The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMERCE AND TOURISM
Senator Detert, Chair
Senator Abruzzo, Vice Chair

MEETING DATE: Monday, April 8, 2013
TIME: 1:00 —3:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Detert, Chair; Senator Abruzzo, Vice Chair; Senators Bean, Hays, Hukill, Margolis, Richter, Ring, Simpson, Stargel, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**SB 282** Richter (Identical H 425)	Consumer Finance Charges; Increasing the proportionate loan amounts that are subject to descending maximum rates of interest; increasing the maximum delinquency charge that may be imposed for each loan payment in default for not less than a specified time; providing penalties, etc. BI 03/20/2013 Favorable CM 04/08/2013 Favorable	Favorable Yeas 11 Nays 0
2	**SB 394** Hays (Identical H 163)	Ticketholders' Rights; Declaring that an event or admission ticket purchased by an individual consumer is the consumer's personal property; providing that certain restrictions on the transfer or resale of event or admission tickets are void, etc. CM 04/08/2013 Fav/CS JU RC	Fav/CS Yeas 11 Nays 0
3	**CS/SB 528** Community Affairs / Simpson (Similar CS/CS/H 537)	Growth Management; Clarifying the prohibition on an initiative or referendum process in regard to development orders, comprehensive plan amendments, and map amendments; clarifying that the exception to the prohibition on an initiative or referendum process in regard to any local comprehensive plan amendment or map amendment is limited to a local government charter provision in effect on June 1, 2011, that specifically authorized an initiative or referendum process for local comprehensive plan or map amendments that affect more than five parcels of land, etc. CA 03/07/2013 Fav/CS JU 04/01/2013 Favorable CM 04/08/2013 Favorable RC	Favorable Yeas 11 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**SB 1156** Altman (Similar H 1029)	Space Exploration; Creating part XIII of ch. 288, F.S., entitled “Space Exploration Research Laboratory”; requiring the Florida Institute of Technology to submit a plan to the Department of Economic Opportunity (DEO) in order to qualify for grant funding of a space exploration research laboratory; directing the Department of Revenue, after notice by the DEO that certain contingencies have been met, to annually distribute for a certain number of years a specified amount of funds generated by visitor activity at the Kennedy Space Center and Cape Canaveral Air Force Station for the purpose of establishing and operating a space exploration research institute at the Florida Institute of Technology, etc. MS 03/14/2013 Favorable CM 04/08/2013 Temporarily Postponed AED AP	Temporarily Postponed
5	**CS/SB 1300** Judiciary / Simmons (Similar CS/H 1079)	Limited Liability Companies; Creating the Florida Revised Limited Liability Company Act; providing definitions and general provisions relating to operating agreements, powers, property, rules of construction, names, and registered agents of limited liability companies; providing for the relationship of members and management, voting, standards of conduct, records, and the right to obtain information; providing for service of process on a limited liability company, etc. JU 04/01/2013 Fav/CS CM 04/08/2013 Fav/CS	Fav/CS Yeas 11 Nays 0
6	**SB 1394** Hukill (Compare CS/H 1049)	Motorsports Entertainment Complexes; Providing an exemption from the sales and use tax for building materials used in the construction, reconstruction, expansion, or renovation of certain certified motorsports entertainment complexes through a refund of previously paid taxes; authorizing a motorsports entertainment complex to apply for a tax refund of sales and use taxes; providing that a master developer of a certified motorsports entertainment complex is eligible for a sales tax refund of a specified percentage of any increase in sales tax collections within the complex over a specified base year, etc. CM 04/08/2013 Fav/CS AFT AP RC	Fav/CS Yeas 11 Nays 0
	Other Related Meeting Documents		

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

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

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 282

INTRODUCER: Senator Richter

SUBJECT: Consumer Finance Charges

DATE: April 8, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	**Favorable**
2.	Siples	Hrdlicka	CM	**Favorable**
3.				
4.				
5.				
6.				

I. Summary:

SB 282 amends ch. 516, F.S., the Florida Consumer Finance Act (act), which governs consumer finance loans. The act defines "consumer finance loan" as a loan of money, credit, goods, or provision of a line of credit, in an amount or to a value of $25,000 or less at an interest rate greater than 18 percent per annum. The allowable interest rates on consumer finance loans are tiered and limited based on the principal amount that falls within each tier of the loan. As the principal amount increases, the allowable interest rate decreases, as follows:

- On the first $2,000 of principal, up to 30 percent allowable interest;
- From $2,001 to $3,000 of principal, up to 24 percent allowable interest; and
- From $3,001 to $25,000 of principal, up to 18 percent allowable interest.

The bill increases by $1,000 the principal amount that would be subject to the maximum amount of interest that is allowed to be charged within each tier. The bill increases from $10 to $15, the maximum amount that can be charged to a borrower for making a payment that is in default for at least 10 days.

This bill substantially amends ss. 516.031 and 516.19, F.S.

II. Present Situation:

The Florida Consumer Finance Act (act)[1] sets forth the maximum interest rates that may be charged on a consumer finance loan,[2] and provides the Office of Financial Regulation within the

[1] Chapter 516, F.S.

Department of Financial Services, with regulatory authority over entities that issue consumer finance loans.[3] The Office of Financial Regulation indicates that currently, there are 262 consumer finance lenders licensed in Florida.[4]

Under the act, interest rates on consumer finance loans are tiered and limited based on the principal amount subject to each tier of the loan.

- On the first $2,000 of the principal amount, the maximum interest rate is 30 percent per annum;
- For principal amounts from $2,001 to $3000, the maximum interest rate is 24 percent per annum; and
- For principal amounts from $3,001 to $25,000, the maximum interest rate of 18 percent per annum.[5]

The principal amounts upon which interest rates are computed were last addressed by the Legislature in 1997.[6]

Additionally, the act allows a lender to charge a delinquency fee of up to $10 for each payment that is in default for at least 10 days. Under the act, both parties must first agree upon the delinquency fee in writing.[7] The delinquency fee was last addressed by the Legislature in 2000.[8]

III. Effect of Proposed Changes:

Section 1 amends s. 516.031, F.S., to increase the maximum allowable interest on a consumer finance loan and the delinquency charge.

Specifically, the bill increases by $1,000 the principal amount that would be subject to the maximum amount of interest that is allowed to be charged for each tier. A lender may charge a maximum interest rate of 30 percent per year on the first $3,000 of principal; 24 percent per year on principal amounts between $3,000 and $4,000; and 18 percent per year on principal amounts between $4,000 and $25,000. The following chart illustrates these changes:

Annual Interest Rate	Current Law	Proposed Changes
30%	Principal up to $2,000	Principal up to $3,000
24%	Principal from $2,001 to $3,000	Principal from $3,001 to $4,000

2 Section 516.01(2), F.S., defines "consumer finance loan" as a loan of money, credit, goods, or provision of a line of credit, in an amount or to a value of $25,000 or less at an interest rate greater than 18 percent annum.

3 Pursuant to s. 516.02, F.S., provisions of this act do not apply to persons doing business under state or federal laws governing banks, savings banks, trust companies, building and loan associations, credit unions, or industrial loan and investment companies.

4 E-mail from H. French Brown, IV, Director of Legislative and Cabinet Affairs, Office of Financial Regulation (Feb. 5, 2013) (on file with the Commerce and Tourism Committee).

5 Section 516.031(1), F.S.

6 Section 1, ch. 97-181, L.O.F.

7 Section 516.031(3)(a)9., F.S.

8 Section 1, ch. 2000-127, L.O.F.

18%	Principal from $3,001 to $25,000	Principal from $4,001 to $25,000

The bill increases the maximum amount of the delinquency charge a lender may charge from $10 to $15 for each payment that is in default for at least 10 days. The requirement that both parties agree to the delinquency charge, in writing, prior to imposing the charge is retained.

Section 2 amends s. 516.19, F.S., to make a technical change to provide that a person who violates specified provisions of the act "commits" rather than "is guilty of" a first-degree misdemeanor.

Section 3 provides that the bill takes effect July 1, 2013, and applies to consumer finance loans entered into on or after July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Consumers who borrow could be subject to additional interest charges, depending on the principal of the consumer finance loan. Under the proposed change, consumers who borrow could be subject to an additional 6 percent of annual interest on up to $1,000 on monies borrowed above $2,000 and another 6 percent of annual interest of up to $1,000 on monies borrowed above $3,000.

Borrowers who default on a payment could be subject to an additional $5 in charges for each defaulted payment.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GARRETT RICHTER
President Pro Tempore
23rd District

COMMITTEES:
Gaming, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human Services
Banking and Insurance
Commerce and Tourism
Judiciary
Rules
Transportation

JOINT COMMITTEE:
Joint Legislative Budget Commission

March 21, 2013

The Honorable Nancy Detert, Chair
Committee on Commerce and Tourism
310 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Detert:

Senate Bill 282 relating to Consumer Finance Charges has been reported favorably out of the committee on Banking and Insurance. The next committee of reference is Commerce and Tourisim. I would appreciate the placing of this bill on your next available agenda.

Thank you for your consideration.

Sincerely,

Garrett Richter

cc: Jennifer Hrdlicka, Staff Director

REPLY TO:
- 3299 E. Tamiami Trail, Suite 203, Naples, Florida 34112-4961 (239) 417-6205
- 404 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023
- 25 Homestead Road North, Suite 42 B, Lehigh Acres, Florida 33936 (239) 338-2777

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: Consumer Finance

Bill Number: 282 *(if applicable)*

Name: Alice Vickers

Amendment Barcode: ______ *(if applicable)*

Job Title: Attorney

Address: 623 Beard St.
Street

Tallahassee FL 32303
City *State* *Zip*

Phone: ______

E-mail: ______

Speaking: ☐ For ☑ Against ☐ Information

Representing: FL Consumer Action Network

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4/7/13
Meeting Date

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

Topic ____________________

Bill Number 282 (if applicable)

Name Melissa Joiner

Amendment Barcode ____________________ (if applicable)

Job Title Director of Gov't Affairs

Address ____________________
Street

Phone 570-0269

Tallahassee
City State Zip

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

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 /2013
Meeting Date

Topic ____________________ Bill Number 282 *(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

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 Commerce and Tourism

BILL:	CS/SB 394
INTRODUCER:	Commerce and Tourism Committee and Senator Hays
SUBJECT:	Ticketholders' Rights
DATE:	April 9, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hrdlicka	Hrdlicka	CM	**Fav/CS**
2.			JU	
3.			RC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 394 increases the criminal penalties related to counterfeit tickets; and creates criminal penalties for reselling or purchasing "multiuse tickets" to theme parks.

This bill amends s. 817.355, F.S.

II. Present Situation:

Tickets and Sales

Generally there is little regulation on the initial sale of tickets by original ticket issuers and their agents. Original ticket issuers take different approaches to the restriction of resale of tickets. Some impose no restrictions at all on the resale of tickets, while others prohibit the sale of season ticket accounts.[1] "Some prohibit the reselling of tickets over the face-value; some prohibit the

[1] As long as there is adequate notice of restrictions, including resale restrictions, courts have generally held that the restrictions may be enforced. Dreyer, Anthony J. and Mitchell P. Schwartz, "Whose Game is it Anyway: Sports Teams' Right to Restrict (and Control) Ticket Resale," 17 FDMIPMELJ 753, 768 – 772 (Spring 2007).

reselling over a specific resale maximum; still others prohibit selling at certain locations; and some prohibit the reselling at any price."[2]

The resale of tickets is regulated by states for various reasons; these include the belief that resale of tickets for exorbitant prices above the face value of the ticket is unfair; that resale can lead to fraud by the sale of fake tickets and this harms innocent consumers; or that purchasers of resold tickets may not be properly reimbursed if the event is cancelled.[3] States approach regulation of ticket resales in different manners, similar to those of original ticket issues discussed above. "In addition to state statutes limiting or prohibiting the resale of tickets, many municipalities impose their own restrictions on ticket resales."[4] Also, some states require individuals or entities to register as ticket resellers or ticket brokers in order to participate in this industry.

Efforts by issuers to limit fraudulent tickets and make it easy for ticket purchasers to avoid will-call or lost or forgotten tickets have also limited the easy transferability of tickets; the use of credit cards to purchase tickets, barcodes placed on tickets, and electronic tickets all provide ways for an original ticket issuer to link a ticket to a particular person and keep track of ownership of a ticket.[5]

Resale of Tickets in Florida

Current law prohibits the resale of tickets for more than $1 over the original admission price, but limits the application of that restriction to tickets for:

- Passage or accommodation on any common carrier in Florida;[6]
- Multiday or multievent access to a park or entertainment complex, or a concert, entertainment event, permanent exhibition, or recreational activity within a park or complex, including an entertainment/resort complex;[7]
- Events for which 3,000 or fewer tickets are issued by a 501(c)(3) charitable organization;[8] and
- Sale through an internet website unless authorized by the original ticket seller or when the website makes and posts certain guarantees and disclosures.[9]

Any ticket outside the four categories listed above may be sold at any amount over the original admissions price. Additionally, tickets may not be offered for resale or purchased at any price on property where an event is being held without the express written consent of the property owner.

[2] See Dreyer, 17 FDMIPMELJ at 772.
[3] Benitah, Jonathan C., "Anti-Scalping Laws: Should They Be Forgotten?" 6 TXRESL 55, 60 (2005).
[4] See Dryer, 17 FDMIPMELJ at 756.
[5] For example, Disney recently invested in a new form of ticket which is a wireless radio-frequency identification wristband. See Garcia, Jason, Orlando Sentential (March 29, 2013), available at http://www.orlandosentinel.com/the-daily-disney/os-disney-nextgen-ticket-laws-20130329,0,2136300.story; and Shaw Brown, Genevieve, ABC News (January 9, 2013), available at http://abcnews.go.com/Travel/magicband-disney-park-entry/story?id=18161268 (last visited 4/4/2013).
[6] Section 817.36(1)(a), F.S. This does not apply to travel agencies that have an established place of business in the state and are required to pay state, county, and city occupational license taxes.
[7] Section 817.36(1)(b), F.S. "Entertainment/resort complex" is defined in s. 516.01(18), F.S.
[8] Section 817.36(1)(c), F.S. The tickets must be printed with a phrase that notifies the ticket holder that the ticket may not be resold for more than $1 over the original price. This does not apply to tickets issued or sold by a third party contractor ticketing service provider on behalf of the organization, unless the disclaimer is printed on the tickets.
[9] Section 817.36(1)(d), F.S.

Any sales tax due on resold tickets is to be remitted to the Florida Department of Revenue in accordance with s. 212.04, F.S.[10]

If a ticket is resold in violation of the statute, or if a person uses software to circumvent a ticket seller's website, a civil penalty of treble the amount of a ticket or tickets resold is imposed.[11]

Regulation of Fraudulent Ticket Sales in Florida
Section 817.361, F.S., makes it a second degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiday or multievent ticket that has been used at least once for admission. Second or subsequent violations are first degree misdemeanors.[12] A nontransferable ticket is one on which is clearly printed the phrase: "Nontransferable; must be used by the same person on all days" or a similar phrase.

