW/MIA Memorial Highway as
208 described in subsection (1).

209 Section 24. Miami Springs Boulevard designated; Department
210 of Transportation to erect suitable markers.-

211 (1) That portion of S.R. 948/NW 36th Street between NW
212 South River Drive and Curtiss Parkway/NW 57th Avenue in Miami-
213 Dade County is designated as "Miami Springs Boulevard."

214 (2) The Department of Transportation is directed to erect
215 suitable markers designating Miami Springs Boulevard as
216 described in subsection (1).

217 Section 25. RADM LeRoy Collins, Jr., Veterans Expressway
218 designated; Department of Transportation to erect suitable
219 markers.-

220 (1) That portion of S.R. 589 and S.R. 568/Veterans
221 Expressway between S.R. 60/Courtney Campbell Causeway and S.R.
222 597/Dale Mabry Highway in Hillsborough County is designated as
223 "RADM LeRoy Collins, Jr., Veterans Expressway."

224 (2) The Department of Transportation is directed to erect
225 suitable markers designating RADM LeRoy Collins, Jr., Veterans
226 Expressway as described in subsection (1).

227 Section 26. CPT Tecarie "CZ" Czarnecki and TSgt David A
228 Stone Memorial Highway designated; Department of Transportation
229 to erect suitable markers.-

230 (1) That portion of I-10/S.R. 8 between Mile Marker 234 and
231 the Madison County line in Jefferson County is designated as
232 "CPT Tecarie 'CZ' Czarnecki and TSgt David A Stone Memorial

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233 Highway."

234 (2) The Department of Transportation is directed to erect
235 suitable markers designating CPT Tecarie "CZ" Czarnecki and TSgt
236 David A Stone Memorial Highway as described in subsection (1).

237 Section 27. C.W. "Bill" Young Memorial Highway designated;
238 Department of Transportation to erect suitable markers.-

239 (1) That portion of S.R. 694/Park Boulevard between U.S. 19
240 and Gulf Boulevard in Pinellas County is designated as "C.W.
241 'Bill' Young Memorial Highway."

242 (2) The Department of Transportation is directed to erect
243 suitable markers designating C.W. "Bill" Young Memorial Highway
244 as described in subsection (1).

245 Section 28. Ronald A. Silver Drive designated; Department
246 of Transportation to erect suitable markers.-

247 (1) That portion of S.R. 60/Miami Gardens Drive between
248 S.R. 915/N.E. 6th Avenue and U.S. 1/S.R. 5 in Miami-Dade County
249 is designated as "Ronald A. Silver Drive."

250 (2) The Department of Transportation is directed to erect
251 suitable markers designating Ronald A. Silver Drive as described
252 in subsection (1).

253 Section 29. Ralph Sanchez Way designated; Department of
254 Transportation to erect suitable markers.-

255 (1) That portion of U.S. 1/U.S. 41/S.R. 5/Biscayne
256 Boulevard between U.S.1/U.S. 41/S.R. 5/S.E. 2nd Street and N.E.
257 3rd Street in Miami-Dade County is designated as "Ralph Sanchez
258 Way."

259 (2) The Department of Transportation is directed to erect
260 suitable markers designating Ralph Sanchez Way as described in
261 subsection (1).

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Section 30. This act shall take effect July 1, 2014.

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 1274

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

SUBJECT: Citizens Property Insurance Corporation

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1274 postpones the date by one year after which new construction or substantial improvements of structures seaward of the coastal construction control line or within the Coastal Barrier Resources System (CBRS) are ineligible to receive coverage from the Citizens Property Insurance Corporation (Citizens).

The bill declares that certain residential condominiums shall be ineligible for wind-only commercial lines coverage.

II. Present Situation:

Citizens Property Insurance Corporation

Citizens is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market.¹ Citizens is not a private insurance company.² Citizens was statutorily created in 2002 when the Florida Legislature combined the state's two insurers of last resort, the Florida Residential Property and Casualty Joint Underwriting Association and the Florida Windstorm Underwriting Association. Citizens operates in accordance with the

¹ "Admitted market" means insurance companies that are licensed to transact insurance business in Florida.

² Section 627.351(6)(a)1., F.S.

provisions of s. 627.351(6), F.S., and is governed by a nine-member Board of Governors³ that administers its Plan of Operations, which is reviewed and approved by the FSC. The Governor appoints a consumer advocate to sit on the board. The Governor, the Chief Financial Officer, the President of the Senate and the Speaker of the House of Representatives each appoint an additional two members. Citizens is subject to regulation by the Office of Insurance Regulation.

Citizens offers property insurance in three separate accounts. Each account is a separate statutory account with separate calculations of surpluses and deficits.⁴

The Personal Lines Account (PLA) offers personal lines residential policies that provide comprehensive, multiperil coverage statewide, except for those areas contained in the Coastal Account. The PLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Personal lines residential coverage consists of the types of coverage provided by homeowner's, mobile home owner's, dwelling, tenant's, and condominium unit owner's policies.

The Commercial Lines Account (CLA) offers commercial lines residential and nonresidential policies that provide basic perils coverage statewide, except for those areas contained in the Coastal Account. The CLA also writes policies that exclude coverage for wind in areas contained within the Coastal Account. Commercial lines coverage includes commercial residential policies covering condominium associations, homeowners' associations, and apartment buildings. The coverage also includes commercial nonresidential policies covering business properties.

The Coastal Account offers personal residential, commercial residential and commercial non-residential policies in coastal areas of the state. Citizens must offer policies that solely cover the peril of wind (wind only policies) and may offer multiperil policies.⁵

Eligibility for Citizens coverage is at times restricted, or alternatively, the amount of coverage provided by Citizens is limited. Personal lines residential structures are ineligible for Citizens if they have an insured value of \$1 million or greater.⁶ The eligibility threshold for such policies will be reduced annually in \$100,000 increments until it reaches \$700,000, effective January 1, 2017. Citizens will insure commercial residential properties at unlimited values. Citizens writes only the first \$1 million of commercial non-residential wind-only coverage and the first \$2.5 million of commercial non-residential multi-peril policies.

Citizens Rates

Rates for Citizens coverage are required to be actuarially sound,⁷ except that Citizens may not implement a rate increase that exceeds 10 percent for any single policy other than sinkhole

³ Section 627.351(6)(c)4., F.S.

⁴ The Personal Lines Account and the Commercial Lines account are combined for credit and Florida Hurricane Catastrophe Fund coverage.

⁵ In August of 2007, Citizens began offering personal and commercial residential multiperil policies in this limited eligibility area. Additionally, near the end of 2008, Citizens began offering commercial non-residential multiperil policies in this account.

⁶ Section 627.351(6)(a)3.a., F.S.

⁷ Section 627.351(6)(n)1., F.S.

coverage,⁸ excluding coverage changes and surcharges.⁹ The 10 percent limitation on rate increases is referred to as the Citizens rate “glide path” to achieving actuarially sound rates.¹⁰ The implementation of this increase ceases when Citizens has achieved actuarially sound rates. In addition to the overall glide path rate increase, Citizens can increase its rates to recover the additional reimbursement premium that it incurs as a result of the annual cash build-up factor added to the price of the mandatory layer of the Florida Hurricane Catastrophe Fund coverage, pursuant to s. 215.555(5)(b), F.S.

Eligibility for Insurance in Citizens

Current law requires Citizens to provide a procedure for determining the eligibility of a potential risk for insurance by Citizens and provides specific eligibility requirements based on premium amounts, value of the property insured, and the location of the property. Risks not meeting the statutory eligibility requirements cannot be insured by Citizens. Citizens has additional eligibility requirements set out in their underwriting rules. These rules, which are approved by the OIR, provide flexibility for Citizens to denote some risks as uninsurable based on factors not enumerated in statute, such as age of home, condition and age of roof, vacancy status, certain seasonal occupancy, and type of electrical wiring.

Eligibility Based on Premium Amount

Under current law, an applicant for residential insurance cannot buy insurance in Citizens if an admitted insurer in the private market offers the applicant insurance for a premium that does not exceed the Citizens premium by 15 percent or more.¹¹ In addition, the coverage offered by the private insurer must be comparable to Citizens’ coverage.

Under current law, a residential policyholder cannot renew insurance in Citizens if an insurer in the private market offers to insure the property at a premium equal to or less than the Citizens’ renewal premium. The insurance from the private market insurer must be comparable to the insurance from Citizens in order for the renewal premium eligibility requirement to apply.¹²

Eligibility Based on Value of Property Insured

In addition to the eligibility restrictions based on premium amount, current law provides eligibility restrictions for homes and condominium units based on the value of the property insured.¹³ Structures with a dwelling replacement cost or a condominium unit that has a dwelling and contents replacement cost of:

- \$1 million or more cannot obtain insurance in Citizens starting January 1, 2014. Property insured by Citizens for \$1 million or more on December 31, 2013, can remain insured in Citizens until the policy expires in 2014, but cannot be renewed.

⁸ Section 627.351(6)(n)6., F.S.

⁹ Section 627.351(6)(n), F.S.

¹⁰ With the enactment of Chapter 2007-001, L.O.F., from January 25, 2007, to January 1, 2010, Citizens rates were fixed by statute at the rates that were in effect on December 31, 2006. The Legislature also rescinded a Citizens rate increase that had taken effect January 1, 2007, and resulted in a statewide average rate increase of 12 percent for policies in the personal lines account and 21.4 percent for policies in the high risk account (since renamed the coastal account).

¹¹ Section 627.351(6)(c)5., F.S.

¹² Section 627.351(6)(c)5., F.S.

¹³ Section 627.351(6)(a)3., F.S.

- \$900,000 or more cannot obtain insurance in Citizens starting January 1, 2015. Property insured for \$900,000 or more on December 31, 2014, can remain insured in Citizens until the policy expires in 2015, but cannot be renewed.
- \$800,000 or more cannot obtain insurance in Citizens starting January 1, 2016. Property insured for \$800,000 or more on December 31, 2015, can remain insured in Citizens until the policy expires in 2016, but cannot be renewed.
- \$700,000 or more cannot obtain insurance in Citizens starting January 1, 2017. Property insured for \$700,000 or more on December 31, 2016, can remain insured in Citizens until the policy expires in 2017, but cannot be renewed.

However, Citizens is allowed to insure structures with a dwelling replacement cost or a condominium unit with a dwelling and contents replacement cost of \$1 million or less in counties the OIR determines is non-competitive.

Citizens does not have any eligibility restrictions based on the value of the property insured for condominium association, homeowner association, or apartment building policies. Citizens has multiple eligibility and coverage restrictions for commercial businesses, depending on where the business is located and the type of policy the business purchases from Citizens. These restrictions are contained in the underwriting rules of Citizens, not in the statute.

Eligibility Based on Location of Property

Current law also provides an eligibility restriction for insurance in Citizens based on the location of the property. Major structures for which a building permit for new construction or a substantial improvement of the structure is applied for on or after July 1, 2014, and which are located seaward of the coastal construction control line or within the CBRS are ineligible for insurance in Citizens. The definition of “major structure” in s. 161.54, F.S., applies to Citizens’ eligibility and is very broad, encompassing all residential and commercial buildings. The definition covers houses, mobile homes, apartment buildings, condominiums, hotels, motels, and restaurants. The definition of “substantial improvement” in s. 161.54, F.S., applies to Citizens’ eligibility. Generally, this definition makes any repair, reconstruction, rehabilitation, or improvement to a structure that costs 50 percent or more of the market value of the structure to be a “substantial improvement.” The statutory definition contains additional parameters and guidance and exclusions.

Statewide Impact of Citizens’ Eligibility Based on Location of Property

Citizens has identified approximately 100,000 parcels of land statewide completely within the CBRS or seaward of the coastal construction control line. Under current law, these parcels are ineligible for insurance in Citizens if:

- The parcel is currently improved (i.e., developed) and the structure located on the parcel is substantially improved with a building permit applied for on or after July 1, 2014.
- If the parcel is currently unimproved (i.e., vacant), but is later developed with a building permit applied for on or after July 1, 2014.

Of the 100,000 total parcels of land completely within the CBRS or seaward of the coastal construction control line, Citizens currently writes 25,000 policies statewide insuring structures on these parcels. Thus, any substantial improvement to these 25,000 properties where a building

permit is applied for on or after July 1, 2014, would keep them from continuing to be insured by Citizens.

Citizens identified another 80,000-100,000 properties it currently insures that could be moved within the CBRS or the control line if the boundaries of these areas change. This would prevent these properties from keeping Citizens insurance if they are substantially improved with a building permit applied for on or after July 1, 2014.

III. Effect of Proposed Changes:

Section 1 postpones a prohibition on coverage by Citizens for certain properties by one year. In 2013, the Florida Legislature required properties located seaward of the coastal construction control line or within the CBRS to be ineligible for coverage from Citizens if a building permit for new construction or substantial improvements was applied for after July 1, 2014. The bill postpones the effectiveness of that prohibition to July 1, 2015.

The bill declares that wind-only coverage for commercial lines residential condominiums is not available for condominiums where 50 percent or more of the units are rented more than eight times in a calendar year for a rental agreement period of less than 30 days, effective July 1, 2014.

Section 2 provides an effective date of July 1, 2014.

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:

Property owners with new construction or making substantial improvements to a structure located in a CBRS will be able to be insured by Citizens until July 1, 2015.

C. **Government Sector Impact:**

See above.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 627.351 of the Florida Statutes.

IX. **Additional Information:**

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

CS/CS by Community Affairs on April 8, 2014:

- Removes provisions related to:
 - an alternative study for windstorm mitigation;
 - an addendum to the uniform mitigation verification form;
 - referral fees paid by a wind mitigation inspector or received by an insurance agent, broker of company employee.
- Postpones the prohibition on coverage by Citizens for certain structures by one year and makes the postponement apply statewide; and
- Prohibits certain residential condominiums from being eligible for wind-only coverage.

CS by Banking and Insurance on March 25, 2014:

- Requires the OIR to determine non-competitive counties with regards to exempting properties within CBRS from the prohibition of coverage with Citizens.
- Changes the market share formula for Citizens that the OIR is to use when determining that a county is non-competitive.
- Allows Citizens to submit an alternative study to OIR regarding windstorm mitigation. Upon approval by the OIR, Citizens must include mitigation discounts provided by the study in their next rate filing.
- Allows the FSC to make an addendum to the uniform mitigation verification form. The addendum to the form is to be used in counties whose building code has been verified to be more stringent than the highest code recognized by the form.
- Prohibits a certified wind mitigation inspector from paying any referral fees or other forms of compensation to an insurance agent, broker or company employee that recommends an inspector's services to an insured.

- Prohibits an insurance agent, broker or company employee from accepting any referral fees or other forms of compensation from a certified wind mitigation inspector.

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 Banking and Insurance; and Senator Hays

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1 A bill to be entitled
2 An act relating to Citizens Property Insurance
3 Corporation; amending s. 627.351, F.S.; providing
4 exemptions from the restriction on obtaining coverage
5 from the corporation for substantial improvement to
6 major structures under certain conditions; requiring
7 the corporation to submit any alternate study relating
8 to windstorm mitigation discounts to the office and,
9 if approved, including the discounts in its next rate
10 filing; amending s. 627.711, F.S.; authorizing the
11 corporation to create an addendum to the uniform
12 mitigation verification form for use by counties under
13 certain circumstances; prohibiting a mitigation
14 inspector from paying for referrals from an insurance
15 broker, insurance agent, or employee of an insurance
16 agency and a broker, agent, or employee from receiving
17 such compensation; providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraphs (a) and (n) of subsection (6) of
22 section 627.351, Florida Statutes, are amended to read:

23 627.351 Insurance risk apportionment plans.—

24 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

25 (a) The public purpose of this subsection is to ensure that
26 there is an orderly market for property insurance for residents
27 and businesses of this state.

28 1. The Legislature finds that private insurers are
29 unwilling or unable to provide affordable property insurance

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30 coverage in this state to the extent sought and needed. The
31 absence of affordable property insurance threatens the public
32 health, safety, and welfare and ~~likewise threatens~~ the economic
33 health of the state. The state therefore has a compelling public
34 interest and a public purpose to assist in assuring that
35 property in the state is insured and that it is insured at
36 affordable rates so as to facilitate the remediation,
37 reconstruction, and replacement of damaged or destroyed property
38 in order to reduce or avoid the negative effects on ~~otherwise~~
39 ~~resulting to~~ the public health, safety, and welfare, to the
40 economy of the state, and to the revenues of the state and local
41 governments which are needed to provide for the public welfare.
42 It is necessary, therefore, to provide affordable property
43 insurance to applicants who are in good faith entitled to
44 procure insurance through the voluntary market but are unable to
45 do so. The Legislature intends, therefore, that affordable
46 property insurance be provided and that it continue to be
47 provided, as long as necessary, through Citizens Property
48 Insurance Corporation, a government entity that is an integral
49 part of the state, ~~and that is~~ not a private insurance company.
50 To that end, the corporation shall strive to increase the
51 availability of affordable property insurance in this state,
52 while achieving efficiencies and economies, and while providing
53 service to policyholders, applicants, and agents which is no
54 less than the quality generally provided in the voluntary
55 market, for the achievement of the foregoing public purposes.
56 Because it is essential for this government entity to have the
57 maximum financial resources to pay claims following a
58 catastrophic hurricane, it is further the intent of the

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59 Legislature that the corporation continue to be an integral part
60 of the state, and that the income of the corporation be exempt
61 from federal income taxation, and that interest on the debt
62 obligations issued by the corporation be exempt from federal
63 income taxation.

64 2. The Residential Property and Casualty Joint Underwriting
65 Association originally created by this statute shall be known as
66 the Citizens Property Insurance Corporation. The corporation
67 shall provide insurance for residential and commercial property,
68 for applicants who are entitled, but, in good faith, are unable
69 to procure insurance through the voluntary market. The
70 corporation shall operate pursuant to a plan of operation
71 approved by order of the Financial Services Commission. The plan
72 is subject to continuous review by the commission. The
73 commission may, by order, withdraw approval of all or part of a
74 plan if the commission determines that conditions have changed
75 since approval was granted and that the purposes of the plan
76 require changes in the plan. For the purposes of this
77 subsection, residential coverage includes both personal lines
78 residential coverage, which consists of the type of coverage
79 provided by homeowner's, mobile home owner's, dwelling,
80 tenant's, condominium unit owner's, and similar policies; and
81 commercial lines residential coverage, which consists of the
82 type of coverage provided by condominium association, apartment
83 building, and similar policies.

84 3. With respect to coverage for personal lines residential
85 structures:

86 a. Effective January 1, 2014, a structure that has a
87 dwelling replacement cost of \$1 million or more, or a single

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88 condominium unit that has a combined dwelling and contents
89 replacement cost of \$1 million or more is not eligible for
90 coverage by the corporation. Such dwellings insured by the
91 corporation on December 31, 2013, may continue to be covered by
92 the corporation until the end of the policy term. The office
93 shall approve the method used by the corporation for valuing the
94 dwelling replacement costs under ~~cost for the purposes of~~ this
95 subparagraph. If a policyholder is insured by the corporation
96 before being determined to be ineligible pursuant to this
97 subparagraph and such policyholder files a lawsuit challenging
98 the determination, the policyholder may remain insured by the
99 corporation until the conclusion of the litigation.

100 b. Effective January 1, 2015, a structure that has a
101 dwelling replacement cost of \$900,000 or more, or a single
102 condominium unit that has a combined dwelling and contents
103 replacement cost of \$900,000 or more, is not eligible for
104 coverage by the corporation. Such dwellings insured by the
105 corporation on December 31, 2014, may continue to be covered by
106 the corporation only until the end of the policy term.

107 c. Effective January 1, 2016, a structure that has a
108 dwelling replacement cost of \$800,000 or more, or a single
109 condominium unit that has a combined dwelling and contents
110 replacement cost of \$800,000 or more, is not eligible for
111 coverage by the corporation. Such dwellings insured by the
112 corporation on December 31, 2015, may continue to be covered by
113 the corporation until the end of the policy term.

114 d. Effective January 1, 2017, a structure that has a
115 dwelling replacement cost of \$700,000 or more, or a single
116 condominium unit that has a combined dwelling and contents

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117 replacement cost of \$700,000 or more, is not eligible for
118 coverage by the corporation. Such dwellings insured by the
119 corporation on December 31, 2016, may continue to be covered by
120 the corporation until the end of the policy term.
121

122 The requirements of sub-subparagraphs b.-d. do not apply in
123 counties where the office determines there is not a reasonable
124 degree of competition. In such counties a personal lines
125 residential structure that has a dwelling replacement cost of
126 less than \$1 million, or a single condominium unit that has a
127 combined dwelling and contents replacement cost of less than \$1
128 million, is eligible for coverage by the corporation.

129 4. It is the intent of the Legislature that policyholders,
130 applicants, and agents of the corporation receive service and
131 treatment of the highest possible level but never less than that
132 generally provided in the voluntary market. It is also intended
133 that the corporation be held to service standards no less than
134 those applied to insurers in the voluntary market by the office
135 with respect to responsiveness, timeliness, customer courtesy,
136 and overall dealings with policyholders, applicants, or agents
137 of the corporation.

138 5.a. Effective January 1, 2009, a personal lines
139 residential structure that is located in the "wind-borne debris
140 region," as defined in s. 1609.2, International Building Code
141 (2006), and that has an insured value on the structure of
142 \$750,000 or more is not eligible for coverage by the corporation
143 unless the structure has opening protections as required under
144 the Florida Building Code for a newly constructed residential
145 structure in that area. A residential structure is deemed to

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146 comply with this sub-subparagraph ~~subparagraph~~ if it has
147 shutters or opening protections on all openings and if such
148 opening protections complied with the Florida Building Code at
149 the time they were installed.

150 b. Any major structure as defined in s. 161.54(6) (a) for
151 which a permit is applied on or after July 1, 2014, for new
152 construction or substantial improvement as defined in s.
153 161.54~~(12)~~ is not eligible for coverage by the corporation if
154 the structure is seaward of the coastal construction control
155 line established pursuant to s. 161.053 or is within the Coastal
156 Barrier Resources System as designated by 16 U.S.C. ss. 3501-
157 3510. This sub-subparagraph does not apply to substantial
158 improvement of major structures located in a county where the
159 office determines that the corporation issues 75 percent or more
160 of the total of the number of policies for each line of personal
161 residential, commercial residential, and commercial
162 nonresidential insurance.

163 (n)~~1~~. Rates for coverage provided by the corporation must
164 be actuarially sound and subject to s. 627.062, except as
165 otherwise provided in this paragraph.

166 1. The corporation shall file its recommended rates with
167 the office at least annually. The corporation shall provide any
168 additional information regarding the rates which the office
169 requires. The office shall consider the recommendations of the
170 board and issue a final order establishing the rates for the
171 corporation within 45 days after the recommended rates are
172 filed. The corporation may not pursue an administrative
173 challenge or judicial review of the final order of the office.

174 2. In addition to the rates otherwise determined pursuant

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175 to this paragraph, the corporation shall impose and collect an
176 amount equal to the premium tax provided in s. 624.509 to
177 augment the financial resources of the corporation.

178 3. After the public hurricane loss-projection model under
179 s. 627.06281 has been found to be accurate and reliable by the
180 Florida Commission on Hurricane Loss Projection Methodology, the
181 model shall serve as the minimum benchmark for determining the
182 windstorm portion of the corporation's rates. This subparagraph
183 does not require or allow the corporation to adopt rates lower
184 than the rates otherwise required or allowed by this paragraph.

185 4. The rate filings for the corporation which were approved
186 by the office and took effect January 1, 2007, are rescinded,
187 except for those rates that were lowered. As soon as possible,
188 the corporation shall begin using the lower rates that were in
189 effect on December 31, 2006, and provide refunds to
190 policyholders who paid higher rates as a result of that rate
191 filing. The rates in effect on December 31, 2006, remain in
192 effect for the 2007 and 2008 calendar years except for any rate
193 change that results in a lower rate. The next rate change that
194 may increase rates shall take effect pursuant to a new rate
195 filing recommended by the corporation and established by the
196 office, subject to this paragraph.

197 5. Beginning on July 15, 2009, and annually thereafter, the
198 corporation must make a recommended actuarially sound rate
199 filing for each personal and commercial line of business it
200 writes, to be effective no earlier than January 1, 2010.

201 6. Beginning on or after January 1, 2010, and
202 notwithstanding the board's recommended rates and the office's
203 final order regarding the corporation's filed rates under

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204 subparagraph 1., the corporation shall annually implement a rate
205 increase which, except for sinkhole coverage, does not exceed 10
206 percent for any single policy issued by the corporation,
207 excluding coverage changes and surcharges.

208 7. The corporation may also implement an increase to
209 reflect the effect on the corporation of the cash buildup factor
210 pursuant to s. 215.555(5) (b).

211 8. The corporation's implementation of rates as prescribed
212 in subparagraph 6. shall cease for any line of business written
213 by the corporation upon the corporation's implementation of
214 actuarially sound rates. Thereafter, the corporation shall
215 annually make a recommended actuarially sound rate filing for
216 each commercial and personal line of business the corporation
217 writes.

218 9. The corporation must submit any alternate study relating
219 to windstorm mitigation discounts to the office. Upon the
220 office's approval of the alternate study, the corporation must
221 include the discounts provided by the study in the next filing
222 of its recommended rates.

223 Section 2. Subsection (2) of section 627.711, Florida
224 Statutes, is amended, present subsections (6), (7), and (8) of
225 that section are renumbered as subsections (7), (8), and (9),
226 respectively, and a new subsection (6) is added to that section,
227 to read:

228 627.711 Notice of premium discounts for hurricane loss
229 mitigation; uniform mitigation verification inspection form.—

230 (2) (a) The Financial Services Commission shall, by rule,
231 develop ~~by rule~~ a uniform mitigation verification inspection
232 form that shall be used by all insurers when submitted by

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233 policyholders for the purpose of factoring discounts for wind
234 insurance. The commission may develop an addendum to the form
235 for use in a county that has adopted a building code that is
236 stricter than the building code recognized by the uniform
237 mitigation form. In developing the form, the commission shall
238 seek input from insurance, construction, and building code
239 representatives. ~~Further,~~ The commission shall also provide
240 guidance as to the length of time the inspection results are
241 valid. An insurer shall accept as valid a uniform mitigation
242 verification form signed by the following authorized mitigation
243 inspectors:

244 1. A home inspector licensed under s. 468.8314 who has
245 completed at least 3 hours of hurricane mitigation training
246 approved by the Construction Industry Licensing Board, which
247 includes hurricane mitigation techniques and compliance with the
248 uniform mitigation verification form and completion of a
249 proficiency exam;

250 2. A building code inspector certified under s. 468.607;

251 3. A general, building, or residential contractor licensed
252 under s. 489.111;

253 4. A professional engineer licensed under s. 471.015;

254 5. A professional architect licensed under s. 481.213; or

255 6. Any other individual or entity recognized by the insurer
256 as possessing the necessary qualifications to properly complete
257 a uniform mitigation verification form.

258 (b) An insurer may, but is not required to, accept a form
259 from any other person possessing qualifications and experience
260 acceptable to the insurer.

261 (6) (a) An authorized mitigation inspector may not directly

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262 or indirectly offer or deliver any compensation, inducement, or
263 reward to an insurance broker, an insurance agent, or an
264 employee of an insurance agency for the referral of the owner of
265 the inspected property to the inspector or the inspection
266 company. Section 455.227(1)(k) applies to licensees in violation
267 of this paragraph.

268 (b) An insurance broker, insurance agent, or employee of an
269 insurance agency may not directly or indirectly receive or
270 accept any compensation, inducement, or reward from an
271 authorized mitigation inspector for the referral of the owner of
272 the inspected property to the inspector or the inspection
273 company. Section 626.6215(5)(d) applies to a violation of this
274 paragraph

275 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Jonest BOWMAN

Bill Number 1274
(if applicable)

Name _____

Amendment Barcode _____
(if applicable)

Job Title _____

Address _____
Street

Phone _____

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.

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)

4/8/2014

Meeting Date

Topic _____

Bill Number 1274
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS
11th District

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism

JOINT COMMITTEES:

Joint Select Committee on Collective Bargaining, *Co-Chair*
Joint Legislative Auditing Committee
Joint Legislative Budget Commission

MEMORANDUM

To: Senator Wilton Simpson, Chair
Community Affairs Committee
CC: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 1274 – Citizens Property Insurance Corporation

Date: March 19, 2014

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 110, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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/CS/CS/SB 296

INTRODUCER: Community Affairs Committee; Military and Veterans Affairs, Space, and Domestic Security Committee; Criminal Justice Committee; and Senator Brandes

SUBJECT: Carrying a Concealed Weapon or a Concealed Firearm

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	<u>Ryon</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
3.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 296 creates an exception to s. 790.01, F.S. Section 790.01, F.S., is the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so or if the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes.

The exception provided in the bill allows a person to carry a concealed weapon, or firearm if he or she may otherwise lawfully possess a firearm, while in the act of complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S., regardless of licensure status.

II. Present Situation:

Under current Florida law, it is lawful for a person to carry a concealed weapon without a concealed weapon license for purposes of lawful self-defense, so long as the weapon is limited to self-defense chemical spray, a nonlethal stun gun, a dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.¹

¹ Section 790.01(4), F.S.

Without licensure, carrying a different type of concealed weapon,² electric weapon, or device other than one designed solely for defensive purposes is a first degree misdemeanor.³ Carrying a concealed firearm without proper licensure is a third degree felony offense.⁴

It is lawful for a person to openly carry a self-defense chemical spray, nonlethal stun gun or dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.⁵

Certain persons under particular circumstances are exempt from the limitations on the open carry of weapons in s. 790.053, F.S., and the concealed firearm carry licensure requirements in s. 790.06, F.S., when the weapons and firearms are lawfully owned, possessed, and used. These persons and circumstances include:

- Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
- Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chs. 250 and 251, F.S., and under federal laws, when on duty or when training or preparing themselves for military duty;
- Persons carrying out or training for emergency management duties under ch. 252, F.S.;
- Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of ch. 354, F.S., and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the federal government who are carrying out official duties while in this state;
- Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
- Officers or employees of the state or United States duly authorized to carry a concealed weapon;
- Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;
- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;

² A concealed weapon, under s. 790.001(3)(a), F.S., means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person. The weapons listed in this definition require licensure to carry them in a concealed manner.

³ Section 790.01(1), F.S.

⁴ Section 790.01(2), F.S.

⁵ Section 790.053, F.S.

- A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- A person firing weapons in a safe and secure indoor range for testing and target practice;
- A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;
- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
- A person possessing arms at his or her home or place of business; and
- Investigators employed by the public defenders and capital collateral regional counsel of the state, while actually carrying out official duties.⁶

Concealed Weapons and Firearm Licensure

The Department of Agriculture and Consumer Services (DACS) is authorized to issue concealed weapon and firearm licenses to those applicants that qualify.⁷ Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.⁸

To obtain a concealed weapons or firearm license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee.⁹

Additionally, the applicant must attest that he or she is in compliance with the criteria contained in subsections (2) and (3) of s. 790.06, F.S.

⁶ Section 790.25(3), F.S.

⁷ Section 790.06(1), F.S.

⁸ *Id.*

⁹ Section 790.06(1)-(5), F.S.

Subsection (2) of s. 790.06, F.S., requires DACS to issue the license to carry a concealed weapon, if all other requirements are met, and the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.¹⁰

DACS must deny the application if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence

¹⁰ Section 790.06(2), F.S.

constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.¹¹

DACS shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.¹²

DACS shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.¹³ DACS shall suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.¹⁴

In addition, DACS is required to suspend or revoke a concealed weapons license if the licensee:

- Is found to be ineligible under the criteria set forth in s. 790.06(2), F.S.;
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23, F.S.;
- Is found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state; or
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state.¹⁵

Licensees must carry their license and valid identification any time they are in actual possession of a concealed weapon or firearm and display both documents upon demand by a law enforcement officer.¹⁶ Failure to have proper documentation and display it upon demand is a second degree misdemeanor.¹⁷

¹¹ Section 790.06(3), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Section 790.06(10), F.S.

¹⁶ Section 790.790.06(1), F.S.

¹⁷ Section 790.06(1), F.S.

A concealed weapon or firearms license does not authorize a person to carry a weapon or firearm in a concealed manner into:

- Any place of nuisance as defined in s. 823.05, F.S.;
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom;
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any school administration building;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any elementary or secondary school facility;
- Any career center;
- Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
- Inside the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
- Any place where the carrying of firearms is prohibited by federal law.

Any person who willfully violates any of the above-listed provisions commits a misdemeanor of the second degree.¹⁸

Firearms in Vehicles

It is lawful for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. The same is true for a legal long gun, without the need for encasement, when it is carried in the private conveyance for a lawful purpose.¹⁹

“Securely encased” means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container

¹⁸ Section 790.06(12), F.S.

¹⁹ Section 790.25(5), F.S.

which requires a lid or cover to be opened for access.²⁰ The term “readily accessible for immediate use” means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.²¹

Reciprocity

DACS provides an up-to-date list of the states that honor Florida concealed carry licenses.²² It should be noted that travel with a concealed weapon or firearm into states that do not honor Florida’s concealed carry licenses, or when a person does not possess a concealed carry license subjects the person to the laws of that state.