Section 817.355, F.S., makes the counterfeit, forging, altering, or possession of any ticket with the intention to defraud a facility, a first degree misdemeanor.

Section 817.357, F.S., states that it is a violation of the Florida Deceptive and Unfair Trade Practices Act[13] for knowingly purchasing a quantity of tickets from the original ticket seller that exceeds the maximum ticket limit quantity set, with the intent to resell such tickets. This does not apply to "original ticket sellers," meaning "the issuer of such ticket or a person or firm who provides distribution services or ticket sales services under a contract with such issuer."

III. Effect of Proposed Changes:

CS/SB 394 amends provisions related to ticket sales to increase the penalties for sales of counterfeit tickets and sales of multiuse tickets.

Section 1 amends s. 817.355, F.S., to increase the criminal penalties for the fraudulent creation or possession of admission tickets.

Under current law, the counterfeit, forging, altering, or possession of any ticket with the intention to defraud a facility is a first degree misdemeanor. The bill creates a felony of the third degree for subsequent violations, punishable by a fine of $10,000, a term of imprisonment not exceeding 5 years, or, in the case of a habitual offender a term of imprisonment not exceeding 10 years.[14]

The bill creates a third degree felony for the counterfeit, forging, altering, or possession of 10 or more tickets with the intention to defraud a facility. This crime is punishable by a fine of $10,000, a term of imprisonment not exceeding 5 years, or, in the case of a habitual offender a term of imprisonment not exceeding 10 years.

[10] Section 817.36(3), F.S. Section 212.04, F.S., imposes a tax on the sales price or actual value of admissions.
[11] Section 817.36(4) and (5), F.S.
[12] Second degree misdemeanors are punishable by up 60 days imprisonment and a fine of up to $500. First degree misdemeanors are punishable by up to 1 year imprisonment and a fine of up to $1,000. ss. 775.082 and 775.083, F.S.
[13] Sections 501.201 – 501.213, F.S. The associated civil penalty for a violation of the act is up to $10,000 per violation.
[14] Generally, a third degree felony is punishable by a fine of $5,000. s. 775.083(1)(c), F.S.

Section 2 amends s. 817.361, F.S., to provide criminal penalties for the resale or repurchase of a multiuse ticket that has been used at least once for admission.

The bill defines a "multiuse ticket" as a ticket or other medium designed for admission to more than one amusement location or facility in a theme park or for more than 1 day to a theme park. A "theme park" is an area of at least 25 acres that contains rides or other recreation activities and is owned by the same business entity.

The bill increases the penalty to a first degree misdemeanor to offer for sale, sell, or transfer, with or without consideration, any nontransferable multiuse ticket that has been used at least once for admission. The bill also creates a first degree misdemeanor to purchase or offer to purchase, with the intent to defraud and with or without consideration, any nontransferable multiuse ticket that has been used at least once for admission.

Both first degree misdemeanors are punishable by a fine of $10,000 or a definite term of imprisonment not exceeding 1 year.[15]

Any second or subsequent violation is a third degree felony, punishable by a fine of $10,000, a term of imprisonment not exceeding 5 years, or, in the case of a habitual offender a term of imprisonment not exceeding 10 years.

Under current law, a ticket is transferable unless otherwise stated on the ticket itself. The bill repeals that provision, and instead states that a multiuse ticket is nontransferable. The bill provides two instances when a multiuse ticket is transferable:

- The phrase "may be used by more than one person" is printed clearly on the ticket; or
- The issuer of the ticket explicitly states on its website that the ticket may be used by more than one person.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[15] Generally, a first degree misdemeanor is punishable by a fine of $1,000. s. 775.083(1)(c), F.S.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Individuals who counterfeit tickets or sell or transfer used multiuse tickets will be subject to increased criminal penalties. Additionally, individuals who purchase a used multiuse ticket with the intent to defraud will be subject to criminal penalties.

However, individuals will no longer be subject to criminal penalties for the resale or transfer of multiday or multievent tickets to entertainment venues other than theme parks.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Criminal fines imposed under s. 775.083, F.S., are deposited by the clerk of the court in the county's fine and forfeiture fund, except for fines imposed when adjudication is withheld, which are sent to the Department of Revenue for deposit in the General Revenue Fund. The bill does not state where the new fines imposed are to be deposited.

VII. Related Issues:

There may be confusion as to when a multiuse ticket is transferrable. The bill does not provide any direction to an issuer how to "explicitly state" on its website when a ticket is may be used by more than one person.

VIII. Additional Information:

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

CS by Commerce and Tourism on April 8, 2012:
The committee substitute:
- Increases the criminal penalties related to counterfeit tickets; and
- Creates criminal penalties for reselling or purchasing "multiuse tickets" to theme parks.

B. Amendments:

None.

528392

LEGISLATIVE ACTION

Senate	.	House
	.	
	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 817.355, Florida Statutes, is amended to read:

817.355 Fraudulent creation or possession of admission ticket.—

(1) Except as provided in subsections (2) and (3), a ~~Any~~ person who counterfeits, forges, alters, or possesses a ~~any~~ ticket, token, or paper designed for admission to or the rendering of services by any sports, amusement, concert, or

528392

other facility offering services to the general public, with the intent to defraud such facility, commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who commits a second or subsequent violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000.

(3) A person who counterfeits, forges, alters, or possesses 10 or more tickets, tokens, or papers designed for admission to or the rendering of services by any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility, commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000.

Section 2. Section 817.361, Florida Statutes, is amended to read:

817.361 Resale of multiuse ~~multiday or multievent~~ ticket.—

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

(a) “Issuer” means the person or entity that created a multiuse ticket and is obligated to allow admission thereunder.

(b) “Multiuse ticket” means a ticket, other medium, or right designed for admission to more than one amusement location or facility in a theme park complex, or for admission for more than 1 day to one or more such locations or facilities in a theme park complex.

(c) “Theme park complex” means any area comprised of at least 25 acres owned by the same business entity which contains rides or other recreational activities.

528392

(2) A person who ~~Whoever~~ offers for sale, sells, or transfers in connection with a commercial transaction, with or without consideration, any nontransferable multiuse ticket ~~or other nontransferable medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than 1 day thereto,~~ after the multiuse ~~said~~ ticket ~~or other medium~~ has been used at least once for admission, commits a violation of this subsection. A multiuse ticket is nontransferable unless the phrase "may be used by more than one person" is printed clearly on the multiuse ticket or the issuer explicitly states on its website that the multiuse ticket may be used by more than one person ~~is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A nontransferable ticket or other nontransferable medium is one on which is clearly printed the phrase: "Nontransferable; must be used by the same person on all days" or words of similar import~~.

(3)(a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000.

(b) A person who commits ~~Upon conviction for~~ a second or subsequent violation of ~~this~~ subsection (2) commits~~, such person is guilty of~~ a felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000 ~~775.083~~.

Section 3. This act shall take effect July 1, 2013.

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

528392

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to ticket sales; amending s. 817.355, F.S.; providing enhanced criminal penalties for second and subsequent violations concerning fraudulent creation or possession of an admission ticket; providing criminal penalties for persons who commit such violations involving more than a specified number of tickets; amending s. 817.361, F.S.; providing definitions; providing enhanced criminal penalties for second or subsequent violations of provisions relating to the resale of multiuse tickets; providing an effective date.

498458

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Substitute for Amendment (528392) (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 817.355, Florida Statutes, is amended to read:

817.355 Fraudulent creation or possession of admission ticket.—

(1) Except as provided in subsections (2) and (3), a ~~Any~~ person who counterfeits, forges, alters, or possesses a ~~any~~ ticket, token, or paper designed for admission to or the

498458

rendering of services by any sports, amusement, concert, or other facility offering services to the general public, with the intent to defraud such facility, commits ~~is guilty of~~ a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) A person who commits a second or subsequent violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000.

(3) A person who counterfeits, forges, alters, or possesses 10 or more tickets, tokens, or papers designed for admission to or the rendering of services by any sports, amusement, concert, or other facility offering services to the general public with the intent to defraud such facility commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000.

Section 2. Section 817.361, Florida Statutes, is amended to read:

817.361 Resale or repurchase of multiuse ~~multiday or multievent~~ ticket.—

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

(a) “Issuer” means the person or entity that created a multiuse ticket and is obligated to allow admission thereunder.

(b) “Multiuse ticket” means a ticket, other medium, or right designed for admission to more than one amusement location or other facility in a theme park complex, or for admission for more than 1 day to one or more such locations or facilities in a theme park complex.

(c) “Theme park complex” means any area comprised of at least 25 acres owned by the same business entity which contains rides or other recreational activities.

(2) A person who ~~Whoever~~ offers for sale, sells, ~~or~~ transfers, or, intending to defraud, purchases or offers to purchase, in connection with a commercial transaction, with or without consideration, any nontransferable multiuse ticket ~~or other nontransferable medium designed for admission to more than one amusement location or other facility offering entertainment to the general public, or for admission for more than 1 day thereto,~~ after the multiuse ~~said~~ ticket ~~or other medium~~ has been used at least once for admission, commits a violation of this subsection. For purposes of this subsection, a multiuse ticket is nontransferable unless the phrase “may be used by more than one person” is printed clearly on the multiuse ticket by the issuer or the issuer explicitly states on its website that the multiuse ticket may be used by more than one person ~~is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A nontransferable ticket or other nontransferable medium is one on which is clearly printed the phrase: “Nontransferable; must be used by the same person on all days” or words of similar import~~.

(3)(a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine of up to $10,000.

(b) A person who commits ~~Upon conviction for~~ a second or subsequent violation of ~~this~~ subsection (2) commits~~, such person is guilty of~~ a felony ~~misdemeanor~~ of the third ~~first~~ degree, punishable as provided in s. 775.082 or s. 775.084 or by a fine

498458

of up to $10,000 ~~775.083~~.

Section 3. This act shall take effect July 1, 2013.

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

And the title is amended as follows:

Delete everything before the enacting clause and insert:

A bill to be entitled

An act relating to ticket sales; amending s. 817.355, F.S.; providing enhanced criminal penalties for second and subsequent violations concerning fraudulent creation or possession of an admission ticket; providing criminal penalties for persons who commit such violations involving more than a specified number of tickets; amending s. 817.361, F.S.; providing definitions; prohibiting the fraudulent repurchase of a multiuse ticket; providing enhanced criminal penalties for second or subsequent violations of provisions relating to the resale or repurchase of multiuse tickets; providing an effective date.

The Florida Senate

Committee Agenda Request

To: Senator Nancy Detert, Chair
Commerce and Tourism

CC: Jennifer Hrdlicka, Staff Director
Patty Blackburn, Administrative Assistant

Subject: Committee Agenda Request

Date: February 5, 2013

I respectfully request that **Senate Bill #394**, relating to Ticketholders' Rights, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

D Alan Hays, DMD

Senator Alan Hays
Florida Senate, District 11
320 Senate Office Building
(850) 487-5011

THE FLORIDA SENATE

APPEARANCE RECORD

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

April , 2013
Meeting Date

Topic Ticketholders' Rights

Bill Number SB 394 *(if applicable)*

Name Bill Lupfer

Amendment Barcode 498458 *(if applicable)*

Job Title President

Address 1114 N Gadsden St
Street

Tallahassee FL 32303
City *State* *Zip*

Phone 850-222-2885

E-mail lupfer@floridaattractions.org

Speaking: [✓] For [ ] Against [ ] Information

Representing Florida Attractions Association

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

Lobbyist registered with Legislature: [✓] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

4-8-13
Date

394
Bill Number

Name Carol Dover

Phone 850-224-2250

Address 230 S. Adams St
Street

E-mail cdover@frla.org

Tallahassee FL 32301
City *State* *Zip*

Job Title CEO / President

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

Appearing at request of Chair [ ]

Subject Ticketholders' Rights - substitute amendment

Representing Florida Restaurant & Lodging Assoc

Lobbyist registered with Legislature: [X] Yes [ ] No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from ______ ___.m. to ______ ___.m.

S-001 (08/2005)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: Ticket Fraud

Bill Number: 394 *(if applicable)*

Name: Adam Babington

Amendment Barcode: SA *(if applicable)*

Job Title: Manager, Gov't Relations

Address: 1375 E Buena Vista Dr
Street

Lake Buena Vista, FL 32830
City *State* *Zip*

Phone: 407-828-1360

E-mail: adam.e.babington@disney.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Walt Disney World

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

Lobbyist registered with Legislature: [x] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.8.13
Meeting Date

Topic ______

Bill Number SB394 *(if applicable)*

Name Candace Barnes

Amendment Barcode ______ *(if applicable)*

Job Title Director of Government Relations

Address ______
Street

Phone ______

E-mail candace.rodatzbarnes@universalorlando.com

______
City *State* *Zip*

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

Representing Universal Studios Orlando

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/18/13
Meeting Date

Topic Ticket Fraud

Bill Number 394 (if applicable)

Name Al Rodrigues

Amendment Barcode ______ (if applicable)

Job Title Captain

Address ______
Street

Phone 407-448-6790

Lake Buena Vista FL 32830
City State Zip

E-mail ______

Speaking: [x] For [ ] Against [ ] Information

Representing Orange County Sheriff's Office

Appearing at request of Chair: [ ] Yes [x] 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)

4/8/13
Meeting Date

Topic ______________________

Bill Number SB 394 (if applicable)

Name GENE McGEE

Amendment Barcode ______________ (if applicable)

Job Title ______________________

Address 215 N. MONROE STE 306
Street

TLH FL 32301
City State Zip

Phone (850) 222-0500

E-mail GENE@GMALOBBY.COM

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

Representing SEAWORLD

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 8 /2013
Meeting Date

Topic ______________________ Bill Number 394 (if applicable)

Name BRIAN PITTS Amendment Barcode ______ (if applicable)

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/4
Meeting Date

Topic: Non Profit Performing Arts Centers

Bill Number: 394 *(if applicable)*

Name: Frank Meiners

Amendment Barcode: ______ *(if applicable)*

Job Title: ______

Address: PO Box 11033
Street

Tall FL
City *State* *Zip*

Phone: 591-0177

E-mail: ______

Speaking: ☐ For ☐ Against ☐ Information

Representing: FL Cultural Alliance

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

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 Commerce and Tourism

BILL: CS/SB 528

INTRODUCER: Community Affairs Committee and Senator Simpson

SUBJECT: Growth Management

DATE: April 2, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Anderson	Yeatman	CA	**Fav/CS**
2.	Brown	Cibula	JU	**Favorable**
3.	Malcolm	Hrdlicka	CM	**Favorable**
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... [X] Statement of Substantial Changes
B. AMENDMENTS........................ [ ] Technical amendments were recommended
[ ] Amendments were recommended
[ ] Significant amendments were recommended

I. Summary:

CS/SB 528 clarifies which local initiative and referendum processes relating to development orders, comprehensive plan amendments, or map amendments are not prohibited. Under the bill, the local initiative and referendum processes that are allowed to continue are limited to those that:

- Were in effect on June 1, 2011;
- Affect more than five parcels of land; and
- Were expressly authorized in a local government charter specifically for matters such as development orders or comprehensive plan or map amendments.