Limitations on Purchase of a Firearm

Florida law prohibits transfer of a firearm by a federally licensed firearm dealer to a person who:

- Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23, F.S.;
- Has been convicted of a misdemeanor crime of domestic violence;
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred;
- Has been indicted or has had an information filed against her or him for an offense that is a felony under state or federal law (pending disposition information that indicates the potential buyer is not prohibited);
- Has had an injunction for protection against domestic violence entered against him or her under s. 741.30, F.S.;
- Has had an injunction for protection against repeat violence entered against him or her under s. 784.046, F.S.; or
- Has been arrested for a dangerous crime as specified under s. 907.041(4)(a), F.S., or the crimes listed in s. 790.065(2)(c), F.S., (pending disposition information that indicates the potential buyer is not prohibited).

Emergency Management Powers of the Governor

Section 252.36(1), F.S., states that the Governor is responsible for meeting the dangers presented to this state and its people by emergencies. Under that authority the Governor can declare a state of emergency.

Section 252.36(2), F.S., provides that the state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.

²⁰ Section 790.001(17), F.S.; *Dixon v. State*, 831 So.2d 775 (Fla. 4th DCA 2002); *Gemmill v. State*, 657 So.2d 900 (Fla. 4th DCA 1995).

²¹ Section 790.001(16), F.S.

²² DACS, *Important Information Concerning Concealed Weapon License Reciprocity with Other States*, <http://www.freshfromflorida.com/content/download/7444/118465/ReciprocityList.pdf> (last visited Apr. 4, 2014).

The Legislature by concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of emergency.

In addition, pursuant to s. 252.36(5), F.S., the Governor may:

- Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state;²³ and
- Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. However, nothing contained in ss. 252.31-252.90, F.S., shall be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.²⁴

Chapter 870 – Affrays; Riots; Routs; Unlawful Assemblies

Section 870.043, F.S., authorizes sheriffs and designated city officials to declare a state of emergency if he or she determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof. The state of emergency commences upon its declaration and terminates 72 hours thereafter unless, prior to the end of the 72-hour period, the public official, Governor, county commission, or city council terminate it.²⁵

Whenever a sheriff or city official declares a state of emergency, he or she may order and promulgate all or any of the following emergency measures, in whole or in part, with any limitations and conditions he or she deems appropriate:

- The establishment of curfews, including, but not limited to, the prohibition of or restrictions on pedestrian and vehicular movement, standing, and parking;
- The prohibition of the sale or distribution of any alcoholic beverage;
- The prohibition of the possession on any person in a public place of any portable container containing any alcoholic beverage;
- The closing of places of public assemblage with designated exceptions;
- The prohibition of the sale or other transfer of possession, with or without consideration, of gasoline or any other flammable or combustible liquid altogether or except by delivery into a tank properly affixed to an operable motor-driven vehicle, bike, scooter, boat, or airplane and necessary for the propulsion thereof; and
- The prohibition of the possession in a public place of any portable container containing gasoline or any other flammable or combustible liquid.²⁶

In addition to the above-described measures that a local public official has discretion to order, the following acts are prohibited during a state of emergency declared under ch. 870, F.S.:

²³ Section 252.36(5)(e), F.S.

²⁴ Section 252.36(5)(h), F.S.

²⁵ Section 870.047, F.S.

²⁶ Section 870.045, F.S.

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description;
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description; and
- The intentional possession in a public place of a firearm by any person, except a duly authorized law enforcement official or person in military service acting in the official performance of her or his duty.²⁷

A violation of any of the above-described provisions is a first degree misdemeanor.

North Carolina Case Law Related to Concealed Carry During States of Emergency

In North Carolina, where a state of emergency may be declared by the Governor,²⁸ a municipality²⁹ or a county,³⁰ provisions of the Riot Control Act of 1969 made it a Class 1 misdemeanor for any person “to transport or possess off his own premises any dangerous weapon or substance in any area” where a state of emergency had been declared.³¹

In a 2012 Second Amendment challenge, a United States District Court for North Carolina struck down the North Carolina statutes, ruling that they violated the Second Amendment right to bear arms. The statutes in question allowed government officials to outright ban citizens from carrying defensive weapons outside the home, hunt, or engage in firearm related sporting activities. Additionally, although the statutes did not directly regulate the possession of firearms within the home, they effectively prohibited law abiding citizens from purchasing and transporting to their homes firearms and ammunition needed for self-defense. The court found that the statutes were subject to strict scrutiny, rather than intermediate scrutiny, since bans on weapons infringed upon the right to defend the home, which is a core Second Amendment right.³² The court concluded that:³³

The problem here is that the emergency declaration statutes, are not narrowly tailored to serve the government's interest in public safety. They do not target dangerous individuals or dangerous conduct. Nor do they seek to impose reasonable time, place and manner restrictions by, for example, imposing a curfew to allow the exercise of Second Amendment rights during circumscribed times.

III. Effect of Proposed Changes:

Section 1 creates an exception to s. 790.01, F.S., the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so. If the weapon is a self-defense chemical

²⁷ Section 870.044, F.S.

²⁸ Section 14-288.15(d), N.C.G.S.

²⁹ Section 14-288.12(b), N.C.G.S.

³⁰ Sections 14-288.13(b), 14(a), N.C.G.S.

³¹ Sections 14-288.7, N.C.G.S.

³² *Bateman v. Perdue*, 881 F.Supp.2d 709 (E.D. N.C. 2012).

³³ *Id.*, at 716.

spray or nonlethal stun gun or similar device designed for defensive purposes, a person may carry it concealed without a license.

The exception provided in the bill allows a person to carry a concealed weapon or firearm on or about his or her person, regardless of licensure status, while in the act of complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S. In order to carry a firearm the person must be lawfully able to possess the firearm.

Section 2 provides an effective date of July 1, 2014.

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 Criminal Justice Impact Conference considered SB 296 on January 30, 2014, and determined that it would have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.01 of the Florida Statutes.

IX. Additional Information:

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

CS/CS/CS by Community Affairs on April 8, 2014:

Restricts the concealed weapon or firearm licensure exception from applying while a person is in the act of complying with a mandatory evacuation order issued during a state of emergency declared by a local authority pursuant to ch. 870, F.S.

CS/CS by Military and Veterans Affairs, Space, and Domestic Security on April 1, 2014:

Expands the concealed weapon or firearm licensure exception to apply while a person is in the act of complying with a mandatory evacuation order issued during a state of emergency declared by a local authority pursuant to ch. 870, F.S.

CS by Criminal Justice on March 3, 2014:

Clarifies that convicted felons who are not permitted to possess a firearm under any circumstances are not permitted to do so while following an evacuation order.

- B. **Amendments:**

None.

By the Committees on Military and Veterans Affairs, Space, and Domestic Security; and Criminal Justice; and Senator Brandes

583-03575-14

2014296c2

1 A bill to be entitled
2 An act relating to carrying a concealed weapon or a
3 concealed firearm; amending s. 790.01, F.S.; providing
4 an exemption from criminal penalties for carrying a
5 concealed weapon or a concealed firearm while in the
6 act of complying with a mandatory evacuation order
7 during a declared state of emergency; providing an
8 effective date.

9
10 Be It Enacted by the Legislature of the State of Florida:

11
12 Section 1. Section 790.01, Florida Statutes, is amended to
13 read:

14 790.01 Unlicensed carrying of concealed weapons or
15 concealed firearms.-

16 (1) Except as provided in subsection (3) ~~(4)~~, a person who
17 is not licensed under s. 790.06 and who carries a concealed
18 weapon or electric weapon or device on or about his or her
19 person commits a misdemeanor of the first degree, punishable as
20 provided in s. 775.082 or s. 775.083.

21 (2) Except as provided in subsection (3), a person who is
22 not licensed under s. 790.06 and who carries a concealed firearm
23 on or about his or her person commits a felony of the third
24 degree, punishable as provided in s. 775.082, s. 775.083, or s.
25 775.084.

26 (3) This section does not apply to: ~~a person licensed to~~
27 ~~carry a concealed weapon or a concealed firearm pursuant to the~~
28 ~~provisions of s. 790.06.~~

29 (a) A person who carries a concealed weapon, or a person

583-03575-14

2014296c2

30 who may lawfully possess a firearm and who carries a concealed
31 firearm, on or about his or her person while in the act of
32 complying with a mandatory evacuation order issued during a
33 state of emergency declared by the Governor pursuant to chapter
34 252 or declared by a local authority pursuant to chapter 870.

35 ~~(b)(4) It is not a violation of this section for~~ A person
36 who carries ~~to carry~~ for purposes of lawful self-defense, in a
37 concealed manner:

38 1.(a) A self-defense chemical spray.

39 2.(b) A nonlethal stun gun or dart-firing stun gun or other
40 nonlethal electric weapon or device that is designed solely for
41 defensive purposes.

42 ~~(4)(5)~~ This section does not preclude any prosecution for
43 the use of an electric weapon or device, a dart-firing stun gun,
44 or a self-defense chemical spray during the commission of any
45 criminal offense under s. 790.07, s. 790.10, s. 790.23, or s.
46 790.235, or for any other criminal offense.

47 Section 2. This act shall take effect July 1, 2014.
48

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/8/14
Meeting Date

Topic _____

Bill Number 296

Name Sheriff John Rutherford

Amendment Barcode 113622
(if applicable)

Job Title _____

Address Duval County Sheriff
Street

Phone _____

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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14

Meeting Date

Topic Emergency Evacuation

Bill Number 296
(if applicable)

Name Eric Friday

Amendment Barcode 113622
(if applicable)

Job Title General Counsel, Florida Carry

Address 541 E. Monroe St.

Phone 904-353-7733

Street

Jacksonville FL 32202

E-mail efriday@ericfriday.com

City

State

Zip

Speaking: For Against Information

Representing Florida Carry

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)

TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic MANDATORY EVACUATION

Bill Number SB-296
(if applicable)

Name MARION P. HAMMER

Amendment Barcode 113622
Sen. SOTO (if applicable)

Job Title _____

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE

FL

32302

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN 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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TESTIFY LAST PLEASE

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic MANDATORY EVACUATION

Bill Number SB-294
(if applicable)

Name MARION P. HAMMER

Amendment Barcode _____
(if applicable)

Job Title _____

Address P.O. BOX 1387
Street

Phone 850-222-9518

TALLAHASSEE FL 32302
City State Zip

E-mail _____

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/8/14
Meeting Date

Topic _____
Name Shenell John Rutherford
Job Title _____

Bill Number 296 (if applicable)
Amendment Barcode _____ (if applicable)

Address Dv
Street
City _____ State _____ Zip _____

Phone _____
E-mail _____

Speaking: For Against Information

Representing Florida Seniors 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Open Carry
Name Chris Dawson
Job Title _____

Bill Number 296 (if applicable)
Amendment Barcode _____ (if applicable)

Address 301 E. Pine Street
Street
Orlando FL 32801
City State Zip

Phone 850 449 0066
E-mail Chris.dawson@gray-robinson.com

Speaking: For Against Information

Representing FL Smart Justice Alliance

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

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

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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)

8 Apr 14

Meeting Date

Topic _____

Bill Number CS/CS/SB 296
(if applicable)

Name MG DON TYRE

Amendment Barcode _____
(if applicable)

Job Title ASSISTANT ADJUTANT GENERAL ARMY

Address 400 S. MONROE ST.
Street

Phone (850) 414-9049

TALLAHASSEE FL 32399
City State Zip

E-mail _____

Speaking: For Against Information

Representing DMA

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14

Meeting Date

Topic Emergency Evacuation

Bill Number 296
(if applicable)

Name Eric Friday

Amendment Barcode _____
(if applicable)

Job Title General Counsel, Florida Carry

Address 541 E. Monroe St.
Street

Phone 904-353-7733

Jacksonville FL 32202
City *State* *Zip*

E-mail efriday@ericfriday.com

Speaking: For Against Information

Representing Florida Carry

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)

4-8-14

Meeting Date

Topic Emergency Evacuation

Bill Number 296
(if applicable)

Name Eric Friday

Amendment Barcode 620494
(if applicable)

Job Title General Counsel, Florida Carry

Address 541 E. Monroe St.
Street
Jacksonville FL 32202
City State Zip

Phone 904-353-7733

E-mail efriday@ericfriday.com

Speaking: For Against Information

Representing Florida Carry

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)

3/10/14
Meeting Date

Topic _____

Bill Number 296

Name Sheriff John Rutherford

Amendment Barcode 620494
(if applicable)
(if applicable)

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Florida Sheriffs 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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TESTIFY LAST PLEASE

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic MANDATORY EVACUATION

Bill Number SB-296
(if applicable)

Name MARION P. HAMMER

Amendment Barcode 620494
(if applicable)
Sen. LATVALA

Job Title _____

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE FL 32302

E-mail _____

City

State

Zip

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN 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
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 396

INTRODUCER: Community Affairs Committee; Education Committee; and Senator Bean and others

SUBJECT: Joint Use and Public Access of Public School Facilities and Joint Community Projects

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hand	Klebacha	ED	Fav/CS
2.	Stearns	Yeatman	CA	Fav/CS
3.			JU	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 396 authorizes the use of certain public school properties; authorizes the development and operation of joint community projects between a district school board and a county, municipality, or Florida College System institution; states that joint use agreements may provide indemnification and insurance for a district school board; and provides that background screening requirements for certain noninstructional contractors do not apply under this law when there is no school-sponsored or school-related program or activity in progress.

II. Present Situation:

Public Use of School Facilities

Under current law, district school boards are authorized to allow public use of their educational facilities. For example:

- District school boards may permit the use of educational facilities and grounds for any legal assembly or for community use centers.¹ The district school board must adopt rules, regulations, or policies and procedures necessary to protect educational facilities and grounds when used for such purposes.²

¹ Section 1013.10, F.S.

² *Id.*

- Prior to permitting use of its facilities, a district school board must enter into an interlocal agreement with the relevant local government.³ The interlocal agreement must address a process for determining where and how joint use of school board facilities can be shared for mutual benefit and efficiency.⁴
- District school boards may exercise any power except as expressly prohibited by the State Constitution or general law.⁵

Limited Waiver of Sovereign Immunity

The doctrine of sovereign immunity precludes bringing suit against the government without its consent.⁶ Founded on the ancient principle that “the King can do no wrong,” sovereign immunity bars holding the government or its political subdivisions liable for torts of its officers or agents unless such immunity is expressly waived by statute or necessary inference from legislative enactment.⁷

Article X, s. 13 of the Florida Constitution authorizes the Legislature to waive sovereign immunity. Accordingly, via s. 768.28(1), F.S., the Legislature created a limited waiver of sovereign immunity in tort:

In accordance with s. 13, Art. X of the State Constitution, the state, for itself and for its agencies or subdivisions, hereby waives sovereign immunity for liability for torts, but only to the extent specified in this act. Actions at law against the state or any of its agencies or subdivisions to recover damages in tort for money damages against the state or its agencies or subdivisions for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee’s office or employment under circumstances in which the state or such agency or subdivision, if a private person, would be liable to the claimant, in accordance with the general laws of this state, may be prosecuted subject to the limitations specified in this act.

Liability is limited to \$200,000 by any one person, and \$300,000 for the same incident or occurrence.⁸

Background Screening

In 2007, background screening for noninstructional contractors who are permitted access to school grounds when students are present was revised via the creation of s. 1012.467, F.S. This

³ Section 163.31777, F.S. With a few municipal exceptions, all counties, municipalities, and district school boards have entered into interlocal agreements that include provisions related to joint use of facilities. Florida Department of Education, *Senate Bill 392 Bill Analysis* (January 28, 2013).

⁴ *Id.*

⁵ Section 1001.32(2), F.S.

⁶ *Black’s Law Dictionary* 1396 (6th ed. 1990).

⁷ *Id.*

⁸ Section 768.28(5), F.S.

law requires a fingerprint-based criminal history check to be performed on each noninstructional contractor:⁹

- Who is permitted access to school grounds when students are present;
- Whose performance of the contract with the school or school board is not anticipated to result in direct contact with students; and
- For whom any unanticipated contact would be infrequent and incidental.

“Noninstructional contractor” means:¹⁰

[A]ny vendor, individual, or entity under contract with a school or with the school board who receives remuneration for services performed for the school district or a school, but is not otherwise considered an employee of a contractor who performs services for the school district or school under the contract and any subcontractor and its employees.

III. Effect of Proposed Changes:

Public Use of School Facilities

The bill authorizes a district school board to enter into a joint-use agreement with a local government or a private organization. The bill also authorizes school boards to adopt public access policies, regarding indoor or outdoor recreation and sports facilities on public school property.

The joint-use agreement may specify the facilities to be used; dates and times of use; terms and conditions governing use; provide for the full indemnification of the district board by the local government or private organization for any damages arising from the joint use; and may require the local government or private organization to maintain liability insurance of at least \$200,000 per person and \$300,000 per incident to cover the indemnification.

Joint Community Projects

The bill authorizes a district school board to enter into an agreement with a county, municipality, or Florida College System institution to develop and operate joint community projects.

The joint community project agreement may specify how the project will be developed and operated; where the project will be located; that the operating entity may enter into joint-use agreements; how public access policies will be adopted; and any other provision necessary to develop and operate the joint community project.

The joint-use agreement for a joint community project may specify the facilities to be used; dates and times of use; terms and conditions governing use of such facilities; provide for the full indemnification of the district school board by the county, municipality, or Florida College System institution for any damages arising from the joint use; and may require the county,

⁹ See section 1012.467(2)(a), F.S.

¹⁰ See section 1012.467(1)(a), F.S.

municipality, or Florida College System institution to maintain liability insurance of at least \$200,000 per person and \$300,000 per incident to cover indemnification.

The bill specifies that it does not waive sovereign immunity beyond the limited waiver provided in s. 768.28, F.S.

Background Screening

To avoid potential confusion regarding the applicability of background screening requirements, the bill provides that s. 1012.467, F.S., does not apply to the portion of the property made available pursuant to this section when there is no school-sponsored or school-related program or activity in progress. The applicability of s. 1012.467, F.S., is not expanded by this bill.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 768.072 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS/CS by Community Affairs on March 8, 2014:

- Alters certain provisions regarding joint-use agreements from a list of required (“must”) components to a list of permitted (“may”) components.
- Alters certain provisions regarding joint community project agreements from a list of required (“must”) components to a list of permitted (“may”) components.
- Alters certain provisions regarding joint-use agreements entered into in furtherance of a joint community project from a list of required (“must”) components to a list of permitted (“may”) components.

CS by Education on March 25, 2014:

- Omits provisions that were in SB 396 regarding the:
 - Information to be included in public access policies.
 - Ability to appeal unresolved joint-access agreement negotiations to the superintendent.
 - Department of Education posting joint-use agreements on its website and issuing grants to implement joint-use agreements.
 - Restriction of the limited waiver of sovereign immunity for public school property being used pursuant to the bill.
- Adds provisions to SB 396 regarding the:
 - Information to be included in joint-use agreements, including requiring the full indemnification of the district school board for any damages arising from the joint use, and requiring liability insurance of at least \$200,000 per person and \$300,000 per incident to cover the indemnification.
 - District school board’s authority to enter into an agreement with a city, county, municipality, or Florida College System Institution to develop and operate a joint community project.
 - Exemption of s. 1012.467, F.S., relating to background screening for certain noninstructional contractors, to property used pursuant to this law when there is no school-sponsored or school-related program or activity in progress.

B. Amendments:

None.

By the Committee on Education; and Senators Bean and Bradley

581-03182A-14

2014396c1

1 A bill to be entitled

2 An act relating to the joint use and public access of
3 public school facilities and joint community projects;
4 creating s. 768.072, F.S.; authorizing district school
5 boards to enter into joint-use agreements with a local
6 government or a private organization or adopt public
7 access policies; providing criteria for joint-use
8 agreements; authorizing a district school board to
9 enter into agreements with a county, municipality, or
10 Florida College System institution to develop and
11 operate joint community projects; requiring such
12 agreements to have certain specifications; requiring
13 certain provisions to be included in joint-use
14 agreements for joint community projects, including
15 indemnification of district school boards and
16 liability insurance; providing applicability;
17 providing that s. 1012.467, F.S., does not apply when
18 there is no school-sponsored or school-related program
19 or activity in progress; providing an effective date.
20

21 Be It Enacted by the Legislature of the State of Florida:
22

23 Section 1. Section 768.072, Florida Statutes, is created to
24 read:

25 768.072 Indemnification and liability insurance
26 requirements for public school property joint-use agreements and
27 joint community projects.-

28 (1) A district school board may, at its discretion, enter
29 into a joint-use agreement with a local government or a private

581-03182A-14

2014396c1

30 organization or adopt public access policies to enable public
31 access to indoor or outdoor recreation and sports facilities on
32 public school property. A joint-use agreement must specify the
33 facilities to be used, the dates and times of use, and the terms
34 and conditions governing use of such facilities; must provide
35 for the full indemnification of the district school board by the
36 local government or private organization for any damages arising
37 from the joint use; and must require the local government or
38 private organization to maintain liability insurance of at least
39 \$200,000 per person and \$300,000 per incident to cover the
40 indemnification.

41 (a) A district school board may enter into agreements with
42 a county, municipality, or Florida College System institution to
43 develop and operate joint community projects. The agreements
44 must specify how the joint community projects will be developed
45 and operated, where the projects will be located, that the
46 operating entity may enter into joint-use agreements pursuant to
47 this subsection, how public access policies pursuant to this
48 subsection will be adopted, and any other provisions necessary
49 to develop and operate the joint community projects.

50 (b) A joint-use agreement for a joint community project
51 must specify the facilities to be used, the dates and times of
52 use, and the terms and conditions governing use of such
53 facilities; must provide for the full indemnification of the
54 district school board by the county, municipality, or Florida
55 College System institution for any damages arising from the
56 joint use; and must require the county, municipality, or Florida
57 College System institution to maintain liability insurance of at
58 least \$200,000 per person and \$300,000 per incident to cover the

581-03182A-14

2014396c1

59 indemnification.

60 (2) This section does not waive sovereign immunity beyond
61 the limited waiver in s. 768.28.

62 (3) Section 1012.467 does not apply to the portion of the
63 property made available pursuant to this section when there is
64 no school-sponsored or school-related program or activity in
65 progress. This subsection does not expand the applicability of
66 s. 1012.467.

67 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date

Topic Joint Use of Public School Facilities Bill Number 396
(if applicable)

Name Todd Rosenbaum Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 415 Suite B North Tarragona St Phone 850-525-0342

Street Pensacola, FL 32501 E-mail todd.rosenbaum@
City State Zip floridaymeas.org

Speaking: For Against Information

Representing Florida Alliance of YMCAs

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14

Meeting Date

Topic Joint Use & Public Access Bill Number SB 396
(if applicable)

Name Fely Curva Ph.D. Amendment Barcode _____
(if applicable)

Job Title Partner, Curva & Associates LLC

Address 1212 Piedmont Dr. Phone (850) 508-2256
Street

Tallahassee FL 32312 E-mail curva@mindspring.com
City State Zip

Speaking: For Against Information

Representing FL. Alliance for Healthy Physical Education, Recreation, Dance & Sports

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic Joint Use Agreements

Bill Number 396
(if applicable)

Name David Francis

Amendment Barcode _____
(if applicable)

Job Title Gov. Relations Dir

Address 2581 Remington Green Cir
Street

Phone 850-567-0528

Tall FL 32308
City State Zip

E-mail david.francis@heart.org

Speaking: For Against Information

Representing American Heart 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

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 26, 2014

I respectfully request that **Senate Bill # 396**, relating to Joint Use of Public School Facilities, be placed on the:

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

A handwritten signature in blue ink 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: CS/SB 1146

INTRODUCER: Commerce and Tourism Committee and Senator Altman

SUBJECT: Service Animals

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Malcolm</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
3.	_____	_____	<u>JU</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1146 amends Florida's disability rights law related to service animals to align it with similar provisions in the federal Americans with Disabilities Act (ADA) and the federal Fair Housing Act (FHA). The bill updates the definition of "individual with a disability" to include mental disabilities that limit at least one "major life activity." The bill also redefines "service animal" for the purposes of public accommodations as a dog or miniature horse trained to assist individuals with physical, sensory, psychiatric, intellectual, or other mental disabilities.

The bill requires businesses to modify policies and procedures to accommodate the use of a service animal by a person with a disability. A business may ask whether an animal is required because of a disability and what work the animal has been trained to perform, but may not ask about the nature or extent of an individual's disability. A service animal must be on a leash or harness, unless the individual's disability would make it impractical. A business may remove the animal if it is out of control, is not housebroken, or poses a serious threat to others.

The bill extends a guarantee of equal access to housing to disabled individuals who have emotional support animals. The bill defines an "emotional support animal" as an animal that provides emotional support to an individual who has a disability-related need for such support. Unless the need for an emotional support or service animal is apparent, a landlord may request medical documentation to verify the disability and need for the support animal.

The bill modifies penalties related to disabled persons with support animals. Interference with the rights of an individual with a disability or of a person training a service animal would be punished with 30 hours of community service, in addition to existing punishments associated with committing a second-degree misdemeanor. The bill creates a second-degree misdemeanor to knowingly and willfully misrepresent oneself as using a service animal or as a trainer of a service animal. Punishment for a violation includes 30 hours of community service.

II. Present Situation:

Americans with Disabilities Act

The Americans with Disabilities Act¹ prohibits discrimination against individuals with disabilities² in employment,³ in the provision of public services,⁴ and in public accommodations and businesses.⁵ One of the requirements of the ADA is that public entities and businesses provide reasonable accommodations to disabled individuals accompanied by a service animal in all areas that are open to the public.⁶

A “service animal” is defined as a dog that is individually trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.⁷ The work or tasks performed by a service dog must be directly related to the individual’s disability.⁸ Emotional support, comfort, and companionship provided by a dog, even for therapeutic or medical purposes, are insufficient to classify it as a service animal.⁹

Service dogs must be harnessed or leashed, unless doing so interferes with the dog’s work or the individual’s disability prevents doing so.¹⁰ A person with a disability cannot be asked to remove his or her service dog from the premises, unless it is out of control and the dog’s handler does not take action to control it, or if the dog is not housebroken.¹¹ However, if the dog is removed under such circumstances, the business or public entity must still allow the individual with a disability the opportunity to remain at the business or public entity without the service dog.¹²

Generally, when it is clear that a dog is trained to do work or perform tasks (such as a guide dog), a business or public entity may not ask about the necessity of the service dog. If it is not obvious what service or task the dog is providing, extremely limited questions are allowed: staff may only ask if a service dog is required because of a disability, and what tasks the dog has been

¹ 42 U.S.C. s. 12101 *et seq.*

² Under the ADA, a disability is broadly defined to mean a physical or mental impairment that substantially limits the major life activities of an individual. 42 U.S.C. s. 12102(1).

³ 42 U.S.C. s. 12112.

⁴ 42 U.S.C. s. 12132.

⁵ 42 U.S.C. s. 12182.

⁶ 28 C.F.R. ss. 36.302(a) and (c)(7) and 35.136(a) and (g).

⁷ 28 C.F.R. ss. 35.104 and 36.104.

⁸ *Id.*

⁹ *Id.*; ADA National Network, *Service Animals and Emotional Support Animals: Where are they allowed and under what conditions?*, 3 (2014), available at [http://adata.org/sites/adata.org/files/files/Service_Animal_Booklet_2014\(1\).pdf](http://adata.org/sites/adata.org/files/files/Service_Animal_Booklet_2014(1).pdf) (last visited Apr. 4, 2014).

¹⁰ 28 C.F.R. ss. 35.136(d) and 36.302(b)(4).

¹¹ 28 C.F.R. ss. 35.136(b) and 36.302(c)(2).

¹² 28 C.F.R. ss. 35.136(c) and 36.302(c)(3).

trained to perform.¹³ Any other questions, including the nature and extent of the person's disability or medical documentation, are prohibited.¹⁴

Although the definition of a service animal is limited to dogs, the ADA contains an additional provision related to miniature horses that have been individually trained to work or perform tasks for people with disabilities.¹⁵ Miniatures horses are an alternative to individuals with disabilities who may be allergic to dogs; miniature horses also have life spans considerably longer than dogs and are generally stronger than most dogs.¹⁶ Similar to the requirements for service dogs, public entities and public accommodations and businesses must permit the use of a miniature horse by a person with a disability where reasonable. In determining whether permitting a miniature horse is reasonable, a facility must consider four factors: whether the miniature horse is housebroken; whether the miniature horse is under the owner's control; whether the facility can accommodate the miniature horse's type, size, and weight; and whether the miniature horse's presence will compromise safety requirements.¹⁷

If a business or public entity violates the ADA, a private party may file suit to obtain a court order to stop the violation. No monetary damages will be available in such suits; however, reasonable attorney's fee may be awarded.¹⁸ Individuals may also file complaints with the U.S. Attorney General who is authorized to bring lawsuits in cases of general public importance or where a "pattern or practice" of discrimination is alleged. In suits brought by the Attorney General, monetary damages and civil penalties may be awarded. Civil penalties may not exceed \$50,000 for a first violation or \$100,000 for any subsequent violation.¹⁹

Fair Housing Act

The federal Fair Housing Act²⁰ prohibits discrimination against a person with a disability in the sale or rental of housing.²¹ Similar to the ADA, the FHA also requires a landlord to provide reasonable accommodations, including permitting the use of service animals, to a person with a disability.²² However, unlike the ADA, which does not require reasonable accommodations for emotional support animals, accommodation of untrained emotional support animals may be required under the FHA if such an accommodation is reasonably necessary to allow a person

¹³ 28 C.F.R. ss. 35.136(f) and 36.302(c)(6).

¹⁴ *Id.*

¹⁵ 28 C.F.R. ss. 35.136(i) and 36.302(c)(9). Miniature horses generally range in height from 2 to 3 feet to the shoulders and weigh between 70 and 100 pounds. U.S. Dep't of Justice, Civil Rights Division, *Service Animals*, 3 (July 2011), available at http://www.ada.gov/service_animals_2010.pdf (last visited Apr. 4, 2014).

¹⁶ U.S. Dep't. of Justice, *Americans with Disabilities Act Title III Regulations: Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities*, 96 (Sept. 15, 2010) available at http://www.ada.gov/regs2010/titleIII_2010/titleIII_2010_regulations.pdf (last visited Apr. 4, 2014).

¹⁷ 28 C.F.R. ss. 35.136(i) and 36.302(c)(9).

¹⁸ 42 U.S.C. ss. 12188 and 2000a-3.

¹⁹ 42 U.S.C. s 12188.

²⁰ 42 U.S.C. s. 3601 *et seq.*

²¹ 42 U.S.C. s. 3604(f).

²² *Id.*; 24 C.F.R. 5.303.

with a handicap an equal opportunity to enjoy and use housing.²³ A reasonable accommodation may include waiving a no-pet rule or a pet deposit.²⁴

A landlord may not ask about the existence, nature, and extent of a person's disability. However, an individual with a disability who requests a reasonable accommodation may be asked to provide documentation so that the landlord can properly review the accommodation request. They can ask a person to certify, in writing, that the tenant or a member of his or her family is a person with a disability; the need for the animal to assist the person with that specific disability; and that the animal actually assists the person with a disability.²⁵

Florida Service Animal Law

Section 413.08, F.S., is Florida's companion to the ADA and FHA provisions regarding service animals, and while the three are broadly similar, s. 413.08, F.S., contains some significant differences from the ADA and the FHA. Consequently, businesses and public entities in Florida that comply with Florida law may be in violation of the ADA or the FHA.

Section 413.08, F.S., provides that an individual with a disability is entitled to equal access in public accommodations,²⁶ public employment,²⁷ and housing.²⁸ An "individual with a disability" means a person who is deaf, hard of hearing, blind, visually impaired, or otherwise has a physical impairment that substantially limits one or more major life activities.²⁹ Unlike the ADA and FHA, this definition does not include mental impairment, which includes such mental or psychological disorders as panic disorders or posttraumatic stress disorder. Consequently, s. 413.08, F.S., is narrower in scope than the ADA and FHA.

Under s. 413.08, F.S., an individual with a disability has the right to be accompanied by a trained service animal in all areas of public accommodations that the public is normally allowed to occupy.³⁰ However, unlike the ADA, s. 413.08, F.S., does not require a public accommodation to provide *reasonable accommodations* to such individuals.

Section 413.08, F.S., defines "service animal" broadly to mean "an animal that is trained to perform tasks for an individual with a disability," and does not limit service animals only to dogs as in the ADA.³¹ Additionally, because the definition of "individual with a disability" under s. 413.08, F.S., does not include mental impairment, an animal that is trained to perform work or

²³ Pet Ownership for the Elderly and Persons With Disabilities, 73 Fed Reg. 63834, 63836 (Oct. 27, 2008); see, *Fair Housing of the Dakotas, Inc. v. Goldmark Prop. Mgmt., Inc.*, 778 F. Supp. 2d 1028, 1036 (D.N.D. 2011) (finding that "the FHA encompasses all types of assistance animals regardless of training . . ."); *Overlook Mut. Homes, Inc. v. Spencer*, 666 F. Supp. 2d 850, 859 (S.D. Ohio 2009).