The bill applies retroactively to any initiative or referendum process on local growth management issues commenced after June 1, 2011.

This bill amends s. 163.3167, F.S.

II. Present Situation:

Growth Management
The Local Government Comprehensive Planning and Land Development Regulation Act (the Act),[1] also known as Florida's Growth Management Act, was adopted in 1985. The Act requires all counties and municipalities to adopt local government comprehensive plans that guide future growth and development.[2] Comprehensive plans contain chapters or "elements" that address future land use, housing, transportation, water supply, drainage, potable water, natural groundwater recharge, coastal management, conservation, recreation and open space, intergovernmental coordination, capital improvements, and public schools.[3] The state land planning agency that administers these provisions is the Department of Economic Opportunity.[4]

Amendments to a Comprehensive Plan
A local government may choose to amend its comprehensive plan for a variety of reasons. A local government may wish to expand, contract, accommodate proposed job creation projects or housing developments, or change the direction and character of growth. Some comprehensive plan amendments are initiated by landowners or developers, but all must be approved by the local government.[5] The first step in the process is for the local government to develop a comprehensive plan amendment proposal. Public participation is a critical part of the comprehensive planning process.[6] Citizens often want to be a part of planning their communities and landowners need to be aware of changes that could affect their property. A local government considering a plan amendment must hold at least two advertised public hearings on the proposed comprehensive plan or plan amendment.[7] Notice must be published in a newspaper of general paid circulation in the jurisdiction of interest.[8] The procedure for transmittal of a proposed or adopted comprehensive plan amendment requires the affirmative vote of a majority of the members of the governing body present at the hearing.[9]

Referenda Approval of Amendments to Comprehensive Plans or Development Orders
The 1995 Legislature prohibited all initiative or referendum processes on development orders, local comprehensive plan amendments, or map amendments affecting five or fewer parcels of land.[10]

In November 2010, the voters voted in a statewide election against the citizen initiative known as Amendment 4, otherwise known as "Florida Hometown Democracy."[11] This initiative would have amended the Florida Constitution to require referenda approval by the local electorate

---

[1] *See* ch. 163, part II, F.S.
[2] Section 163.3167, F.S.
[3] Section 163.3177, F.S.
[4] Section 163.3221, F.S.
[5] *See* s. 163.3184, F.S.
[6] *See* section 163.3181, F.S. (setting out the minimum requirements for public participation in the comprehensive planning process).
[7] Section 163.3184(11)(b), F.S.
[8] Section 163.3184(6)(c), F.S.
[9] Section 163.3184(11)(a), F.S.
[10] Chapter 95-322, L.O.F.
[11] "Referenda Required for Adoption and Amendment of Local Government Comprehensive Land Use Plans", *available at* http://election.dos.state.fl.us/initiatives/initdetail.asp?account=37681&seqnum=2 (last visited March 4, 2013).

before a local government could adopt a new comprehensive land use plan or amend an existing comprehensive land use plan.

In 2011, the Legislature passed the Community Planning Act.[12] The Community Planning Act prohibited all voter initiatives or referendums on development orders, comprehensive plan amendments, and map amendments irrespective of the number of parcels of land involved.[13] The Town of Yankeetown subsequently challenged the Community Planning Act through a suit against the Department of Community Affairs and the Administration Commission.[14] The City of St. Petersburg Beach intervened as a defendant on the side of the state.

Yankeetown sought a declaratory judgment from the court to allow the city to apply its referenda provision to require voter approval for comprehensive land use changes affecting more than five parcels, as the charter provision pre-dated the Community Planning Act. The charter provision at issue appeared in the section of the charter titled "Comprehensive Plan Amendments," and read, in part, "Adoption of the amendment may also require voter approval under the Town Charter . . . ."[15]

To settle the lawsuit, the Department of Community Affairs, the Administration Commission, St. Petersburg Beach, and Yankeetown agreed to ask the Legislature to amend the statutory prohibition on initiative or referendum processes to allow charter provisions that authorized voter approval of comprehensive plans and comprehensive plan amendments if the charter provision was in effect as of June 1, 2011. The agreement, detailed in a letter, provides, in part:

> The Department of Community Affairs ("DCA") and Yankeetown will seek a legislative amendment to s. 163.3167(8), F.S., (2011) which, if it becomes law, will allow the Town to continue to require voter approval for comprehensive plan amendments pursuant to Section 11 of the Town of Yankeetown Charter, while retaining the ban on referenda for local governments which did not have a charter provision authorizing referenda on June 2, 2011 . . . .[16]

During the 2012 Florida legislative session, the Legislature passed House Bill 7081 (ch. 2012-99, L.O.F.) which included a section amending the referenda approval of amendments provision found in s. 163.3167(8), F.S. The bill contained a grandfathering clause, which saved from repeal any local government charter provision, in effect as of June 1, 2011, for an initiative or referendum process on development orders, local comprehensive plan amendments, or map amendments. Satisfied with the savings clause, Yankeetown dismissed its case with prejudice upon HB 7081 becoming law.

---

[12] Chapter 2011-139, s. 7, L.O.F.
[13] Section 163.3167(8), F.S. (2011).
[14] *Yankeetown v. Dept. of Community Affairs*, Case. No. 37 2011 CA 002036 (Fla. 2nd Jud. Cir. 2011).
[15] Charter of Yankeetown, Article II, *Comprehensive Plan Amendments*.
[16] Letter dated Sept. 28, 2011, from David L. Jordan, Assistant General Counsel, DCA to Ralf Brookes, Town of Yankeetown and Suzanne Van Wyk, City of St. Pete Beach, signed by all parties and also signed by Jonathan Glogau, Administration Commission (on file with the Senate Committee on Commerce and Tourism).

Court Interpretation of s. 163.3167(8), F.S.
Subsequent to passage of ch. 2012-99, L.O.F., the City of Boca Raton challenged a local attempt to initiate a referendum on a development order, pursuant to a general charter referenda provision.[17] The language in the city's charter was not specific to development orders or comprehensive plan amendments. The charter provision at issue reads, in part:

> The qualified voters of the city shall have the power by petition to require reconsideration by the council of any adopted ordinance or resolution, and if the council fails to repeal an ordinance or resolution, to approve or reject it at a city election . . . .[18]

The city argued that the 2012 Legislature intended to limit application of the law to city charters that previously contained express language for a referendum process on a comprehensive plan amendment affecting more than five parcels.[19] The trial court denied the city's motion for summary judgment, indicating that the current version of s. 163.3167(8), F.S., applies to all ordinances and resolutions, including those addressing development orders.[20]

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 163.3167(8), F.S., to clarify which local initiative and referendum processes relating to development orders, comprehensive plan amendments, or map amendments are not barred by law. Under the bill, the local initiative and referendum processes that are not prohibited are those that:
- Were in effect on June 1, 2011;
- Affect more than five parcels of land; and
- Were expressly authorized in a local government charter specifically for matters such as development orders or comprehensive plan or map amendments.

The bill applies retroactively to any initiative or referendum process on local growth management issues commenced after June 1, 2011.

Section 2 provides that the bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

---

[17] *City of Boca Raton vs. Kathleen Kennedy*, Case No. 2012-CA-009962MB (Fla. 15th Jud. Cir. 2012).
[18] Section 6.02, City of Boca Raton Charter.
[19] *Supra* note 17 at 5.
[20] *Supra* note 17 at 6.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may promote private development projects and reduce the time required for implementation.

C. Government Sector Impact:

This bill may lead to fewer local referenda on growth management issues.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS by Community Affairs Committee on March 7, 2013:
The CS made technical and clarifying changes.

B. Amendments:

None.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR WILTON SIMPSON
18th District

COMMITTEES:
Community Affairs, *Chair*
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

April 1, 2013

Senator Nancy Detert, Chairwoman
Commerce Committee
314 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Senator Detert,

Please place Senate Bill 528, relating to community planning, on the next Commerce Committee agenda. This bill passed its first two committees with unanimous favorable votes.

Please contact my office with any questions.

Regards,

Senator Wilton Simpson, 18th District

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/2013
Meeting Date

Topic Growth Management

Bill Number 528 *(if applicable)*

Name Leticia M Adams

Amendment Barcode *(if applicable)*

Job Title Director of Infrastructure Policy

Address 136 South Bronough Street
Street

Tallahassee *City* FL *State* 32301 *Zip*

Phone 850-544-6866

E-mail ladams@flchamber.com

Speaking: [✓] For [ ] Against [ ] Information

Waive in support

Representing Florida Chamber of Commerce

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

Lobbyist registered with Legislature: [✓] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: Growth Management

Bill Number: SB 528 *(if applicable)*

Name: Brewster Bevis

Amendment Barcode: ______ *(if applicable)*

Job Title: Senior VP

Address: 516 N. Adams St
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone: 224-7173

E-mail: bbevis@aif.com

Speaking: [x] For [ ] Against [ ] Information

Representing: Associated Industries of Florida

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

Lobbyist registered with Legislature: [x] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic Growth Management

Bill Number 528 (if applicable)

Name David Cruz

Amendment Barcode (if applicable)

Job Title Legislative Advocate

Address P.O. Box 1757
Street

Phone 701-3676

Tally FL 32302
City State Zip

E-mail

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

Representing Florida League of Cities

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic Growth Mgmt.

Bill Number SB 528
(if applicable)

Name Bill Hunter

Amendment Barcode
(if applicable)

Job Title President

Address 307 W. Park Ave, Suite 214
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 850/681-2176

E-mail afcd@afcd.com

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

Representing Assn. of Fla. Community Developers

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-13
Meeting Date

Topic Growth Management

Bill Number 528 *(if applicable)*

Name Nick Iarossi

Amendment Barcode ______ *(if applicable)*

Job Title Lobbyist

Address 101 E. College Ave Ste 303
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 222-9075

E-mail niarossi@capcityconsult.com

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

Representing EQR

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 8 /2013
Meeting Date

Topic ____________________ Bill Number 528 *(if applicable)*

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

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street
SAINT PETERSBURG FLORIDA 33705
City *State* *Zip*

Phone 727-897-9291

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SB 1156

INTRODUCER: Senator Altman

SUBJECT: Space Exploration

DATE: April 5, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Spaulding	Ryon	MS	**Favorable**
2.	Malcolm	Hrdlicka	CM	**Pre-meeting**
3.			AED	
4.			AP	
5.				
6.				

I. Summary:

SB 1156 requires the Florida Institute of Technology (FIT) to submit to the Department of Economic Opportunity (DEO) a plan to establish and operate a space exploration research laboratory (research laboratory). The plan must include a number of elements, including enrollment and graduation expectations, faculty salary and National Academy information, and a strategy for securing private and federal research funds. Upon DEO's approval of the plan, the Department of Revenue is required distribute $5 million annually to FIT to establish and operate the research laboratory.

The research laboratory must generate at least $20 million annually in non-state revenue by the end of the research laboratory's tenth year of operation. If this minimum standard is not met, DEO must cease the funding of the research laboratory. In addition, DEO may also cease funding of the research laboratory if DEO determines FIT is not making substantial progress in establishing and maintaining the world class research laboratory based on DEO's review of FIT's annual report required by the bill.

The bill creates s. 288.993, F.S., and amends s. 212.20, F.S.

II. Present Situation:

Florida Institute of Technology

The Florida Institute of Technology (FIT) is a private research university located in Melbourne, Florida. It is accredited by the Southern Association of Colleges and Schools[1] and is a member of the Independent Colleges and Universities of Florida.[2] FIT was founded in 1958 to provide advanced education for professionals working in the space program at Kennedy Space Center.[3] FIT has five academic divisions with an emphasis on science, technology, engineering, and mathematics. FIT currently offers baccalaureate, masters, and doctorate degrees in various space science programs.[4]

FIT is located near the Kennedy Space Center and the Florida Tech Research Park. The Research Park is located within the Melbourne International Airport and represents the largest research, science, and technology park located at an FAA approved airport.[5] It is a collaboration between FIT and the Melbourne International Airport designed to provide tenants enhanced research capabilities through FIT.[6] There are number of large aerospace companies at the Research Park, including Embraer, General Electric, General Dynamics, Northrop Grumman, and Rockwell Collins.[7]

Aerospace and Space Industry in Florida

Florida is home to a large number of major aviation and aerospace companies and key space industry assets including the National Aeronautics and Space Administration (NASA), Cape Canaveral Air Force Station, and a number of U.S. military bases. In addition to its significant space infrastructure, Florida's geographic location, optimal climate conditions, and technical workforce contribute to the state's ability to be a space industry leader.

According to a 2011 report, the global space economy increased by 7.7 percent in 2010 from 2008 and reached an estimated total of $276.52 billion in revenue in 2010.[8] Florida is host to nearly a third of all commercial space activity worldwide.[9] The majority of space-related businesses are located in or nearby the Cape Canaveral area, but their network of suppliers extends throughout the state. For example, Cecil Field near Jacksonville recently received a federal license to operate a commercial spaceport. Almost every major aerospace company and defense contractor from the U.S. and abroad has operations in Florida. One estimate calculated

---

[1] *See* Commission on Colleges of the Southern Association of Colleges and Schools, http://www.sacscoc.org/search.asp (last visited April 5, 2013).

[2] *See* The Independent Colleges & Universities of Florida, http://www.icuf.org/newdevelopment/schools/ (last visited April 5, 2013).

[3] Florida Institute of Technology, About Florida Tech: 2012-2013 Fact Card, http://www.fit.edu/about/factcard/ (last visited April 5, 2013).

[4] Florida Institute of Technology, Academics, http://www.fit.edu/academics/ (last visited April 5, 2013).

[5] Florida Institute of Technology, Florida Tech Research Park, http://www.fit.edu/researchpark/#.UV7NrFe7Gws (last visited April 5, 2013).

[6] Florida Tech Research Park at Melbourne International Airport, The Space Coast's Next Great Gateway to Innovation and Economic Growth, *available at* http://viewer.zmags.com/publication/b01fc5ab#/b01fc5ab/1 (last visited April 5, 2013).

[7] Florida Institute of Technology, Florida Tech Research Park, http://www.fit.edu/researchpark/about.php#.UT4vUtaKKuJ, (last visited April 5, 2013).

[8] Center of Economic Forecasting and Analysis, Florida State University; *Final Report Phase Two: The Economic Impact of Aerospace in Florida*, 3 (March 31, 2012) (on file with the Senate Committee on Commerce and Tourism).