²⁴ See 24 C.F.R. s. 100.204 (Example (1)); *Intermountain Fair Housing Council v. CVE Falls Park, L.L.C.*, 2011 WL 2945824 (D. Idaho 2011); *Bronk v. Ineichen*, 54 F. 3d 425, 429 (7th Cir. 1995).

²⁵ 73 Fed Reg. 63834.

²⁶ Section 413.08(2), F.S. "Public accommodation" means "a common carrier, airplane, motor vehicle, railroad train, motor bus, streetcar, boat, or other public . . . transportation; hotel; lodging place; place of public accommodation, amusement, or resort; and other places to which the general public is invited" Section 413.08(1)(c), F.S.

²⁷ Section 413.08(5), F.S.

²⁸ *Id.* at (6).

²⁹ *Id.* at (1)(b).

³⁰ *Id.* at (3).

³¹ *Id.* at (1)(d).

tasks for an individual with a mental impairment is not considered a service animal under s. 413.08, F.S., as it would be under the ADA. Section 413.08, F.S., also does not provide for the use of miniature horses by individuals with disabilities.

Similar to the ADA, s. 413.08, F.S., provides that documentation that a service animal is trained is not a precondition for providing service, though a public accommodation may ask if an animal is a service animal and what tasks it is trained to perform.³² However, unlike the ADA, s. 413.08, F.S., does not prohibit asking about the nature or extent of an individual's disability nor does it require the service animal be under the control of its handler and have a harness or leash. Although s. 413.08, F.S., permits a public accommodation to exclude or remove a service animal if its behavior poses a direct threat to the health and safety of others,³³ unlike the ADA it does not specify that a public accommodation may remove a service animal if it is out of control or not housebroken.

Like the FHA, under s. 413.08, F.S., an individual with a disability is entitled to rent or purchase any housing accommodations subject to the same conditions that are applicable to everyone.³⁴ An individual with a disability who has a service animal is entitled to full and equal access to all housing accommodations, and may not be required to pay extra compensation for the service animal.³⁵ Unlike the FHA, s. 413.08, F.S., does not provide an individual with a disability who has an *emotional support animal* with the same housing accommodation rights as an individual with a disability who has a service animal.

Section 413.08, F.S., provides that any person who denies or interferes with the rights of a person with a disability or an individual training a service animal commits a second-degree misdemeanor.³⁶

III. Effect of Proposed Changes:

Section 1 amends s. 413.08, F.S., to conform Florida's disability rights law regarding service animals to the ADA and the FHA.

The bill revises the definition of "individual with a disability" to mean a person with a physical or *mental impairment* that substantially limits one or more major life activities, such as caring for oneself, walking, seeing, speaking, and performing manual tasks. A "physical or mental impairment" is defined to include physiological disorders that affect one or more bodily functions, and *mental or psychological disorders* as specified by the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

The definition of "service animal" is revised to include animals trained to work or perform tasks to assist individuals with psychiatric, intellectual, or other mental disabilities. The work or tasks performed by the service animal must be directly related to the disability. The bill includes

³² *Id.* at (3)(a).

³³ *Id.* at (3)(e).

³⁴ *Id.* at (6).

³⁵ *Id.* at (6)(b).

³⁶ A second-degree misdemeanor is punishable by up to 60 days in jail or a fine up to \$500. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

additional examples of work or tasks performed by a service animal, such as reminding an individual with mental illness to take his or her medications and calming an individual with posttraumatic stress disorder during an anxiety attack. The bill specifies that any crime-deterrent effect due to an animal's presence or the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks within the definition of a service animal. Further, for the purposes of provisions related to public accommodations, a service animal is limited to dogs and miniature horses.

The bill requires a public accommodation to modify its policies, practices, and procedures to permit use of a service animal by a person with a disability. The bill also provides that a service animal must be kept under the control of its handler by a leash or harness, unless doing so interferes with the dog's work or the individual's disability prevents doing so. A public accommodation may remove the animal if it is out of control and the handler does not take effective measures to control it, the animal is not housebroken, or the animal's behavior poses a serious threat to others. A public accommodation may not ask about the nature or extent of an individual's disability in order to determine whether an animal is a service animal or pet, but it may ask whether an animal is a service animal required because of a disability and what work the animal has been trained to perform.

The bill provides that in addition to an individual with a disability who has a service animal, an individual with a disability who has an emotional support animal has equal access to housing accommodations and may not be required to pay extra compensation for housing because of the emotional support animal. The bill defines an "emotional support animal" as an animal that provides emotional support to an individual with a disability who has a disability-related need for such support and that alleviates the symptoms or effects of an individual's disability. Training is not required for an animal to be classified as an "emotional support animal." Unless the need for an emotional support or service animal is apparent, a landlord may request medical documentation from an individual to verify the disability and need for a service or emotional support animal.

The bill provides an additional penalty for any person who interferes with the rights of an individual with a disability or a person training a service animal. In addition to the current second-degree misdemeanor penalty, the bill also requires 30 hours of community service for an organization that serves individuals with disabilities or other court-determined organization to be completed within 6 months.

Finally, the bill makes it a second-degree misdemeanor to knowingly and willfully misrepresent oneself as using a service animal and being qualified to use a service animal, or as a trainer of a service animal. A violation is punishable by up to 60 days in jail, a fine up to \$500,³⁷ and 30 hours of community service for an organization that serves individuals with disabilities or other court-determined organization to be completed within 6 months.

Section 2 provides an effective date of July 1, 2014.

³⁷ Sections 775.082(4)(b) and 775.083(1)(e), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By aligning Florida law with the ADA and FHA, businesses in Florida that comply with Florida law may no longer be out of compliance with the ADA and FHA with regard to service animals and emotional support animals. The bill may provide greater accessibility to businesses and housing for individuals with disabilities who use service animals and emotional support animals.

C. Government Sector Impact:

According to the Office of the State Courts Administrator, the bill will have an insignificant impact on the workload for the judiciary.³⁸

The Criminal Justice Impact Conference has not yet determined the impact of this bill on prison beds. Additionally, the impact of the bill on the Attorney General or state attorneys has not been determined; however, it may increase caseloads for these agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 413.08 of the Florida Statutes.

³⁸ Office of the State Courts Administrator, *2014 Judicial Impact Statement: SB 1146* (Mar. 5, 2014).

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce and Tourism Committee on March 31, 2014:

The committee substitute:

- Clarifies the definition of “emotional support animal”;
- Limits service animals to only dogs and miniature horses for the purposes of public accommodations;
- Provides that nothing in the bill limits a person’s rights or remedies under state or federal law; and
- Reduces the time that someone who violates the provisions of the bill has to complete community service from 1 year to 6 months.

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 Commerce and Tourism; and Senator Altman

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1 A bill to be entitled
2 An act relating to service animals; amending s.
3 413.08, F.S.; providing and revising definitions;
4 requiring a public accommodation to permit use of a
5 service animal by an individual with a disability
6 under certain conditions; providing conditions for a
7 public accommodation to exclude or remove a service
8 animal; revising penalties to include community
9 service for certain persons or entities who interfere
10 with use of a service animal in specified
11 circumstances; providing equal access to housing
12 accommodations for an individual with a disability
13 accompanied by an emotional support animal; providing
14 conditions under which a landlord may request
15 documentation of a qualifying disability; providing a
16 penalty for knowing and willful misrepresentation with
17 respect to use or training of a service animal;
18 providing an effective date.

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

21
22 Section 1. Section 413.08, Florida Statutes, is amended to
23 read:

24 413.08 Rights and responsibilities of an individual with a
25 disability; use of a service or emotional support animal;
26 prohibited discrimination in public employment, public
27 accommodations, and ~~or~~ housing accommodations; penalties.—

28 (1) As used in this section and s. 413.081, the term:

29 (a) "Emotional support animal" means an animal that

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30 provides emotional support to individuals with disabilities who
31 have a disability-related need for such support and that
32 alleviates one or more identified symptoms or effects of an
33 individual's disability. Training is not required for an
34 emotional support animal.

35 (b)-(a) "Housing accommodation" means any real property or
36 portion thereof which is used or occupied, or intended,
37 arranged, or designed to be used or occupied, as the home,
38 residence, or sleeping place of one or more persons, but does
39 not include any single-family residence, the occupants of which
40 rent, lease, or furnish for compensation not more than one room
41 therein.

42 (c)-(b) "Individual with a disability" means a person who
43 has a physical or mental impairment that substantially limits
44 one or more major life activities of the individual ~~is deaf,~~
45 ~~hard of hearing, blind, visually impaired, or otherwise~~
46 ~~physically disabled.~~ As used in this paragraph, the term:

47 1. "Major life activity" means a function such as caring
48 for oneself, performing manual tasks, walking, seeing, hearing,
49 speaking, breathing, learning, and working "Hard of hearing"
50 ~~means an individual who has suffered a permanent hearing~~
51 ~~impairment that is severe enough to necessitate the use of~~
52 ~~amplification devices to discriminate speech sounds in verbal~~
53 ~~communication.~~

54 2. "Physical or mental impairment" means:

55 a. A physiological disorder or condition, disfigurement, or
56 anatomical loss that affects one or more bodily functions; or

57 b. A mental or psychological disorder that meets one of the
58 diagnostic categories specified in the most recent edition of

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59 the Diagnostic and Statistical Manual of Mental Disorders
60 published by the American Psychiatric Association, such as an
61 intellectual or developmental disability, organic brain
62 syndrome, traumatic brain injury, posttraumatic stress disorder,
63 or an emotional or mental illness ~~“Physically disabled” means~~
64 ~~any person who has a physical impairment that substantially~~
65 ~~limits one or more major life activities.~~

66 (d) ~~(e)~~ “Public accommodation” means a common carrier,
67 airplane, motor vehicle, railroad train, motor bus, streetcar,
68 boat, or other public conveyance or mode of transportation;
69 hotel; lodging place; place of public accommodation, amusement,
70 or resort; and other places to which the general public is
71 invited, subject only to the conditions and limitations
72 established by law and applicable alike to all persons.

73 (e) ~~(d)~~ “Service animal” means an animal that is trained to
74 do work or perform tasks for an individual with a disability,
75 including a physical, sensory, psychiatric, intellectual, or
76 other mental disability. The work done or tasks performed must
77 be directly related to the individual’s disability and may
78 include, but are not limited to, guiding an individual ~~a person~~
79 who is visually impaired or blind, alerting an individual ~~a~~
80 ~~person~~ who is deaf or hard of hearing, pulling a wheelchair,
81 assisting with mobility or balance, alerting and protecting an
82 individual ~~a person~~ who is having a seizure, retrieving objects,
83 alerting an individual to the presence of allergens, providing
84 physical support and assistance with balance and stability to an
85 individual with a mobility disability, helping an individual
86 with a psychiatric or neurological disability by preventing or
87 interrupting impulsive or destructive behaviors, reminding an

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88 individual with mental illness to take prescribed medications,
89 calming an individual with posttraumatic stress disorder during
90 an anxiety attack, or doing other specific work or performing
91 other special tasks. A service animal is not a pet. For the
92 purposes of subsections (2), (3), and (4), the term "service
93 animal" is limited to a dog or miniature horse. The crime-
94 deterrent effect of an animal's presence and the provision of
95 emotional support, well-being, comfort, or companionship do not
96 constitute work or tasks for purposes of this definition.

97 (2) An individual with a disability is entitled to full and
98 equal accommodations, advantages, facilities, and privileges in
99 all public accommodations. A public accommodation must modify
100 its policies, practices, and procedures to permit use of a
101 service animal by an individual with a disability. This section
102 does not require any person, firm, business, or corporation, or
103 any agent thereof, to modify or provide any vehicle, premises,
104 facility, or service to a higher degree of accommodation than is
105 required for a person not so disabled.

106 (3) An individual with a disability has the right to be
107 accompanied by a service animal in all areas of a public
108 accommodation that the public or customers are normally
109 permitted to occupy.

110 (a) The service animal must be under the control of its
111 handler and must have a harness, leash, or other tether, unless
112 either the handler is unable because of a disability to use a
113 harness, leash, or other tether, or the use of a harness, leash,
114 or other tether would interfere with the service animal's safe,
115 effective performance of work or tasks, in which case the
116 service animal must be otherwise under the handler's control by

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117 means of voice control, signals, or other effective means.

118 (b)~~(a)~~ Documentation that the service animal is trained is
119 not a precondition for providing service to an individual
120 accompanied by a service animal. A public accommodation may not
121 ask about the nature or extent of an individual's disability. To
122 determine the difference between a service animal and a pet, a
123 public accommodation may ask if an animal is a service animal
124 required because of a disability and what work or ~~what~~ tasks the
125 animal has been trained to perform ~~in order to determine the~~
126 ~~difference between a service animal and a pet.~~

127 (c)~~(b)~~ A public accommodation may not impose a deposit or
128 surcharge on an individual with a disability as a precondition
129 to permitting a service animal to accompany the individual with
130 a disability, even if a deposit is routinely required for pets.

131 (d)~~(e)~~ An individual with a disability is liable for damage
132 caused by a service animal if it is the regular policy and
133 practice of the public accommodation to charge nondisabled
134 persons for damages caused by their pets.

135 (e)~~(d)~~ The care or supervision of a service animal is the
136 responsibility of the individual owner. A public accommodation
137 is not required to provide care or food or a special location
138 for the service animal or assistance with removing animal
139 excrement.

140 (f)~~(e)~~ A public accommodation may exclude or remove any
141 animal from the premises, including a service animal, if the
142 animal is out of control and the animal's handler does not take
143 effective action to control it, the animal is not housebroken,
144 or the animal's behavior poses a direct threat to the health and
145 safety of others. Allergies and fear of animals are not valid

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146 reasons for denying access or refusing service to an individual
147 with a service animal. If a service animal is excluded or
148 removed for being a direct threat to others, the public
149 accommodation must provide the individual with a disability the
150 option of continuing access to the public accommodation without
151 having the service animal on the premises.

152 (4) Any person, firm, or corporation, or the agent of any
153 person, firm, or corporation, who denies or interferes with
154 admittance to, or enjoyment of, a public accommodation or
155 otherwise interferes with the rights of an individual with a
156 disability or the trainer of a service animal while engaged in
157 the training of such an animal pursuant to subsection (8),
158 commits a misdemeanor of the second degree, punishable as
159 provided in s. 775.082 or s. 775.083 and must perform 30 hours
160 of community service for an organization that serves individuals
161 with disabilities, or for another entity or organization at the
162 discretion of the court, to be completed in not more than 6
163 months.

164 (5) It is the policy of this state that an individual with
165 a disability be employed in the service of the state or
166 political subdivisions of the state, in the public schools, and
167 in all other employment supported in whole or in part by public
168 funds, and an employer may not refuse employment to such a
169 person on the basis of the disability alone, unless it is shown
170 that the particular disability prevents the satisfactory
171 performance of the work involved.

172 (6) An individual with a disability is entitled to rent,
173 lease, or purchase, as other members of the general public, any
174 housing accommodations offered for rent, lease, or other

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175 compensation in this state, subject to the conditions and
176 limitations established by law and applicable alike to all
177 persons.

178 (a) This section does not require any person renting,
179 leasing, or otherwise providing real property for compensation
180 to modify her or his property in any way or provide a higher
181 degree of care for an individual with a disability than for a
182 person who is not disabled.

183 (b) An individual with a disability who has a service
184 animal or an emotional support animal or who obtains a service
185 animal or an emotional support animal is entitled to full and
186 equal access to all housing accommodations provided for in this
187 section, and such a person may not be required to pay extra
188 compensation for such ~~the service~~ animal. However, such a person
189 is liable for any damage done to the premises or to another
190 person on the premises by the ~~such an~~ animal. A housing
191 accommodation may request proof of compliance with vaccination
192 requirements. This section does not limit the rights or remedies
193 of a housing accommodation or a person with a disability which
194 are granted by federal law or another law of this state and
195 which relate to service animals or emotional support animals.

196 (c) Except when the disability and the need for the service
197 or emotional support animal are readily apparent, such as when
198 it is observed guiding, pulling, or providing physical
199 assistance to an individual who is blind, has low vision, uses a
200 wheelchair, or needs the animal for stability, a landlord may
201 request medical documentation that a tenant has a qualifying
202 disability and how the service or emotional support animal
203 alleviates one or more identified symptoms or effects of the

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204 individual's disability.

205 (7) An employer covered under subsection (5) who
206 discriminates against an individual with a disability in
207 employment, unless it is shown that the particular disability
208 prevents the satisfactory performance of the work involved, or
209 any person, firm, or corporation, or the agent of any person,
210 firm, or corporation, providing housing accommodations as
211 provided in subsection (6) who discriminates against an
212 individual with a disability, commits a misdemeanor of the
213 second degree, punishable as provided in s. 775.082 or s.
214 775.083.

215 (8) Any trainer of a service animal, while engaged in the
216 training of such an animal, has the same rights and privileges
217 with respect to access to public facilities and the same
218 liability for damage as is provided for those persons described
219 in subsection (3) accompanied by service animals.

220 (9) A person who knowingly and willfully misrepresents
221 herself or himself, through conduct or verbal or written notice,
222 as using a service animal and being qualified to use a service
223 animal or as a trainer of a service animal commits a misdemeanor
224 of the second degree, punishable as provided in s. 775.082 or s.
225 775.083 and must perform 30 hours of community service for an
226 organization that serves individuals with disabilities, or for
227 another entity or organization at the discretion of the court,
228 to be completed in not more than 6 months.

229 Section 2. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 8, 201
Meeting Date

Topic ~~Am~~ Service Animals

Bill Number CS/SB 1146
(if applicable)

Name Kyra Alejandro

Amendment Barcode _____
(if applicable)

Job Title Citizen

Address 15789 44th ST N

Phone (561) 891 4110

Street
Loxahatchee FL 33470
City *State* *Zip*

E-mail Kyra3085@gmail.com

Speaking: For Against Information

Representing myself

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Service Animals

Bill Number CS/SB 1146
(if applicable)

Name Fred Baggett

Amendment Barcode _____
(if applicable)

Job Title _____

Address 101 E. College Ave.
Street

Phone 425 8512

Tallahassee
City State Zip

E-mail BaggettF@GTLaw.Com

Speaking: For Against Information

Representing Airlines for America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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 18 2014

Meeting Date

Topic _____

Bill Number 1146
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Service Animals Bill Number 1146
(if applicable)

Name Sylvia Smith Amendment Barcode _____
(if applicable)

Job Title Director of Legislative Affairs

Address 2728 Center view Dr Phone 850-322-2258

Street

TLH

FL

32301

City

State

Zip

E-mail SylviaS@

disabilityrightsflorida.org

Speaking: For Against Information

Representing Disability Rights 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

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN

16th District

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

SELECT COMMITTEE

Indian River Lagoon and Lake Okeechobee

JOINT COMMITTEE:

Joint Administrative Procedures Committee

April 3, 2014

The Honorable Wilton Simpson
Senate Committee on Community Affairs, Chair
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

I respectfully request that CS/SB 1146, *related to Service Animals*, 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 blue ink that reads "Thad Altman".

Thad Altman

cc: Tom Yeatman, Staff Director, 315 Knott Building
Ann Whittaker, Committee Administrative Assistant

TA/svb

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: CS/SB 772

INTRODUCER: Transportation Committee and Senator Garcia

SUBJECT: Expressway Authorities

DATE: April 8, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	White	Yeatman	CA	Favorable
			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 772 revises provisions of ch. 348, F.S., governing the Miami-Dade County Expressway Authority (MDX), the Tampa-Hillsborough County Expressway Authority (THEA), the Orlando-Orange County Expressway Authority (OOCEA), and the Osceola County Expressway Authority (OCX), to impose certain membership restrictions, post-employment restrictions, and ethics and financial disclosure requirements. More specifically, the bill:

- Prohibits members of the authorities from serving on certain other transportation-related entities while serving on an authority.
- Prohibits lobbyists from serving as a member of any of the authorities.
- Provides certain post-employment restrictions for authority members or executive directors and penalties for violations.
- Requires certain conflict of interest disclosures by board members, employees, or consultants of the authorities.
- Requires an authority's general counsel to serve as ethics officer and to review the required disclosure forms, except that an authority's executive director is required to review the forms filed by the general counsel.
- Requires the authorities to outline the conflict of interest process in each authority's Code of Ethics.
- Requires each ethics officer to review, update, and present for board approval at least once every two years each authority's Code of Ethics policy.
- Prohibits employees and consultants of the authorities from serving on the governing body of an authority while employed by or under contract with that authority.

- Requires employees to be adequately informed and trained on the ethics code and to continually participate in ongoing ethics education.

The bill also revises the powers of the THEA to authorize construction, operation, and maintenance of certain transportation facilities, including those within the jurisdictional boundaries of a consenting contiguous county, similar to the OOCEA's current authority.

II. Present Situation:

Miami-Dade County Expressway Authority

The Florida Expressway Authority Act (Act), codified in part I of ch. 348, F.S., authorizes any county or two or more contiguous counties within a single district of the Florida Department of Transportation (FDOT) to form an expressway authority by resolution adopted by the board of county commissioners. The MDX is the only expressway authority created under the Act.¹ The MDX was created by the Miami-Dade County Commission in 1994, pursuant to Chapter 2 Article XVIII of the Miami-Dade County Code of Ordinances.²

MDX's system consists of the following roadways in Miami-Dade County:

- Airport Expressway (State Road 112);
- Dolphin Expressway (State Road 836);
- Don Shula Expressway (State Road 874);
- Snapper Creek Expressway (State Road 878); and
- Gratigny Parkway (State Road 924).

Tampa-Hillsborough County Expressway Authority

The THEA is created in part II of ch. 348, F.S., and is authorized to construct, reconstruct, improve, extend, repair, maintain, and operate an expressway system in Hillsborough County.³ The THEA owns the four-lane Selmon Expressway, which is a 15-mile limited access toll road crossing the City of Tampa from Gandy Boulevard in south Tampa, through downtown Tampa and east to I-75 and Brandon.

Orlando-Orange County Expressway Authority

The OOCEA, created in part III of ch. 348, F.S., currently serves Orange County and is authorized to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in the county, as well as outside the jurisdictional boundaries of Orange County with the consent of the county within whose jurisdiction the activities occur.⁴ The OOCEA currently owns and operates 105 centerline miles of roadway in Orange County consisting of:

- 22 miles of the Spessard L. Holland East-West Expressway (SR 408);

¹ While MDX is the only authority created pursuant to the Act, Part V of ch. 348, F.S., creating the Osceola County Expressway Authority contains numerous references to the Act.

² Miami-Dade County Regulations, Art. XVII, Miami-Dade County Expressway Authority, available at http://miamidade.fl.eregulations.us/rule/coor/coor_ptiii_ch2_artxviii (Last visited Apr. 4, 2014).

³ Section 348.53, F.S.

⁴ Section 348.754(2)(n), F.S.

- 23 miles of the Martin Andersen Beachline Expressway (SR 528);
- 33 miles of the Central Florida GreeneWay (SR 417);
- 22 miles of the Daniel Webster Western Beltway (SR 429) and
- 5 miles of the John Land Apopka Expressway (SR 414).

Osceola County Expressway Authority

The 2010 Legislature created the Osceola County Expressway Authority in part V of ch. 348, F.S. The OCX currently serves Osceola County and has the purposes and powers identified in the Florida Expressway Authority Act,⁵ including the power to acquire, hold, construct, improve, maintain, operate, and own an expressway system.⁶ The OCX is not currently operating any facility and has no funding or staffing. Staff assistance and other support have been provided by Osceola County. The OCX has recently begun construction of the Poinciana Parkway pursuant to an agreement with Osceola County.⁷

III. Effect of Proposed Changes:

MDX, THEA, OOCEA and OCX (Sections 1, 2, 5, and 6)

The bill applies the same ethics and accountability requirements to each of the identified authorities by amending, respectively:

- Section 348.0003, F.S., under which the MDX is currently created;
- Section 348.52, relating to the THEA;
- Section 348.753, F.S., relating to the OOCEA; and
- Section 348.9952, F.S., relating to the OCX.

Membership and Service

The bill prohibits a member of an authority appointed by the governing board of the county or appointed by the Governor from serving as a member of any other transportation-related board, commission, or organization with audit oversight of an authority while serving as a member of that authority. Lobbyists⁸ are prohibited from being appointed or serving as a member of an authority. Authority employees and consultants are prohibited from serving on an authority's governing board while employed by or under contract with that authority.

⁵ Part I of ch. 348, F.S.

⁶ Section 348.0004, F.S.

⁷ FTC's *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 171.

⁸ Section 112.3215(1)(h), F.S., defines "lobbyist" as "a person who is employed and receives payment, or who contracts for economic consideration, for the purpose of lobbying, or a person who is principally employed for governmental affairs by another person or governmental entity to lobby on behalf of that other person or governmental entity. "Lobbyist" does not include a person who is:

1. An attorney, or any person, who represents a client in a judicial proceeding or in a formal administrative proceeding conducted pursuant to chapter 120 or any other formal hearing before an agency, board, commission, or authority of this state.
2. An employee of an agency or of a legislative or judicial branch entity acting in the normal course of his or her duties.
3. A confidential informant who is providing, or wishes to provide, confidential information to be used for law enforcement purposes.
4. A person who lobbies to procure a contract pursuant to chapter 287 which contract is less than the threshold for CATEGORY ONE as provided in s. 287.017."

Post-Employment Restrictions

A member or an executive director of an authority is prohibited from the following:

- Personally representing another person or entity for compensation before an authority within two years after vacating his or her position; and
- After vacating a board member or executive director position, having an employment or contractual relationship with a business entity other than an agency⁹ in connection with a contract in which the member or executive director personally and substantially participated while a member or employee of an authority.

Violations of the restrictions are punishable in accordance with s. 112, 317, F.S., generally punishable by a number of measures. The possible penalties range, for example, from impeachment or removal from office, suspension or dismissal from employment, and loss of some portion of salary, to public censure and reprimand, a \$10,000 civil penalty, and restitution of any benefits received because of a violation.

Ethics, Disclosure, and Accountability

An authority board member, employee, or consultant holding a position that may influence authority decisions may not engage in any relationship that would adversely affect his or her judgment in carrying out authority business. Each such member, employee, or consultant is required to annually make the following disclosures on a disclosure form to prevent such conflicts:

- Any relationship which affords a current or future financial benefit to such person, or to a relative or business associate of such person, and which reasonable person would conclude has the potential to create a prohibited conflict of interest;
- Whether a relative of such person is a registered lobbyist and, if so, the names of the lobbyist's clients, which names must be provided in writing to the ethics officer; and
- All interests in real property that such person has, if the property is located within, or within a half mile radius of, any actual or prospective authority roadway project. The executive director is required to provide a corridor map and a property ownership list reflecting the ownership of all real property within the disclosure area, or an alignment map with a list of associated owners to all board members, employees, and consultants.

Each authority's general counsel is required to serve as the authority's ethics officer, who must review the described disclosure forms, except that the executive director is required to review forms filed by the general counsel. The ethics officer must review, update, and present for board approval at least biannually the ethics policy. Employees must be adequately informed and trained on the Code of Ethics and continually participate in ongoing ethics education.

The bill also relocates in each of the amended sections, and conforms in the latter, existing language relating to members' removal from office by the Governor and reimbursement for

⁹ Section 112.312(2), F.S., defines "agency" as "any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university."

travel and other expenses. Likewise, existing language relating to constitutional financial disclosure requirements and their applicability is relocated.

THEA (Sections 3 and 4)

The bill amends s. 348.53, F.S., revising the Legislative declaration of the THEA's purposes for the benefit of the people to include managed lanes.

The bill also amends s. 348.54, F.S., to authorize the THEA, with the consent of a contiguous county within whose jurisdiction the activities occur, and similar to the OOCEA's current authorization, to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, boulevards, and managed lanes outside Hillsborough County, together with the right to construct, operate, and maintain facilities and electronic toll payment systems thereon or incidental thereto.

Section 7 conforms a cross-reference necessitated by other changes in the act.

Section 8 provides an effective date of July 1, 2014.

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Whether any transportation-related board, commission, or organization has “audit oversight” of any of the identified authorities is unclear.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 348.003, 348.52, 348.53, 348.54, 348.753, 348.9952, and 343.0003.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on April 3, 2014:

The CS revises provisions governing the MDX, the THEA, the OOCEA, and the OCX, to:

- Prohibit certain authority members from serving as a member of any other transportation-related entity with audit oversight of an authority while serving as a member of that authority;
- Prohibit lobbyists from serving as a member of an authority;
- Provide post-employment restrictions for an authority member or executive director and penalties for violations of the restrictions;
- Provide ethics, conflict of interest, and disclosure requirements for members, employees, and consultants of an authority; and
- Authorize the THEA, with the consent of a contiguous county, to construct, operate, and maintain certain transportation facilities, including managed lanes, outside Hillsborough County, as well as the right to construct, operate, and maintain facilities and electronic toll payment systems.

The CS removes the following from the original bill:

- Revisions to the MDX governing board membership;
- Authorization of the MDX to increase tolls to adjust for inflation under certain conditions;
- Revisions to the authorized use of any surplus revenues realized from tolls collected on the MDX expressway system;
- Elimination on July 1, 2014, of the MDX’s authority to borrow money and issue notes, bonds, and other forms of indebtedness, except for refunding bonds; and
- Biannual provision by the MDX to the County Commission of a complete financial audit.

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 Transportation; and Senator Garcia

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1 A bill to be entitled
2 An act relating to expressway authorities; amending s.
3 348.0003, F.S.; requiring members of each expressway
4 authority, transportation authority, bridge authority,
5 or toll authority to comply with specified financial
6 disclosure requirements; prohibiting certain
7 activities by authority board members and executive
8 directors during and after membership or employment;
9 prohibiting certain activities and providing a
10 penalty; specifying who may serve as an ethics
11 officer; requiring disclosure of certain relationships
12 and interests; prohibiting employees and consultants
13 from membership on a board; providing for a code of
14 ethics policy; amending ss. 348.52, 348.753, and
15 348.9952, F.S., relating to the Tampa-Hillsborough
16 County Expressway Authority, the Orlando-Orange County
17 Expressway Authority, and the Osceola County
18 Expressway Authority, respectively; prohibiting
19 certain activities by authority board members and
20 executive directors during and after membership or
21 employment; providing a penalty; specifying who may
22 serve as an ethics officer; requiring disclosure of
23 certain relationships and interests; prohibiting
24 employees and consultants from membership on a board;
25 providing for a code of ethics policy; amending s.
26 348.53, F.S.; revising the Legislative declaration of
27 the Tampa-Hillsborough County Expressway Authority's
28 purposes for the benefit of the people to include
29 managed lanes; amending s. 348.54, F.S.; authorizing

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30 the Tampa-Hillsborough County Expressway Authority to
31 construct, operate, and maintain certain
32 transportation facilities within the jurisdictional
33 boundaries of a consenting county contiguous to
34 Hillsborough County, together with the right to
35 construct, operate, and maintain facilities and
36 electronic toll payment systems thereon or incidental
37 thereto; amending s. 343.1003, F.S.; conforming a
38 cross-reference; providing an effective date.

39
40 Be It Enacted by the Legislature of the State of Florida:

41
42 Section 1. Section 348.0003, Florida Statutes, is amended
43 to read:

44 348.0003 Expressway authority; formation; membership.—

45 (1) Any county, or two or more contiguous counties located
46 within a single district of the department, may, by resolution
47 adopted by the board of county commissioners, form an expressway
48 authority, which shall be an agency of the state, pursuant to
49 the Florida Expressway Authority Act.

50 (2) The governing body of an authority shall consist of not
51 fewer than five nor more than nine voting members. The district
52 secretary of the affected department district shall serve as a
53 nonvoting member of the governing body of each authority located
54 within the district. Each member of the governing body must at
55 all times during his or her term of office be a permanent
56 resident of the county which he or she is appointed to
57 represent.

58 (a) Two members of the authority shall be appointed for

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59 terms of 4 years by the Governor, subject to confirmation by the
60 Senate. Such persons may not hold elective office during their
61 terms of office.

62 (b) For a single-county authority, the remaining members
63 shall be appointed by the board of county commissioners for
64 terms of 3 years.

65 (c) For a multicounty authority, the remaining members
66 shall be apportioned, based on the population of such counties,
67 among the counties within the authority. Each such member shall
68 be appointed by the applicable board of county commissioners for
69 a term of 3 years.