[9] *Id.* at 8.

that in 2008, the space industry in Florida accounted for approximately $20 billion in economic impact, over 65,000 jobs, 2,000 companies, and $4.7 billion in wages.[10] According to Enterprise Florida, Inc., in 2011, the space research and technology sector employed nearly 2,200 people in Florida.[11] The average annual wages for workers in this sector was approximately $101,000.[12]

Some of Florida's space-related research programs that complement Florida's role in space industry include: the Florida Institute of Technology; the Florida Space Institute;[13] the NASA Florida Space Grant Consortium;[14] the Center for Microgravity Research;[15] the Federal Aviation Administration's Center of Excellence for Commercial Space Transportation;[16] and Project Alpha.[17]

III. Effect of Proposed Changes:

Section 1 creates s. 288.993, F.S., to establish a space exploration research laboratory at the Florida Institute of Technology (FIT). The bill requires FIT to submit to the Department of Economic Opportunity (DEO) a plan to establish and operate a space exploration research laboratory (research laboratory). The plan for the research laboratory must include, at a minimum:

- Enrollment and graduation expectations for baccalaureate, masters, and doctorate programs related to space exploration and science, technology, engineering, and mathematics (STEM) disciplines for the next 10 years;
- The number of new faculty and the average salary of newly hired faculty expected for the next 10 years;
- The number of faculty with a National Academy membership who are expected to be associated with FIT; and
- A strategy for securing private and federal research funds.

---

[10] *Id.* at 9.

[11] Enterprise Florida, Inc., *Statistical Profile: Companies, Employment, Wages, 2011, available at* http://www.eflorida.com/IntelligenceCenter/download/AA/FF_Industry_Employment_Wage.pdf (last visited March 4, 2013).

[12] *Id.*

[13] The Florida Space Institute, http://fsi.ucf.edu/about/ (last accessed April 4, 2013). The Florida Space Institute is a consortium of 10 higher education institutions in Florida to support the development of Florida's space economy. It is also part of the Space Research Initiative, a joint program between the University of Central Florida and the University of Florida.

[14] NASA Florida Space Grant Consortium, http://floridaspacegrant.org/ (last visited April 4, 2013). The Florida Space Grant Consortium (FSGC) was created by NASA as a voluntary association of 17 public and private Florida universities and colleges and includes Space Florida and the Kennedy Space Center. FSGC provides grants, scholarships, and fellowships to students and educators from Florida's public and private colleges and universities.

[15] The Center for Microgravity Research and Education, http://microgravity.physics.ucf.edu/ (last visited March 4, 2013). The Center for Microgravity Research and Education is a joint venture between the University of Central Florida and Space Florida that conducts and facilitates research in microgravity sciences. A goal of the center is to attract the next generation of commercial launch providers to the Space Coast.

[16] FAA's Center of Excellence and Commercial Space Transportation, http://www.coe-cst.org/ (last visited March 4, 2013). The Federal Aviation Administration's (FAA) Center of Excellence and Commercial Space Transportation allows the FAA to partner with universities and private industry to address current and future challenges for commercial space transportation. Four out of the nine university members are Florida universities.

[17] Space Florida, FY 2012 Annual Report, 10 (on file with the Senate Committee on Commerce and Tourism). Earthrise is the only Florida-based team in the Google Lunar X PRIZE competition, which offers $30 million in prize money to teams that are able to land and operate a privately-funded lander on the Moon's surface by the end of 2015. In 2012, Space Florida continued to provide matching funds for the rover prototype, which is being constructed at UCF, in cooperation with Embry Riddle University.

The bill also requires FIT, once approved by DEO to establish the research laboratory, to submit an annual report by February 1 to the Governor, the Legislature, and DEO detailing expenditures and accomplishments of the research laboratory, including:

- Enrollment and graduation data;
- Information on newly hired faculty for the research laboratory;
- The amount and type of private and federal research funds secured during the previous year;
- The total research expenditures in space exploration;
- The number of new start-up companies formed;
- The number of patents and licenses issued; and
- The amount of royalty income generated.

DEO must review FIT's annual report and make an annual recommendation to continue funding the research laboratory to the Governor and the Legislature based on proof that the research laboratory is making substantial progress in establishing a world-class space exploration laboratory. If DEO determines FIT is not making substantial progress, DEO must certify to the Department of Revenue (DOR) that funding must cease by June 30.

The bill requires FIT to enter into a contract with DEO agreeing to create a world class space exploration research laboratory that generates at least $20 million annually in non-state revenue by the end of the research laboratory's tenth year of operation. If this minimum standard is not met, DEO must certify to DOR to cease funding of the research laboratory by June 30.

Section 2 amends s. 212.20, F.S., to require DOR to distribute $5 million annually from state sales tax revenues to FIT after DEO has approved the plan for the research laboratory. The bill states this "amount represents sales and use taxes generated by visitor activity at the Kennedy Space Center and the Cape Canaveral Air Force Station." DOR must make the distribution 60 days after DEO's initial certification of FIT's plan, and DOR must make an annual distribution of $5 million on the anniversary date of the initial distribution for 10 years.

Section 3 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Upon DEO's approval of FIT's plan to create a space exploration research laboratory, the bill requires DOR to distribute $5 million annually for 10 additional years (for a total of 11 years of funding totaling $55 million)[18] to FIT to fund the research laboratory.

B. Private Sector Impact:

None.

C. Government Sector Impact:

According to DOR, the bill will have an insignificant operational impact on the agency.[19] Additionally, DEO believes it may need additional staff and resources to monitor the long-term contract with FIT.[20]

VI. Technical Deficiencies:

The bill requires the contract between FIT and DEO for the research laboratory to last 10 years; however, the bill requires DOR to fund the program for a period of 10 years after the initial distribution for a total of 11 annual distributions and $55 million in funding. Accordingly, under the bill the research laboratory would receive the final $5 million distribution after the 10-year contract with DEO expired.

VII. Related Issues:

None.

VIII. Additional Information:

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

None.

B. Amendments:

None.

[18] *See* "Technical Deficiencies" below.
[19] Department of Revenue, *Agency Bill Analysis: SB 1156*, (March 7, 2013) (on file with the Senate Committee on Commerce and Tourism).
[20] Department of Economic Opportunity, *Agency Bill Analysis: SB 1156* (February 27, 2013) (on file with the Senate Committee on Commerce and Tourism).

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR THAD ALTMAN
16th District

March 19, 2013

The Honorable Nancy C. Detert
Senate Committee on Commerce and Tourism, Chair
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Detert:

I respectfully request that SB 1156, related to *Space Exploration,* be placed on the committee agenda at your earliest convenience.

Thank you for your consideration, and please do not hesitate to contact me should you have any questions.

Sincerely,

Thad Altman
TA/rk

CC: Jennifer Hrdlicka, Staff Director, 310 Knott Building

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

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR THAD ALTMAN
16th District

COMMITTEES:
Military Affairs, Space, and Domestic Security, *Chair*
Budget - Subcommittee on Finance and Tax, *Vice Chair*
Budget
Budget - Subcommittee on Higher Education Appropriations
Communications, Energy, and Public Utilities
Education Pre-K - 12
Higher Education
Reapportionment
Regulated Industries

April 5, 2013

RECEIVED
APR 05 2013
COMMERCE

The Honorable Nancy C. Detert
Senate Committee on Commerce and Tourism, Chair
416 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairwoman Detert:

Senate Bill 1156, related to *Space Exploration,* is on the Commerce and Tourism Committee agenda on April 8, 2013.

Because of a conflict, I will be unable to attend. Please recognize my Legislative Aide, Rick Kendust, to present SB 1156, on my behalf.

Please feel free to contact me if you have any questions.

Sincerely,

Thad Altman

Thad Altman/svb

BLACKBURN.PATTY

From: HRDLICKA.JENNIFER
Sent: Monday, April 08, 2013 9:49 AM
To: BLACKBURN.PATTY
Subject: FW: SB 1156 Space Exploration

From: KENDUST.RICK
Sent: Monday, April 08, 2013 9:48 AM
To: HRDLICKA.JENNIFER
Subject: RE: SB 1156 Space Exploration

Yes.

Rick Kendust
Legislative Aide
Senator Thad Altman
District 16

From: HRDLICKA.JENNIFER
Sent: Monday, April 08, 2013 9:47 AM
To: KENDUST.RICK
Cc: BLACKBURN.PATTY
Subject: RE: SB 1156 Space Exploration

Thanks Rick!
So does that mean we'll just TP it and you guys are not coming to committee?

Thanks!
Jennifer

From: KENDUST.RICK
Sent: Monday, April 08, 2013 9:15 AM
To: HRDLICKA.JENNIFER
Subject: SB 1156 Space Exploration

Jennifer,

It is our intention to Temporarily Postpone SB 1156 Space Exploration. Senator Altman should be in contact with Chari Detert to confirm this.

Thank you,

Rick Kendust
Legislative Aide
Senator Thad Altman
District 16

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 Commerce and Tourism

BILL:	CS/CS/SB 1300
INTRODUCER:	Commerce and Tourism Committee, Judiciary Committee, and Senator Simmons
SUBJECT:	Limited Liability Companies
DATE:	April 9, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Shankle	Cibula	JU	**Fav/CS**
2.	Malcolm	Hrdlicka	CM	**Fav/CS**
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/CS/SB 1300 creates the Revised Limited Liability Companies Act. The bill carries over many provisions in current law to new ch. 605, F.S., but makes some substantial changes to the rules governing limited liability companies (LLCs). The bill is the result of efforts by representatives of the Business Law Section, the Tax Section, and the Real Property, Probate, and Trust Law Section of The Florida Bar. The bill is substantially based on the Revised Uniform Limited Liability Company Act of 2006 as amended in 2011(RULLCA)[1] with deviations to reflect unique situations present in Florida.[2] The bill:

- Expands the list of non-waivable default rules that cannot be "trumped" by the operating agreement;
- Modifies rules for the power of members and managers to bind the company;

[1] *Uniform Limited Liability Company act of 2006 as amended in 2011*, National Conference of Commissioners on Uniform State Laws, 2011, *available at* http://uniformlaws.org/Act.aspx?title=Limited%20Liability%20Company%20%28Revised%29 (last visited April 3, 2013).

[2] The Florida Bar Revised LLC Act Drafting Committee, *White Paper: The Proposed Florida revised Limited Liability Company Act* (March 18, 2013) (on file with the Senate Committee on Commerce and Tourism).

- Modifies provisions addressing the LLC's management structure (including the elimination of the term "managing member");
- Modifies default management and voting rules;
- Modifies provisions relating to member dissociation and company dissolution;
- Modifies provisions for service of process on LLCs;
- Modifies provisions for derivative actions;
- Adds provisions to permit interest exchanges and in-bound domestications by non-U.S. entities; and
- Modifies appraisal rights provisions, including adding events that trigger appraisal rights.

The bill does not change the rules regarding charging orders, and therefore the 2011 amendments to s. 608.433, F.S., made as a result of the "Olmstead Patch" continue unchanged under new s. 605.0503, F.S.

This bill substantially amends the following sections of the Florida Statutes: 607.1109, 607.1113, 607.193, 617.1108, 620.2104, 620.2108, 620.8914, 620.8918, 621.051, 621.07, 621.12, and 621.13.

This bill creates the following sections of the Florida Statutes: 48.062, 605.0101, 605.0102, 605.0103, 605.0104, 605.0105, 605.0106, 605.0107, 605.0108, 605.0109, 605.011, 605.0111, 605.0112, 605.0113, 605.0114, 605.0115, 605.0116, 605.0117, 605.0118, 605.0119, 605.0201, 605.0202, 605.0203, 605.0204, 605.0205, 605.0206, 605.0207, 605.0208, 605.0209, 605.0210, 605.0211, 605.0212, 605.0213, 605.0214, 605.0215, 605.0216, 605.0301, 605.0302, 605.0304, 605.0401, 605.0402, 605.0403, 605.0404, 605.0405, 605.0406, 605.0407, 605.04071, 605.04072, 605.04073, 605.04074, 605.0408, 605.04091, 605.04092, 605.04093, 605.0410, 605.0411, 605.0501, 605.0502, 605.0503, 605.0504, 605.0601, 605.0602, 605.0603, 605.0701, 605.0702, 605.0703, 605.0704, 605.0705, 605.0706, 605.0707, 605.0708, 605.0709, 605.0710, 605.0711, 605.0712, 605.0713, 605.0714, 605.0715, 605.0716, 605.0717, 605.0801, 605.0802, 605.0803, 605.0804, 605.0805, 605.0806, 605.0901, 605.0902, 605.0903, 605.0904, 605.0905, 605.0906, 605.0907, 605.0908, 605.0909, 605.0910, 605.0911, 605.0912, 605.0913, 605.1001, 605.1002, 605.1003, 605.1004, 605.1005, 605.1006, 605.1021, 605.1022, 605.1023, 605.1024, 605.1025, 605.1026, 605.1031, 605.1032, 605.1033, 605.1034, 605.1035, 605.1036, 605.1041, 605.1042, 605.1043, 605.1044, 605.1045, 605.1046, 605.1051, 605.1052, 605.1053, 605.1054, 605.1055, 605.1056, 605.1061, 605.1062, 605.1063, 605.1064, 605.1065, 605.1066, 605.1067, 605.1068, 605.1069, 605.1070, 605.1071, 605.1072, 605.1101, 605.1102, 605.1103, 605.1104, 605.1105, 605.1106, 605.1107, and 605.1108.

This bill repeals ch. 608, F.S., effective January 1, 2015.

II. Present Situation:

Limited Liability Companies (LLCs) are creatures of statute created to address the gap in existing business organizations – specifically the gap between corporations and partnerships. On the one hand, corporations are often highly complex and require payment of state corporate taxes, making them less ideal for small businesses. On the other hand, partnerships are simpler but carry the risk of full joint and severable liability for each member. The LLC provides its members with the limited liability of a corporation and the tax benefits and management structure of a partnership.[3]

Florida's Limited Liability Company Act was codified in ch. 608, F.S., in 1982.[4] The chapter has been amended multiple times since its inception,[5] with the last significant modifications made in 2002.[6]

In 2011, in response to the Florida Supreme Court decision, *Olmstead v. Federal Trade Commission*, 44 So. 3d 76 (Fla. 2010), the Florida Legislature adopted amendments to s. 608.433, F.S. (which has come to be known as the "Olmstead Patch").[7] The Olmstead Patch clarified that a charging order is the sole and exclusive remedy afforded a judgment creditor of a member in a multi-member LLC with respect to seeking recourse against the member's membership interest. However, it allowed a judgment creditor of the member in a single-member LLC to seek a court supervised foreclosure against the sole member's interest, but only upon a showing to the court issuing the charging order that the judgment will not be satisfied out of LLC distributions within a "reasonable time."[8]

III. Effect of Proposed Changes:

Sections 1 and 2 of the bill create ch. 605, F.S., and designates it as the Florida Revised Limited Liability Company Act. Until January 1, 2015, LLCs in existence before January 1, 2014, may continue to operate under the provisions of current law. On January 1, 2015, all LLCs are subject to the provisions under ch. 605, F.S., and ch. 608, F.S., is repealed.