70 (d) Notwithstanding any provision of ~~to the contrary in~~
71 this subsection, in any county as defined in s. 125.011(1), the
72 governing body of an authority shall consist of up to 13
73 members, and the following provisions of this paragraph shall
74 apply specifically to such authority. Except for the district
75 secretary of the department, the members must be residents of
76 the county. Seven voting members shall be appointed by the
77 governing body of the county. At the discretion of the governing
78 body of the county, up to two of the members appointed by the
79 governing body of the county may be elected officials residing
80 in the county. Five voting members of the authority shall be
81 appointed by the Governor. One member shall be the district
82 secretary of the department serving in the district that
83 contains such county. This member shall be an ex officio voting
84 member of the authority. If the governing board of an authority
85 includes any member originally appointed by the governing body
86 of the county as a nonvoting member, when the term of such
87 member expires, that member shall be replaced by a member

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88 appointed by the Governor until the governing body of the
89 authority is composed of seven members appointed by the
90 governing body of the county and five members appointed by the
91 Governor. The qualifications, terms of office, and obligations
92 and rights of members of the authority shall be determined by
93 resolution or ordinance of the governing body of the county in a
94 manner that is consistent with this paragraph, paragraphs (e)-
95 (i), and subsections (3)-(12) ~~(3) and (4)~~.

96 (e) A member of an authority appointed by the governing
97 board of the county or appointed by the Governor may not serve
98 as a member of any other transportation-related board,
99 commission, or organization with audit oversight of the
100 authority while serving as a member of the authority.

101 (f) A lobbyist, as defined in s. 112.3215, may not be
102 appointed or serve as a member of an authority.

103 (g) A member of an authority may be removed from office by
104 the Governor for misconduct, malfeasance, misfeasance, or
105 nonfeasance in office.

106 (h) Members of an authority may receive reimbursement from
107 the authority for travel and other necessary expenses incurred
108 in connection with the business of the authority as provided in
109 s. 112.061, but may not draw salaries or other compensation.

110 (i) Members of each expressway authority, transportation
111 authority, bridge authority, or toll authority created pursuant
112 to this chapter, chapter 343, or any other general law shall
113 comply with the applicable financial disclosure requirements of
114 s. 8, Art. II of the State Constitution. This paragraph does not
115 subject any statutorily created authority, other than an
116 expressway authority created under this part, to any requirement

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117 of this part except this paragraph.

118 (3) (a) The governing body of each authority shall elect one
119 of its members as its chair and shall elect a secretary and a
120 treasurer who need not be members of the authority. The chair,
121 secretary, and treasurer shall hold their offices at the will of
122 the authority. A simple majority of the governing body of the
123 authority constitutes a quorum, and the vote of a majority of
124 those members present is necessary for the governing body to
125 take any action. A vacancy on an authority shall not impair the
126 right of a quorum of the authority to exercise all of the rights
127 and perform all of the duties of the authority.

128 (b) Upon the effective date of his or her appointment, or
129 as soon thereafter as practicable, each appointed member of an
130 authority shall enter upon his or her duties.

131 (4) ~~(a)~~ An authority may employ an executive secretary, an
132 executive director, its own counsel and legal staff, technical
133 experts, and such engineers and employees, permanent or
134 temporary, as it may require and shall determine the
135 qualifications and fix the compensation of such persons, firms,
136 or corporations. An authority may employ a fiscal agent or
137 agents; however, the authority must solicit sealed proposals
138 from at least three persons, firms, or corporations for the
139 performance of any services as fiscal agents. An authority may
140 delegate to one or more of its agents or employees such of its
141 power as it deems necessary to carry out the purposes of the
142 Florida Expressway Authority Act, subject always to the
143 supervision and control of the authority. ~~Members of an~~
144 ~~authority may be removed from office by the Governor for~~
145 ~~misconduct, malfeasance, misfeasance, or nonfeasance in office.~~

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146 ~~(b) Members of an authority are entitled to receive from~~
147 ~~the authority their travel and other necessary expenses incurred~~
148 ~~in connection with the business of the authority as provided in~~
149 ~~s. 112.061, but they may not draw salaries or other~~
150 ~~compensation.~~

151 ~~(c) Members of each expressway authority, transportation~~
152 ~~authority, bridge authority, or toll authority, created pursuant~~
153 ~~to this chapter, chapter 343, or any other general law, shall~~
154 ~~comply with the applicable financial disclosure requirements of~~
155 ~~s. 8, Art. II of the State Constitution. This paragraph does not~~
156 ~~subject any statutorily created authority, other than an~~
157 ~~expressway authority created under this part, to any other~~
158 ~~requirement of this part except the requirement of this~~
159 ~~paragraph.~~

160 (5) (a) A member or the executive director of an authority
161 may not:

162 1. Within 2 years after vacating his or her position as a
163 board member or the executive director, personally represent
164 another person or entity for compensation before the authority;

165 2. After vacating his or her position as a board member or
166 the executive director, have an employment or contractual
167 relationship with a business entity other than an agency, as
168 defined in s. 112.312, in connection with a contract in which
169 the member or executive director personally and substantially
170 participated through decision, approval, disapproval,
171 recommendation, rendering of advice, or investigation while he
172 or she was a member or employee of the authority.

173 (b) A violation of this subsection is punishable in
174 accordance with s. 112.317.

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175 (6) An authority's general counsel shall serve as the
176 authority's ethics officer.

177 (7) An authority board member, employee, or consultant who
178 holds a position that may influence authority decisions may not
179 engage in any relationship that may adversely affect his or her
180 judgment in carrying out authority business. The following
181 disclosures must be made annually on a disclosure form to
182 prevent such conflicts of interest and preserve the integrity
183 and transparency of the authority to the public:

184 (a) Any relationship that a board member, employee, or
185 consultant has which affords a current or future financial
186 benefit to such board member, employee, or consultant, or to a
187 relative or business associate of such board member, employee,
188 or consultant, and which a reasonable person would conclude has
189 the potential to create a prohibited conflict of interest.

190 (b) Whether a relative of such board member, employee, or
191 consultant is a registered lobbyist and, if so, the names of
192 such lobbyist's clients. Such names shall be provided in writing
193 to the ethics officer.

194 (c) All interests in real property that such board member,
195 employee, or consultant has, or that a relative, principal,
196 client, or business associate of such board member, employee, or
197 consultant has, if such real property is located within, or
198 within a 1/2-mile radius of, any actual or prospective authority
199 roadway project. The executive director shall provide a corridor
200 map and a property ownership list reflecting the ownership of
201 all real property within the disclosure area, or an alignment
202 map with a list of associated owners, to all board members,
203 employees, and consultants.

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204 (8) The disclosure forms filed as required under subsection
205 (7) must be reviewed by the ethics officer or, if a form is
206 filed by the general counsel, by the executive director.

207 (9) The conflict of interest process shall be outlined in
208 the authority's code of ethics.

209 (10) Authority employees and consultants may not serve on
210 the governing body of the authority while employed by or under
211 contract with the authority.

212 (11) The code of ethics policy shall be reviewed and
213 updated by the ethics officer and presented for board approval
214 at least once every 2 years.

215 (12) Employees shall be adequately informed and trained on
216 the code of ethics and shall continually participate in ongoing
217 ethics education.

218 Section 2. Section 348.52, Florida Statutes, is amended to
219 read:

220 348.52 Tampa-Hillsborough County Expressway Authority.—

221 (1) There is hereby created and established a body politic
222 and corporate, an agency of the state, to be known as the
223 "Tampa-Hillsborough County Expressway Authority."

224 (2) The governing body of the authority shall consist of a
225 board of seven members.

226 (a) Four of the members shall be appointed by the Governor
227 subject to confirmation by the Senate at the next regular
228 session of the Legislature. Refusal or failure of the Senate to
229 confirm an appointment shall create a vacancy.

230 1. Each such member's term of office shall be for 4 years
231 or until his or her successor shall have been appointed and
232 qualified.

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233 2. Vacancies occurring in the governing body for any such
234 members prior to the expiration of the affected term shall be
235 filled for the unexpired term.

236 ~~3. The Governor shall have the authority to remove from
237 office any such member of the governing body in the manner and
238 for cause defined by the laws of this state.~~

239 3.4. Each such member, before entering upon his or her
240 official duties, shall take and subscribe to an oath before some
241 official authorized by law to administer oaths that he or she
242 will honestly, faithfully, and impartially perform the duties
243 devolving upon him or her in office as a member of the governing
244 body of the authority and that he or she will not neglect any
245 duties imposed upon him or her by this part.

246 (b) One member shall be the mayor, or the mayor's
247 designate, who shall be the chair of the city council of the
248 city in Hillsborough County having the largest population,
249 according to the latest decennial census, who shall serve as a
250 member ex officio.

251 (c) One member shall be a member of the Board of County
252 Commissioners of Hillsborough County, selected by such board,
253 who shall serve as a member ex officio.

254 (d) One member shall be the district secretary of the
255 Department of Transportation serving in the district that
256 contains Hillsborough County, who shall serve ex officio.

257 (e) A member of the authority appointed by the governing
258 board of the county or appointed by the Governor may not serve
259 as a member of any other transportation-related board,
260 commission, or organization with audit oversight of the
261 authority while serving as a member of the authority.

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262 (f) A lobbyist, as defined in s. 112.3215, may not be
263 appointed or serve as a member of the authority.

264 (g) A member of the authority may be removed from office by
265 the Governor for misconduct, malfeasance, misfeasance, or
266 nonfeasance in office.

267 (h) Members of the authority may receive reimbursement from
268 the authority for travel and other necessary expenses incurred
269 in connection with the business of the authority as provided in
270 s. 112.061, but may not draw salaries or other compensation.

271 (3) The authority shall designate one of its members as
272 chair. ~~The members of the authority shall not be entitled to~~
273 ~~compensation but shall be entitled to receive their travel and~~
274 ~~other necessary expenses as provided in s. 112.061.~~ A majority
275 of the members of the authority shall constitute a quorum, and
276 resolutions enacted or adopted by a vote of a majority of the
277 members present and voting at any meeting shall become effective
278 without publication or posting or any further action of the
279 authority.

280 (4) The authority may employ a secretary and executive
281 director, its own counsel and legal staff, and such legal,
282 financial, and other professional consultants, technical
283 experts, engineers, and employees, permanent or temporary, as it
284 may require and may determine the qualifications and fix the
285 compensation of such persons, firms, or corporations. The
286 authority may contract with the Division of Bond Finance of the
287 State Board of Administration for any financial services
288 authorized herein.

289 (5) The authority may delegate to one or more of its
290 officers or employees such of its powers as it shall deem

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291 necessary to carry out the purposes of this part, subject always
292 to the supervision and control of the authority. ~~Members of the~~
293 ~~authority may be removed from their office by the Governor for~~
294 ~~misconduct, malfeasance, misfeasance, and nonfeasance in office.~~

295 (6) (a) A member or the executive director of the authority
296 may not:

297 1. Within 2 years after vacating his or her position as a
298 board member or the executive director, personally represent
299 another person or entity for compensation before the authority;

300 2. After vacating his or her position as a board member or
301 the executive director, have an employment or contractual
302 relationship with a business entity other than an agency, as
303 defined in s. 112.312, in connection with a contract in which
304 the member or executive director personally and substantially
305 participated through decision, approval, disapproval,
306 recommendation, rendering of advice, or investigation while he
307 or she was a member or employee of the authority.

308 (b) A violation of this subsection is punishable in
309 accordance with s. 112.317.

310 (7) The authority's general counsel shall serve as the
311 authority's ethics officer.

312 (8) An authority board member, employee, or consultant who
313 holds a position that may influence authority decisions may not
314 engage in any relationship that may adversely affect his or her
315 judgment in carrying out authority business. The following
316 disclosures must be made annually on a disclosure form to
317 prevent such conflicts of interest and preserve the integrity
318 and transparency of the authority to the public:

319 (a) Any relationship a board member, employee, or

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320 consultant has which affords a current or future financial
321 benefit to such board member, employee, or consultant, or to a
322 relative or business associate of such board member, employee,
323 or consultant, and which a reasonable person would conclude has
324 the potential to create a prohibited conflict of interest.

325 (b) Whether a relative of such board member, employee, or
326 consultant is a registered lobbyist and, if so, the names of
327 such lobbyist's clients. Such names shall be provided in writing
328 to the ethics officer.

329 (c) All interests in real property that such board member,
330 employee, or consultant has, or that a relative, principal,
331 client, or business associate of such board member, employee, or
332 consultant has, if such real property is located within, or
333 within a 1/2-mile radius of, any actual or prospective authority
334 roadway project. The executive director shall provide a corridor
335 map and a property ownership list reflecting the ownership of
336 all real property within the disclosure area, or an alignment
337 map with a list of associated owners, to all board members,
338 employees, and consultants.

339 (9) The disclosure forms filed as required under subsection
340 (8) must be reviewed by the ethics officer or, if a form is
341 filed by the general counsel, by the executive director.

342 (10) The conflict of interest process shall be outlined in
343 the authority's code of ethics.

344 (11) Authority employees and consultants may not serve on
345 the governing body of the authority while employed by or under
346 contract with the authority.

347 (12) The code of ethics policy shall be reviewed and
348 updated by the ethics officer and presented for board approval

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349 at least once every 2 years.

350 (13) Employees shall be adequately informed and trained on
351 the code of ethics and shall continually participate in ongoing
352 ethics education.

353 Section 3. Section 348.53, Florida Statutes, is amended to
354 read:

355 348.53 Purposes of the authority.—The authority is created
356 for the purposes and shall have power to construct, reconstruct,
357 improve, extend, repair, maintain and operate the expressway
358 system. It is hereby found and declared that such purposes are
359 in all respects for the benefit of the people of the State of
360 Florida, City of Tampa and the County of Hillsborough, for the
361 increase of their pleasure, convenience and welfare, for the
362 improvement of their health, to facilitate transportation,
363 including managed lanes, for their recreation and commerce and
364 for the common defense. The authority shall be performing a
365 public purpose and a governmental function in carrying out its
366 corporate purpose and in exercising the powers granted herein.

367 Section 4. Subsection (15) is added to section 348.54,
368 Florida Statutes, to read:

369 348.54 Powers of the authority.—Except as otherwise limited
370 herein, the authority shall have the power:

371 (15) With the consent of the county within whose
372 jurisdiction the following activities occur, the authority shall
373 have the right to construct, operate, and maintain roads,
374 bridges, avenues of access, thoroughfares, boulevards, and
375 managed lanes outside the jurisdictional boundaries of
376 Hillsborough County and within the jurisdictional boundaries of
377 counties contiguous to Hillsborough County together with the

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378 right to construct, repair, replace, operate, install, and
379 maintain facilities and electronic toll payment systems thereon
380 or incidental thereto, with all necessary and incidental powers
381 to accomplish the foregoing.

382 Section 5. Section 348.753, Florida Statutes, is amended to
383 read:

384 348.753 Orlando-Orange County Expressway Authority.-

385 (1) There is hereby created and established a body politic
386 and corporate, an agency of the state, to be known as the
387 Orlando-Orange County Expressway Authority, hereinafter referred
388 to as "authority."

389 (2) (a) The governing body of the authority shall consist of
390 five members. Three members shall be citizens of Orange County,
391 who shall be appointed by the Governor. The fourth member shall
392 be, ex officio, the chair of the County Commissioners of Orange
393 County, and the fifth member shall be, ex officio, the district
394 secretary of the Department of Transportation serving in the
395 district that contains Orange County. The term of each appointed
396 member shall be for 4 years. Each appointed member shall hold
397 office until his or her successor has been appointed and has
398 qualified. A vacancy occurring during a term shall be filled
399 only for the balance of the unexpired term. Each appointed
400 member of the authority shall be a person of outstanding
401 reputation for integrity, responsibility, and business ability,
402 but no person who is an officer or employee of any city or of
403 Orange County in any other capacity shall be an appointed member
404 of the authority. Any member of the authority shall be eligible
405 for reappointment.

406 (b) A member of the authority appointed by the governing

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407 body of the county or appointed by the Governor may not serve as
408 a member of any other transportation-related board, commission,
409 or organization with audit oversight of the authority while
410 serving as a member of the authority.

411 (c) A lobbyist, as defined in s. 112.3215, may not be
412 appointed or serve as a member of the authority.

413 (d) A member of the authority may be removed from office by
414 the Governor for misconduct, malfeasance, misfeasance, or
415 nonfeasance in office.

416 (e) Members of the authority may receive reimbursement from
417 the authority for travel and other necessary expenses incurred
418 in connection with the business of the authority as provided in
419 s. 112.061, but may not draw salaries or other compensation.

420 (3) (a) The authority shall elect one of its members as
421 chair of the authority. The authority shall also elect a
422 secretary and a treasurer who may or may not be members of the
423 authority. The chair, secretary, and treasurer shall hold such
424 offices at the will of the authority. Three members of the
425 authority shall constitute a quorum, and the vote of three
426 members shall be necessary for any action taken by the
427 authority. No vacancy in the authority shall impair the right of
428 a quorum of the authority to exercise all of the rights and
429 perform all of the duties of the authority.

430 (b) Upon the effective date of his or her appointment, or
431 as soon thereafter as practicable, each appointed member of the
432 authority shall enter upon his or her duties.

433 (4) ~~(a)~~ The authority may employ an executive secretary, an
434 executive director, its own counsel and legal staff, technical
435 experts, such engineers, and such employees, permanent or

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436 temporary, as it may require and may determine the
437 qualifications and fix the compensation of such persons, firms,
438 or corporations and may employ a fiscal agent or agents,
439 provided, however, that the authority shall solicit sealed
440 proposals from at least three persons, firms, or corporations
441 for the performance of any services as fiscal agents. The
442 authority may delegate to one or more of its agents or employees
443 such of its power as it shall deem necessary to carry out the
444 purposes of this part, subject always to the supervision and
445 control of the authority. ~~Members of the authority may be~~
446 ~~removed from their office by the Governor for misconduct,~~
447 ~~malfeasance, misfeasance, or nonfeasance in office.~~

448 ~~(b) Members of the authority shall be entitled to receive~~
449 ~~from the authority their travel and other necessary expenses~~
450 ~~incurred in connection with the business of the authority as~~
451 ~~provided in s. 112.061, but they shall draw no salaries or other~~
452 ~~compensation.~~

453 (5) (a) A member or the executive director of the authority
454 may not:

455 1. Within 2 years after vacating his or her position as a
456 board member or the executive director, personally represent
457 another person or entity for compensation before the authority;

458 2. After vacating his or her position as a board member or
459 the executive director, have an employment or contractual
460 relationship with a business entity other than an agency, as
461 defined in s. 112.312, in connection with a contract in which
462 the member or executive director personally and substantially
463 participated through decision, approval, disapproval,
464 recommendation, rendering of advice, or investigation while he

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465 or she was a member or employee of the authority.

466 (b) A violation of this subsection is punishable in
467 accordance with s. 112.317.

468 (6) The authority's general counsel shall serve as the
469 authority's ethics officer.

470 (7) An authority board member, employee, or consultant who
471 holds a position that may influence authority decisions may not
472 engage in any relationship that may adversely affect his or her
473 judgment in carrying out authority business. The following
474 disclosures must be made annually on a disclosure form to
475 prevent such conflicts of interest and preserve the integrity
476 and transparency of the authority to the public:

477 (a) Any relationship a board member, employee, or
478 consultant has which affords a current or future financial
479 benefit to such board member, employee, or consultant, or to a
480 relative or business associate of such board member, employee,
481 or consultant, and which a reasonable person would conclude has
482 the potential to create a prohibited conflict of interest.

483 (b) Whether a relative of such board member, employee, or
484 consultant is a registered lobbyist and, if so, the names of
485 such lobbyist's clients. Such names shall be provided in writing
486 to the ethics officer.

487 (c) All interests in real property that such board member,
488 employee, or consultant has, or that a relative, principal,
489 client, or business associate of such board member, employee, or
490 consultant has, if such real property is located within, or
491 within a 1/2-mile radius of, any actual or prospective authority
492 roadway project. The executive director shall provide a corridor
493 map and a property ownership list reflecting the ownership of

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494 all real property within the disclosure area, or an alignment
495 map with a list of associated owners, to all board member,
496 employees, and consultants.

497 (8) The disclosure forms filed as required under subsection
498 (7) must be reviewed by the ethics officer or, if a form is
499 filed by the general counsel, by the executive director.

500 (9) The conflict of interest process shall be outlined in
501 the authority's code of ethics.

502 (10) Authority employees and consultants may not serve on
503 the governing body of the authority while employed by or under
504 contract with the authority.

505 (11) The code of ethics policy shall be reviewed and
506 updated by the ethics officer and presented for board approval
507 at least once every 2 years.

508 (12) Employees shall be adequately informed and trained on
509 the code of ethics and shall continually participate in ongoing
510 ethics education.

511 Section 6. Section 348.9952, Florida Statutes, is amended
512 to read:

513 348.9952 Osceola County Expressway Authority.—

514 (1) There is created a body politic and corporate, an
515 agency of the state, to be known as the Osceola County
516 Expressway Authority.

517 (2) (a) The governing body of the authority shall consist of
518 six members. Five members, at least one of whom must be a member
519 of a racial or ethnic minority group, must be residents of
520 Osceola County, three of whom shall be appointed by the
521 governing body of the county and two of whom shall be appointed
522 by the Governor. The sixth member shall be the district

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523 secretary of the department serving in the district that
524 includes Osceola County, who shall serve as an ex officio,
525 nonvoting member. The term of each appointed member shall be for
526 4 years, except that the first term of the initial members
527 appointed by the Governor shall be 2 years each. Each appointed
528 member shall hold office until his or her successor has been
529 appointed and has qualified. A vacancy occurring during a term
530 shall be filled only for the balance of the unexpired term. Each
531 appointed member of the authority shall be a person of
532 outstanding reputation for integrity, responsibility, and
533 business ability, but a person who is an officer or employee of
534 any municipality or of Osceola County in any other capacity may
535 not be an appointed member of the authority. A member of the
536 authority is eligible for reappointment.

537 (b) A member of the authority appointed by the governing
538 board of the county or appointed by the Governor may not serve
539 as a member of any other transportation-related board,
540 commission, or organization with audit oversight of the
541 authority while serving as a member of the authority.

542 (c) A lobbyist, as defined in s. 112.3215, may not be
543 appointed or serve as a member of the authority.

544 (d) ~~(b)~~ Members of the authority may be removed from office
545 by the Governor for misconduct, malfeasance, misfeasance, or
546 nonfeasance in office.

547 (e) Members of the authority may receive reimbursement from
548 the authority for travel and other necessary expenses incurred
549 in connection with the business of the authority as provided in
550 s. 112.061, but may not draw salaries or other compensation.

551 (3) (a) The authority shall elect one of its members as

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552 chair. The authority shall also elect a secretary and a
553 treasurer, who may be members of the authority. The chair,
554 secretary, and treasurer shall hold such offices at the will of
555 the authority.

556 (b) Three members of the authority constitute a quorum, and
557 the vote of three members is necessary for any action taken by
558 the authority. A vacancy in the authority does not impair the
559 right of a quorum of the authority to exercise all of the rights
560 and perform all of the duties of the authority.

561 (4) (a) The authority may employ an executive secretary, an
562 executive director, its own counsel and legal staff, technical
563 experts, engineers, and other employees, permanent or temporary,
564 as it may require, and may determine the qualifications and fix
565 the compensation of such persons, firms, or corporations.
566 Additionally, the authority may employ a fiscal agent or agents.
567 However, the authority shall solicit sealed proposals from at
568 least three persons, firms, or corporations for the performance
569 of any services as fiscal agents. The authority may delegate to
570 one or more of its agents or employees such of its power as it
571 deems necessary to carry out the purposes of this part, subject
572 always to the supervision and control of the authority.

573 ~~(b) Members of the authority are entitled to receive from~~
574 ~~the authority their travel and other necessary expenses incurred~~
575 ~~in connection with the business of the authority as provided in~~
576 ~~s. 112.061, but members shall not draw salaries or other~~
577 ~~compensation.~~

578 (b) ~~(e)~~ The department is not required to grant funds for
579 startup costs to the authority. However, the governing body of
580 the county may provide funds for such startup costs.

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581 (c)~~(d)~~ The authority shall cooperate with and participate
582 in any efforts to establish a regional expressway authority.

583 (d)~~(e)~~ Notwithstanding any other provision of law,
584 including s. 339.175(3), the authority is not entitled to voting
585 membership in a metropolitan planning organization in which
586 Osceola County, or any of the municipalities therein, are also
587 voting members.

588 (5) (a) A member or the executive director of the authority
589 may not:

590 1. Within 2 years after vacating his or her position as a
591 board member or the executive director, personally represent
592 another person or entity for compensation before the authority;

593 2. After vacating his or her position as a board member or
594 the executive director, have an employment or contractual
595 relationship with a business entity other than an agency, as
596 defined in s. 112.312, in connection with a contract in which
597 the member or executive director personally and substantially
598 participated through decision, approval, disapproval,
599 recommendation, rendering of advice, or investigation while he
600 or she was a member or employee of the authority.

601 (b) A violation of this subsection is punishable in
602 accordance with s. 112.317.

603 (6) The authority's general counsel shall serve as the
604 authority's ethics officer.

605 (7) An authority board member, employee, or consultant who
606 holds a position that may influence authority decisions may not
607 engage in any relationship that may adversely affect his or her
608 judgment in carrying out authority business. The following
609 disclosures must be made annually on a disclosure form to

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610 prevent such conflicts of interest and preserve the integrity
611 and transparency of the authority to the public:

612 (a) Any relationship a board member, employee, or
613 consultant has which affords a current or future financial
614 benefit to such board member, employee, or consultant, or to a
615 relative or business associate of such board member, employee,
616 or consultant, and which a reasonable person would conclude has
617 the potential to create a prohibited conflict of interest.

618 (b) Whether a relative of such board member, employee, or
619 consultant is a registered lobbyist and, if so, the names of
620 such lobbyist's clients. Such names shall be provided in writing
621 to the ethics officer.

622 (c) Any and all interests in real property that such board
623 member, employee, or consultant has, or that a relative,
624 principal, client, or business associate of such board member,
625 employee, or consultant has, if such real property is located
626 within, or within a 1/2-mile radius of, any actual or
627 prospective authority roadway project. The executive director
628 shall provide a corridor map and a property ownership list
629 reflecting the ownership of all real property within the
630 disclosure area, or an alignment map with a list of associated
631 owners, to all board member, employees, and consultants.

632 (8) The disclosure forms filed as required under subsection
633 (7) must be reviewed by the ethics officer or, if a form is
634 filed by the general counsel, by the executive director.

635 (9) The conflict of interest process shall be outlined in
636 the authority's code of ethics.

637 (10) Authority employees and consultants may not serve on
638 the governing body of the authority while employed by or under

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639 contract with the authority.

640 (11) The code of ethics policy shall be reviewed and
641 updated by the ethics officer and presented for board approval
642 at least once every 2 years.

643 (12) Employees shall be adequately informed and trained on
644 the code of ethics and shall continually participate in ongoing
645 ethics education.

646 Section 7. Subsection (6) of section 343.1003, Florida
647 Statutes, is amended to read:

648 343.1003 Northeast Florida Regional Transportation
649 Commission.—

650 (6) Notwithstanding s. 348.0003(2)(i) ~~348.0003(4)(e)~~,
651 members of the board shall file a statement of financial
652 interest with the Commission on Ethics pursuant to s. 112.3145.

653 Section 8. This act shall take effect July 1, 2014.

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 1714

INTRODUCER: Community Affairs Committee and Regulated Industries Committee

SUBJECT: Malt Beverages

DATE: April 8, 2014

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
<u>Oxamendi</u>	<u>Imhof</u>		RI SPB 7120 as introduced
1. <u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
		<u>RC</u>	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1714 defines the term “growler” as a clean container made of glass, ceramic, metal, or similar leak-proof material having a capacity of at least 32 ounces but no more than 128 ounces that is filled with a malt beverage and sealed on the premises at or immediately before or after the time of sale in response to an order in a face-to-face transaction.

The bill provides the restrictions and permitted practices for malt beverage manufacturers that are also licensed as a vendor (vendor-licensed brewers). The bill alters the requirements for qualifying as a vendor-licensed brewer. It permits vendor-licensed brewers to sell growlers to consumers for off-premises consumption with malt beverages that are brewed on the licensed premises by the vendor-licensed brewer. Growlers may only be filled or refilled with malt beverages that are manufactured on the licensed premises. A vendor-licensed brewer may sell malt beverages that it manufactures at another location or that are manufactured by another brewer as authorized by its vendor’s license. However, the malt beverages that are manufactured at another location and that are sold for consumption off the premises must be obtained from a licensed distributor and sold to the consumer in their original sealed containers.

The bill does not prohibit the sale of malt beverages that the manufacturer obtains from a licensed distributor. It prohibits deliveries of growlers off a licensed premises. It provides that the vendor-licensed brewer is responsible for the reporting and payment of excise taxes.

The bill prohibits brew pubs from filling growlers, shipping malt beverages between licensed premises owned by the licensee, and selling or distributing malt beverages outside the licensed premises.

The bill provides a statement of legislative intent that vendor-licensed brewer and brew pub licenses constitute limited exceptions to the manufacturing and vendor licensing requirements of the Beverage Law.¹ It also provides that anything not specifically authorized in ss. 561.221(2) and (3), F.S., is prohibited unless otherwise authorized under the Beverage Law.

The bill decreases the maximum amount of the bond required for breweries from \$20,000 to \$5,000. It also decreases the minimum amount of the bond that the division may accept in its discretion from \$10,000 to \$2,500.

The bill limits the filling or refilling of growlers to vendor-licensed brewers with malt beverages that are brewed on the licensed premises, vendors with a quota license to sell alcoholic beverages only in sealed containers for consumption off the premises, and vendors licensed for consumption of malt beverages on the licensed premises, unless the license restricts the consumption of malt beverages to consumption on the premises only.

The bill limits the sale of growlers by vendor-licensed brewers to sales for consumption off the premises and requires that the sales must be conducted in face-to-face transactions.

A growler must have an unbroken seal, or its contents must be incapable of being immediately consumed. A growler must be clearly labeled as containing an alcoholic beverage, provide the name of the manufacturer, the brand, the volume, the percentage of alcohol by volume, and provide the required federal health warning notice for alcoholic beverages. A growler with a preexisting label or other identifying mark of a manufacturer or brand must be covered sufficiently to indicate the manufacturer and brand of the malt beverage being placed in the container at that refilling. The growler must be clean before being filled or refilled.

The bill provides a severability clause.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law, which regulates the manufacture, distribution, and sale of wine, beer, and liquor via manufacturers, distributors, and vendors.² The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) administers and enforces the Beverage Law.³

Three Tier System

In the United States, the regulation of alcohol has traditionally been through what is termed the “three-tier system.” The system requires that the manufacture, distribution, and sale of alcoholic beverages be separated. Retailers must buy their products from distributors who in turn buy their

¹ The Beverage Law means chs. 561, 562, 563, 564, 565, 567, and 568, F.S. *See* s. 561.01(6), F.S.

² *See* s. 561.14, F.S.

³ Section 561.02, F.S.

products from the manufacturers. Manufacturers cannot sell directly to retailers or directly to consumers. The system is deeply rooted in the perceived evils of the “tied house” in which a bar is owned or operated by a manufacturer or the manufacturer exercises undue influence over the retail vendor.⁴

In the three-tier system, each license classification has clearly delineated functions. For example, in Florida, distributors are licensed to sell and distribute alcoholic beverages at wholesale to persons who are licensed to sell alcoholic beverages at retail.⁵ Only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.⁶ Vendors are limited to purchasing their alcoholic beverage inventory from licensed distributors, manufacturer, or bottler.⁷ Licensed manufacturers, distributors, and registered exporters are prohibited from being licensed as vendors.⁸ In addition from being prohibited from having an interest in a vendor, manufacturers are also prohibited from distributing directly to a vendor other than to a vendor licensed under s. 561.221(2), F.S.⁹ However, a manufacturer of wine may be licensed as a distributor.¹⁰

There are some exceptions to this regulatory system. The exceptions include allowing beer brew pubs to manufacture malt beverages and to sell them to consumers,¹¹ allowing individuals to bring small quantities of alcohol back from trips out-of-state,¹² and allowing in-state wineries to manufacture and sell directly to consumers.¹³

There are two license options that permit vendors to manufacture malt beverages for sale directly to consumers. Section 561.221(2), F.S., permits a vendor to be a manufacturer of malt beverages, even if the vendor is also licensed as a distributor. The malt beverages the vendor manufactures must be sold on property consisting of a single complex that includes a brewery and other structures that promote the brewery and the tourism industry of the state. The property may be divided by no more than one public street or highway. This type of license does not limit the amount of malt beverages that may be manufactured. It also does not limit the type of vendor license that the manufacturer may obtain, e.g., a license to sell beer, wine and liquor and licenses that permit package sales of other alcoholic beverages.

Section 561.221(3), F.S., permits a vendor to also be licensed as a manufacturer of malt beverages if the vendor is engaged in brewing malt beverages at a single location in an amount

⁴ Erik D. Price, *Time to Untie the House? Revisiting the Historical Justifications of Washington’s Three-Tier System Challenged by Costco v. Washington State Liquor Control Board*, a copy can be found at: http://www.lanepowell.com/wp-content/uploads/2009/04/pricess_001.pdf (Last visited March 22, 2014).

⁵ Section 561.14(2), F.S.

⁶ Section 561.14(3), F.S. However, see discussion regarding the exception provided in s. 561.221, F.S.

⁷ Section 561.14(3), F.S. Vendors may buy from vendors in a pool buying group if the initial purchase was by a single purchase by a pool buying agent.

⁸ Section 561.22, F.S.

⁹ Section 563.022(14), F.S.

¹⁰ Section 561.221(1)(a), F.S.

¹¹ See s. 561.221(2), F.S., which permits the limited manufacture of beer by vendors (brew pubs).

¹² See s. 562.16, F.S., which permits the possession of less than one gallon of untaxed alcoholic beverages when purchased by the possessor out-of-state in accordance with the laws of the state where purchased and brought into the state by the possessor.

¹³ See s. 561.221, F.S.

that does not exceed 10,000 kegs per year.¹⁴ The malt beverages must be sold to consumers for consumption on the vendor's licensed premises or on contiguous licensed premises owned by the vendor. These vendors are known in the industry as "brew pubs."

Section 561.20, F.S., limits the number of alcoholic beverage licenses that permit the sale of liquor along with beer and wine that may be issued per county. The number of licenses is limited to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as "quota" licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquors to one that does permit their sale. The quota license is the only type of alcoholic beverage license that is limited in number.

Section 565.02(a)-(f), F.S., prescribes the license taxes for vendors who are permitted to sell any alcoholic beverages, including beer, wine and distilled spirits, regardless of alcoholic content.

On-Premises or Off-Premises Consumption-Malt Beverages

Section 564.02, F.S., distinguishes between places of business where a vendor is licensed to only sell malt beverages for on-premises consumption¹⁵ and places of business where such on-premises consumption is permitted.¹⁶ According to the department, vendors licensed to sell malt beverages for on-premises consumption can also sell alcoholic beverages in sealed containers for the customer to take away from the licensed premises for off-premises consumption. Vendors licensed to sell malt beverages for consumption "only" on the licensed premises are not permitted to sell alcoholic beverages for off-premises consumption. The license fee for a license that does not permit the sale of alcoholic beverages in sealed containers for off-premises consumption is 50 percent less than the license fee for a license that permits the sale of sealed containers for off-premises consumption.¹⁷

According to alcoholic beverage industry representatives and a representative for the division, vendors with on-premises licenses routinely fill containers with a malt beverage and seal them for customers to take off-premises for later consumption. They note that current law does not prohibit this practice. The vendors typically seal the beverage container before the consumer leaves the premises so that the consumer will not violate any local ordinances that prohibit the carrying in public of open containers of alcoholic beverages or the state-law prohibition against the possession of open containers of alcoholic beverages in vehicles.¹⁸ The beverage law does not define the term "sealed container."

In 1995, the department repealed a rule which explicitly stated that an on-premises malt beverage licensee could sell malt beverages, for consumption off-premises, in "sealed containers" and

¹⁴ Section 561.221(3)(a)1., F.S., defines the term "keg" as 15.5 gallons.

¹⁵ See s. 563.02(1)(a), F.S.

¹⁶ See ss. 563.02(1)(b)-(f) and 565.045, F.S.

¹⁷ See s. 563.02(1)(a), F.S.

¹⁸ Section 316.1936, F.S.

could also sell wine and distilled spirits in the “original sealed containers as received from the distributor.”¹⁹

Malt Beverage Containers

Section 563.06(6), F.S., requires that all malt beverages that are offered for sale by vendors must be packaged in individual containers containing no more than 32 ounces (one quart). However, malt beverages may be packaged in bulk, kegs, barrels, or in any individual container containing one gallon or more of a malt beverage regardless of individual container type.

Prior to 2001, s. 563.06(6), F.S., provided that malt beverages could be sold by vendors only in 8, 12, 16, or 32-ounce individual containers. Chapter 2001-78, L.O.F., amended that section to allow vendors to sell malt beverages in individual containers of “no more than 32 ounces.”²⁰ The current provision that allows containers of one gallon or more was unaffected by that amendment.

Growlers

Some states permit vendors to sell malt beverages in containers known as “growlers,”²¹ which typically are reusable containers of between 32 ounces and one gallon that the consumer can fill with the vendor’s malt beverage for consumption off the licensed premises. According to a representative for several vendors who manufacture malt beverages,²² the national standard size for a growler is 64 ounces. Florida law does not permit the use of a 64-ounce growler.

Tied House Evil Prohibitions

Section 561.42(1), F.S., prohibits a licensed manufacturer or distributor from assisting any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. Specifically, s. 561.42(1), F.S., provides in part:

No licensed manufacturer or distributor of any of the beverages herein referred to shall have any financial interest, directly or indirectly, in the establishment or business of any vendor licensed under the Beverage Law; nor shall such licensed manufacturer or distributor assist any vendor by any gifts or loans of money or property of any description or by the giving of any rebates of any kind whatsoever. No licensed vendor shall accept, directly or indirectly, any gift or loan of money or property of any description or any rebates from any such licensed manufacturer or distributor; provided, however, that this does not apply

¹⁹ Rule 7A-1.008, F.A.C., as amended on March 10, 1985. This rule was subsequently transferred to rule 61A-1.008, F.A.C., and then repealed on July 5, 1995.

²⁰ See also *Review of the Malt Beverage Container Size Restrictions*, Interim Report No. 2000-65, Florida Senate Committee on Regulated Industries, September 1999.

²¹ The term “growlers” is derived from the late 1800s and early 1900s practice in which fresh beer was carried from the local pub to one’s home by means of a small-galvanized pail. When the beer sloshed around the pail, it created a rumbling sound as the carbon dioxide escaped through the lid. See “*The Growler: Beer-to-Go!*,” *Beer Advocate* (July 31, 2002). A copy of the article is available at: <http://beeradvocate.com/articles/384> (Last visited January 13, 2014).

²² According to several representatives for vendors who manufacture malt beverages and sell 32-ounce growlers, the vendors are typically licensed under s. 561.221(2), F.S.

to any bottles, barrels, or other containers necessary for the legitimate transportation of such beverages or to advertising materials and does not apply to the extension of credit, for liquors sold, made strictly in compliance with the provisions of this section. (Emphasis supplied.)

Section 561.42(8), F.S., authorizes the division to establish rules and require reports to enforce limitation on credits and other forms of assistance. This rulemaking authority does not extend to cash deposits on beer sales, as provided in s. 563.08, F.S.

Section 561.42, F.S., defines the types of items or services that may be provided to vendors. For example, s. 561.42(10), F.S., prohibits manufacturers, distributors, importers, primary American sources of supply,²³ or brand owners or registrants, or their brokers, sales agents or sales persons, from directly or indirectly giving, lending, renting, selling, or in any other manner furnishing to a vendor any outside sign, printed, painted, electric, or otherwise.

Bond for Payment of Taxes

Section 561.37, F.S., requires that each manufacturer and distributor must file with the division a \$25,000 surety bond acceptable to the division as surety for the payment of all taxes. Brewers are required to post a bond of \$20,000. At the division's discretion, the division can approve a bond of less than \$20,000 if the amount of business done by the brewer is of a volume that a bond of less than \$20,000 would be adequate to secure the payment of all taxes assessed or authorized by the Beverage Law. The division may not assess or accept a bond of less than \$10,000. The division may in its discretion require that any bond in an amount less than \$20,000 be increased to an amount not to exceed \$20,000.

III. Effect of Proposed Changes:

“Growler” Defined

The bill creates s. 561.01(22), F.S., to define the term “growler” as a clean container made of glass, ceramic, metal, or similar leak-proof material having a capacity of at least 32 ounces but no more than 128 ounces that is filled with a malt beverage and sealed on the premises at or immediately before or after the time of sale in response to an order in a face-to-face transaction.

Growler Sales by Vendor-Licensed Brewers

The bill amends s. 561.221(2), F.S., to alter the requirements for qualifying as a vendor-licensed brewer and to provide the restrictions and permitted practices for vendor-licensed brewers.

²³ Section 564.045(1), F.S., defines the term “primary American source of supply” as the: manufacturer, vintner, winery, or bottler, or their legally authorized exclusive agent, who, if the product cannot be secured directly from the manufacturer by an American distributor, is the source closest to the manufacturer in the channel of commerce from whom the product can be secured by an American distributor, or who, if the product can be secured directly from the manufacturer by an American distributor, is the manufacturer. It shall also include any applicant who directly purchases vinous beverages from a manufacturer, vintner, winery, or bottler who represents that there is no primary American source of supply for the brand and such applicant must petition the division for approval of licensure.

The bill removes the requirement that a brewery include “other structures which promote the brewery and the tourist industry of the state” in order to be eligible to be a vendor-licensed brewer. It also clarifies that the exemption for vendor-licensed brewers in s. 561.221(2), F.S., is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the Beverage Law.

Section 561.221(2)(a), F.S., permits vendor-licensed brewers to sell growlers to consumers for off-premises consumption filled or refilled with malt beverages that are brewed on the licensed premises pursuant to the requirements in s. 563.061, F.S. Growlers must be sold directly to consumers in face-to-face transactions.

A vendor-licensed brewer may sell malt beverages that are manufactured at another location, including another licensed manufacturing premises directly or indirectly owned in whole or in part by the manufacturer, as authorized by its vendor’s license. However, the malt beverages that are manufactured at another location and that are sold for consumption off the premises must be obtained from a licensed distributor and sold to the consumer in their original sealed containers.

Section 561.221(2)(a), F.S., also permits a vendor-licensed brewer to sell other alcoholic beverages for on-premises or off-premises consumption, as authorized under its vendor’s license, provided that such beverages are obtained from a licensed distributor.

Section 561.221(2)(b), F.S., prohibits vendor-licensed brewers from delivering sealed containers or growlers off a licensed premises, including deliveries by common or premises carrier, privately owned vehicles or other conveyance. It also prohibits consumers or other persons from arranging the delivery of any sealed container or growler off the licensed premises. It explicitly provides that the subsection does not prohibit a consumer from taking a purchased sealed container or growler to another location by a privately owned vehicle or other conveyance.

Section 561.221(2)(c), F.S., provides that the vendor-licensed brewer is responsible for the applicable reports pursuant to ss. 561.50 and 561.55, F.S.,²⁴ with respect to the amount of malt beverages sold or given to consumers on the licensed premises each month. It requires that they pay the applicable excise taxes to the division by the 10th day of each month for the previous month.

Section 561.221(2)(d), F.S., provides that this subsection does not preclude a vendor-licensed brewer from also holding a permanent food service license at the licensed premises.

Section 561.221(2)(d), F.S., provides that the exception for vendor-licensed brewers in this subsection is a limited exception to ss. 561.42 and 561.22, F.S. It also provides that, except as specifically provided in this subsection to permit a manufacturer of malt beverages to also be licensed as a vendor, a manufacturer of malt beverages is subject to the restrictions in ss. 561.42 and 561.22, F.S.

²⁴ Section 561.50, F.S., requires manufacturers and distributors to compute and submit the applicable excise taxes on alcoholic beverages along with the report required by s. 561.55, F.S., to the division each month, on or before the 10th of each month, for all beverages sold during the previous calendar month.

Brew Pubs

The bill amends s. 561.221(3), F.S., to define the restriction and permitted practices for brew pubs. It clarifies that the exemption for brew pubs in s. 561.221(3), F.S., is notwithstanding the prohibitions in ss. 561.22 and 561.42, F.S., or any other provision in the Beverage Law.

Section 561.221(3)(a)3., F.S., requires that brew pubs must hold a permanent food service license.

Section 561.221(3)(b), F.S., specifies the types of alcoholic beverages that brew pubs may sell and requires that such sales must be in face-to-face transactions with consumers. Brew pubs may only sell the following alcoholic beverages:

- Malt beverages manufactured on the licensed premises for on-premises consumption;
- Malt beverages manufactured by other brewers for on-premises consumption as authorized by its vendor's license; and
- Wine or liquor for on-premises consumption as authorized by its vendor's license.

Section 561.221(3)(c), F.S., prohibits brew pubs from shipping malt beverages between licensed premises owned by the licensee. It also prohibits the sale or distribution of malt beverages off the licensed premises, i.e., a brew pub could not sell growlers. It also clarifies that a brew pub is not a manufacturer for the purposes of s. 563.022(14), F.S., which prohibits malt beverage manufacturers from having an interest in the vendor.

Section 561.221(3)(g), F.S., provides that a term "licensee," as used in this subsection, means a vendor licensed as a manufacturer of malt beverages pursuant to the section.

Legislative Intent Statement

Section 561.221(4), F.S., provides a statement of legislative intent regarding the vendor and manufacturer licenses authorized under ss. 561.221(2) and (3), F.S. It provides that these licenses constitute limited exceptions to the manufacturing and vendor licensing requirements of the Beverage Law.

Section 561.221(4), F.S., also provides that anything not specifically authorized in subsections (2) and (3) is prohibited unless otherwise authorized under the Beverage Law. The effect or intent of this provision is unclear.

Bond for Payment of Taxes

The bill amends s. 561.37, F.S., to decrease the maximum amount of the bond required for breweries from \$20,000 to \$5,000. It also decreases the minimum amount of the bond that the division may accept in its discretion from \$10,000 to \$2,500.

Conforming Provisions

The bill amends the following provisions to incorporate ss. 561.221(2) and (3), F.S.:

- Section 561.5101(1), F.S., to exempt malt beverages manufactured under ss. 561.221(2) and (3), F.S., from the requirement that malt beverages must come to rest at the licensed premises of an alcoholic beverage wholesaler (distributor) for purposes of inspection and tax-revenue control;
- Section 562.34(1), F.S., to clarify that the prohibition against the possession of containers of alcoholic beverages in this subsection does not apply to a person in possession of a growler; and
- Section 563.06(6), F.S., to exempt malt beverages sold in growlers pursuant to s. 563.061, F.S., from the requirement that all malt beverages that are offered for sale by vendors must be packaged in individual containers containing no more than 32 ounces.

The bill also reenacts s. 563.022, F.S., to incorporate the amendments made to s. 561.221(2), F.S.

Additional Limitations on Growler Sales

The bill creates s. 563.061(1), F.S., to limit the filling or refilling of growlers to the following licensees:

- Vendor-licensed brewers licensed pursuant to s. 561.221(2), F.S.;
- Vendors holding a quota license under ss. 561.20(1) and 565.02(1)(a), F.S., i.e., vendors licensed to sell alcoholic beverages only in sealed containers for consumption off the premises; and
- A vendor holding a license under s. 563.02(1)(b)-(f), s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f), F.S., which authorize consumption of malt beverages on the premises, unless such license restricts the consumption of malt beverages to the premises only.

The bill limits the sale of growlers by these licensees to sales for consumption off the premises and requires that the sales must be conducted in face-to-face transactions.

Section 563.061(2), F.S., requires that the growler must have an unbroken seal, or that its contents must be incapable of being immediately consumed.

Section 563.06(3), F.S., requires that the growler:

- Be clearly labeled as containing an alcoholic beverage;
- Provide the name of the manufacturer, the brand, the volume, the percentage of alcohol by volume; and
- Provide the required federal health warning notice for alcoholic beverages.

It also provides that, if a growler that is being refilled has an existing label or other identifying mark of a manufacturer or brand from a prior filling or refilling, that label must be covered sufficiently to indicate the manufacturer and brand of the malt beverage being placed in the container at that refilling.

Section 563.06(4), F.S., requires that the growler must be clean before being filled or refilled.

Section 563.06(5), F.S., prohibits licensees that are authorized to fill or refill growlers from using growlers for the purpose of distribution or sale off of the manufacturer's premises or vendor's premises, except as authorized under this subsection or s. 561.221(2), F.S.

Severability

Section 9 of the bill provides a severability clause.

As noted in the *Manual for Drafting General Bills* for the Florida Senate, the “[c]ourts do not need a severability section to sever unconstitutional provisions or applications and allow the other provisions or applications to stand.”²⁵ If a severability clause is included in a bill, the standard severability clause provides:

If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.²⁶

Effective Date

The bill provides an effective date of July 1, 2014.

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.

²⁵ *Manual for Drafting General Bills*, Legal Research and Drafting Services, Office of the Secretary of the Senate, The Florida Senate (5th Edition, 1999) at page 50.

²⁶ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 561.01, 561.221, 561.37, 561.5101, 562.34, 563.022, and 563.06.

This bill creates section 561.061 of the Florida Statutes.

This bill creates an undesignated section of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Community Affairs on April 8, 2014:

- Altered the definition of “growler” to include any leak-proof container between 32 and 128 ounces.
- Altered the requirements a manufacturer must meet to be licensed as a vendor.

B. Amendments:

None.

By the Committee on Regulated Industries

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1 A bill to be entitled
2 An act relating to malt beverages; amending s. 561.01,
3 F.S.; defining the term "growler"; amending s.
4 561.221, F.S.; clarifying three-tier system exceptions
5 and application with respect to the manufacture,
6 distribution, and sale of malt beverages; revising
7 requirements for licensure and operation of
8 manufacturers and vendors; providing legislative
9 intent; amending s. 561.37, F.S., to revise bond
10 requirements for brewers; amending s. 561.5101, F.S.;
11 adding an exception to the come-to-rest requirement;
12 amending s. 562.34, F.S.; authorizing the possession
13 and transportation of a growler; reenacting s.
14 563.022(14), F.S., relating to prohibited interests
15 between a manufacturer and a distributor of malt
16 beverages, to incorporate the amendments made to s.
17 561.221, F.S., in a reference thereto; clarifying
18 provisions; amending s. 563.06, F.S.; revising
19 provisions relating to the sale of malt beverages at
20 retail in containers of specified sizes, to conform to
21 changes made by the act; creating s. 563.061, F.S.;
22 providing requirements for and limitations on the
23 filling, refilling, and sale or distribution of
24 growlers; providing severability; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. Subsection (22) is added to section 561.01,

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30 Florida Statutes, to read:

31 561.01 Definitions.—As used in the Beverage Law:

32 (22) "Growler" means a clean container made of glass,
33 ceramic, metal, or similar leak-proof material having a capacity
34 of 32 ounces, 64 ounces, or 128 ounces which, in response to an
35 order in a face-to-face transaction for off-premises
36 consumption, is filled with a malt beverage and sealed on the
37 premises at or immediately before or after the time of sale.

38 Section 2. Section 561.221, Florida Statutes, is amended to
39 read:

40 561.221 Licensing of manufacturers and distributors as
41 vendors and of vendors as manufacturers; exceptions, conditions,
42 and limitations.—

43 (1) (a) Nothing contained in s. 561.22, s. 561.42, or any
44 other provision of the Beverage Law prohibits the ownership,
45 management, operation, or control of not more than three
46 vendor's licenses for the sale of alcoholic beverages by a
47 manufacturer of wine who is licensed and engaged in the
48 manufacture of wine in this state, even if such manufacturer is
49 also licensed as a distributor; provided that no such vendor's
50 license shall be owned, managed, operated, or controlled by any
51 licensed manufacturer of wine unless the licensed premises of
52 the vendor are situated on property contiguous to the
53 manufacturing premises of the licensed manufacturer of wine.

54 (b) The Division of Alcoholic Beverages and Tobacco shall
55 issue permits to a certified Florida Farm Winery to conduct
56 tasting and sales of wine produced by certified Florida Farm
57 Wineries at Florida fairs, trade shows, expositions, and
58 festivals. The certified Florida Farm Winery shall pay all entry

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59 fees and shall have a winery representative present during the
60 event. The permit is limited to the length of the event.

61 (2) Notwithstanding s. 561.22, s. 561.42, or any other
62 provision of the Beverage Law, the division is authorized to
63 issue vendor's licenses to a manufacturer of malt beverages,
64 even if such manufacturer is also licensed as a distributor, for
65 the sale of alcoholic beverages on property consisting of a
66 single complex, which property shall include a brewery and such
67 other structures which promote the brewery and the tourist
68 industry of the state. However, such property may be divided by
69 no more than one public street or highway. A vendor's license
70 issued under this subsection is subject to the following
71 restrictions:

72 (a) Sales to consumers for off-premises consumption of malt
73 beverages are limited to growlers that are filled or refilled
74 with malt beverages manufactured on the licensed premises
75 pursuant to the requirements of s. 563.061. Such sales must be
76 made directly to consumers in face-to-face transactions. Malt
77 beverages manufactured at another location, including another
78 licensed manufacturing premises directly or indirectly owned in
79 whole or in part by the manufacturer, and malt beverages
80 manufactured by any other manufacturer may be sold as authorized
81 by the manufacturer's vendor license, provided that malt
82 beverages sold for consumption off the licensed premises shall
83 be obtained from a licensed distributor and sold to the consumer
84 in their original sealed containers. This paragraph does not
85 prohibit the sale of other alcoholic beverages for on-premises
86 or off-premises consumption, as authorized under the
87 manufacturer's vendor license, provided that such beverages are

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88 obtained from a licensed distributor.

89 (b) Notwithstanding s. 561.57(1), the delivery of a sealed
90 container or growler containing a malt beverage off a licensed
91 premises, whether by common or premises carrier or by an
92 operator of a privately owned motor vehicle or other conveyance,
93 is prohibited. In addition, a consumer or other person may not
94 arrange for the delivery of a sealed container or growler
95 containing a malt beverage off the licensed premises to the
96 consumer, whether by common or premises carrier or by an
97 operator of a privately owned motor vehicle or other conveyance.
98 However, this paragraph does not prohibit a consumer from taking
99 the sealed container or growler containing a malt beverage
100 purchased by the consumer under this subsection from the
101 licensed premises to another location by a privately owned motor
102 vehicle or other conveyance.

103 (c) A manufacturer licensed as a vendor is responsible for
104 applicable reports pursuant to ss. 561.50 and 561.55 with
105 respect to the amount of malt beverages sold or given to
106 consumers on the licensed premises each month and must pay the
107 applicable excise taxes to the division by the 10th day of each
108 month for the previous month.

109 (d) This subsection does not preclude a licensed
110 manufacturer of malt beverages from also holding a permanent
111 food service license at the licensed premises.

112 (e) This subsection is a limited exception to ss. 561.22
113 and 561.42. Except as specifically provided in this subsection
114 to permit a manufacturer of malt beverages to also be licensed
115 as a vendor, a manufacturer of malt beverages is subject to the
116 restrictions in ss. 561.22 and 561.42.

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117 (3)~~(a)~~ Notwithstanding s. 561.22, s. 561.42, or any other
118 provision ~~Notwithstanding other provisions~~ of the Beverage Law,
119 a any vendor licensed in this state may be licensed as a
120 manufacturer of malt beverages if the vendor satisfies the
121 requirements of this subsection. ~~upon a finding by the division~~
122 ~~that:~~

123 (a) The division may issue a license if it finds that all
124 of the following conditions are met:

125 1. The vendor will be engaged in brewing malt beverages at
126 a single licensed premises ~~location~~ and in an amount that which
127 will not exceed 10,000 kegs per year. As used in ~~For purposes of~~
128 this subparagraph ~~subsection~~, the term "keg" means 15.5 gallons.

129 2. The malt beverages ~~se~~ brewed will be sold to consumers
130 for consumption on the vendor's licensed premises or on
131 contiguous licensed premises owned by the vendor.

132 3. The applicant holds a permanent food service license.

133 (b) A licensee may sell the following alcoholic beverages,
134 which may be sold only in face-to-face transactions with
135 consumers:

136 1. Malt beverages that are manufactured on the licensed
137 premises for on-premises consumption.

138 2. Malt beverages that are manufactured by other
139 manufacturers for on-premises consumption as authorized under
140 its vendor's license.

141 3. Wine or liquor for on-premises consumption as authorized
142 under its vendor's license.

143 (c) A licensee may not:

144 1. Ship malt beverages to or between licensed premises
145 owned by the licensee. A licensee is not a manufacturer for the

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146 purposes of s. 563.022(14).

147 2. Distribute or sell malt beverages off the licensed
148 premises.

149 (d)-(b) A licensee is Any vendor which is also licensed as a
150 manufacturer of malt beverages pursuant to this subsection shall
151 be responsible for applicable reports pursuant to ss. 561.50 and
152 561.55 with respect to the amount of beverage manufactured each
153 month and must shall pay the applicable excise taxes thereon to
154 the division by the 10th day of each month for the previous
155 month.

156 (e)-(c) A It shall be unlawful for any licensed distributor
157 of malt beverages or an any officer, agent, or other
158 representative thereof may not to discourage or prohibit a
159 licensee any vendor licensed as a manufacturer under this
160 subsection from offering malt beverages brewed for consumption
161 on the licensed premises of the vendor.

162 (f)-(d) A It shall be unlawful for any manufacturer of malt
163 beverages or an any officer, agent, or other representative
164 thereof may not to take any action to discourage or prohibit a
165 any distributor of the manufacturer's product from distributing
166 such product to a licensee licensed vendor which is also
167 licensed as a manufacturer of malt beverages pursuant to this
168 subsection.

169 (g) As used in this subsection, the term "licensee" means a
170 vendor licensed as a manufacturer of malt beverages pursuant to
171 this subsection.

172 (4) The Legislature intends that the provisions relating to
173 the sale of malt beverages by a malt beverage manufacturer
174 pursuant to subsection (2) and the operation of a licensed

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175 vendor pursuant to subsection (3) constitute limited exceptions
176 to the manufacturing and vendor licensing requirements of the
177 Beverage Law. Anything not specifically authorized in
178 subsections (2) and (3) is prohibited unless otherwise
179 authorized under the Beverage Law.

180 Section 3. Section 561.37, Florida Statutes, is amended to
181 read:

182 561.37 Bond for payment of taxes.—Each manufacturer and
183 each distributor shall file with the division a surety bond
184 acceptable to the division in the sum of \$25,000 as surety for
185 the payment of all taxes, provided, however, that when in the
186 discretion of the division the amount of business done by the
187 manufacturer or distributor is of such volume that a bond of
188 less than \$25,000 will be adequate to secure the payment of all
189 taxes assessed or authorized by the Beverage Law, the division
190 may accept a bond in a lesser sum than \$25,000, but in no event
191 shall it accept a bond of less than \$10,000, and it may at any
192 time in its discretion require any bond in an amount less than
193 \$25,000 to be increased so as not to exceed \$25,000; provided,
194 however, that the amount of bond required for a brewer shall be
195 \$5,000 ~~\$20,000~~, except that where, in the discretion of the
196 division, the amount of business done by the brewer is of such
197 volume that a bond of less than \$5,000 ~~\$20,000~~ will be adequate
198 to secure the payment of all taxes assessed or authorized by the
199 Beverage Law, the division may accept a bond in a lesser sum
200 than \$5,000 ~~\$20,000~~, but in no event shall it accept a bond of
201 less than \$2,500 ~~\$10,000~~, and it may at any time in its
202 discretion require any bond in an amount less than \$5,000
203 ~~\$20,000~~ to be increased so as not to exceed \$5,000 ~~\$20,000~~;

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204 provided further that the amount of the bond required for a wine
205 or wine and cordial manufacturer shall be \$5,000, except that,
206 in the case of a manufacturer engaged solely in the experimental
207 manufacture of wines and cordials from Florida products, where
208 in the discretion of the division the amount of business done by
209 such manufacturer is of such volume that a bond of less than
210 \$5,000 will be adequate to secure the payment of all taxes
211 assessed or authorized by the Beverage Law, the division may
212 accept a bond in a lesser sum than \$5,000, but in no event shall
213 it accept a bond of less than \$1,000 and it may at any time in
214 its discretion require a bond in an amount less than \$5,000 to
215 be increased so as not to exceed \$5,000; provided, further, that
216 the amount of bond required for a distributor who sells only
217 beverages containing not more than 4.007 percent of alcohol by
218 volume, in counties where the sale of intoxicating liquors,
219 wines, and beers is prohibited, and to distributors who sell
220 only beverages containing not more than 17.259 percent of
221 alcohol by volume and wines regardless of alcoholic content, in
222 counties where the sale of intoxicating liquors, wines, and
223 beers is permitted, shall file with the division a surety bond
224 acceptable to the division in the sum of \$25,000, as surety for
225 the payment of all taxes; provided, however, that where in the
226 discretion of the division the amount of business done by such
227 distributor is of such volume that a bond of less than \$25,000
228 will be adequate to secure the payment of all taxes assessed or
229 authorized by the Beverage Law the division may accept a bond in
230 a less sum than \$25,000 but in no event shall it accept a bond
231 less than \$1,000 and it may at any time in its discretion
232 require any bond in an amount less than \$25,000 to be increased

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233 so as not to exceed \$25,000; provided, further, that the amount
 234 of bond required for a distributor in a county having a
 235 population of 15,000 or less who procures a license by which his
 236 or her sales are restricted to distributors and vendors who have
 237 obtained licenses in the same county, shall be \$5,000.

238 Section 4. Subsection (1) of section 561.5101, Florida
 239 Statutes, is amended to read:

240 561.5101 Come-to-rest requirement; exceptions; penalties.-

241 (1) For purposes of inspection and tax-revenue control, all
 242 malt beverages, except those manufactured and sold pursuant to
 243 s. 561.221(2) or (3) ~~s. 561.221(3)~~, must come to rest at the
 244 licensed premises of an alcoholic beverage wholesaler in this
 245 state before being sold to a vendor by the wholesaler. The
 246 prohibition contained in this subsection does not apply to the
 247 shipment of malt beverages commonly known as private labels. The
 248 prohibition contained in this subsection does ~~shall~~ not prevent
 249 a manufacturer from shipping malt beverages for storage at a
 250 bonded warehouse facility if, ~~provided that~~ such malt beverages
 251 are distributed as provided in this subsection or to an out-of-
 252 state entity.

253 Section 5. Subsections (1) and (3) of section 562.34,
 254 Florida Statutes, are amended to read:

255 562.34 Containers; seizure and forfeiture.-

256 (1) ~~A It shall be unlawful for any person~~ may not ~~to~~ have
 257 in her or his possession, custody, or control any cans, jugs,
 258 jars, bottles, or vessels, ~~or~~ any other type of containers that
 259 ~~which~~ are being used, are intended to be used, or are known by
 260 the possessor to have been used to bottle or package alcoholic
 261 beverages. ~~;~~ ~~however,~~ This subsection does ~~provision shall~~ not

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262 apply to a ~~any~~ person properly licensed to bottle or package
 263 such alcoholic beverages, a ~~or to any~~ person intending to
 264 dispose of such containers to a person, firm, or corporation
 265 properly licensed to bottle or package such alcoholic beverages,
 266 or a person that has in her or his possession a growler.

267 (3) A ~~It shall be unlawful for any person~~ may not ~~to~~
 268 transport any cans, jugs, jars, bottles, or vessels, ~~or any~~
 269 other type of containers intended to be used to bottle or
 270 package alcoholic beverages. ~~however,~~ This subsection does
 271 ~~section shall~~ not apply to a ~~any~~ firm or corporation holding a
 272 license to manufacture or distribute such alcoholic beverages, a
 273 ~~and shall not apply to any~~ person transporting such containers
 274 to a ~~any~~ person, firm, or corporation holding a license to
 275 manufacture or distribute such alcoholic beverages, or a person
 276 transporting a growler.

277 Section 6. Subsection (14) of section 563.022, Florida
 278 Statutes, is reenacted and amended to read:

279 563.022 Relations between beer distributors and
 280 manufacturers.—

281 (14) MANUFACTURER; PROHIBITED INTERESTS.—

282 (a) This subsection applies to:

283 1. A manufacturer;

284 2. An ~~Any~~ officer, director, agent, or employee of a
 285 manufacturer; or

286 3. An affiliate of a ~~any~~ manufacturer, regardless of
 287 whether the affiliation is corporate or by management,
 288 direction, or control.

289 (b) Except as provided in paragraph (c), an ~~no~~ entity or
 290 person specified in paragraph (a) may not have an interest in

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291 the license, business, assets, or corporate stock of a licensed
292 distributor and may not ~~nor shall such entity~~ sell directly to a
293 ~~any~~ vendor in this state other than a vendor ~~to vendors who are~~
294 licensed pursuant to s. 561.221(2).

295 (c) An ~~Any~~ entity or person specified ~~described~~ in
296 paragraph (a) may financially assist a proposed distributor in
297 acquiring ownership of the distributorship through participation
298 in a limited partnership arrangement in which the entity or
299 person specified ~~described~~ in paragraph (a) is a limited partner
300 and the proposed distributor seeking to acquire ownership of the
301 distributorship is the general partner. Such a limited
302 partnership arrangement ~~arrangements~~ may exist for up to ~~no~~
303 ~~longer than~~ 8 years from its ~~their~~ creation and may ~~shall~~ not be
304 extended or renewed by means of a transfer of full ownership to
305 an entity or person specified ~~described~~ in paragraph (a)
306 followed by the creation of a new limited partnership or by any
307 other means. In any such arrangement for financial assistance,
308 the federal basic permit and distributor's license issued by the
309 division shall be issued in the name of the distributor and not
310 in the name of an entity or person specified ~~described~~ in
311 paragraph (a). If, after the creation of a limited partnership
312 pursuant to this paragraph, an entity or person specified
313 ~~described~~ in paragraph (a) acquires title to the distributorship
314 that ~~which~~ was the subject of the limited partnership, the
315 entity or person specified ~~described~~ in paragraph (a) shall
316 divest itself of the distributorship within 180 days, and the
317 distributorship shall be ineligible for limited partnership
318 financing for 20 years thereafter. An ~~No~~ entity or person
319 specified ~~described~~ in paragraph (a) may not ~~shall~~ enter into a

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320 limited partnership arrangement with a licensed distributor
321 whose distributorship existed and was operated before ~~prior to~~
322 the creation of such limited partnership arrangement.