Operating Agreement

Current law allows for the members of an LLC to enter into an operating agreement to regulate the affairs of the LLC and govern relations among the members, managers, and company.[9] To the extent the operating agreement does not otherwise provide, ch. 608, F.S., governs relations among the members, managers, and the LLC. However, the operating agreement may not:

- Unreasonably restrict a right to information or access to records required under s. 608.4101, F.S.;
- Eliminate the duty of loyalty under s. 608.4225, F.S.;
- Unreasonably reduce the duty of care under s. 608.4225, F.S.;
- Eliminate the obligation of good faith and fair dealing under s. 608.4225, F.S.;
- Vary the requirement to wind up the limited liability company's business; or
- Restrict rights of a person, other than a manager, member, or transferee of a member's distributional interest, under ch. 608, F.S.[10]

---

[3] McGinty, A. Edward, *Olmstead – A Lever from Member's Creditor to Full Multi-member LLC Membership?* 85 FLA. BAR J., 39, 42 (March 2011), *available at* http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/Author/6E1AD1891CA9E76D85257845004FD5E6 (last visited March 3, 2013).
[4] Chapter 82-177, s. 2, L.O.F.
[5] *See* ch. 99-315, L.O.F.
[6] Chapter 2002-272, L.O.F.
[7] Chapter 2011-77, s. 1, L.O.F.
[8] Section 608.433(6)-(7), F.S.
[9] Section 608.423(1), F.S.
[10] Section 608.423(2), F.S.

The bill retains many similarities to current law. Like current law, the bill provides a gap-filler provision for when the operating agreement does not provide a specific rule.[11] Additionally, the bill delineates matters that the operating agreement may not alter. This is a far more extensive list than exists under current law.[12] The operating agreement may not, except as required by law:

- Vary a limited liability company's capacity to sue and be sued in its own name;
- Vary the applicable law that governs LLCs;
- Vary the procedure pertaining to registered agents or the Department of State;
- Vary the requirements related to signing and filing a record pursuant to a court order;
- Eliminate the duty of loyalty or the duty of care;
- Eliminate the obligation of good faith and fair dealing;
- Relieve or exonerate a person from liability for conduct involving bad faith, willful or intentional misconduct, or a knowing violation of law;
- Unreasonably restrict the duties and rights to records required by the bill;
- Vary the power of a person to dissociate;
- Vary the grounds for dissolution;
- Vary the requirement to wind up the company;
- Unreasonably restrict the right of a member to maintain an action against another member or manager;
- Prevent the formation of a special litigation committee upon a court order;
- Vary the right of a member to approve a merger, interest exchange, or conversion;
- Vary the required contents of plan of merger, a plan of interest exchange, a plan of conversion, or a plan of domestication;
- Except in certain narrow circumstances, restrict the rights under this chapter of a person other than a member or manager; and
- Provide for indemnification for a member or manager when he or she commits:
  - Conduct involving bad faith, intentional misconduct, or a knowing violation of law;
  - A transaction from which the member or manager derived an improper personal benefit;
  - An improper distribution of funds; or
  - A breach of the duty of loyalty or the duty of care.

Registered Agent
Under current law, each LLC must maintain a registered agent with an office in Florida and must file a statement, including the address of the agent, with the Department of State.[13] The bill retains this requirement but limits the duties of a registered agent to forwarding process, forwarding notices or demands served upon him or her to the company, and providing notice of the agent's resignation.

Service of Process
Under current law, service of process against an LLC must be effected in the same manner as service is made upon a partnership under chs. 48 or 49, F.S., or upon the LLC's registered

[11] *See* s. 608.423(4), F.S.
[12] *See* s. 608.423(2), F.S.
[13] Section 608.415(2), F.S.

agent.[14] This has caused considerable confusion, particularly because of the significant differences between "manager-managed" and "member-managed" LLCs, and how those differences impact the application of the principles of agency and constructive notice.[15]

The bill provides the ordering of the persons upon whom service against an LLC must be made, starting with the registered agent. It provides alternative methods of service if the registered agent cannot be served and recognizes different methods of service based on the type of LLC being served. The bill allows for service to be made upon the Department of State, but only as a last resort. The bill also creates s. 48.062, F.S., to provide for service of process on an LLC within ch. 48, F.S., which relates to service of process.

Formation

Under current law, in order to form an LLC one or more members or authorized representatives of the LLC must file articles of incorporation with the Department of State.[16] Consistent with current law, the bill requires an LLC to have at least one member in order for the formation of the LLC to be effective.[17] "Shelf" LLCs, where there are no members when the LLC is formed, are not authorized.[18] Only a minimal amount of disclosure is necessary in the articles of organization. For example, the bill does not require the articles to state whether the LLC is member-managed or manager-managed. However, the filing party may include this or any other items in the articles so long as they are not inconsistent with the non-waivable provisions set forth in the new requirements for the operating agreement.

Amending the Articles of Organization

Currently, s. 608.411, F.S., allows an LLC to amend its articles of organization by filing an amendment with the Department of State.[19] The bill is substantively the same as current law. The bill sets forth the differences between an amendment and a restatement, and adds a provision, consistent with current law, to more specifically outline the process and requirements for simultaneously amending and restating articles of organization. However, contrary to current law, the bill imposes an obligation directly on the members or managers to correct information in articles of organization that have become inaccurate. A member or manager's failure to meet the obligation exposes the member or manager to potential liabilities to third-parties who suffers a loss by relying on the information if the member or manager had notice of the inaccuracy in time to correct the inaccuracy before the third-party relied on the information.

Filing of Records

Currently, a number of records must be filed with the Department of State including articles of organization and any amendments or restatements to the articles as well as an annual report.[20] Unlike current law, the bill allows an LLC to file a document and specify the date and time the document takes effect, though it cannot be retroactive by more than 5 days. The bill also allows an LLC to withdraw a statement that has been filed as long so it has not yet taken effect, in

[14] Section 608.463(1), F.S.
[15] *Supra* note 2.
[16] Section 608.407(1), F.S.
[17] *See* s. 608.463(3), F.S.
[18] *See supra* note 2.
[19] Section 608.411(1), F.S.
[20] *See id.*; s. 608.4511(1), F.S.

which case the record may be corrected but not withdrawn. The bill allows for a corrected record to relate back to the date of the originally filed record except when a person relied on the uncorrected record and was adversely affected by the correction. The bill requires an annual report, consistent with current law, but explicitly allows an LLC to file multiple annual reports, with subsequent reports being considered amended reports.

The bill addresses liability to third parties for inaccurate information in a filed record and provides that an operating agreement may relieve and shift the liability to third parties from certain specified members to other specified members. Current law expressly states that the execution of a certificate filed with the Department of State is an affirmation of accuracy under penalties of perjury.[21] The bill clarifies this provision in current law by providing that the affirmation under penalty of perjury applies to all records authorized or required to be filed with the Department of State.

Authority

Currently, s. 608.4235, F.S., provides multiple ways in which a member can bind an LLC to an agreement. The bill retains and clarifies the traditional Florida rule by providing four ways in which someone has the power to bind the LLC. A person may bind the LLC if he or she:

- Is an agent of the company;
- Has the authority to do something under the articles of organization or operating agreement;
- Has the authority pursuant to a statement of authority; or
- Has the status as an agent under another law.

This is the default rule, but the articles of organization or the operating agreement may provide otherwise.

The bill also provides that an LLC may file with the Department of State, a statement of authority that delineates the authority of a member, manager, or other person to enter into certain transactions on behalf of the LLC. This is a concept that comes from the RULLCA and is currently unavailable under Florida law. The statement provides constructive notice as to who can bind the LLC. A person who has been granted authority in a statement of authority may subsequently file a statement of denial to deny the grant of authority.

Liability

Under current law, the members of an LLC are not liable, solely by reason of being a member or serving as a manager or managing member, for a debt, obligation, or liability of the limited liability company unless this liability is altered by an LLC's articles of organization or operating agreement.[22] Similar to current law, the bill shields members and managers against the debts, obligations, and liabilities of the LLC, but does not provide any shield against a person's own conduct or any contractual obligation he or she expressly assumes. The bill makes no changes to the common law concept of "piercing the veil," which allows individual liability in certain situations. Therefore, this concept will likely still apply to LLCs.

[21] Section 608.408(3), F.S.
[22] Section 608.4227, F.S.

Members
The bill changes the membership requirements from current law while retaining some language for consistency. Under current law, unless otherwise provided in the articles of organization or the operating agreement, a new member cannot be added without the consent of majority-in-interest of the members.[23] Current law also requires unanimous consent if the new member is a person that has been assigned an interest in the LLC.[24]

The bill requires unanimous consent of all the members in all cases in which a new member is admitted unless the operating agreement provides otherwise. Additionally, unlike current law, the bill allows a person to become a non-economic member without a transferable interest or any obligation to contribute capital.

Contributions
Currently, under s. 608.4211, F.S., a contribution to the LLC by a member may be in cash, property, or services rendered, or a promissory note or other obligation to contribute cash or property or to perform services. The form of contribution required by the bill is similar to current law, except that it adds new permissible contributions in accordance with RULLCA. A contribution may consist of tangible or intangible property, including services performed and contracts for services to be performed. A promise to contribute is not enforceable unless it is set out in a writing signed by the member. A member is obligated to the agreement, even after death or disability, and that obligation is enforceable by other members and a non-member creditor. Unlike the RULLCA, the bill allows an operating agreement to provide penalties for failure to meet the obligation.

Distributions
Currently, the default rule in Florida for LLCs is that distributions are made in accordance with the value of the members' capital contributions.[25] The bill changes current law by ignoring the value of any capital contributions that, at the time of the particular distribution, have previously been returned.

The bill clarifies current law by providing that no member has a right to distributions prior to the LLC's dissolution unless the LLC decides to make the distribution. Nor does the member have a right to a distribution in any form other than money. A member or transferee that becomes entitled to a distribution has the status and remedies of a creditor with respect to the distribution. The bill changes the default rule under current law in that although it allocates profits and losses based on the value of contributions, consistent with current law, it does not, in making the calculation, subtract any contributions that have been returned.

Like current law, the bill prohibits distributions that would render the LLC insolvent. The bill, however, provides two methods to be used in the determination of insolvency. The bill is consistent with current law, except that the bill eliminates the requirement of identifying distributions that are based on financial statements or a fair valuation of assets.[26] The bill also provides that debts owed by an LLC to a member as a result of a permitted distribution puts the

[23] Section 608.4232, F.S.
[24] Section 608.433, F.S.
[25] Section 608.426(1), F.S.
[26] *See* s. 608.426(2), F.S.

member in parity with other unsecured creditors of the LLC unless expressly subordinated by agreement.

The bill also provides liability for a member or manager that makes improper distributions. The bill provides that in a member-managed LLC, if the operating agreement expressly relieves a member of the authority and duty to consent to distributions and imposes that authority and obligation on another member or members, the relieved member will have no liability for improper distributions. The bill also makes a member that receives a distribution that the member knows violates the law directly liabile to the LLC for the improper distribution.

Management

Currently, Florida law contains the concept of a "managing member," who is elected from among the existing members.[27] The term "managing member" is fairly unique to Florida and is not used in the RULLCA or LLC statutes in any of the more prominent states.[28] The bill does not follow either the RULLCA or current law with respect to the management structure of an LLC.

The bill changes current law by eliminating the concept of a "managing member." This change was made to eliminate the confusion and disparate interpretations under current law as to the ramifications that having a managing member has on the nature of the management structure of the LLC.[29] The bill provides that existing LLCs that are managed by a managing member are deemed to be member-managed rather than manager-managed. The bill provides that, absent an agreement, a member in a member-managed LLC is not entitled to compensation for its services, except for reasonable compensation for services to wind up the LLC. Additionally, a member that advances funds to an LLC is entitled to reimbursement. Finally, the bill provides that the management provisions of the bill apply in the event of dissolution of the LLC, except that a person that wrongfully causes the dissolution cannot participate in management as either a member or manager.

The bill authorizes an operating agreement to establish an LLC's status as a manager-managed limited liability company, in addition to the right to so authorize in the articles of organization. This is a carryover from current law, which provides that an LLC may (but is not required to) identify whether it is "manager-managed" in its articles of organization.[30] As in current law, a limited liability company that does not effectively designate itself a "manager-managed limited liability company" under the new act will operate, subject to any contrary provisions in its operating agreement, under statutory rules governing a "member-managed limited liability company."[31]

The voting rights provisions of the bill are based on a combination of current law and RULLCA. The bill provides:

- For a member-managed LLC, each member votes in accordance with its then-current percentage of the profits interest of the LLC;[32]

---

[27] Section 608.422(2)(a), F.S.
[28] *Supra* note 2.
[29] *Supra* note 2.
[30] Section 608.422, F.S.
[31] *See id.*
[32] *See* s. 608.422(a), F.S.

- The general rule that in a member-managed LLC, all decisions, whether in the ordinary course of business or not, require the consent by members holding a majority of the then-current interests in the profits of the LLC;[33]
- A transferring member that transfers all of its transferable interest continues to vote as a member based on the percentage of profits interest that the transferring member would have had but for the transfer;
- A requirement that notice of an action by written consent of the members be sent within 10 days to all members who did not consent;[34] and
- That managers may act by unanimous written consent or by proxy vote.[35]

Under current law, no specific provision addresses amendments to the operating agreement. Therefore, under current law, the general rule applies, requiring the vote or consent by members holding a majority of the then-current interests in the profits of the LLC.[36] The bill adopts the RULLCA approach by providing that in a member-managed LLC, the unanimous vote of the members is required to amend the operating agreement or the articles of organization.

The new act eliminates the following provisions under current law, none of which is in RULLCA:

- Section 608.4231(4), F.S., which prohibits amending the articles of organization or the operating agreement by a vote of less than a majority in interest.
- Section 608.4231(5), F.S., which provides that notwithstanding anything to the contrary in the articles of organization or the operating agreement, members have the right to vote on dissolutions and mergers.
- Section 608.4231(7), F.S., which expressly allows the articles of organization or the operating agreement to provide for the mechanics of voting.

Indemnification

Under current law, an LLC has discretion to indemnify and hold harmless any person from and against any claims, subject to any restrictions in the articles of organization or operating agreement.[37] Current law prohibits indemnification and advancement of expenses for violations of criminal law, a transaction in which the person seeking indemnification received an improper personal benefit, liability in connection with improper distributions, and willful misconduct or a conscious disregard for the best interests of the LLC in a proceeding to procure a judgment in its favor.[38]

The bill varies from current law by expanding the categories for which indemnification of a current or former member or manager is prohibited by including any violation of the statutory requirements related to management of the LLC and any violation of the standards of conduct of a manager or a member, which includes the duties of care and loyalty.

---

[33] *See* ss. 608.422(a) and 608.4231, F.S.
[34] *See* ss. 608.4231(8), F.S.
[35] *See* ss. 608.4231(6), F.S.
[36] *See* s. 608.422(a), F.S.
[37] Section 608.4229(1), F.S.
[38] Section 608.4229(2), F.S.