323 (d) ~~Nothing in~~ The Beverage Law does not ~~shall be construed~~
324 ~~to~~ prohibit a manufacturer from shipping products to or between
325 its breweries without a distributor's license.

326 (e) Notwithstanding ~~the provisions of~~ paragraph (b), an any
327 entity or person specified ~~named~~ in paragraph (a) may have an
328 interest in the license, business, assets, or corporate stock of
329 a licensed distributor for a maximum of 180 consecutive days as
330 the result of a judgment of foreclosure against the distributor
331 or for 180 consecutive days after acquiring title pursuant to
332 the written request of the licensed distributor. Under either of
333 these circumstances, manufacturer ownership of an interest in
334 the license, business, assets, or corporate stock of a licensed
335 distributor may ~~shall~~ only be for 180 days and only for the
336 purpose of facilitating an orderly transfer of the
337 distributorship to an owner not affiliated with a manufacturer.

338 (f) Notwithstanding ~~the provisions of~~ paragraph (b), an any
339 entity or person specified ~~named~~ in paragraph (a) may have a
340 security interest in the inventory or property of its licensed
341 distributors to secure payment for that ~~said~~ inventory or other
342 loans for other purposes.

343 Section 7. Section 563.06, Florida Statutes, is amended to
344 read:

345 563.06 Malt beverages; imprint on individual container;
346 size of containers; growlers; exemptions.-

347 (1) On and after October 1, 1959, all taxable malt
348 beverages packaged in individual containers possessed by any

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349 person in the state for the purpose of sale or resale in the
350 state, except operators of railroads, sleeping cars, steamships,
351 buses, and airplanes engaged in interstate commerce and licensed
352 under this section, shall have imprinted thereon in clearly
353 legible fashion by any permanent method the word "Florida" or
354 "FL" and no other state name or abbreviation of any state name
355 in not less than 8-point type. The word "Florida" or "FL" shall
356 appear first or last, if imprinted in conjunction with any
357 manufacturer's code. A facsimile of the imprinting and its
358 location as it will appear on the individual container shall be
359 submitted to the division for approval.

360 (2) Nothing herein contained shall require such designation
361 to be attached to individual containers of malt beverages which
362 are transported through this state and which are not sold,
363 delivered, or stored for sale therein, if transported in
364 accordance with such rules and regulations as adopted by the
365 division; nor shall this requirement apply to malt beverages
366 packaged in individual containers and held on the premises of a
367 brewer or bottler, which malt beverages are for sale and
368 delivery to persons outside the state.

369 (3) Possession by any person in the state, except as
370 otherwise provided herein, of more than 4 1/2 gallons of malt
371 beverages in individual containers which do not have the word
372 "Florida" or "FL" as herein provided, shall be prima facie
373 evidence that said malt beverage is possessed for the purpose of
374 sale or resale.

375 (4) Except as otherwise provided herein, any malt beverages
376 in individual containers held or possessed in the state for the
377 purpose of sale or resale within the state which do not bear the

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378 word "Florida" or "FL" thereon shall, at the direction of the
379 division, be confiscated in accordance with the provisions of
380 the Beverage Law.

381 (5) (a) Nothing contained in this section shall require that
382 malt beverages packaged in individual containers and possessed
383 by any person in the state for purposes of sale or resale in the
384 state have imprinted thereon the word "Florida" or "FL" if the
385 manufacturer of the malt beverages can establish before the
386 division that the manufacturer has a tracking system in place,
387 by use of code or otherwise, which enables the manufacturer,
388 with at least 85 percent reliability by July 1, 1996, and 90
389 percent reliability by January 1, 2000, to identify the
390 following:

391 1. The place where individual containers of malt beverages
392 were produced;

393 2. The state into which the individual containers of malt
394 beverages were shipped; and

395 3. The individual distributors within the state which
396 received the individual containers of malt beverages.

397 (b) Prior to shipping individual containers of malt
398 beverages into the state which do not have the word "Florida" or
399 "FL" imprinted thereon, the manufacturer must file an
400 application with the division to claim the exemption contained
401 herein and must obtain approval from the division to ship
402 individual containers of malt beverages into the state which do
403 not have the word "Florida" or "FL" imprinted thereon.
404 Information furnished by the manufacturer to establish the
405 criteria contained within paragraph (a) may be subject to an
406 annual audit and verification by the division. The division may

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407 revoke an approved exemption if the manufacturer refuses to
408 furnish the information required in paragraph (a) upon request
409 of the division, or if the manufacturer fails to permit a
410 subsequent verification audit, or if the manufacturer fails to
411 fully cooperate with the division during the conducting of an
412 audit.

413 (c) When a distributor has information that malt beverages
414 may have been shipped into Florida on which payment of Florida
415 excise taxes has not been made, such information may be provided
416 to the division and the division shall investigate to ascertain
417 whether any violations of Florida law have occurred.

418 (6) All malt beverages packaged in individual containers
419 sold or offered for sale by vendors at retail in this state,
420 except for malt beverages sold in growlers pursuant to s.
421 563.061, must shall be in individual containers containing no
422 more than 32 ounces of such malt beverages. ~~; provided, however,~~
423 ~~that nothing contained in~~ This section does not shall affect
424 malt beverages packaged in bulk or in kegs or in barrels or in
425 any individual container containing 1 gallon or more of such
426 malt beverage regardless of individual container type.

427 (7) Any person, firm, or corporation, its agents, officers
428 or employees, violating any of the provisions of this section,
429 shall be guilty of a misdemeanor of the first degree, punishable
430 as provided in s. 775.082 or s. 775.083; and the license, if
431 any, shall be subject to revocation or suspension by the
432 division.

433 Section 8. Section 563.061, Florida Statutes, is created to
434 read:

435 563.061 Malt beverages; filling or refilling of growlers.-

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436 (1) The filling or refilling of a growler is limited to:

437 (a) A manufacturer of malt beverages who holds a valid
438 vendor's license pursuant to s. 561.221(2) if the growler is
439 filled or refilled with malt beverages manufactured on the
440 licensed premises for sale for off-premises consumption to
441 consumers in a face-to-face transaction on the licensed
442 premises;

443 (b) A vendor holding a quota license under ss. 561.20(1)
444 and 565.02(1)(a) with malt beverages authorized under that
445 license for sale for off-premises consumption to consumers in a
446 face-to-face transaction on the licensed premises; or

447 (c) A vendor holding a license under s. 563.02(1)(b)-(f),
448 s. 564.02(1)(b)-(f), or s. 565.02(1)(b)-(f) which authorizes
449 consumption of malt beverages on the premises, unless such
450 license restricts the consumption of malt beverages to the
451 premises only.

452 (2) The growler must have an unbroken seal, or its contents
453 must be incapable of being immediately consumed.

454 (3) The growler must be clearly labeled as containing an
455 alcoholic beverage and provide the name of the manufacturer, the
456 brand, the volume, the percentage of alcohol by volume, and the
457 required federal health warning notice for alcoholic beverages.
458 If a growler being refilled has an existing label or other
459 identifying mark of a manufacturer or brand from a prior filling
460 or refilling, that label must be covered sufficiently to
461 indicate the manufacturer and brand of the malt beverage being
462 placed in the container at that refilling.

463 (4) The growler must be clean before being filled or
464 refilled.

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465 (5) A licensee authorized to fill and refill growlers may
466 not use growlers for purposes of distribution or sale outside
467 the manufacturer's or vendor's licensed premises, except as
468 authorized under this subsection and s. 561.221(2).

469 Section 9. If any provision of this act or its application
470 to any person or circumstance is held invalid, the invalidity
471 does not affect other provisions or applications of the act
472 which can be given effect without the invalid provision or
473 application, and to this end the provisions of this act are
474 severable.

475 Section 10. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

4/8/14

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

Meeting Date

Topic GROWLER & CRAFT BEER

Bill Number 1714

Name MATTHEW SOLOLOWSKI

Amendment Barcode 784404
(if applicable)

Job Title SUCCESSOR MANAGER / OWNER

Address 2310 STARKEY ROAD

Phone 727-394-9688

Street

LARGO FL 33771

City

State

Zip

E-mail matt@greatbaybeer.com

Speaking: For Against Information

Representing GREAT BAY DISTRIBUTORS & FBWA

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)

4/8/14
Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 787404
(if applicable)

Job Title President

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Beer Industry 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 8, 2014
Meeting Date

Topic Malt beverages

Bill Number 1714
(if applicable)

Name Josh Aubuchon

Amendment Barcode 159766
(if applicable)

Job Title Exec. Dir.

Address _____
Street

City State Zip

Phone _____

E-mail _____

Speaking: For Against Information

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 159766
(if applicable)

Job Title President

Address _____
Street

Phone _____

_____ *City*

_____ *State*

_____ *Zip*

E-mail _____

Speaking: For Against Information

Representing Beer Industry 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)

April 8, 2014
Meeting Date

Topic Malt beverages

Bill Number 1714
(if applicable)

Name Josh Aubuchon

Amendment Barcode 979722
(if applicable)

Job Title Exec. Dir.

Address _____
Street

Phone _____

_____ *City* _____ *State* _____ *Zip*

E-mail _____

Speaking: For Against Information

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic BEER

Bill Number 53 1214

Name BYRON BURGINS

Amendment Barcode 929222
(if applicable)

Job Title OWNER

Address 1717 W TENNESSEE ST

Phone 850-443-6757

TALLAHASSEE FL 32304
Street City State Zip

E-mail _____

Speaking: For Against Information

Representing PILGER BREWING CO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic Beer (Malt Beverages)

Bill Number SB1714

Name Gabe Grass

Amendment Barcode 979 722 (if applicable)

Job Title President + Head Brewer

Address 603 West Gaines Street

Phone 850-566-0741

Street

Tallahassee, FL 32304

City

State

Zip

E-mail gabe@grasslandsbrewery.com

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

Representing Grasslands Brewing Company

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

Lobbyist registered with Legislature: [] Yes [X] No

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

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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)

4/8/14
Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 979722
(if applicable)

Job Title President

Address _____
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Beer industry 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)

4/8/14
Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 686318
(if applicable)

Job Title President

Address _____
Street

Phone _____

_____ City _____ State _____ Zip

E-mail _____

Speaking: For Against Information

Representing Beer Industry 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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic BHR

Bill Number SB 1214

Name BYRON BURENENS

Amendment Barcode 686318
(if applicable)

Job Title OWNER

Address 1717 W TENNESSEE ST

Phone 850-443-6757

TALLAHASSEE, FL 32304
Street City State Zip

E-mail _____

Speaking: For Against Information

Representing PROOF BREWING CO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 3, 2014
Meeting Date

Topic Malt beverages

Bill Number 1714
(if applicable)

Name Josh Aubuchon

Amendment Barcode 086318
(if applicable)

Job Title Exec. Dir.

Address _____
Street

Phone _____

_____ *City* _____ *State* _____ *Zip*

E-mail _____

Speaking: For Against Information

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 8, 2014
Meeting Date

Topic Malt beverages

Bill Number 1714
(if applicable)

Name Josh Aubuchon

Amendment Barcode 142574
(if applicable)

Job Title Exec. Dir.

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic BTLR

Bill Number SB 1714

Name BILLY BURBORGUS

Amendment Barcode 142574
(if applicable)

Job Title OWNER

Address 1711 W TENNESSEE ST.

Phone 850-443-6757

Street
TALLAHASSEE FL 32304
City State Zip

E-mail _____

Speaking: For Against Information

Representing PROOF BREWING Co

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 142574
(if applicable)

Job Title President

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Beer Industry 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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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic BUR

Bill Number SB 1714

Name BILLY BURROUGHS

Amendment Barcode 706420
(if applicable)

Job Title OWNER

Address 1717 W TENNESSEE ST.

Phone 850-443-(6757)

TALAWASSEE, FL 32304
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.

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 9, 2014
Meeting Date

Topic Malt beverages

Bill Number 1714
(if applicable)

Name Josh Aubuchon

Amendment Barcode 706420
(if applicable)

Job Title Exec. Dir.

Address _____

Phone _____

Street

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 706420
(if applicable)

Job Title President

Address _____
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing Beer Industry 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)

4/8/14
Meeting Date

Topic Beer

Bill Number 1714
(if applicable)

Name Eric Criss

Amendment Barcode 455360
(if applicable)

Job Title President

Address _____
Street

Phone _____

City _____ State _____ Zip _____

E-mail _____

Speaking: For Against Information

Representing Beer Industry 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Meeting Date _____

Topic SB 1714 -

Bill Number SB 1714
(if applicable)

Name KEVIN BOWLER

Amendment Barcode _____
(if applicable)

Job Title OWNER

Address 22 TIDEWATER DR.

Phone 386-527-5623

Street

ORMOND BEACH FL 32174

E-mail kevin6@daytonabud.com

City

State

Zip

Speaking: For Against Information

Representing DAYTONA BEVERAGES

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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)

4/8/14
Meeting/Date

Topic SB 1714 / Beer

Bill Number SB 1714
(if applicable)

Name Eric Cris

Amendment Barcode _____
(if applicable)

Job Title President

Address 110 S. Monroe St.
Street

Phone 850. ⁴⁹¹ ~~400~~ 3903

City _____ State _____ Zip _____

E-mail eric@floridabeer.org

Speaking: For Against Information

Representing Beer Industry 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

04-08-14

Meeting Date

Topic CRAFT BEER

Bill Number 1714
(if applicable)

Name Scott Dick

Amendment Barcode _____
(if applicable)

Job Title lobbyist

Address 210 South Monroe Street
Street

Phone 850 421-9100

City _____ State _____ Zip _____

E-mail scott@skdgrp.com

Speaking: For Against Information

Representing FLA Independent Spirits Association & ABC Liquors

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic BEER

Bill Number 5B1214
(if applicable)

Name BYRON BURRENGHS

Amendment Barcode _____
(if applicable)

Job Title OWNER

Address 1717 W TENNESSEE ST

Phone 850-443-6287

^{Street}ALLAMASSE FL 32304
City State Zip

E-mail _____

Speaking: For Against Information

Representing PLOOF BREWING Co.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 8, 2014
Meeting Date

Topic Malt beverages

Bill Number 1714
(if applicable)

Name Josh Aubuchon

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 315 S. Calhoun St. Suite 600
Street

Phone _____

Tally
City

FL
State

32301
Zip

E-mail _____

Speaking: For Against Information

Representing Florida Brewers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/2014

Meeting Date

Topic _____

Bill Number 1714
(if applicable)

Name Gabe Grass

Amendment Barcode _____
(if applicable)

Job Title President & Head Brewer

Address 603 West Gaines Street

Phone 850-566-0741

Street

Tallahassee

FL

32304

City

State

Zip

E-mail gabe@grasslandsbrewery.com

Speaking: For Against Information

Representing GrassLands Brewing Company

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)

4/8/14
Meeting/Date

Topic Matt Beverages

Bill Number ~~7150~~ 1714
(if applicable)

Name Natalie King

Amendment Barcode _____
(if applicable)

Job Title Consultant

Address 235 W. Brandon Blvd 640

Phone 813 924-8218

Brandon FL 33511
City State Zip

E-mail natalie@rsaconsultingllc.com

Speaking: For Against Information

Representing Pepin Distributing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 1464

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Simpson

SUBJECT: Environmental Regulation

DATE: April 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Fav/CS
2.	Stearns	Yeatman	CA	Pre-meeting
3.			AP	
4.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1464 amends statutes related to environmental regulation and permitting. The bill:

- Provides voting requirements for the adoption or transmittal of a comprehensive plan or plan amendment;
- Exempts multi-family dock owners from lease renewal fees;
- Authorizes consumptive use permits for 30 years for a development of regional impact (DRI);
- Encourages counties to create a Water Well Construction Advisory Board;
- Amends the financial responsibility requirements for mitigation bank permit applicants and requires the Department of Environmental Protection (DEP) to adopt rules;
- Requires water related needs identified in a long-term master plan or a master plan development order to be included in a regional water supply plan;
- Authorizes the DEP to approve the use of additional safety and warning devices at public beaches;
- Clarifies that relief mechanisms may be granted in federally delegated permitting programs or approved permitting programs;
- Creates a solid waste landfill closure account; and
- Extends and renews certain permit expiration dates.

II. Present Situation:

The statutes affected by this bill are diverse. The present situation of each area affected by the bill will be addressed in Section III – Effect of Proposed Changes.

III. Effect of Proposed Changes:

State Coordinated Review Process (Section 1)

Section 163.3184, F.S., provides the process for review of comprehensive plans and most plan amendments.¹ Most plan amendments are reviewed under the “expedited state review process,” which requires two public hearings, one during proposal and one during adoption. Following the first public hearing, the local government is required to transmit the amendment or amendments along with supporting data, to the reviewing agencies within 10 days. The local governing body must also transmit the amendments and supporting data to any other local government or government agency that has filed a written request. Reviewing agencies provide comments on the proposed plan amendment to the local government.²

The state coordinated review process is designed for new comprehensive plans and for amendments that require a more comprehensive review. Amendments that are required to follow a state coordinated review process include amendments:

- For an area of critical state concern;
- To propose a rural land stewardship area;
- To propose a sector plan;
- To update a comprehensive plan based on an evaluation and appraisal review; and
- For new plans for newly incorporated municipalities.³

The state coordinated review process also requires two public hearings. A proposed plan or plan amendment is transmitted to the reviewing agencies within 10 days after the initial public hearing.⁴

Effect of Proposed Changes

Section 1 amends s. 163.3184, F.S., prohibiting a super majority vote to affirm the transmittal and adoption of a proposed comprehensive plan or plan amendment under the expedited state review process or the state coordinated review process. The bill specifies this prohibition does not apply to a county that has approved a charter provision in a countywide election that requires a greater than simple majority vote.

¹ Section 163.3187, F.S., provides the review process for small-scale amendments, and s. 163.3246, F.S., provides the review process for local governments eligible for the Local Government Comprehensive Planning Certification Program.

² Section 163.3184(3), F.S.

³ Section 163.3184(4), F.S.

⁴ *Id.*

Lease of Sovereignty Submerged Lands (Section 2)

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is responsible for the administration and disposition of the state's sovereignty submerged lands.⁵ The BOT is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.⁶ Waterfront landowners must receive the BOT's authorization to build docks and related structures on sovereignty submerged lands. The DEP administers all staff functions on the BOT's behalf.⁷

Florida recognizes riparian rights for landowners with waterfront property bordering navigable waters, which include the rights of ingress, egress, boating, bathing, fishing, and others as defined by law.⁸ Riparian landowners must obtain a sovereignty submerged lands authorization in the form of a letter of consent, consent by rule, or a lease prior to installation and maintenance of docks, piers, and boat ramps on sovereignty submerged land. A dock that preempts more than the 10:1 preemption ratio requires a lease. The preemption ratio is the ratio of the preempted area⁹ in square feet to the number of linear feet of shoreline owned by the applicant.¹⁰

A lease agreement between the state and the property owner transfers the use, possession, and control of sovereignty submerged lands to the property owner for up to 10 years. The annual lease fees for a standard term lease are calculated through a formula based on annual income, square footage, or a minimum annual fee. Extended term leases are available, under limited conditions, for up to 25 years. Annual lease fees for extended term leases are calculated in the same fashion as standard lease fees but with a multiplier for the term in years. A private residential multi-family dock that is designed to moor up to the number of units within the multi-family development is not required to pay a lease fee for a preempted area that is less than the 10:1 preempted ratio.¹¹

Section 253.0347, F.S., and Rule 18-21, F.A.C., require that the DEP inspect each private residential single-family dock or pier, private residential multi-family dock or pier, private residential multislip dock, or other private residential structure under lease at least once every 10 years to determine compliance with the terms of the lease. In addition, each lessee is assessed a processing fee for the renewal of the lease every 10 years. The processing fee is increased annually based on the average change over five years in the Consumer Price Index. The current

⁵ Section 253.03(8)(b), F.S., defines submerged lands as publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state.

⁶ Section 253.02(1), F.S.

⁷ Section 253.03, F.S.

⁸ Section 253.141(1), F.S.

⁹ Rule 18-21.003, F.A.C., defines "preempted area" as "the area of sovereignty submerged lands from which any traditional public uses have been or will be excluded by an activity, such as the area occupied by docks, piers, and other structures; the area between a dock and the shoreline where access is not allowed, between docks, or areas where mooring routinely occurs that are no longer reasonably accessible to the general public; permanent mooring areas not associated with docks; and swimming areas enclosed by nets, buoys, or similar marking systems. When the Board requires an activity to be moved waterward to avoid adverse resource impacts, the portion of the nearshore area that is avoided by the proposed activity shall not be included in the preempted area."

¹⁰ Rule 18-21.005, F.A.C.

¹¹ Rule 18-21, F.A.C. See also DEP, *Construction Criteria for Docks, Piers, and Marinas-Not in an Aquatic Preserve*, http://publicfiles.dep.state.fl.us/dworm/slerp/erphelp/mergedProjects/docksguide/Not_in_AP/Private_Multi_Family_or_Multi_Slip.htm (last visited Mar. 23, 2014).

lease renewal processing fee is \$619 for multi-family dock owners, which is paid by the condominium association or the homeowners association.

Effect of Proposed Changes

Section 2 amends s. 253.0347, F.S., exempting private residential multi-family dock owners from paying a lease renewal fee for a preempted area that is less than or equal to the 10:1 preemption ratio.

Consumptive Use Permits for Developments of Regional Impact (Section 3)

Section 373.236(5), F.S., authorizes consumptive use permits (CUPs) for the development of alternative water supply (AWS) projects. A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn from the source. A water management district (WMD) or the DEP may impose reasonable conditions as necessary to assure that the use is consistent with the overall objectives of the issuing WMD or the DEP and is not harmful to the water resources of the area.¹²

To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use” as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.¹³

CUPs must be granted for 20 years if requested by the applicant and there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit.¹⁴ If either of these requirements is not met, a CUP with a shorter duration may be issued to reflect the period for which reasonable assurances can be provided. The WMDs and the DEP may determine the duration of permits based upon a reasonable system of classification according to the water source, the type of use, or both.¹⁵ However, a CUP approved on or after July 1, 2013, for the development of AWS must be granted for a term of at least 30 years, subject to the same data and assurance requirements.¹⁶ Where landowners make extraordinary contributions of lands or construction funding to enable the expeditions implementation of AWS projects, WMDs and the DEP may grant a CUP permit for up to 50 years to certain public entities and privately owned utilities.¹⁷

Section 380.06, F.S., defines “developments of regional impact” as “any development which, because of its character, magnitude or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.” Florida’s regional planning councils coordinate the multi-agency review of proposed developments of regional impact. They are

¹² Section 373.219, F.S.

¹³ Section 373.223(1)(a)-(c), F.S.

¹⁴ Section 373.236(1), F.S.

¹⁵ Section 373.236, F.S.

¹⁶ Section 373.236(5)(b)1., F.S.

¹⁷ Section 373.236(6)(a), F.S.

recognized as Florida's only multipurpose regional entity that plans for and coordinates intergovernmental solutions to growth-related problems on greater-than-local issues, provides technical assistance to local governments, and meets other needs of the communities in each region.¹⁸ The Department of Economic Opportunity reviews land use decisions related to developments of regional impact for compliance with state law and to identify regional and state impacts.¹⁹ The criteria used to evaluate a proposed DRI are:

- The extent to which the development would create or alleviate environmental problems such as air, water, or noise pollution;
- The amount of pedestrian or vehicular traffic likely to be generated;
- The number of persons likely to be residents, employees, or otherwise present;
- The size of the site to be occupied;
- The likelihood that additional or subsidiary development will be generated;
- The extent to which the development would create an additional demand for, or additional use of, energy, including the energy requirements of subsidiary developments; and the unique qualities of particular areas of the state.

Section 288.0656, F.S., recognizes that rural communities face challenges in their effort to improve their economies and provides legislative intent to encourage and facilitate the location and expansion of major economic development projects. A rural area of critical economic concern is defined as "a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique development opportunity of regional impact."

Effect of Proposed Changes

Section 3 amends s. 373.236, F.S., allowing the WMDs and the DEP to issue a 30-year CUP for a DRI that is located in a rural area of critical economic concern.

Programs Regulating Water Wells (Section 4)

Section 373.308, F.S., authorizes the WMDs to implement programs for the issuance of well permits. The well permits are the responsibility of the WMDs and the local governments, or the local county health department; however, the DEP may require minimum standards for the location, construction, repair, and abandonment of groundwater wells. The statute prohibits other local governments from imposing duplicative regulations or fees for activities associated with groundwater wells.

Effect of Proposed Changes

Section 4 amends s. 373.308, F.S., encouraging a county that imposes additional or more stringent water well design construction criteria, standards, or fees than the DEP or the WMDs to establish a Water Well Construction Advisory Board. The Water Well Construction Advisory Board is to coordinate and implement well construction criteria and standards, permitting, and aquifer protection programs. The bill states the board should include licensed water well

¹⁸ Section 186.502, F.S.

¹⁹ See s. 380.06, F.S.

contractors, county health department staff, WMD staff, and a representative of the Florida Ground Water Association.

Mitigation Bank Permits (Sections 5 and 6)

Environmental mitigation, as it relates to wetlands regulatory programs, is generally defined as, “the creation, restoration, preservation or enhancement of wetlands to compensate for permitted wetlands losses.”²⁰ Mitigation banking is a concept designed to increase the success of environmental mitigation efforts and reduce costs to developers of individual mitigation projects.²¹

Section 373.4135, F.S., as part of the Environmental Reorganization Act of 1993, directs the DEP and WMDs to participate in and encourage the establishment of private and public mitigation banks and offsite regional mitigation.²² The rules, codified in s. 373.4136, F.S., address the following:

- The establishment of mitigation banks by governmental, nonprofit, or for-profit entities;
- Requirements to ensure the financial responsibility of nongovernmental entities proposing to develop mitigation banks;
- The appropriateness or desirability of mitigation banking when onsite mitigation is determined not to have the comparable long-term viability and ecological value of a mitigation bank;
- A framework for determining the value of a mitigation bank through the issuance of credits;
- Criteria for withdrawal of mitigation credits by projects within or outside the regional watershed where the bank is located;
- Measurements to ensure the long-term management and protection of mitigation banks; and
- Criteria governing the contribution of funds or land to an approved mitigation bank.²³

A “banker” is an entity that creates, operates, manages or maintains a mitigation bank.²⁴ A banker must apply for a mitigation bank permit before establishing and operating a mitigation bank.²⁵ Mitigation banks are permitted by the DEP or one of the WMDs that has adopted rules based on the location of the bank and activity-based considerations, such as whether the ecological benefits will preserve wetlands losses resulting from development or land use activities or will offset losses to threatened and endangered species.²⁶ The mitigation bank permit authorizes the establishment and operation of the mitigation bank and sets forth the rights and

²⁰ John J. Fumero, *Environmental Law: 1994 Survey of Florida Law – At a Crossroads in Natural Resource Protection and Management in Florida*, 19 Nova L. Rev. 77, 101 (1994).

²¹ *Id.* at 103.

²² Chapter 93-213, s. 29, Laws of Florida.

²³ In 1996, the Florida Legislature revised the statutes on mitigation banking and the substantive sections of the rules were placed in s. 373.4136, F.S. See the “Legal Authority” section of the DEP, *Mitigation and Mitigation Banking*, <http://www.dep.state.fl.us/water/wetlands/mitigation/synopsis.htm> (last visited Mar. 23, 2014). Rule 62-342, F.A.C., was revised in May 2001 providing specific financial assurance requirements.

²⁴ Rule 62-342.200(1), F.A.C.

²⁵ *Id.*

²⁶ DEP, *Mitigation and Mitigation Banking*, <http://www.dep.state.fl.us/water/wetlands/mitigation/synopsis.htm> (last visited Mar. 23, 2014).

responsibilities, including financial responsibilities, of the banker and the DEP for its implementation, management, maintenance, and operation.²⁷

The requirements for a mitigation bank permit are contained in s. 373.4136, F.S., and Rules 62-342.450 and 62-342.700, F.A.C. Mitigation banks are also subject to the federal permitting process administered by the United States Army Corps of Engineers. In order to obtain a mitigation permit, the applicant must provide reasonable assurance that the proposed mitigation bank will:

- Improve the ecological conditions of the watershed;
- Provide sustainable ecological and hydrological functions for the mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the viability of the mitigation bank.

The mitigation bank applicant must provide reasonable assurance that the construction, alteration, operation, maintenance, abandonment, or removal of a surface water management system will meet the requirements of statute and rule. The applicant must also have sufficient legal or equitable interest in the property to ensure protection and management of the land within the mitigation bank.²⁸ The applicant is required to provide proof of financial responsibility for the construction and management of the mitigation bank.²⁹

Effect of Proposed Changes

Section 5 amends s. 373.4136, F.S., allowing mitigation bank permit applicants to submit proof of insurance in a form approved by the DEP or a WMD as proof of financial responsibility for mitigation banks.

Section 6 creates an unnumbered section of Florida law directing the DEP to adopt rules to implement changes to s. 373.4136(1), F.S., made by this bill.

Regional Water Supply Planning (Section 7)

Section 373.709, F.S., requires the governing board of a WMD to conduct water supply planning for a water supply planning region within the district where it is determined that existing sources of water are not adequate to:

- Supply water for all existing and future reasonable-beneficial uses; and
- Sustain the water resources and related natural systems for the planning period.

The planning must be conducted in an open public process, in coordination and cooperation with local governments, a regional water supply authority, public and private wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the DEP, DACS, and other affected parties.³⁰

²⁷ *Id.*

²⁸ Section 373.414, F.S.

²⁹ Section 373.4136(1)(i), F.S., and Rule 62-342.700, F.A.C.

³⁰ *Id.*

The regional water supply plan must be based on at least a 20-year planning period and include:

- A water supply development component;
- A water resource development component;
- A recovery and prevention strategy for water resource development projects;
- A funding strategy;
- Consideration of the public interest;
- Technical data and information applicable to the planning region;
- Minimum flows and levels established for the planning area;
- Reservations of water adopted by rule within each planning region;
- Identification of water resources for future minimum flows and levels; and
- Analysis of the areas where variances may be used to create water supply or resource development projects.³¹

In 1998, the water management districts prepared water supply assessments to determine existing and future water needs and evaluate the adequacy of existing and potential sources to meet the reasonable-beneficial needs for the next 20 years. The regional water plans identified traditional and alternative water supply options including:

- Further development of fresh groundwater and surface water;
- Demineralization of brackish groundwater;
- Desalination of seawater;
- Reuse of reclaimed water; and
- Water conservation.³²

Long-Term Master Plan

Section 163.3245, F.S., authorizes local governments, or combinations of local governments, to adopt a sector plan into their comprehensive plan. A sector plan promotes long-term planning for conservation, development, and agriculture by facilitating the protection of resources and avoiding duplication of data and analysis. Sector planning includes the adoption of a long-term master plan as part of the comprehensive plan and adoption by local development order of two or more detail specific areas that implement the long-term master plan.

The water needs, sources, and resource development projects identified in the long-term master plan are incorporated into the applicable regional or district water supply plans. A CUP may also be issued for the duration of the long-term master plan or detailed specific area plan.

Consideration must also be given to the contribution of the master plan to the availability of the regional water supply and the importance of maximizing the reasonable-beneficial use of the water resource.³³

Master Plan Development Order

A master development approval is required for a development project that includes two or more developments of regional impact and is planned for an extended period of time. The agreement is

³¹ *Id.*

³² DEP, Regional Water Supply Planning, <http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm>, (last visited Mar. 23, 2014).

³³ Section 163.3245, F.S.

entered into by the developer, the regional planning agency, and the jurisdictional local government. The development order provides the requirements for incremental submittal of information throughout the development process and addresses the anticipated regional impacts.³⁴

Effect of Proposed Changes

Section 7 amends s. 373.709, F.S., requiring that the water needs, sources, resource development projects, and supply development projects that are identified in a long-term master plan or a master plan development order must be incorporated into the regional water supply plan.

Coastal Safety Warning Devices (Section 8)

In 2002, the Legislature created s. 380.276, F.S., relating to the display of uniform warning and safety flags on public beaches. The Legislature recognized that the varying natural conditions of Florida's public beaches and coastal areas pose significant risks to the safety of tourists and the general public, and therefore it is important to inform the public of the need to exercise caution. The DEP, through the Florida Coastal Management Program, was directed to coordinate the uniform warning and safety flag program.

The DEP program encourages the display of uniform warning and safety flags on all public beaches along the coast and the placement of uniform notification signs that provide the meaning of the flags displayed. The DEP coordinates the implementation of the uniform warning and safety flag program with local governing bodies and the Florida Beach Patrol Chiefs Association. Participation in the program is open to any governmental entity having jurisdiction over a public beach along the coast, whether or not the beach has lifeguards.

The DEP's beach warning flag program uses the colors adopted by the International Lifesaving Federation, with symbols added to clarify the meaning of the flags.³⁵ The program also includes the placement of interpretive signs along the beach to explain the meaning of each flag used in the warning system.

The uniform warning and safety flag program requires:

- Posted notification of the meaning of each of the warning and safety flags at all designated public access points;
- The uniform notification signs be posted in a conspicuous location and be clearly legible; and
- The DEP establish the standard size, shape, color, and definition for each warning and safety flag.³⁶

³⁴ Section 380.06, F.S. See also Rule 73C-40, F.A.C.

³⁵ International Life Saving Federation, *Beach Safety and Information Flags*, available at <http://www.ilsf.org/sites/ilsf.org/files/filefield/beach-safety-and-information-flags-updated-100727.doc> (last visited Mar. 27, 2014).

³⁶ Section 380.276, F.S.

Effect of Proposed Changes

Section 8 amends s. 380.276, F.S., authorizing the DEP to approve the use of additional safety and warning devices to be used in conjunction with the display of uniform warning and safety flags at public beaches.

Variations (Section 9)

The Florida Air and Water Pollution Control Act was enacted in 1967.³⁷ The legislative declaration states “[t]he pollution of the air and waters of this state constitute a menace to the public health and welfare; create public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of the air and water.”³⁸

The act provides the DEP with authority to control and prohibit the pollution of water and air and to establish rules to carry out the act. Section 403.201, F.S., allows the DEP to grant a variance from the provisions of the act or the rules and regulations that have been adopted. A variance may be granted for any of the following reasons:

- There is no practicable means known or available for the adequate control of the pollution;
- Compliance with the requirements of the variance will require extensive cost and time, therefore, a variance may be issued with a timetable for the actions required; or
- To relieve or prevent hardship. The variances granted under this provision are limited to 24 months. A variance granted for electrical power plant and transmission line siting, as described in Part II of ch. 403, F.S., may be granted for the life of the permit.

A variance is prohibited for the discharge of waste into state waters or for hazardous waste management that would result in the requirement being less stringent than an applicable federal requirement. Research, development, and demonstration permits under s. 403.70715, F.S., are exempt from this provision.³⁹

Relief mechanisms may be included in a permit when the natural conditions for the impacted area result in limits that exceed what is authorized in the permit. The relief mechanisms include:

- A site specific alternative criterion for each water quality criterion;
- A variance or exemption for each water quality criterion;
- A variance or exemption for a public water system from the maximum contaminant level/treatments techniques;
- A variance from other permitting standards or conditions;
- A major exemption for an aquifer; or
- A minor exemption for an aquifer.⁴⁰

Effect of Proposed Changes

³⁷ Chapter 67-436, Laws of Fla.

³⁸ Section 403.021, F.S.

³⁹ Section 403.201, F.S.

⁴⁰ Rule 62-4.050, F.A.C.

Section 9 amends s. 403.201, F.S., specifying the DEP may grant relief mechanisms in federally delegated or approved permitting programs if the action is not inconsistent with the implemented federal program.

Solid Waste Management Trust Fund (Section 10)

The DEP is responsible for implementing and enforcing the state solid waste management program, which provides the guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state.⁴¹ Counties are responsible for operating solid waste disposal facilities, which are permitted through the DEP, in order to meet the needs of the incorporated and unincorporated areas of the county.⁴²

Rules 62-701-722, F.A.C., establish the standards for the construction, operation, and closure of a solid waste management facility. Landfills or solid waste disposal sites that close require a closure permit issued by the DEP or a closure plan approved by the DEP. The closure plan includes:

- A design plan;
- A closure operation plan;
- A long-term care plan; and
- Proof of financial assurance, which may include closure insurance, for long-term care and a cost estimate for closure pursuant to Rule 62-701.630, F.A.C.

Section 403.7125, F.S., provides the statutory requirement that the owner or operator of a landfill is responsible for the closure of the landfill and is liable for its improper closure. The owner or operator is required to establish a fee to ensure the financial resources are available for the closure of the landfill. Section 403.707(9), F.S., requires the same financial assurance responsibilities for the owner or operator. Sections 403.7125 and 403.707(9), F.S., allow the DEP to establish acceptable financial mechanisms that cover the cost of closure; however, neither section specifies that closure insurance is allowed.

Section 403.709, F.S., creates the Solid Waste Management Trust Fund, which is administered by the DEP. From the annual revenues deposited in the trust fund:

- Up to 40 percent must be used for solid waste activities;
- Up to 4.5 percent must be used for research and training programs;
- Up to 11 percent must be used for DACS mosquito control;
- Up to 4.5 percent must be used for Department of Transportation litter prevention control programs; and
- A minimum of 40 percent must be used for funding a solid waste management grant program for activities related to recycling and waste reduction.

Effect of Proposed Changes

Section 10 amends s. 403.709, F.S., creating a solid waste landfill closure account within the Solid Waste Management Trust Fund to provide funding for the closure and long-term care of

⁴¹ See s. 403.705, F.S.

⁴² See s. 403.706, F.S.

solid waste management facilities. The bill authorizes the DEP to use funds from the account to contract with a third party for the closure and long-term care of a solid waste management facility if:

- The facility has or had a DEP permit to operate;
- The permittee provided proof of financial assurance for the closure in the form of an insurance certificate;
- The facility is deemed to be abandoned or was ordered to close by the DEP;
- Closure is accomplished in substantial accordance with the closure plan approved by the DEP; and
- The DEP has written documentation that the insurance company issuing the closure insurance policy will provide or reimburse the funds required to complete the closure and long-term care of the facility.

The bill directs the DEP to deposit funds received from an insurance company as reimbursement into the solid waste landfill closure account.

Currently there are no existing resources for the DEP to access in order to enter into contracts for the closure work before the contractor or the DEP can be reimbursed by insurance companies for the allowable closure costs covered by the financial assurance insurance policy.

Two-year Time Extensions for Building and Development Permits (Section 11)

In 2009, the Legislature passed SB 360, providing a retroactive two-year extension and renewal from the date of expiration for:⁴³

- Any permit issued by the DEP or a WMD under Part IV of ch. 373, F.S.;
- Any development order issued by the Department of Community Affairs pursuant to s. 380.06, F.S.; and
- Any development order, building permit, or other land use approval issued by a local government that expired on or after September 1, 2008, but before January 1, 2012.

The extension applied to phase, commencement, and buildout dates, including a buildout date extension previously granted under s. 380.016(19)(c), F.S., for development orders and land use approvals, including but not limited to certificates of concurrency and development agreements.

Those requesting an extension were required to notify the authorizing agency in writing. The notification was required to specify which permit was intended to be extended, and the timeframe for acting on the authorization. Requests were due no later than December 31, 2009.⁴⁴

The extension did not apply to a permit or authorization:

- Under a programmatic or regional general permit issued by the United States Army Corps of Engineers;
- For owners and operators who are determined to be in significant noncompliance with the conditions of a permit eligible for an extension; and
- That would delay or prevent compliance with a court order if extended.

⁴³ Chapter 2009-96, 14, Laws of Fla.

⁴⁴ *Id.*

The rules in place at the time the initial permit or authorization was issued applied to the extension. Modifications to the permits and authorizations were also governed by rules in place at the time the permit or authorization was issued; however, a modification could not extend the time limit beyond the two years.⁴⁵

In 2010, the Legislature passed SB 1752, which reauthorized the two-year time extension granted in 2009 because the underlying law was being challenged in court.⁴⁶ Entities requesting an extension and renewal of the permit were required to notify the authorizing agency in writing.⁴⁷

SB 1752 also extended and renewed the expiration date for permits that expired between September 1, 2008, and January 1, 2012. This extension was in addition to the extension granted in 2009 and applied to the same types of permits. The permittee was required to request the extension in writing from the DEP no later than December 31, 2010. The request was to include the authorization the permittee intended to use the extension for and the timeframe for acting on the authorization.⁴⁸

In 2011, the Legislature extended and renewed the permits that were previously extended in 2009 and 2010 for an additional two years. The permittee was required to request the extension in writing from the DEP no later than December 31, 2011. The request was to include the authorization the permittee intended to use the extension for and the timeframe for acting on the authorization.⁴⁹

In 2011, the Legislature also passed HB 7207, to extend and renew a building permit or environmental resource permit that had an expiration date of January 1, 2012, through January 1, 2014. The extension included any development order or building permit issued by a local government, including certificates or levels of services. The extension was in addition to any existing permit extension. Development of regional impact order extensions under s. 380.06(19)(c)2., F.S. were not eligible for this extension and any permit that received a cumulative extension of four years due to previous extension was not eligible for this extension.⁵⁰

Effect of Proposed Changes

Section 11 creates an unnumbered section of Florida law to extend and renew the permit extensions from previous years. The bill extends the expiration date by two years for any environmental resource permit issued by the DEP or WMD with an expiration date from January 1, 2014, through January 1, 2016. The extension includes local government-issued development orders or building permits, including certificates of level of service. The bill does not prohibit the

⁴⁵ *Id.*

⁴⁶ Chapter 2009-96, Laws of Fla., was being challenged in court, see *City of Weston v. Crist*, Case No. 09-CA-2639 (Fla. 2d Cir. Ct. 2010); therefore, the Legislature reauthorized the permit extension granted in ch. 2009-96, Laws of Fla., in order to protect those who relied on the extension.

⁴⁷ 2010-147, 47, Laws of Fla.

⁴⁸ 2010-147, 46, Laws of Fla.

⁴⁹ Chapter 2011-139, s. 46, Laws of Fla.

⁵⁰ *Id.*

conversion from the construction phase to the operation phase upon completion of construction. The extension is in addition to any existing permit extensions; however, the total permit extension time for this bill or the 2009, 2010, and 2011 extensions cannot exceed four years.

The bill requires that the dates for commencement and completion for any required mitigation associated with a phased construction project are also extended.

The extension provided by the bill does not apply to:

- A permit or authorization under a programmatic or regional permit issued by the United States Army Corps of Engineers;
- A permit or authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization; or
- A permit authorization that would be out of compliance with a court order if extended.

The bill requires that permits extended under this section are subject to the rules in effect at the time the permit was issued, unless the rules would create an immediate threat to public safety or health. This provision applies to any modification of the plans, terms, and conditions of the permit. A modification cannot extend the time limit beyond two additional years.

The bill does not prevent a county or municipality from requiring a property owner that has requested an extension to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws.

Section 12 provides an effective date of July 1, 2014.

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:

Landowners and the private sector may realize a positive fiscal impact from the issuance of 30-year CUPs for developments of regional impact in rural areas of critical economic concern.

Applicants who are seeking mitigation bank permits and can satisfy the financial requirements with proof of insurance will realize indeterminate cost savings.

Multi-family property owners will experience a positive fiscal impact from the exemption of the lease renewal fee for docks. The lease renewal fee is assessed every 10 years and is currently \$619. This amount is increased annually by the average change in the Consumer Price Index over the previous five-year period.

Developers or other entities holding a development permit or other authorization may realize a positive fiscal impact from permits that are extended or renewed for two years.

C. Government Sector Impact:

The DEP will experience a negative fiscal impact from the exemption from the lease renewal fee. There are currently 731 multi-family facilities. The reduction in revenue deposited into the Internal Improvement Trust Fund over the next 10-year period is approximately \$452,000, with an annual reduction of \$45,200.

Local governments will incur additional expenses if they choose to purchase additional safety and warning devices for their public beaches.

The landfill closure account will have a positive fiscal impact on the DEP; however, DEP did not provide an agency analysis for this section, therefore the fiscal impact is indeterminate.

The DEP may incur costs associated with the rule development process for the mitigation bank provision; however, the DEP has not provided an estimate of the cost at this time.

VI. Technical Deficiencies:

On lines 191-202, regarding landfill closure accounts, there is no indication whether all of the requirements must be met or only one of the five.

VII. Related Issues:

The intent on line 255 of the bill is to include laws passed during the 2014 Regular Session and future legislative sessions. As written, the bill applies to all laws in effect as of July 1, 2014.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.3184, 253.0347, 373.236, 373.308, 373.4136, 373.709, 380.276, 403.201, and 403.709.

This bill creates two unnumbered sections of Florida Law.

IX. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on March 26, 2014:

- Deletes the provision prohibiting counties from requiring duplicative regulations for agricultural activities;
- Allows charter counties to retain greater than simple majority voting requirements if approved by a countywide election;
- Deletes the provision prohibiting local governments from rescinding prior land use approvals for certain agricultural lands;
- Exempts multi-family dock owners from paying a lease processing fee;
- Deletes the provision that prohibits local governments from requiring additional authorizations for a water control structure or water control infrastructure that is included within a water control plan and incorporated in a plat of the county or municipality in which the water control district lies and has been issued an environmental resource permit or a federal Clean Water Act permit;
- Deletes the provisions authorizing a CUP for up to 50 years to landowners that make land available for dispersed water projects that provide water resource benefits and alternative water supply development;
- Encourages counties to create a Water Well Construction Advisory Board;
- Deletes the provision that revises the application requirements for well contractor licensure;
- Deletes the provision that requires a water control district to obtain an environmental resource permit and the applicable permit or authorization from the applicable general purpose government for facilities, structures, or improvements;
- Deletes the provision that requires local government authorizations to apply the same mitigation criteria and costs that are applied in ch. 298, F.S.;
- Deletes the provision that provides an exemption from the requirements of a population analysis of a water supply plan;
- Allows state agencies and local governments to use additional safety warning devices at public beaches;
- Specifies that the DEP may grant relief mechanisms in federally delegated or approved permitting programs if the action is not inconsistent with the implemented federal program;
- Deletes the provision that exempts certain tents from the Fire Code Prevention Code;
- Extends the expiration date by two years for any environmental resource permit issued by the DEP or WMD with an expiration date from January 1, 2014, through January 1, 2016;
- Specifies the total permit extension time for this bill or the 2009, 2010, and 2011 extensions cannot exceed four years;

- Deletes the provision that allows the time extensions granted in the bill to be self-executing; and
- Requires that permits that are extended are subject to the rules in effect at the time of the extension, unless the rule is superseded by laws in effect after July 1, 2014.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (g) is added to subsection (2) of
section 253.0347, Florida Statutes, to read:

253.0347 Lease of sovereignty submerged lands for private
residential docks and piers.—

(2)

(g) A lessee of sovereignty submerged lands for a private



679582

11 residential multifamily dock is not required to pay a lease
12 renewal processing fee when the preempted area equal to or less
13 than 10 times the riparian shoreline along sovereignty submerged
14 land on the affected waterbody times the number of units with
15 docks in the private multifamily development calculation of base
16 lease fee results in no annual fee assessment.

17 Section 2. Subsection (8) is added to section 373.236,
18 Florida Statutes, to read:

19 373.236 Duration of permits; compliance reports.—

20 (8) Water management districts and the department may grant
21 a permit for a period of up to 30 years for a development of
22 regional impact which is approved pursuant to s. 380.06 and
23 located in a rural area of critical economic concern as defined
24 in s. 288.0656.

25 Section 3. Subsection (5) is added to section 373.308,
26 Florida Statutes, to read:

27 373.308 Implementation of programs for regulating water
28 wells.—

29 (5) The Legislature encourages any county that imposes
30 additional or more stringent water well design construction
31 criteria, standards, or fees than the department or the water
32 management districts to establish a Water Well Construction
33 Advisory Board to coordinate and implement well construction
34 criteria and standards, permitting, and aquifer protection
35 programs. The board should include licensed water well
36 contractors, county health department staff, water management
37 district staff, and a representative of the Florida Ground Water
38 Association.

39 Section 4. Subsection (1) of section 373.4136, Florida



679582

40 Statutes, is amended to read:

41 373.4136 Establishment and operation of mitigation banks.—

42 (1) MITIGATION BANK PERMITS.—The department and the water
43 management districts may require permits to authorize the
44 establishment and use of mitigation banks. A mitigation bank
45 permit shall also constitute authorization to construct, alter,
46 operate, maintain, abandon, or remove any surface water
47 management system necessary to establish and operate the
48 mitigation bank. To obtain a mitigation bank permit, the
49 applicant must provide reasonable assurance that:

50 (a) The proposed mitigation bank will improve ecological
51 conditions of the regional watershed;

52 (b) The proposed mitigation bank will provide viable and
53 sustainable ecological and hydrological functions for the
54 proposed mitigation service area;

55 (c) The proposed mitigation bank will be effectively
56 managed in perpetuity;

57 (d) The proposed mitigation bank will not destroy areas
58 with high ecological value;

59 (e) The proposed mitigation bank will achieve mitigation
60 success;

61 (f) The proposed mitigation bank will be adjacent to lands
62 that will not adversely affect the perpetual viability of the
63 mitigation bank due to unsuitable land uses or conditions;

64 (g) Any surface water management system to be constructed,
65 altered, operated, maintained, abandoned, or removed within the
66 mitigation bank will meet the requirements of this part and the
67 rules adopted thereunder;

68 (h) It has sufficient legal or equitable interest in the



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69 property to ensure perpetual protection and management of the
70 land within a mitigation bank; and

71 (i) It can meet the financial responsibility requirements
72 prescribed for mitigation banks. The applicant may satisfy this
73 requirement by submitting proof of insurance in a form approved
74 by the department or the water management district.

75 Section 5. By January 1, 2015, the Department of
76 Environmental Protection and each water management district
77 shall adopt rules to implement the amendment made by this act to
78 s. 373.4136(1), Florida Statutes.

79 Section 6. Present subsection (9) of section 373.709,
80 Florida Statutes, is redesignated as subsection (10), and a new
81 subsection (9) is added to that section, to read:

82 373.709 Regional water supply planning.—

83 (9) The water needs, water sources, water resource
84 development projects, and water supply development projects
85 identified in a long-term master plan adopted pursuant to s.
86 163.3245 or a master plan development order issued under s.
87 380.06(21) must be incorporated into a regional water supply
88 plan adopted pursuant to this section.

89 Section 7. Subsection (7) of section 380.276, Florida
90 Statutes, is amended to read:

91 380.276 Beaches and coastal areas; display of uniform
92 warning and safety flags at public beaches; placement of uniform
93 notification signs; beach safety education.—

94 (7) The Department of Environmental Protection, through the
95 Florida Coastal Management Program, may also develop and make
96 available to the public other educational information and
97 materials related to beach safety and may approve the use by



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98 state agencies and local governments of additional safety and
99 warning devices to be used in conjunction with the display of
100 uniform warning and safety flags at public beaches.

101 Section 8. Subsection (2) of section 403.201, Florida
102 Statutes, is amended to read:

103 403.201 Variances.—

104 (2) A ~~no~~ variance may not ~~shall~~ be granted from any
105 provision or requirement concerning discharges of waste into
106 waters of the state or hazardous waste management which would
107 result in the provision or requirement being less stringent than
108 a comparable federal provision or requirement, except as
109 provided in s. 403.70715. The department may grant relief
110 mechanisms in federally delegated or approved permitting
111 programs if the action is not inconsistent with the implemented
112 federal program.

113 Section 9. Subsection (5) is added to section 403.709,
114 Florida Statutes, to read:

115 403.709 Solid Waste Management Trust Fund; use of waste
116 tire fees.—There is created the Solid Waste Management Trust
117 Fund, to be administered by the department.

118 (5) (a) Notwithstanding subsection (1), a solid waste
119 landfill closure account is established within the Solid Waste
120 Management Trust Fund to provide funding for the closing and
121 long-term care of solid waste management facilities. The
122 department may use funds from the account to contract with a
123 third party for the closing and long-term care of a solid waste
124 management facility if:

125 1. The facility has or had a department permit to operate
126 the facility.



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127 2. The permittee provided proof of financial assurance for
128 closure in the form of an insurance certificate.

129 3. The facility is deemed to be abandoned or was ordered to
130 close by the department.

131 4. Closure is accomplished in substantial accordance with a
132 closure plan approved by the department.

133 5. The department has written documentation that the
134 insurance company issuing the closure insurance policy will
135 provide or reimburse the funds required to complete closing and
136 long-term care of the facility.

137 (b) The department shall deposit funds received from an
138 insurance company as reimbursement for the costs of closing and
139 long-term care of a facility into the solid waste landfill
140 closure account.

141 Section 10. (1) Any building permit, and any permit issued
142 by the Department of Environmental Protection or by a water
143 management district pursuant to part IV of chapter 373, Florida
144 Statutes, which has an expiration date from January 1, 2014,
145 through January 1, 2016, is extended and renewed for a period of
146 2 years after its previously scheduled date of expiration. This
147 extension includes any local government-issued development order
148 or building permit including certificates of levels of service.
149 This section does not prohibit conversion from the construction
150 phase to the operation phase upon completion of construction.
151 This extension is in addition to any existing permit extension.
152 Extensions granted pursuant to this section; s. 14 of chapter
153 2009-96, Laws of Florida, as reauthorized by s. 47 of chapter
154 2010-147, Laws of Florida; s. 46 of chapter 2010-147, Laws of
155 Florida; s. 73 or s. 79 of chapter 2011-139, Laws of Florida; or



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156 s. 24 of chapter 2012-205, Laws of Florida, may not exceed 4
157 years in total. Further, specific development order extensions
158 granted pursuant to s. 380.06(19)(c)2., Florida Statutes, may
159 not be further extended by this section.

160 (2) The commencement and completion dates for any required
161 mitigation associated with a phased construction project are
162 extended so that mitigation takes place in the same timeframe
163 relative to the phase as originally permitted.

164 (3) The holder of a valid permit or other authorization
165 that is eligible for the 2-year extension must notify the
166 authorizing agency in writing by December 31, 2014, identifying
167 the specific authorization for which the holder intends to use
168 the extension and the anticipated timeframe for acting on the
169 authorization.

170 (4) The extension and renewal provided in subsection (1)
171 does not apply to:

172 (a) A permit or other authorization under any programmatic
173 or regional general permit issued by the Army Corps of
174 Engineers.

175 (b) A permit or other authorization held by an owner or
176 operator determined to be in significant noncompliance with the
177 conditions of the permit or authorization as established through
178 the issuance of a warning letter or notice of violation, the
179 initiation of formal enforcement, or other equivalent action by
180 the authorizing agency.

181 (c) A permit or other authorization, if granted an
182 extension that would delay or prevent compliance with a court
183 order.

184 (5) A permit extended under this section shall continue to



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185 be governed by the rules in effect at the time the permit was
186 issued unless it is demonstrated that the rules in effect at the
187 time the permit was issued would create an immediate threat to
188 public safety or health, or unless any such rule is superseded
189 by laws in effect after July 1, 2014. This provision applies to
190 any modification of the plans, terms, and conditions of the
191 permit which lessens the environmental impact, except that any
192 such modification does not extend the time limit beyond 2
193 additional years.

194 (6) This section does not impair the authority of a county
195 or municipality to require the owner of a property who has
196 notified the county or municipality of the owner's intent to
197 receive the extension of time granted pursuant to this section
198 to maintain and secure the property in a safe and sanitary
199 condition in compliance with applicable laws and ordinances.

200 Section 11. This act shall take effect July 1, 2014.

201
202 ===== T I T L E A M E N D M E N T =====

203 And the title is amended as follows:

204 Delete everything before the enacting clause
205 and insert:

206 A bill to be entitled
207 An act relating to environmental regulation; amending
208 s. 253.0347, F.S.; exempting certain lessees of
209 sovereignty submerged lands from lease renewal
210 processing fees under certain circumstances; amending
211 s. 373.236, F.S.; specifying the authorized duration
212 of consumptive use permits for certain developments;
213 amending s. 373.308, F.S.; encouraging certain



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214 counties to establish water well construction advisory
215 boards; specifying the recommended composition of such
216 boards; amending s. 373.4136, F.S.; providing that
217 proof of insurance satisfies a specified requirement
218 to obtain a mitigation bank permit; requiring the
219 Department of Environmental Protection and water
220 management districts to adopt certain rules by a
221 specified date; amending s. 373.709, F.S.; requiring
222 that certain criteria be incorporated into a regional
223 water supply plan; amending s. 380.276, F.S.;

224 authorizing the Department of Environmental Protection
225 to approve additional beach safety and warning devices
226 to be used in conjunction with uniform warning and
227 safety flags; amending s. 403.201, F.S.; providing
228 applicability of the prohibition against certain
229 variances from regulations concerning discharges of
230 waste into waters of the state or concerning hazardous
231 waste management; amending s. 403.709, F.S.;

232 establishing a solid waste landfill closure account
233 within the Solid Waste Management Trust Fund for
234 specified purposes; requiring the Department of
235 Environmental Protection to deposit specified funds
236 into the account; extending and renewing building
237 permits and certain permits issued by the Department
238 of Environmental Protection or a water management
239 district, including any local government-issued
240 development order or building permit issued pursuant
241 thereto; limiting certain permit extensions to a
242 specified period of time; extending commencement and



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243 completion dates for required mitigation associated
244 with a phased construction project; requiring the
245 holder of an extended permit or authorization to
246 provide notice to the authorizing agency; providing
247 exceptions to the extension and renewal of such
248 permits; providing that extended permits are governed
249 by certain rules; providing exceptions; providing
250 applicability; providing an effective date.



486840

LEGISLATIVE ACTION

Senate

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House

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

1 **Senate Amendment to Amendment (679582) (with title**
2 **amendment)**

3
4 Between lines 38 and 39
5 insert:

6 Section 4. Paragraph (b) of subsection (1) of section
7 373.4135, Florida Statutes, is repealed.

8
9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:



486840

11 Delete line 216
12 and insert:
13 boards; repealing s. 373.4135(1)(b), F.S., relating to
14 the creation or provision of mitigation banks and
15 offsite regional mitigation for certain projects by a
16 governmental entity; amending s. 373.4136, F.S.;
17 providing that



323036

LEGISLATIVE ACTION

Senate

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House

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

1 **Senate Amendment to Amendment (679582) (with title**
2 **amendment)**

3
4 Between lines 78 and 79
5 insert:

6 Section 6. Section 373.441, Florida Statutes, is amended to
7 read:

8 373.441 Role of counties, municipalities, and local
9 pollution control programs in permit processing; delegation;
10 certified local programs.—



323036

11 (1) The department shall, by December 1, 1994, adopt rules
12 to guide the participation of counties, municipalities, and
13 local pollution control programs in an efficient, streamlined
14 permitting system. Such rules must seek to increase governmental
15 efficiency, maintain environmental standards, and include
16 consideration of:

17 (a) Provisions under which the environmental resource
18 permit program is delegated, upon approval of the department,
19 only to a county, municipality, or local pollution control
20 program that has the financial, technical, and administrative
21 capabilities and desire to implement and enforce the program;

22 (b) Provisions under which a locally delegated permit
23 program may have stricter environmental standards than state
24 standards;

25 (c) Provisions for identifying and reconciling any
26 duplicative permitting by January 1, 1995;

27 (d) Provisions for timely and cost-efficient notification
28 by the reviewing agency of permit applications, and permit
29 requirements, to counties, municipalities, local pollution
30 control programs, the department, or water management districts,
31 as appropriate;

32 (e) Provisions for ensuring the consistency of permit
33 applications with local comprehensive plans;

34 (f) Provisions for the partial delegation of the
35 environmental resource permit program to counties,
36 municipalities, or local pollution control programs, and
37 standards and criteria to be employed in the implementation of
38 such delegation by counties, municipalities, and local pollution
39 control programs;



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40 (g) Special provisions under which the environmental
41 resource permit program may be delegated to counties having
42 populations of 75,000 or fewer, or municipalities with, or local
43 pollution control programs serving, populations of 50,000 or
44 fewer;

45 (h) Provisions for the applicability of chapter 120 to
46 local government programs when the environmental resource permit
47 program is delegated to counties, municipalities, or local
48 pollution control programs; and

49 (i) Provisions for a local government to petition the
50 Governor and Cabinet for review of a request for a delegation of
51 authority that is not approved or denied within 1 year after
52 being initiated.

53 (2) Any denial by the department of a local government's
54 request for a delegation of authority must provide specific
55 detail of those statutory or rule provisions that were not
56 satisfied. Such detail shall also include specific actions that
57 can be taken in order to allow for the delegation of authority.
58 A local government, upon being denied a request for a delegation
59 of authority, may petition the Governor and Cabinet for a review
60 of the request. The Governor and Cabinet may reverse the
61 decision of the department and may provide any necessary
62 conditions to allow the delegation of authority to occur.

63 (3) Delegation of authority shall be approved if the local
64 government meets the requirements set forth in rule 62-344,
65 Florida Administrative Code. This section does not require a
66 local government to seek delegation of the environmental
67 resource permit program.

68 (4) The department shall also establish a certification



323036

69 process for local environmental resource permit programs in
70 existence on the effective date of this act which meet the
71 minimum regulatory standards of this chapter. Local
72 environmental resource permit programs meeting such standards
73 shall be certified by the department. The issuance of a permit
74 by a certified local environmental resource permit program
75 constitutes local and state approval and the permittee is not
76 required to obtain further environmental resource permits from
77 the state.

78 ~~(5)~~(4) This section does not affect or modify land
79 development regulations adopted by a local government to
80 implement its comprehensive plan pursuant to chapter 163.

81 ~~(6)~~(5) The department shall review environmental resource
82 permit applications for electrical distribution and transmission
83 lines and other facilities related to the production,
84 transmission, and distribution of electricity which are not
85 certified under ss. 403.52-403.5365, the Florida Electric
86 Transmission Line Siting Act, regulated under this part.

87
88 ===== T I T L E A M E N D M E N T =====

89 And the title is amended as follows:

90 Delete line 221

91 and insert:

92 specified date; amending s. 373.441, F.S.; requiring
93 the Department of Environmental Protection to
94 establish a certification process for certain local
95 environmental resource permit programs; providing that
96 a permit issued by a certified local environmental
97 resource permit program also constitutes state



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98

approval; amending s. 373.709, F.S.; requiring

By the Committee on Environmental Preservation and Conservation;
and Senator Simpson

592-03288A-14

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1 A bill to be entitled
2 An act relating to environmental regulation; amending
3 s. 163.3184, F.S.; revising procedures for the
4 transmittal and adoption of a comprehensive plan or
5 plan amendment; providing applicability; amending s.
6 253.0347, F.S.; exempting certain lessees of
7 sovereignty submerged lands from lease renewal
8 processing fees under certain circumstances; amending
9 s. 373.236, F.S.; specifying the authorized duration
10 of consumptive use permits for certain developments;
11 amending s. 373.308, F.S.; encouraging certain
12 counties to establish water well construction advisory
13 boards; specifying the recommended composition of such
14 boards; amending s. 373.4136, F.S.; providing that
15 proof of insurance satisfies a specified requirement
16 to obtain a mitigation bank permit; requiring the
17 Department of Environmental Protection and water
18 management districts to adopt certain rules by a
19 specified date; amending s. 373.709, F.S.; requiring
20 that certain criteria be incorporated into a regional
21 water supply plan; amending s. 380.276, F.S.;
22 authorizing the Department of Environmental Protection
23 to approve additional beach safety and warning devices
24 to be used in conjunction with uniform warning and
25 safety flags; amending s. 403.201, F.S.; providing
26 applicability of the prohibition against certain
27 variances from regulations concerning discharges of
28 waste into waters of the state or concerning hazardous
29 waste management; amending s. 403.709, F.S.;

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30 establishing a solid waste landfill closure account
31 within the Solid Waste Management Trust Fund for
32 specified purposes; requiring the Department of
33 Environmental Protection to deposit specified funds
34 into the account; extending and renewing building
35 permits and certain permits issued by the Department
36 of Environmental Protection or a water management
37 district, including any local government-issued
38 development order or building permit issued pursuant
39 thereto; limiting certain permit extensions to a
40 specified period of time; extending commencement and
41 completion dates for required mitigation associated
42 with a phased construction project; requiring the
43 holder of an extended permit or authorization to
44 provide notice to the authorizing agency; providing
45 exceptions to the extension and renewal of such
46 permits; providing that extended permits are governed
47 by certain rules; providing exceptions; providing
48 applicability; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Paragraph (a) of subsection (11) of section
53 163.3184, Florida Statutes, is amended to read:

54 163.3184 Process for adoption of comprehensive plan or plan
55 amendment.—

56 (11) PUBLIC HEARINGS.—

57 (a) The procedure for transmittal of a complete proposed
58 comprehensive plan or plan amendment pursuant to subparagraph

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59 (3) (b)1. and paragraph (4) (b) and for adoption of a
60 comprehensive plan or plan amendment pursuant to subparagraphs
61 (3) (c)1. and (4) (e)1. shall be by affirmative vote requiring ~~of~~
62 ~~not less than~~ a simple majority of the members of the governing
63 body present at the hearing except in counties that have
64 approved by countywide election a charter provision requiring an
65 affirmative vote of more than a simple majority. The adoption of
66 a comprehensive plan or plan amendment shall be by ordinance.
67 For the purposes of transmitting or adopting a comprehensive
68 plan or plan amendment, the notice requirements in chapters 125
69 and 166 are superseded by this subsection, except as provided in
70 this part.