Conflict of Interest Transactions
Current law provides a safe harbor for approving an interested transaction, which is a transaction between an LLC and a member or manager that has a direct or indirect financial interest or is a direct or an indirect party to the transaction.[39] Under the safe harbor, an interested member or manager is protected from liability if the transaction is:

- Approved by the disinterested members, provided they have knowledge or disclosure of the relationship or interest;
- Approved by the members entitled to vote, provided they have knowledge or disclosure of the relationship or interest; or
- The transaction is fair or reasonable.[40]

The bill modifies the safe harbor by providing that if the transaction is fair to the LLC, no equitable relief, damages, or sanctions can be imposed on the interested member or manager. The bill also clarifies which party has the burden of proving fairness or lack of fairness in actions challenging the validity of an interested transaction. If the material facts of the transaction and the member's or manager's interest were disclosed to the managers or members who voted on the transaction, the burden of proving unfairness lies with the person challenging the transaction. However, if the material facts and the member or manager's interest were not disclosed, then the member or manager defending the transaction bears the burden of proving the transaction was fair to the LLC.

Records
The bill retains the list of specific records that are required to be maintained by the LLC that is found in current law.[41] However, unlike current law, the bill provides different rights for members to inspect records depending on whether the LLC is member-managed or manager-managed. The bill is also consistent with current law in providing a cause of action for a member that is improperly denied access to the records, but it includes new provisions related to a court-ordered inspection of records. Specifically, if a court orders an inspection of records, it must also require the LLC to pay the costs incurred by the person seeking enforcement, unless the LLC shows that it refused the request in good faith. Additionally, a court may impose reasonable restrictions on the use or distribution of the information in the record.

Transferable Interests
The bill provides for a "transferrable interest," which is generally defined as a member's right to distributions. This is distinguishable from a member's "interest," which is the entire membership interest that includes all the rights of a member, such as rights to manage, vote, and access records and information. The bill allows a member to transfer his or her transferable interest to another. A transfer of a transferable interest does not cause the transferring member to dissociate or cause the LLC to dissolve or wind up nor does it transfer management rights or access to records. The bill also deletes the provision under current law that provides the transferee the right to share in profits and losses and to receive allocations of income, gain, deduction, and credit.[42]

---

[39] Section 608.4226, F.S.
[40] *Id.*
[41] Section 606.4101(1), F.S.
[42] *See* s. 608.432(2)(b), F.S.

Charging Orders
The bill does not change the current law regarding charging orders, and therefore the 2011 amendments to s. 608.433, F.S., made as a result of the Olmstead Patch continue unchanged.

Power to Dissociate
Under current law, a member does not have the right, unless in the articles of organization or operating agreement state otherwise, to withdraw or resign prior to dissolution and winding up.[43] In accordance with the RULLCA, the bill allows a member to dissociate at any time, rightfully or wrongfully, by withdrawing by "express will." The bill provides that if a person is dissociated, the person loses the right to participate in the LLC's management, which is not consistent with current law. If the LLC is member-managed, the dissociated person has no further duties or liability for breaches of the standards of care for members with respect to matters and events that take place after the dissociation. The bill eliminates the provision from current law that a withdrawing member is not entitled to any distributions upon withdrawal but is entitled to payment equal to the fair value of the person's interest based on the withdrawing member's rights to distributions.

The bill also provides for wrongful dissociations, which means:
- A dissociation in violation of the operating agreement; or
- If before the LLC is wound up the person withdraws, is expelled by judicial order, or is dissociated as a result of the person's willful dissolution or termination.

A person who wrongfully dissociates is liable for damages the dissociation causes to the LLC and the other members.

Events Causing Dissolution
Under current law, an LLC must be dissolved upon the occurrence of any of the following events:
- At the time specified in the articles of organization or operating agreement;
- Upon the occurrence of events specified in the articles of organization or operating agreement;
- Upon the written consent of all of the members of the limited liability company unless this is forbidden by the articles of organization or the operating agreement;
- At any time there are no members; or
- Upon the entry of an order of dissolution by a circuit court.[44]

The bill provides for a similar set of circumstances with slightly altered wording. Under the bill, an LLC must be dissolved:
- Upon the occurrence of an event described in the operating agreement;
- Upon the consent of all members;
- Upon the passage of 90 days without a member, unless certain circumstances apply;
- Upon the entry of a decree of judicial dissolution; or
- Upon the filing of a statement of administrative dissolution by the Department of State.

[43] Section 608.427(1), F.S.
[44] Section 608.441, F.S.

Consistent with current law, the bill provides that the Department of State may file for administrative dissolution when an LLC does not timely file required documents or fails to pay a required fee.[45] The bill simplifies the process by which the Department of State can commence an action for dissolution by allowing for electronic transmission of notice and automatic dissolution under certain circumstances.

Additionally, the bill eliminates the ability of a creditor to bring an action for judicial dissolution if the creditor had an unsatisfied judgment and the LLC was insolvent, or if the LLC admitted that the creditor's claim was due and owing and the LLC was insolvent.[46] The bill does not make substantial changes to how articles of dissolution are handled.

Winding Up

Current law does not have a comprehensive winding up provision. Winding up occurs following dissolution and results in termination of the existence of the LLC. The bill provides rules for winding up the LLC's activities and affairs, providing for payment of its debts, and sale of its assets, as well as bringing or defending actions and proceedings, and distributing assets to its members. A member, manager or legal representative may conduct the winding up, and may seek judicial supervision of the process, or the appointment of one or more persons to wind up the company's activities and affairs. A creditor may, upon establishing good cause, ask for judicial appointment of a trustee to handle the wind up.

Direct Action by a Member

Current law does not have a provision concerning a direct action by a member against another member, manager, or the LLC. The bill provides that a member may maintain a direct action against another member, manager, or the LLC to enforce the member's rights and protect the member's interests. A member maintaining a direct action under this provision must plead an actual or threatened injury that is not solely the result of an injury suffered by the LLC.

Derivative Action

Current law requires that, as a prerequisite to a derivative action, the plaintiff must make a demand on the managing members of a member-managed company or the managers of a manager-managed company and that the demand must be refused or ignored.[47]

The bill allows a member to maintain a derivative action to enforce a right of the LLC when either of two circumstances occurs. First if, within a reasonable time not to exceed 90 days, an action is not instituted after a member on the managing members of a member-managed company or the managers of a manager-managed company makes a demand. Second, if a demand is not made but the demand would be futile or irreparable injury would result to the LLC by waiting for the members or managers to bring the action.

---

[45] *See* s. 608.448, F.S.
[46] *See* s. 608.449(3), F.S.
[47] Section 608.601(2), F.S.

Foreign LLCs
The bill provides consistent incorporation of the provisions related to foreign LLCs in ch. 608, F.S., with some minor modifications. Current law provides that a foreign LLC may not withdraw from this state until it obtains a certificate of withdrawal from the Department of State.[48] The bill provides that a foreign LLC may withdraw and cancel its Certificate of Authority to transact business by delivering to the Department of State a notice of withdrawal of the Certificate of Authority.

Charitable Provisions
The bill prevents nonprofit LLCs from using the provisions in the bill to avoid restrictions on the use of property donated, granted, devised, or transferred for charitable purposes. The bill also clarifies the legal effect of a merger on bequests, gifts, grants, or promises that were originally made to an entity that does not survive a merger. Under the bill, the gift, bequest, grant, or promise inures to the surviving entity following the merger. This provision applies only to mergers, because in an interest exchange, conversion, or domestication transaction, the entity to which the bequest was made continues in existence.

Appraisal Rights
Under current law, members of an LLC are entitled to appraisal rights only upon the consummation of a merger or conversion.[49] The bill adds six additional events that trigger members' appraisal rights:
- Consummation of an interest exchange;
- Consummation of a sale of substantially all of the assets of a LLC;
- An amendment to the organic rules of the entity that reduce the interest of the member;
- An amendment to the organic rules of the entity that alter or abolish the voting or other rights of the member;
- An amendment to the organic rules of the entity that alters or abolishes that appraisal rights of the member ; or
- If otherwise expressly authorized by the organic rules of the LLC.

The bill also allows an LLC to modify, restrict, or eliminate appraisal rights as long as it is approved by each member affected by the modification, restriction, or elimination.

Merger
Under current law, unless contrary to the articles of organization or the operating agreement, an LLC may merge with another business entity if:
- Each LLC that is a party to the merger complies with the applicable statutory LLC provisions and with the terms of its articles of organization and operating agreement;
- Each partnership that is a party to the merger complies with the applicable statutory partnership provisions;
- Each domestic corporation that is a party to the merger complies with the applicable statutory domestic corporation provisions; and
- The merger is permitted by the laws of the state, country, or jurisdiction under which each other business entity that is a party to the merger is formed.[50]

[48] Section 608.511(1), F.S.
[49] Section 608.4352(1), F.S.

Under s. 608.4231, F.S., "[n]otwithstanding any provision to the contrary in the articles of organization or operating agreement, members shall have the right to vote on . . . a merger of the limited liability company as provided in s. 608.4381." Read literally, this provision gives all members of the limited liability company a vote on a merger, whether or not such members have voting rights under the articles of organization or operating agreement of the LLC. At the same time, this provision was not one of the non-waivable provisions in ch. 608, F.S. Thus, arguably this provision could be modified in the articles of organization or operating agreement of the LLC.[51]

The bill removes the ambiguity in current law and provides that non-voting members do not have the right to vote on a merger unless the articles of organization or operating agreement provide otherwise. However, the bill requires that anyone who will have "interest holder liability" (i.e., general personal liability) as a result of the merger must expressly approve the merger.

The bill requires that each entity of a merger approve the plan in accordance with the laws that govern the LLC. The merger plan may be amended or abandoned thereafter so long as the articles of merger have not yet been approved. To make the merger effective, articles of merger must then be approved by each merging entity and filed with the Department of State. When the merger becomes effective, the surviving LLC continues and the other merging entities cease to exist.

Interest exchange

Current law does not apply the concept of interest exchange to LLCs. The bill applies this concept from corporate law to LLCs. In an interest exchange, the separate existence of the acquired entity is not affected and the acquiring entity acquires all of the interest of one or more classes of the interests in the acquired entity. An interest exchange also allows for an indirect acquisition through the use of consideration in an exchange that is not provided by the acquiring entity, such as consideration from another or related entity.[52]

The interest exchange provisions in the bill substantially parallel the merger provisions but because the concept of an interest exchange is new to LLCs, the bill protects a person contracting with or loaning money to an LLC when that person has drafted and negotiated special rights related to the transaction before the effective date of the bill.

Conversions

Current law allows an entity to change into a different type of entity, or in the case of an LLC, to remain an LLC but change its jurisdiction of formation.[53] The bill substantially incorporates and is consistent with current law.

Domestication

The new act, for the first time, allows domestications of non-U.S. entities who wish to become domestic LLCs in Florida. A domestication allows the domesticating entity to retain its status

[50] Section 608.438(2), F.S.
[51] *Supra* note 2.
[52] *Supra* note 2.
[53] *See* ss. 608.439, 608.4401, 608.4402, 608.4403, and 608.4404, F.S.

and existence in the non-U.S. jurisdiction in which it currently exists. The domestication provisions in the bill substantially parallel the merger provisions. The bill allows domestication of all non-U.S. entities. Much like a merger, the bill requires a plan of domestication and approval of domestication and allows amendment or abandonment of the plan. The plan becomes effective upon the passage and filing of the articles of domestication.

The bill includes a severability clause within the act.

Section 3 creates s. 48.062, F.S., to provide for service of process on an LLC within the chapter of the Florida Statutes relating to Service of Process.

Sections 4 repeals ch. 608, F.S., on January 1, 2015.

Sections 5 and 6 amend s. 607.1109, F.S., to add a cross-reference to s. 605.1025, F.S., and remove the cross-reference to s. 608.4382, F.S., on January 1, 2015.

Sections 7 and 8 amend s. 607.1113, F.S., to include the phrase "articles of conversion," add a cross-reference to s. 605.1041, F.S., and remove the cross-reference to s. 608.439, F.S., on January 1, 2015.

Sections 9 and 10 amend s. 607.193, F.S., to add a cross-reference to s. 605.0212, F.S., and remove the cross-reference to s. 608.4511, F.S., on January 1, 2015.

Sections 11 and 12 amend s. 617.1108, F.S., to add a cross-reference to s. 605.1025, F.S., and remove the cross-reference to s. 608.4382(1), F.S., on January 1, 2015.

Sections 13 and 14 amend s. 620.2104, F.S., to include the phrase "articles of conversion," add a cross-reference to s. 605.1041, F.S., and remove the cross-reference to s. 608.439, F.S., on January 1, 2015.

Sections 15 and 16 amend s. 620.2108, F.S., to include a cross-reference to s. 605.1025, F.S., and remove the cross-reference to 608.4382(1), F.S., on January 1, 2015.

Sections 17 and 18 amend s. 620.8914, F.S., to include the phrase "articles of conversion," add a cross-reference to s. 605.1041, F.S., and remove the cross-reference to s. 608.439, F.S., on January 1, 2015.

Sections 19 and 20 amend s. 620.8918, F.S., to include a cross-reference to s. 605.1025, F.S., and remove the cross-reference to s. 608.4382(1), F.S., on January 1, 2015.

Sections 21 and 22 amend s. 621.051, F.S., to include a cross-reference to ch. 605, F.S., and remove the cross-reference to ch. 608, F.S., on January 1, 2015.

Sections 23 and 24 amend s. 621.07, F.S., to include a cross-reference to ch. 605, F.S., and remove the cross-reference to ch. 608, F.S., on January 1, 2015.

Section 25 amends s. 621.12, F.S., to include the phrase "professional limited liability corporation," the abbreviations "P.L.L.C.," or the designations "PL" or "PLLC" among the options that a corporation or LLC formed under ch. 621, F.S., before January 1, 2014 must include in its company name. After January 1, 2014, a professional limited liability company must include the words "professional limited liability company," the abbreviation "P.L.L.C." or the designation "PLLC," in lieu of the words "limited liability company," or the abbreviation "L.L.C." or the designation "LLC."

Sections 26 and 27 amend s. 621.13, F.S., to provide that before January 1, 2014, ch. 608, F.S., applies to a LLC organized before January 1, 2014, but ch. 605, F.S., applies to any LLC organized on or after January 1, 2014. An LLC formed before January 1, 2015, may voluntarily become subject to ch. 605, F.S., before January 1, 2014, if it amends its certificate of organization in the manner provided under ch. 605, F.S. Effective January 1, 2015, all cross-references to ch. 608, F.S., are removed from s. 621.13, F.S.

Section 28 provides that except as otherwise provided, the bill takes effect January 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:

The filing fees in the bill are identical to those in current law.

B. Private Sector Impact:

This bill is a substantial rewrite of the laws governing LLCs in Florida. Existing LLCs will need to ensure that they are in compliance with the new laws by January 1, 2015.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS/CS/SB 1300 by the Commerce and Tourism Committee on April 8, 2013:
The committee substitute makes the filing fees in the bill identical to those in current law and corrects scrivener's errors in the bill.

CS/SB 1300 by the Judiciary Committee on April 1, 2013:
The committee substitute creates ch. 605, F.S., to house the new LLC provisions in order to reduce confusion that may result from including these provisions in existing ch. 608, F.S. The committee substitute amends ss. 607.1109, 607.1113, 607.193, 617.1108, 620.2104, 620.2108, 620.8914, 620.8918, 621.051, 621.07, 621.12, and 621.13, F.S., to conform to provisions in the act. The committee substitute also creates s. 48.062, F.S., to provide for service of process on an LLC within the chapter of the Florida Statutes relating to service of process.

B. Amendments:

None.

156014

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 1465 - 1520
and insert:

(1) For furnishing a certified copy, $30.

(2) For filing original articles of organization or articles of revocation of dissolution, $100.

(3) For filing a foreign limited liability company's application for a certificate of authority to transact business, $100.

(4) For filing a certificate of merger of limited liability companies or other business entities, $25 per constituent party

156014

to the merger, unless a specific fee is required for a party under other applicable law.

(5) For filing an annual report, $50.

(6) For filing an application for reinstatement after an administrative or judicial dissolution or a revocation of authority to transact business, $100.

(7) For filing a certificate designating a registered agent or changing a registered agent, $25.

(8) For filing a registered agent's statement of resignation from an active limited liability company, $85.

(9) For filing a registered agent's statement of resignation from a dissolved limited liability company, $25.

(10) For filing a certificate of conversion of a limited liability company, $25.

(11) For filing any other limited liability company document, $25.

(12) For furnishing a certificate of status, $5.

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

And the title is amended as follows:

Delete line 12

and insert:

State; providing fees; establishing the authority and liability of

358348

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hays) recommended the following:

Senate Amendment

Delete lines 5958 - 6469
and insert:

Section 5. Subsection (3) of section 607.1109, Florida Statutes, is amended to read:

607.1109 Articles of merger.—

(3) A domestic corporation is not required to file articles of merger pursuant to subsection (1) if the domestic corporation is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with <u>s. 605.1025,</u> s. 608.4382(1), s. 617.1108, s.

358348

620.2108(3), or s. 620.8918(1) and (2), and if the articles of merger or certificate of merger substantially complies with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of subsection (2).

Section 6. Effective January 1, 2015, subsection (3) of section 607.1109, Florida Statutes, is amended to read:

607.1109 Articles of merger.—

(3) A domestic corporation is not required to file articles of merger pursuant to subsection (1) if the domestic corporation is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with s. 605.1025, ~~s. 608.4382(1),~~ s. 617.1108, s. 620.2108(3), or s. 620.8918(1) and (2), and if the articles of merger or certificate of merger substantially complies with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of subsection (2).

Section 7. Subsection (3) of section 607.1113, Florida Statutes, is amended to read:

607.1113 Certificate of conversion.—

(3) A converting domestic corporation is not required to file a certificate of conversion pursuant to subsection (1) if the converting domestic corporation files articles of conversion or a certificate of conversion that substantially complies with the requirements of this section pursuant to s. 605.1045, s. 608.439, s. 620.2104(1)(b), or s. 620.8914(1)(b) and contains the signatures required by this chapter. In such a case, the other certificate of conversion may also be used for purposes of

358348

subsection (2).

Section 8. Effective January 1, 2015, subsection (3) of section 607.1113, Florida Statutes, is amended to read:

607.1113 Certificate of conversion.—

(3) A converting domestic corporation is not required to file a certificate of conversion pursuant to subsection (1) if the converting domestic corporation files articles of conversion or a certificate of conversion that substantially complies with the requirements of this section pursuant to s. 605.1045, ~~s. 608.439,~~ s. 620.2104(1)(b), or s. 620.8914(1)(b) and contains the signatures required by this chapter. In such a case, the other certificate of conversion may also be used for purposes of subsection (2).

Section 9. Subsections (1) and (2) of section 607.193, Florida Statutes, are amended to read:

607.193 Supplemental corporate fee.—

(1) In addition to any other taxes imposed by law, an annual supplemental corporate fee of $88.75 is imposed on each business entity that is authorized to transact business in this state and is required to file an annual report with the Department of State under s. 605.0212, s. 607.1622, s. 608.4511, or s. 620.1210.

(2)(a) The business entity shall remit the supplemental corporate fee to the Department of State at the time it files the annual report required by s. 605.0212, s. 607.1622, s. 608.4511, or s. 620.1210.

(b) In addition to the fees levied under ss. 607.0122~~,~~ ~~608.452,~~ and 620.1109, s. 605.0213 or s. 608.452, and the supplemental corporate fee, a late charge of $400 shall be

358348

imposed if the supplemental corporate fee is remitted after May 1 except in circumstances in which a business entity was administratively dissolved or its certificate of authority was revoked due to its failure to file an annual report and the entity subsequently applied for reinstatement and paid the applicable reinstatement fee.

Section 10. Effective January 1, 2015, subsections (1) and (2) of section 607.193, Florida Statutes, are amended to read:

607.193 Supplemental corporate fee.—

(1) In addition to any other taxes imposed by law, an annual supplemental corporate fee of $88.75 is imposed on each business entity that is authorized to transact business in this state and is required to file an annual report with the Department of State under s. 605.0212, s. 607.1622, ~~s. 608.4511,~~ or s. 620.1210.

(2)(a) The business entity shall remit the supplemental corporate fee to the Department of State at the time it files the annual report required by s. 605.0212, s. 607.1622, ~~s. 608.4511,~~ or s. 620.1210.

(b) In addition to the fees levied under ss. 605.0213, 607.0122, and 620.1109~~, s. 605.0213 or s. 608.452,~~ and the supplemental corporate fee, a late charge of $400 shall be imposed if the supplemental corporate fee is remitted after May 1 except in circumstances in which a business entity was administratively dissolved or its certificate of authority was revoked due to its failure to file an annual report and the entity subsequently applied for reinstatement and paid the applicable reinstatement fee.

Section 11. Subsection (2) of section 617.1108, Florida

358348

Statutes, is amended to read:

617.1108 Merger of domestic corporation and other business entities.—

(2) A domestic corporation not for profit organized under this chapter is not required to file articles of merger pursuant to this section if the corporation not for profit is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with <u>s. 605.1025,</u> s. 607.1109, s. 608.4382(1), s. 620.2108(3), or s. 620.8918(1) and (2). In such a case, the other articles of merger or certificate of merger may also be used for purposes of subsection (3).

Section 12. Effective January 1, 2015, subsection (2) of section 617.1108, Florida Statutes, is amended to read:

617.1108 Merger of domestic corporation and other business entities.—

(2) A domestic corporation not for profit organized under this chapter is not required to file articles of merger pursuant to this section if the corporation not for profit is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with s. 605.1025, s. 607.1109, ~~s. 608.4382(1),~~ s. 620.2108(3), or s. 620.8918(1) and (2). In such a case, the other articles of merger or certificate of merger may also be used for purposes of subsection (3).

Section 13. Paragraph (c) of subsection (1) of section 620.2104, Florida Statutes, is amended to read:

620.2104 Filings required for conversion; effective date.—

(1) After a plan of conversion is approved:

358348

(c) A converting limited partnership is not required to file a certificate of conversion pursuant to paragraph (a) if the converting limited partnership files articles of conversion or a certificate of conversion that substantially complies with the requirements of this section pursuant to s. 605.1045, s. 607.1115, s. 608.439, or s. 620.8914(1)(b) and contains the signatures required by this chapter. In such a case, the other certificate of conversion may also be used for purposes of s. 620.2105(4).

Section 14. Effective January 1, 2015, paragraph (c) of subsection (1) of section 620.2104, Florida Statutes, is amended to read:

620.2104 Filings required for conversion; effective date.—

(1) After a plan of conversion is approved:

(c) A converting limited partnership is not required to file a certificate of conversion pursuant to paragraph (a) if the converting limited partnership files articles of conversion or a certificate of conversion that substantially complies with the requirements of this section pursuant to s. 605.1045, s. 607.1115, ~~s. 608.439,~~ or s. 620.8914(1)(b) and contains the signatures required by this chapter. In such a case, the other certificate of conversion may also be used for purposes of s. 620.2105(4).

Section 15. Subsection (3) of section 620.2108, Florida Statutes, is amended to read:

620.2108 Filings required for merger; effective date.—

(3) Each constituent limited partnership shall deliver the certificate of merger for filing in the Department of State unless the constituent limited partnership is named as a party

or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with s. 605.1025, s. 607.1109(1), s. 608.4382(1), s. 617.1108, or s. 620.8918(1) and (2) and such articles of merger or certificate of merger substantially complies with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of s. 620.2109(3).

Section 16. Effective January 1, 2015, subsection (3) of section 620.2108, Florida Statutes, is amended to read:

620.2108 Filings required for merger; effective date.—

(3) Each constituent limited partnership shall deliver the certificate of merger for filing in the Department of State unless the constituent limited partnership is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with s. 605.1025, s. 607.1109(1), ~~s. 608.4382(1),~~ s. 617.1108, or s. 620.8918(1) and (2) and such articles of merger or certificate of merger substantially complies with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of s. 620.2109(3).

Section 17. Subsection (1) of section 620.8914, Florida Statutes, is amended to read:

620.8914 Filings required for conversion; effective date.—

(1) After a plan of conversion is approved:

(a) A converting partnership shall deliver to the Department of State for filing a registration statement in accordance with s. 620.8105, if such statement was not

358348

previously filed, and a certificate of conversion, in accordance with s. 620.8105, which must include:

1. A statement that the partnership has been converted into another organization.

2. The name and form of the organization and the jurisdiction of its governing law.

3. The date the conversion is effective under the governing law of the converted organization.

4. A statement that the conversion was approved as required by this act.

5. A statement that the conversion was approved as required by the governing law of the converted organization.

6. If the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the Department of State may use for the purposes of s. 620.8915(3).

(b) In the case of a converting organization converting into a partnership to be governed by this act, the converting organization shall deliver to the Department of State for filing:

1. A registration statement in accordance with s. 620.8105.

2. A certificate of conversion, in accordance with s. 620.8105, signed by a general partner of the partnership in accordance with s. 620.8105(6) and by the converting organization as required by applicable law, which certificate of conversion must include:

a. A statement that the partnership was converted from another organization.

b. The name and form of the converting organization and the

358348

jurisdiction of its governing law.

c. A statement that the conversion was approved as required by this act.

d. A statement that the conversion was approved in a manner that complied with the converting organization’s governing law.

e. The effective time of the conversion, if other than the time of the filing of the certificate of conversion.

A converting domestic partnership is not required to file a certificate of conversion pursuant to paragraph (a) if the converting domestic partnership files articles of conversion or a certificate of conversion that substantially complies with the requirements of this section pursuant to s. 605.1045, s. 607.1115, s. 608.439, or s. 620.2104(1)(b) and contains the signatures required by this chapter. In such a case, the other certificate of conversion may also be used for purposes of s. 620.8915(4).

Section 18. Effective January 1, 2015, subsection (1) of section 620.8914, Florida Statutes, is amended to read:

620.8914 Filings required for conversion; effective date.—

(1) After a plan of conversion is approved:

(a) A converting partnership shall deliver to the Department of State for filing a registration statement in accordance with s. 620.8105, if such statement was not previously filed, and a certificate of conversion, in accordance with s. 620.8105, which must include:

1. A statement that the partnership has been converted into another organization.

2. The name and form of the organization and the

358348

jurisdiction of its governing law.

3. The date the conversion is effective under the governing law of the converted organization.

4. A statement that the conversion was approved as required by this act.

5. A statement that the conversion was approved as required by the governing law of the converted organization.

6. If the converted organization is a foreign organization not authorized to transact business in this state, the street and mailing address of an office which the Department of State may use for the purposes of s. 620.8915(3).

(b) In the case of a converting organization converting into a partnership to be governed by this act, the converting organization shall deliver to the Department of State for filing:

1. A registration statement in accordance with s. 620.8105.

2. A certificate of conversion, in accordance with s. 620.8105, signed by a general partner of the partnership in accordance with s. 620.8105(6) and by the converting organization as required by applicable law, which certificate of conversion must include:

a. A statement that the partnership was converted from another organization.

b. The name and form of the converting organization and the jurisdiction of its governing law.

c. A statement that the conversion was approved as required by this act.

d. A statement that the conversion was approved in a manner that complied with the converting organization’s governing law.

358348

e. The effective time of the conversion, if other than the time of the filing of the certificate of conversion.

A converting domestic partnership is not required to file a certificate of conversion pursuant to paragraph (a) if the converting domestic partnership files articles of conversion or a certificate of conversion that substantially complies with the requirements of this section pursuant to s. 605.1045, s. 607.1115, ~~s. 608.439,~~ or s. 620.2104(1)(b) and contains the signatures required by this chapter. In such a case, the other certificate of conversion may also be used for purposes of s. 620.8915(4).

Section 19. Subsection (3) of section 620.8918, Florida Statutes, is amended to read:

620.8918 Filings required for merger; effective date.—

(3) Each domestic constituent partnership shall deliver the certificate of merger for filing with the Department of State, unless the domestic constituent partnership is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with s. 605.1025, s. 607.1109(1), s. 608.4382(1), s. 617.1108, or s. 620.2108(3). The articles of merger or certificate of merger must substantially comply with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of s. 620.8919(3). Each domestic constituent partnership in the merger shall also file a registration statement in accordance with s. 620.8105(1) if it does not have a currently effective registration statement filed with the Department of State.

358348

Section 20. Effective January 1, 2015, subsection (3) of section 620.8918, Florida Statutes, is amended to read:

620.8918 Filings required for merger; effective date.—

(3) Each domestic constituent partnership shall deliver the certificate of merger for filing with the Department of State, unless the domestic constituent partnership is named as a party or constituent organization in articles of merger or a certificate of merger filed for the same merger in accordance with s. 605.1025, s. 607.1109(1), ~~s. 608.4382(1),~~ s. 617.1108, or s. 620.2108(3). The articles of merger or certificate of merger must substantially comply with the requirements of this section. In such a case, the other articles of merger or certificate of merger may also be used for purposes of s. 620.8919(3). Each domestic constituent partnership in the merger shall also file a registration statement in accordance with s. 620.8105(1) if it does not have a currently effective registration statement filed with the Department of State.

Section 21. Section 621.051, Florida Statutes, is amended to read:

621.051 Limited liability company organization.—A group of professional service corporations, professional limited liability companies, or individuals, in any combination, duly licensed or otherwise legally authorized to render the same professional services may organize and become members of a professional limited liability company for pecuniary profit under the provisions of <u>chapter 605 or</u> chapter 608 for the sole and specific purpose of rendering the same and specific professional service.

Section 22. Effective January 1, 2015, section 621.051,

358348

Florida Statutes, is amended to read:

621.051 Limited liability company organization.—A group of professional service corporations, professional limited liability companies, or individuals, in any combination, duly licensed or otherwise legally authorized to render the same professional services may organize and become members of a professional limited liability company for pecuniary profit under the provisions of chapter 605 ~~or chapter 608~~ for the sole and specific purpose of rendering the same and specific professional service.