71 Section 2. Paragraph (g) is added to subsection (2) of
72 section 253.0347, Florida Statutes, to read:

73 253.0347 Lease of sovereignty submerged lands for private
74 residential docks and piers.—

75 (2)

76 (g) A lessee of sovereignty submerged lands for a private
77 residential multifamily dock is not required to pay a lease
78 renewal processing fee when the preempted area equal to or less
79 than 10 times the riparian shoreline along sovereignty submerged
80 land on the affected waterbody times the number of units with
81 docks in the private multifamily development calculation of base
82 lease fee results in no annual fee assessment.

83 Section 3. Subsection (8) is added to section 373.236,
84 Florida Statutes, to read:

85 373.236 Duration of permits; compliance reports.—

86 (8) Water management districts and the department may grant
87 a permit for a period of up to 30 years for a development of

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20141464c1

88 regional impact that is approved pursuant to s. 380.06 and
89 located in a rural area of critical economic concern as defined
90 in s. 288.0656.

91 Section 4. Subsection (5) is added to section 373.308,
92 Florida Statutes, to read:

93 373.308 Implementation of programs for regulating water
94 wells.-

95 (5) The Legislature encourages any county that imposes
96 additional or more stringent water well design construction
97 criteria, standards, or fees than the department or the water
98 management districts to establish a Water Well Construction
99 Advisory Board to coordinate and implement well construction
100 criteria and standards, permitting, and aquifer protection
101 programs. The board should include licensed water well
102 contractors, county health department staff, water management
103 district staff, and a representative of the Florida Ground Water
104 Association.

105 Section 5. Subsection (1) of section 373.4136, Florida
106 Statutes, is amended to read:

107 373.4136 Establishment and operation of mitigation banks.-

108 (1) MITIGATION BANK PERMITS.-The department and the water
109 management districts may require permits to authorize the
110 establishment and use of mitigation banks. A mitigation bank
111 permit shall also constitute authorization to construct, alter,
112 operate, maintain, abandon, or remove any surface water
113 management system necessary to establish and operate the
114 mitigation bank. To obtain a mitigation bank permit, the
115 applicant must provide reasonable assurance that:

116 (a) The proposed mitigation bank will improve ecological

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117 conditions of the regional watershed;

118 (b) The proposed mitigation bank will provide viable and
119 sustainable ecological and hydrological functions for the
120 proposed mitigation service area;

121 (c) The proposed mitigation bank will be effectively
122 managed in perpetuity;

123 (d) The proposed mitigation bank will not destroy areas
124 with high ecological value;

125 (e) The proposed mitigation bank will achieve mitigation
126 success;

127 (f) The proposed mitigation bank will be adjacent to lands
128 that will not adversely affect the perpetual viability of the
129 mitigation bank due to unsuitable land uses or conditions;

130 (g) Any surface water management system to be constructed,
131 altered, operated, maintained, abandoned, or removed within the
132 mitigation bank will meet the requirements of this part and the
133 rules adopted thereunder;

134 (h) It has sufficient legal or equitable interest in the
135 property to ensure perpetual protection and management of the
136 land within a mitigation bank; and

137 (i) It can meet the financial responsibility requirements
138 prescribed for mitigation banks. The applicant may satisfy this
139 requirement by submitting proof of insurance in a form approved
140 by the department or the water management district.

141 Section 6. By January 1, 2015, the Department of
142 Environmental Protection and each water management district
143 shall adopt rules to implement the amendment made by this act to
144 s. 373.4136(1), Florida Statutes.

145 Section 7. Present subsection (9) of section 373.709,

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20141464c1

146 Florida Statutes, is redesignated as subsection (10), and a new
147 subsection (9) is added to that section, to read:

148 373.709 Regional water supply planning.—

149 (9) The water needs, water sources, water resource
150 development projects, and water supply development projects
151 identified in a long-term master plan adopted pursuant to s.
152 163.3245 or a master plan development order issued under s.
153 380.06(21) must be incorporated into a regional water supply
154 plan adopted pursuant to this section.

155 Section 8. Subsection (7) of section 380.276, Florida
156 Statutes, is amended to read:

157 380.276 Beaches and coastal areas; display of uniform
158 warning and safety flags at public beaches; placement of uniform
159 notification signs; beach safety education.—

160 (7) The Department of Environmental Protection, through the
161 Florida Coastal Management Program, may also develop and make
162 available to the public other educational information and
163 materials related to beach safety, and is authorized to approve
164 the use by state agencies and local governments of additional
165 safety and warning devices to be used in conjunction with the
166 display of uniform warning and safety flags at public beaches.

167 Section 9. Subsection (2) of section 403.201, Florida
168 Statutes, is amended to read:

169 403.201 Variances.—

170 (2) A ~~no~~ variance may not ~~shall~~ be granted from any
171 provision or requirement concerning discharges of waste into
172 waters of the state or hazardous waste management which would
173 result in the provision or requirement being less stringent than
174 a comparable federal provision or requirement, except as

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175 provided in s. 403.70715. The department may grant relief
176 mechanisms in federally delegated or approved permitting
177 programs if the action is not inconsistent with the implemented
178 federal program.

179 Section 10. Subsection (5) is added to section 403.709,
180 Florida Statutes, to read:

181 403.709 Solid Waste Management Trust Fund; use of waste
182 tire fees.—There is created the Solid Waste Management Trust
183 Fund, to be administered by the department.

184 (5) (a) Notwithstanding subsection (1), a solid waste
185 landfill closure account is established within the Solid Waste
186 Management Trust Fund to provide funding for the closing and
187 long-term care of solid waste management facilities. The
188 department may use funds from the account to contract with a
189 third party for the closing and long-term care of a solid waste
190 management facility if:

191 1. The facility has or had a department permit to operate
192 the facility.

193 2. The permittee provided proof of financial assurance for
194 closure in the form of an insurance certificate.

195 3. The facility is deemed to be abandoned or was ordered to
196 close by the department.

197 4. Closure is accomplished in substantial accordance with a
198 closure plan approved by the department.

199 5. The department has written documentation that the
200 insurance company issuing the closure insurance policy will
201 provide or reimburse the funds required to complete closing and
202 long-term care of the facility.

203 (b) The department shall deposit funds received from an

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204 insurance company as reimbursement for the costs of closing and
205 long-term care of a facility into the solid waste landfill
206 closure account.

207 Section 11. (1) Any building permit, and any permit issued
208 by the Department of Environmental Protection or by a water
209 management district pursuant to part IV of chapter 373, Florida
210 Statutes, which has an expiration date from January 1, 2014,
211 through January 1, 2016, is extended and renewed for a period of
212 2 years after its previously scheduled date of expiration. This
213 extension includes any local government-issued development order
214 or building permit including certificates of levels of service.
215 This section does not prohibit conversion from the construction
216 phase to the operation phase upon completion of construction.
217 This extension is in addition to any existing permit extension.
218 Extensions granted pursuant to this section; s. 14 of chapter
219 2009-96, Laws of Florida, as reauthorized by s. 47 of chapter
220 2010-147, Laws of Florida; s. 46 of chapter 2010-147, Laws of
221 Florida; s. 73 or s. 79 of chapter 2011-139, Laws of Florida; or
222 s. 24 of chapter 2012-205, Laws of Florida, may not exceed 4
223 years in total. Further, specific development order extensions
224 granted pursuant to s. 380.06(19)(c)2., Florida Statutes, may
225 not be further extended by this section.

226 (2) The commencement and completion dates for any required
227 mitigation associated with a phased construction project are
228 extended so that mitigation takes place in the same timeframe
229 relative to the phase as originally permitted.

230 (3) The holder of a valid permit or other authorization
231 that is eligible for the 2-year extension must notify the
232 authorizing agency in writing by December 31, 2014, identifying

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233 the specific authorization for which the holder intends to use
234 the extension and the anticipated timeframe for acting on the
235 authorization.

236 (4) The extension provided in subsection (1) does not apply
237 to:

238 (a) A permit or other authorization under any programmatic
239 or regional general permit issued by the Army Corps of
240 Engineers.

241 (b) A permit or other authorization held by an owner or
242 operator determined to be in significant noncompliance with the
243 conditions of the permit or authorization as established through
244 the issuance of a warning letter or notice of violation, the
245 initiation of formal enforcement, or other equivalent action by
246 the authorizing agency.

247 (c) A permit or other authorization, if granted an
248 extension that would delay or prevent compliance with a court
249 order.

250 (5) Permits extended under this section shall continue to
251 be governed by the rules in effect at the time the permit was
252 issued unless it is demonstrated that the rules in effect at the
253 time the permit was issued would create an immediate threat to
254 public safety or health, or unless any such rule is superseded
255 by laws in effect after July 1, 2014. This provision applies to
256 any modification of the plans, terms, and conditions of the
257 permit which lessens the environmental impact, except that any
258 such modification does not extend the time limit beyond 2
259 additional years.

260 (6) This section does not impair the authority of a county
261 or municipality to require the owner of a property who has

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262 notified the county or municipality of the owner's intent to
263 receive the extension of time granted pursuant to this section
264 to maintain and secure the property in a safe and sanitary
265 condition in compliance with applicable laws and ordinances.

266 Section 12. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14

Meeting Date

Topic ENV. REG

Bill Number 1464

Name FRANK MATTHEWS

Amendment Barcode 679582
(if applicable)

Job Title ATTY

Address PO BOX 6526

Phone 850 222 7500

Street

TLH

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing ASSOC. OF FLA. COMMON DEVELOPERS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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April 8, 2014
Meeting Date

Topic Amendment 323036 Environmental Permitting

Bill Number SB 1464
(if applicable)

Name Mary Jean Yan

Amendment Barcode 323036
(if applicable)

Job Title Legislative Director

Address 3324 Charleston Road

Phone 850/519-7859

Tallahassee FL 32309
City State Zip

E-mail maryjeanyan@comcast.net

Speaking: For Against Information

Representing Audubon 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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THE FLORIDA SENATE
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4/8/14

Meeting Date

Topic ENVIRONMENTAL REGULATIONS

Bill Number SB 1464
(if applicable)

Name KEYNA CORY

Amendment Barcode _____
(if applicable)

Job Title LOBBYIST

Address 110 E. COLLEGE AVE

Phone 850 681-1065

Street

TALLAHASSEE

FL

32301

City

State

Zip

E-mail Kynacory@pacconsultants.com

Speaking: For Against Information

Representing NATIONAL WASTE & RECYCLING ASSN.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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4/8/14
Meeting Date

Topic ENVIRONMENTAL REGULATIONS Bill Number 1464 (if applicable)

Name RAE ANN WESSEL Amendment Barcode (if applicable)

Job Title NATURAL RESOURCE POLICY DIRECTOR

Address PO BOX 839 Phone 239.731.7559

Street SANIBEL FL 33957 E-mail rawessel@secf.org
City State Zip

Speaking: For Against Information

Representing SANIBEL CAPTIVE CONSERVATION FOUNDATION

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

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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4/8/14

Meeting Date

Topic ENVIRONMENTAL REGULATIONS

Bill Number 1464
(if applicable)

Name CHARLES PATTISON

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT

Address 308 N. MONROE

Phone 222-6277 x 103

Street

TALLAHASSEE

32301

City

State

Zip

E-mail cpattison@1000fof.org

Speaking: For Against Information

Representing 1000 FRIENDS OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

4/8/2014
Meeting Date

Topic Env. Regulation

Bill Number 1964
(if applicable)

Name Phil Leary

Amendment Barcode _____
(if applicable)

Job Title Lobbyist

Address _____
Street Palatka
City _____ State _____ Zip _____

Phone _____

E-mail _____

Speaking: For Against Information

Representing Florida Ground Water 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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THE FLORIDA SENATE
APPEARANCE RECORD

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4/8/14
Meeting Date

Topic ENVIRONMENTAL REG.

Bill Number 1464
(if applicable)

Name DAVID CULLEN

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1674 UNIVERSITY PARKWAY #296
Street
SARASOTA FL 34243
City State Zip

Phone 941-323-2404

E-mail cullenase@
cal.com

Speaking: For Against Information

Representing SIERRA CLUB FL

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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THE FLORIDA SENATE
APPEARANCE RECORD

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4/8/14

Meeting Date

Topic Department of Agriculture and Consumer Services

Bill Number 1464

(if applicable)

Name Leticia M Adams

Amendment Barcode _____

(if applicable)

Job Title Senior Policy Director

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4-8-14
Meeting Date

Topic _____

Bill Number 1464
(if applicable)

Name BONNIE BASHAM

Amendment Barcode _____
(if applicable)

Job Title OWNER Capital Ideas

Address 133 oal st, #15
Street

Phone 850-933-7277

TLH FL 32301
City State Zip

E-mail Capital.Ideas@Att.net

Speaking: For Against Information

Representing BOAT US

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4.8.11

Meeting Date

Topic Environmental Protection

Bill Number SB 1464
(if applicable)

Name Kay Gates

Amendment Barcode _____
(if applicable)

Job Title Sierra Club Loxahatchee Group, Rep.

Address 9693 El Clair Ranch Rd

Phone 561.742.9219

Street

E-mail KayGates@bellsouth.net

City

State

Zip

Speaking: For Against Information

Representing Sierra Club Loxahatchee Group

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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 8, 2014
Meeting Date

Topic Environmental Protection

Bill Number SB 1464
(if applicable)

Name Mary Jean Yan

Amendment Barcode _____
(if applicable)

Job Title Legislative Director

Address 3324 Charleston Road

Phone 850/519-7859

Tallahassee FL 32309
Street City State Zip

E-mail maryjeanyan@canop

Speaking: For Against Information

Representing Audubon 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14

Meeting Date

Topic Environmental Permitting

Bill Number SB 1464

(if applicable)

Name Stephanie Kunkel

Amendment Barcode _____

(if applicable)

Job Title _____

Address 1143 Albritton Dr

Phone 850-320-4208

Street

Tallahassee FL 32301

City

State

Zip

E-mail Stef.Kunkel@gmail.com

Speaking: For Against Information

Representing Conservancy of Southwest 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14

Meeting Date

Topic Environmental Regulation Bill Number SB 1469
(if applicable)

Name Amy Datz Amendment Barcode _____
(if applicable)

Job Title Retired State Transportation Environmental Planner

Address 1130 Crestview Ave Phone 850 322-4599
Street

Tallahassee, FL 32303 E-mail amattedatz@
City State Zip Mal.com

Speaking: For Against Information

Representing Democratic Environmental Caucus 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
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 1184

INTRODUCER: Agriculture Committee; Commerce and Tourism Committee; and Senator Brandes

SUBJECT: Gasoline Stations

DATE: April 7, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Malcolm</u>	<u>Hrdlicka</u>	<u>CM</u>	<u>Fav/CS</u>
2.	<u>Weidenbenner</u>	<u>Becker</u>	<u>AG</u>	<u>Fav/CS</u>
3.	<u>Stearns</u>	<u>Yeatman</u>	<u>CA</u>	<u>Pre-meeting</u>
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1184 requires self-service gas stations to display a blue, 15-square-inch decal that displays the international symbol of accessibility, the gas station's telephone number, and the words "Call for Assistance." This requirement will be implemented and enforced by the Department of Agriculture and Consumer Services (DACS).

The bill also preempts local laws relating to fueling assistance for disabled individuals by self-service gas stations.

The bill prohibits a local government from requiring a retail outlet that sells motor fuel to provide air and vacuum supply without charge.

II. Present Situation:

According to the DACS, there are 8,000 retail gas stations in Florida.¹ People with disabilities may find it difficult or impossible to use the controls, hose, or nozzle of a self-service gas pump. As a result, at stations that offer both self and full-service, people with disabilities might have no choice but to purchase the more expensive gas from a full-service pump. At locations with only

¹ DACS, *Agency Analysis: SB 1184* (Feb. 27, 2014).

self-service pumps, people with disabilities might be unable to purchase gas at all.² State, federal, and local laws have attempted to address these problems.

Florida Fueling Assistance Requirements

Approximately 350 gasoline stations in Florida provide full-service as well as self-service fuel at a lower price.³ Under s. 526.141(5), F.S., these stations, known as “limited full-service” stations, are required to provide refueling assistance for the self-service portion of the station to any motorist displaying an exemption parking permit or a license plate bearing the international accessibility symbol when the operator of the vehicle is the person to whom such permit was issued. Limited full-service stations must prominently display a decal up to 8 square inches in size on the front of all self-service pumps clearly stating the assistance requirements and the penalties for any violations. This section is enforced by the DACS and compliance is monitored through routine gas station inspections.⁴ A violation of this section is a second-degree misdemeanor.⁵ There are currently no similar state-level requirements for self-service only gas stations.

Americans with Disabilities Act Assistance Requirements

The Americans with Disabilities Act (ADA) requires self-service gas stations to provide equal access to their customers with disabilities. Gas stations with more than one employee must provide refueling assistance upon the request of an individual with a disability without any charge beyond the self-service price. Gas stations must let patrons know (e.g., through appropriate signs) that customers with disabilities can obtain refueling assistance by either honking or otherwise signaling an employee. However, a service station or convenience store is not required to provide such service at any time that it is operating on a remote control basis with a single employee, but is encouraged to do so, if feasible.⁶

Local Government Fueling Assistance Regulations

Local governments have begun passing regulations with respect to fueling assistance for disabled drivers. For example, in early 2012, Broward and Hillsborough counties enacted similar ordinances requiring full-service gas stations and self-service gas stations with two or more attendants on duty to provide fueling assistance to a disabled driver when requested. These gas stations are required to place a decal no smaller than 15 square inches with a blue background on the front of all gas pumps. The decal must state the telephone number of the gas station and display the international symbol of accessibility and wording such as “Call for Assistance” or “Assistance Available upon Request.” The gas station is not required to provide assistance if a

² Department of Justice, Civil Rights Division, Disability Rights Section, *ADA Business Brief: Assistance at Gas Stations* (June 2002) available at <http://www.ada.gov/gasbrscr.pdf> (last visited Mar. 11, 2014).

³ DACS, *Agency Analysis*.

⁴ Conversation with Grace Lovett, the DACS (Mar. 13, 2014). The limited full-service assistance decals are part of the inspection decal placed on the gas pump after the DACS has inspected the pump. E-mail from Grace Lovett, the DACS (Mar. 14, 2014).

⁵ A second-degree misdemeanor is punishable by up to 60 days in jail or by a \$500 fine. Sections 775.082(4)(b) and 775.083(1)(e), F.S.

⁶ Department of Justice, *ADA Business Brief*.

second attendant is not present at the station. Consequences for violating the ordinances ranges from a \$250 civil fine up to criminal prosecution as a second-degree misdemeanor.⁷

Motor Vehicle Retail Outlet

The term “motor fuel” is defined by s. 526.303(5), F.S., as “any petroleum product, including any special fuel, which is used for the propulsion of motor vehicles.” The term “retail outlet” is defined by s. 526.303(14), F.S., as “a facility, including land in improvements, where motor fuel is offered for sale, at retail, to the motoring public.”

Self-service gasoline stations generally provide air and vacuum supply for a fee determined by the station. There is at least one instance in which a city requires gasoline stations within its jurisdiction to provide compressed air services free of charge.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 526.141, F.S., to require a self-service gas station to display a decal that is blue, at least 15 square inches in size, and that clearly displays the international symbol of accessibility, the station’s telephone number, and the words “Call for Assistance.” The DACS is directed to adopt rules to implement and enforce these provisions. The DACS must confirm that conforming decals are in place by July 1, 2016.

The bill also specifically preempts all local government laws and regulations pertaining to the provision of fueling assistance by a self-service gas station.

Section 2 creates s. 526.142, F.S., to provide that no motor fuel outlet shall be required to provide air or vacuum supply without charge and it preempts to the state the power to regulate and set pricing for air and vacuum commodities.

Section 3 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁷ Hillsborough County, Fla., Code part A, ch. 10, art. XI (2012); Broward County, Fla., Code part II, ch. 20, art. III (2012); see Leon County, Fla., Code ch. 11, art. XXIV (2013).

⁸See City of Sunrise Codes and Ordinances, Sec. 16-136(g)(5) that states “All gas stations shall provide compressed air during operating hours free of charge with or without the purchase of gasoline or other items.”

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

None.

B. Private Sector Impact:

Decals required by the bill will be produced by the Florida Petroleum Marketers and Convenience Store Association and sold to gas stations at a cost of approximately \$1 per decal.⁹ According to the Florida Petroleum Marketers and Convenience Store Association, a number of gas stations already use decals that will be required by the bill.¹⁰

Gas station owners that fail to comply with the requirements in the bill may face up to 60 days in jail and a \$500 fine.

The bill may provide increased accessibility at gas stations for disabled drivers.

The bill will hinder motorists from having access to air and vacuum supply services at gas stations free of charge unless those services are provided voluntarily by the gas station.

C. Government Sector Impact:

The DACS is not required to make or approve the decals. However, the DACS will check the decals to ensure they comply with the statutory requirements at the same time it conducts gas station inspections.¹¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill requires the DACS to adopt rules to implement and enforce the act.

VIII. Statutes Affected:

The bill substantially amends section 526.141 of the Florida Statutes.

The bill creates section 526.142 of the Florida Statutes.

⁹ Telephone conversation with Ned Bowman, Executive Director, Florida Petroleum Marketers and Convenience Store Association (Mar. 12, 2014).

¹⁰ *Id.*

¹¹ Conversation with Grace Lovett, the DACS (Mar. 13, 2014); E-mail from Grace Lovett, the DACS (Mar. 14, 2014).

IX. Additional Information:

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

CS/CS by Agriculture Committee on March 31, 2014:

The CS/CS prohibits local governments from requiring a motor fuel retail outlet to provide air and vacuum supply services free of charge and it preempts to the state the power to price and regulate these commodities.

CS by Commerce and Tourism Committee on March 17, 2014:

The committee substitute clarifies that the decal requirement applies to self-service gas stations and requires the DACS to confirm that conforming decals are in place by July 1, 2016.

- B. **Amendments:**

None.

By the Committees on Agriculture; and Commerce and Tourism; and
 Senator Brandes

575-03483-14

20141184c2

1 A bill to be entitled
 2 An act relating to gasoline stations; amending s.
 3 526.141, F.S.; requiring self-service gasoline pumps
 4 to display an additional decal containing specified
 5 information; requiring the Department of Agriculture
 6 and Consumer Services to confirm compliance by a
 7 specified date; providing for preemption of local laws
 8 and regulations pertaining to fueling assistance for
 9 certain motor vehicle operators; creating s. 526.142,
 10 F.S.; providing that no motor fuel outlet shall be
 11 required to provide air or vacuum supply without
 12 charge; preempts to the state the power to regulate
 13 and set pricing for air and vacuum commodities;
 14 providing an effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Subsection (5) of section 526.141, Florida
 19 Statutes, is amended to read:

20 526.141 Self-service gasoline stations; attendants;
 21 regulations.—

22 (5) (a) Every full-service gasoline station offering self-
 23 service at a lesser cost shall require an attendant employed by
 24 the station to dispense gasoline from the self-service portion
 25 of the station to any motor vehicle properly displaying an
 26 exemption parking permit as provided in s. 316.1958 or s.
 27 320.0848 or a license plate issued pursuant to s. 320.084, s.
 28 320.0842, s. 320.0843, or s. 320.0845 when the person to whom
 29 such permit has been issued is the operator of the vehicle and

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20141184c2

30 such service is requested. Such stations shall prominently
31 display a decal no larger than 8 square inches on the front of
32 all self-service pumps clearly stating the requirements of this
33 subsection and the penalties applicable to violations of this
34 subsection. The Department of Agriculture and Consumer Services
35 shall enforce this requirement.

36 (b)1. The Department of Agriculture and Consumer Services,
37 when inspecting a self-service gasoline station, shall confirm
38 that a second and separate decal is affixed to each pump. The
39 decal must be blue, at least 15 square inches, and clearly
40 display the international symbol of accessibility shown in s.
41 320.0842, the telephone number of the station, and the words
42 "Call for Assistance." The Department of Agriculture and
43 Consumer Services shall adopt rules to implement and enforce
44 this paragraph and shall confirm that the decals conform with
45 this paragraph and are in place by July 1, 2016.

46 2. This paragraph preempts and supersedes all local
47 government laws and regulations pertaining to the provision of
48 fueling assistance to the motor vehicle operators described in
49 paragraph (a) by self-service gasoline stations.

50 (c)~~(b)~~ Violation of paragraph (a) is a misdemeanor of the
51 second degree, punishable as provided in s. 775.082 or s.
52 775.083.

53 Section 2. Section 526.142, Florida Statutes, is created to
54 read:

55 526.142 Air and vacuum devices.—No motor fuel retail outlet
56 as defined in s. 526.303(14), shall be required to provide air
57 or vacuum supply without charge. A political subdivision of this
58 state may not adopt any ordinance regarding the pricing of such

575-03483-14

20141184c2

59 commodities and all such ordinances, whether existing or
60 proposed, are hereby preempted and superseded by general law.

61 Section 3. This act shall take effect July 1, 2014.

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 8, 2014

Meeting Date

Topic Refueling Assistance

Bill Number SB 1184
(if applicable)

Name Max Lee

Amendment Barcode _____
(if applicable)

Job Title Professional Engineer

Address 4014 NW 13 Street

Phone 352-377-5822

Street

Gainesville

FL

32609

E-mail mlee@kooglerassociates.com

City

State

Zip

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 / 8 / 2014

Meeting Date

Topic _____

Bill Number 1184
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 8, 2014

Meeting Date

Topic Refueling Assistance

Bill Number SB 1184
(if applicable)

Name Angela Morrison

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 2039 Centre Point Blvd - Suite 201

Phone 850-445-8853

Street

Tallahassee FL 32308

E-mail amorrison@amorrisonlaw.com

City

State

Zip

Speaking: For Against Information

Representing Self

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

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

Meeting Date _____

Topic Gas Stations

Bill Number 1184
(if applicable)

Name Melissa Joiner Ramba

Amendment Barcode _____
(if applicable)

Job Title Director Government Affairs

Address 227 S Adams
Street
Tallahassee Fl
City State Zip

Phone 570-0269

E-mail Melissa@frf.org

Speaking: For Against Information

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Gas Pumping Bill Number 1184
(if applicable)

Name Beth Pytiik (Pit-lick) Amendment Barcode N/A
(if applicable)

Job Title Intergov Relations Coordinator

Address 601 E Kennedy Blvd Phone 813 274 6790
Street

Tampa FL 33603 E-mail pytiikben@hillsborough
City State Zip county.org

Speaking: For Against Information

Representing Hillsborough County

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-8-14

Meeting Date

Topic Gas Pump

Bill Number SB 1184
(if applicable)

Name Douglas Steel

Amendment Barcode _____
(if applicable)

Job Title Retired

Address 4046 Constantine Loop
Street

Phone 813-532-1336

Wesley Chapel FL 33543
City State Zip

E-mail rallyedoug@yahoo.com

Speaking: For Against Information

Representing Self and others in the Tampa Bay area w/ disabilities

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/14
Meeting Date

Topic Accessible Gas Stations

Bill Number 1184
(if applicable)

Name JR Harding

Amendment Barcode _____
(if applicable)

Job Title _____

Address 6027 Ox Bottom Manor Dr
Street

Phone 850-510-4628

Tallahassee FL 32312
City State Zip

E-mail jr3u@comcast.net

Speaking: For Against Information

Representing Persons with Disabilities

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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THE FLORIDA SENATE
APPEARANCE RECORD

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

2/8/14
Meeting Date

Topic GAS STATION ACCESS

Bill Number CS/CS/SB 1184
(if applicable)

Name TAYLOR BIEHL

Amendment Barcode _____
(if applicable)

Job Title GOVERNMENTAL CONSULTANT

Address 106 E. COLLEGE AVE SUITE 640

Phone 850-224-1660

Street _____
City TALMADGE FL State FL Zip 32301

E-mail TAYLOR.BIEHL@GMAIL.COM

Speaking: For Against Information

Representing LEON COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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CourtSmart Tag Report

Room: SB 301

Case:

Type:]

Caption: Senate Community Affairs Committee Judge:

Started: 4/8/2014 3:02:31 PM

Ends: 4/8/2014 5:00:15 PM Length: 01:57:45

3:02:46 PM Call to order
3:03:36 PM Tab 3 SB 1198 Senator Montford
3:04:55 PM Amendment 1 barcode 363506
3:06:05 PM Roll call on SB 1198
3:06:20 PM Bill passes
3:06:24 PM Tab 2 SB 1630 Senator Montford
3:07:14 PM Senator Soto
3:07:50 PM Amendment 1 barcode 433018
3:08:01 PM Senator Thompson
3:08:10 PM Senator Latvala
3:10:46 PM Amendment 2 barcode 197666
3:10:50 PM Substitute withdrawn
3:11:49 PM Roll call on SB 1630
3:12:07 PM Bill passes
3:12:22 PM Tab 6
3:12:30 PM Tab 6 SB 296 Senator Brandes
3:13:32 PM Senator Latvala
3:23:08 PM Senator Soto
3:26:13 PM Senator Smith
3:28:54 PM Senator Thrasher
3:30:13 PM Amendment 1 barcode 620494
3:31:01 PM Temporarily pass amendment
3:31:05 PM Amendment 2 barcode 113622
3:31:45 PM Speaker Eric Friday representing Florida Carry
3:32:47 PM Senator Latvala
3:33:49 PM Senator Thrasher
3:37:16 PM Speaker Sheriff John Rutherford representing Florida Sheriffs Association
3:38:39 PM Speaker Marion Hammer representing National Rifle Association
3:39:27 PM Senator Smith
3:40:59 PM Senator Thrasher
3:42:12 PM Senator Latvala
3:43:53 PM Senator Hukill
3:45:52 PM Speaker Eric Friday representing Florida Carry
3:47:52 PM Speaker Major General Don
3:49:00 PM Speaker Sheriff John Rutherford representing Florida Sheriffs Association
3:51:23 PM Senator Smith
3:52:09 PM Speaker Marion Hammer representing National Rifle Association
3:56:34 PM Senator Soto
3:59:26 PM Senator Smith
4:01:30 PM Roll call on SB 296
4:01:45 PM Bill passes
4:01:51 PM Tab 4 SB 820 Senator Bullard
4:02:45 PM Senator Bullard
4:03:01 PM Amendment 1 barcode 410998
4:03:17 PM Amendment 2 barcode 379058
4:03:38 PM Amendment 3 barcode 111242
4:04:06 PM Amendment 4 barcode 959422
4:05:02 PM Roll call on SB 820
4:05:14 PM Bill passes
4:05:20 PM Tab 9 SB 772 Senator Garcia
4:05:59 PM Senator Soto
4:07:07 PM Roll call on SB 772

4:07:23 PM Bill passes
4:07:32 PM Tab 5 SB 1274 Senator Hays
4:08:14 PM Amendment 1 barcode 452718
4:09:19 PM Speaker Janet Boman representing Nature Conservancy
4:10:07 PM Senator Latvala
4:11:07 PM Roll call on SB 1274
4:11:21 PM Bill passes
4:11:28 PM Tab 1 SB 746 Senator Sobel
4:13:40 PM Amendment 1 barcode 517800
4:13:51 PM Senator Soto
4:14:31 PM Speaker Chris Nuland representing Florida Society of Plastic Surgeons
4:15:41 PM Roll call on SB 746
4:15:56 PM Bill passes
4:16:04 PM Tab 7 SB 396 Senator Bean
4:17:09 PM Senator Soto
4:17:46 PM Senator Thompson
4:18:01 PM Senator Latvala
4:19:53 PM Amendment 1 barcode 533892
4:23:39 PM Senator Hukill
4:23:40 PM Senator Bean
4:25:16 PM Speaker David Francis representing American Heart Association
4:26:27 PM Speaker Brian Pitts representing Justice to Jesus
4:28:53 PM Roll call on SB 396
4:29:11 PM Bill passes
4:29:21 PM Tab 10 SB 1714 Senator Stargel
4:33:05 PM Senator Latvala
4:40:39 PM Amendment 1 barcode 784404
4:41:50 PM Speaker Matthew Sokolowsky representing Great Bay Distributors and FBWA
4:43:51 PM Amendment 2 barcode 244642
4:44:20 PM Amendment withdrawn
4:44:34 PM Amendment 3 barcode 979722
4:44:43 PM Amendment withdrawn
4:44:52 PM Amendment 4 barcode 159766
4:45:08 PM Amendment withdrawn
4:45:19 PM Amendment 5 barcode 686318
4:46:22 PM Senator Thompson
4:47:09 PM Senator Soto
4:48:14 PM Speaker Eric Criss representing Beer Industry of Florida
4:50:14 PM Amendment 6 barcode 142574
4:50:17 PM Amendment withdrawn
4:50:36 PM Roll call on SB 1714
4:51:01 PM Bill passes
4:52:38 PM Back on SB 1714
4:52:45 PM Roll call on SB 1714
4:52:59 PM Bill passes
4:53:15 PM Tab 12 SB 1184 Senator Brandes
4:53:47 PM Speaker Taylor Biehl representing Leon County
4:54:16 PM Speaker JR Harding representing Persons with Disabilities
4:57:15 PM Speaker Douglas Steel representing himself
5:00:11 PM Adjournment