Section 23. Section 621.07, Florida Statutes, is amended to read:

621.07 Liability of officers, agents, employees, shareholders, members, and corporation or limited liability company.—Nothing contained in this act shall be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional service and to the standards for professional conduct; provided, however, that any officer, agent, member, manager, or employee of a corporation or limited liability company organized under this act shall be personally liable and accountable only for negligent or wrongful acts or misconduct committed by that person, or by any person under that person’s direct supervision and control, while rendering professional service on behalf of the corporation or limited liability company to the person for whom such professional services were being rendered; and provided further that the personal liability of shareholders of

358348

a corporation, or members of a limited liability company, organized under this act, in their capacity as shareholders or members of such corporation or limited liability company, shall be no greater in any aspect than that of a shareholder-employee of a corporation organized under chapter 607 or a member-employee of a limited liability company organized under chapter 605 or chapter 608. The corporation or limited liability company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its officers, agents, members, managers, or employees while they are engaged on behalf of the corporation or limited liability company in the rendering of professional services.

Section 24. Effective January 1, 2015, section 621.07, Florida Statutes, is amended to read:

621.07 Liability of officers, agents, employees, shareholders, members, and corporation or limited liability company.—Nothing contained in this act shall be interpreted to abolish, repeal, modify, restrict, or limit the law now in effect in this state applicable to the professional relationship and liabilities between the person furnishing the professional services and the person receiving such professional service and to the standards for professional conduct; provided, however, that any officer, agent, member, manager, or employee of a corporation or limited liability company organized under this act shall be personally liable and accountable only for negligent or wrongful acts or misconduct committed by that person, or by any person under that person’s direct supervision and control, while rendering professional service on behalf of the corporation or limited liability company to the person for

358348

whom such professional services were being rendered; and provided further that the personal liability of shareholders of a corporation, or members of a limited liability company, organized under this act, in their capacity as shareholders or members of such corporation or limited liability company, shall be no greater in any aspect than that of a shareholder-employee of a corporation organized under chapter 607 or a member-employee of a limited liability company organized under chapter 605 ~~or chapter 608~~. The corporation or limited liability company shall be liable up to the full value of its property for any negligent or wrongful acts or misconduct committed by any of its officers, agents, members, managers, or employees while they are engaged on behalf of the corporation or limited liability company in the rendering of professional services.

Section 25. Subsections (2) and (4) of section 621.12, Florida Statutes, are amended to read:

621.12 Identification with individual shareholders or individual members.—

(2) The name shall also contain:

(a) The word "chartered"; or

(b)1. In the case of a professional corporation, the words "professional association" or the abbreviation "P.A."; or

2. In the case of a professional limited liability company~~,~~ formed before January 1, 2014, the words "professional limited company" or "professional limited liability company," ~~or~~ the abbreviation "P.L.~~,~~" or "P.L.L.C." or the designation "PL" or "PLLC," in lieu of the words "limited company" or "limited liability company," or the abbreviation "L.C." or "L.L.C." or the designation "LC" or "LLC" as otherwise required under s.

605.0112 or s. 608.406.

3. In the case of a professional limited liability company formed on or after January 1, 2014, the words “professional limited liability company,” the abbreviation “P.L.L.C.” or the designation “PLLC,” in lieu of the words “limited liability company,” or the abbreviation “L.L.C.” or the designation “LLC” as otherwise required under s.605.0112.

(4) It shall be permissible, however, for the corporation or limited liability company to render professional services and to exercise its authorized powers under a name which is identical to its name except that the word “chartered,” the words “professional association,” ~~or~~ “professional limited company,” or “professional limited liability company,” ~~or~~ the abbreviations “P.A.,” ~~or~~ “P.L.,” or “P.L.L.C.,” or the designation “PL” or “PLLC” may be omitted, provided that the corporation or limited liability company has first registered the name to be so used in the manner required for the registration of fictitious names.

Section 26. Section 621.13, Florida Statutes, is amended to read:

621.13 Applicability of chapters 605, 607, and 608.—

(1) Chapter 607 is applicable to a corporation organized pursuant to this act except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 607. In such event, the provisions and sections of this act shall take precedence with respect to a corporation organized pursuant to the provisions of this act.

(2)(a) Before January 1, 2014, and during any transition period thereafter, chapter 608 is applicable to a limited liability company organized pursuant to this act before January 1, 2014, except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 608. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.

(b) On and after January 1, 2014, chapter 605 is applicable to a limited liability company organized pursuant to this act on or after January 1, 2014, except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 605. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.

(c) After an election is made to be subject to the provisions of chapter 605, chapter 605 applies to a limited liability company organized pursuant to this act before January 1, 2014, except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 605. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.

(3) A professional corporation or limited liability company heretofore or hereafter organized under this act may change its business purpose from the rendering of professional service to provide for any other lawful purpose by amending its certificate of incorporation in the manner required for an original incorporation under chapter 607 or by amending its certificate of organization in the manner required for an original

358348

organization under chapter 608, or for a limited liability company subject to chapter 605 by amending its certificate of organization in the manner required for an original organization under chapter 605. However, such an amendment, when filed with and accepted by the Department of State, shall remove such corporation or limited liability company from the provisions of this chapter including, but not limited to, the right to practice a profession. A change of business purpose shall not have any effect on the continued existence of the corporation or limited liability company.

Section 27. Effective January 1, 2015, section 621.13, Florida Statutes, is amended to read:

621.13 Applicability of chapters 605 and~~,~~ 607~~, and 608~~.—

(1) Chapter 607 is applicable to a corporation organized pursuant to this act except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 607. In such event, the provisions and sections of this act shall take precedence with respect to a corporation organized pursuant to the provisions of this act.

(2)~~(a)~~ Chapter 605 ~~Before January 1, 2014, and during any transition period thereafter, chapter 608~~ is applicable to a limited liability company organized pursuant to this act ~~before January 1, 2014,~~ except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 605 ~~608~~. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.

~~(b) On and after January 1, 2014, chapter 605 is applicable~~

~~to a limited liability company organized pursuant to this act on or after January 1, 2014, except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 605. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.~~

~~(c) After an election is made to be subject to the provisions of chapter 605, chapter 605 applies to a limited liability company organized pursuant to this act before January 1, 2014, except to the extent that any of the provisions of this act are interpreted to be in conflict with the provisions of chapter 605. In such event, the provisions and sections of this act shall take precedence with respect to a limited liability company organized pursuant to the provisions of this act.~~

(3) A professional corporation or limited liability company heretofore or hereafter organized under this act may change its business purpose from the rendering of professional service to provide for any other lawful purpose by amending its certificate of incorporation in the manner required for an original incorporation under chapter 607 or ~~by amending its certificate of organization in the manner required for an original organization under chapter 608, or for a limited liability company subject to chapter 605~~ by amending its certificate of organization in the manner required for an original organization under chapter 605. However, such an amendment, when filed with and accepted by the Department of State, shall remove such corporation or limited liability company from the provisions of this chapter including, but not limited to, the right to

358348

practice a profession. A change of business purpose shall not have any effect on the continued existence of the corporation or limited liability company.

The Florida Senate

Committee Agenda Request

To: Senator Nancy Detert, Chair
Committee on Commerce and Tourism

Subject: Committee Agenda Request

Date: April 1, 2013

I respectfully request that **Senate Bill 1300**, relating to Limited Liability Companies, be placed on the:

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

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/2013
Meeting Date

Topic LIMITED LIABILITY COMPANIES

Bill Number CS/SB 1300
(if applicable)

Name MANUEL UTSET

Amendment Barcode ______
(if applicable)

Job Title PROFESSOR, FSU COLLEGE OF LAW

Address 506 W. Jefferson Street
Street

Phone 850 644 7274

Tallahassee FL 32306
City *State* *Zip*

E-mail mutset@law.fsu.edu

Speaking: [x] For [ ] Against [ ] Information

Representing BUSINESS LAW SECTION, THE FLORIDA BAR

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

Lobbyist registered with Legislature: [ ] Yes [x] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-13
Meeting Date

Topic ____________________

Bill Number SB1300 *(if applicable)*

Name Justin Thames

Amendment Barcode ____________________ *(if applicable)*

Job Title Govermental Affairs Manager

Address ____________________
Street

Phone ____________________

____
City *State* *Zip*

E-mail thamesj@ficpa.org

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Institute of CPAs

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 /2013
Meeting Date

Topic ______________________ Bill Number 1300 (if applicable)

Name BRIAN PITTS Amendment Barcode ______ (if applicable)

Job Title TRUSTEE

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

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

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

This form is part of the public record for this meeting. S-001 (10/20/11)

The Florida Senate

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 Commerce and Tourism

BILL: CS/SB 1394

INTRODUCER: Commerce and Tourism and Senator Hukill

SUBJECT: Motorsports Entertainment Complexes

DATE: April 9, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Smith	Hrdlicka	CM	**Fav/CS**
2.			AFT	
3.			AP	
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

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

I. Summary:

CS/SB 1394 creates three programs to provide refunds or distributions of state sales taxes to owners or master developers of motorsports entertainment complexes.

The bill provides the owner of a motorsports entertainment complex with a sales tax exemption on building materials used in or that become component parts in the construction, reconstruction, expansion, or renovation of a motorsports entertainment complex.

The bill allows a motorsports entertainment complex to receive monthly sales tax distribution payments of $166,667 for up to 30 years.

The bill creates an increment-based sales tax refund program for the master developer of a complex. "Master developer" is defined to mean "the primary developer of a motorsports entertainment complex."

The bill creates ss. 212.094, 212.0943, and 212.0944, F.S.

The bill substantially amends s. 212.20, F.S.

II. Present Situation:

Motorsports in Florida

Automobile racing in Florida has a long and storied history stretching back more than 100 years. In April 1902, the first “tests of speed” began on the 12-mile stretch of beach between Ormond and Daytona.[1]

In late 1947, a group of racing promoters gathered in Daytona Beach to create an organization which would unify automobile racers and build back interest in the sport following World War II. This meeting was the impetus for the incorporation of the National Association of Stock Car Auto Racing (NASCAR) in 1948.[2]

Today, NASCAR is automobile racing’s largest sanctioning body for stock cars. Currently, NASCAR has 28 sanctioned tracks. Additionally, Florida is one of only three states that have two NASCAR-sanctioned tracks. These tracks are the Daytona International Speedway and the Homestead-Miami Speedway.[3] Information on the tracks is below:

	Daytona International Speedway[4]	Homestead Miami Speedway[5]
Major Races	Daytona 500, Coke Zero 400	Ford EcoBoost 400, Ford EcoBoost 300
Year Opened	1959	1995
Grandstand Seating Capacity	147,000	65,000
County	Volusia	Miami-Dade
Owner	International Speedway Corporation	International Speedway Corporation

The Daytona 500 is the opening race of the NASCAR Spring Cup Series, and is considered the race that “sets the tone for the entire season to follow.”[6] The Ford EcoBoost 400 is the NASCAR Spring Cup Series’ final race.

Aside from the two NASCAR-sanctioned tracks, Florida is home to an additional 50 automobile racing tracks. These tracks are located throughout the state, and provide local amateur racers and enthusiasts the opportunity to be involved with the sport.[7]

---

[1] Randall L. Hall, *Automobile Racing in the South*, The Journal of Southern History, (August 2002).
[2] *Id*.
[3] NASCAR Tracks, available at: www.nascar.com/races/tracks/, (last visited on March 15, 2013).
[4] ESPN, *NASCAR Track Guide: Daytona International Speedway*, (June 27, 2011), available at: http://espn.go.com/espn/thelife/news/story?id=2346804, (last visited on March 15, 2013).
[5] Homestead Miami Speedway website, *The History of Homestead-Miami Speedway*, available at: http://www.homesteadmiamispeedway.com/About/Track-History.aspx, (last visited on March 15, 2013).
[6] *Supra* note 6.
[7] Florida Race Track Directory of Asphalt & Dirt Tracks & Drag Strips, available at: http://www.racingin.com/track/florida.aspx, (last visited March 15, 2013).

Sales and Use Tax

Chapter 212, F.S., contains the state's statutory provisions authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on tangible personal property and a limited number of services. The statutes currently provide for more than 200 different exemptions.

In addition to the state sales tax of 6 percent, ss. 212.054 and 212.055, F.S., authorize Florida counties to charge a discretionary sales surtax; only those surtaxes specifically designated in s. 212.055, F.S., may be levied.[8] The maximum discretionary sales surtax that any county may levy depends upon the county's eligibility for the taxes listed in s. 212.055, F.S., and ranges between 1.5 percent and 3.5 percent. The maximum any county currently levies is 1.5 percent. As of January 2013, 55 counties levied at least one discretionary sales surtax and 14 counties levied at least two.[9]

The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold and is levied in addition to the state taxes. The surtax applies to all transactions occurring in a county that are "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions" and on communications services, defined in ch. 202, F.S. The surtax does not apply to a sales amount above $5,000 on any item of tangible personal property. This $5,000 cap does not apply to the sale of any service. The Florida Department of Revenue (DOR) is responsible for administering, collecting, and enforcing all sales taxes. Collections received by DOR are returned monthly to the county imposing the tax.[10]

Local Government Half-cent Sales Tax Program

The Local Government Half-cent Sales Tax Program (program) is the largest source of revenue received by local governments among the state's shared revenue sources. The program primarily serves to provide ad valorem and utility tax relief, in addition to providing eligible local governments revenues for local programs.[11] A local government may also pledge funds from the program for payment of principal and interest on any capital project.[12]

Moneys for the program are collected pursuant to the provisions of ch. 212, F.S. The program distributes funds to eligible local governments through three distributions of sales tax revenues remitted by a sales tax dealer within the eligible participating county.[13] The *ordinary* distribution operates by a transfer of 8.814 percent of net sales tax proceeds remitted by a sales tax dealer in the eligible local government's jurisdiction to the Local Government Half-cent Sales Tax

[8] These include: charter county and regional transportation system surtax, local government infrastructure surtax, small county surtax, county public hospital surtax, school capital outlay surtax, indigent care and trauma center surtax, voter-approved indigent care surtax, and emergency fire rescue services and facilities surtax.

[9] Florida Department of Revenue, *Discretionary Sales Surtax Information for Calendar Year 2013*, available at: http://dor.myflorida.com/dor/forms/2013/dr15dss.pdf, (last visited on January 11, 2013).

[10] Section 212.054, F.S.

[11] Office of Economic and Demographic Research, *2012 Local Government Financial Information Handbook*, (October 2012), available at: http://edr.state.fl.us/Content/local-government/reports/lgfih12.pdf, (last visited on March 8, 2013).

[12] Section 218.64, F.S.

[13] Section 218.63, F.S., defines eligibility requirements. In order to participate in the program, a local government must meet the revenue sharing eligibility requirements specified in s. 218.23, F.S.

Clearing Trust Fund (trust fund).[14] The *emergency* and *supplemental* distributions operate by a transfer of 0.095 percent of net sales tax proceeds to the trust fund, and are available only to those counties that meet certain fiscal eligibility requirements, or have an inmate population of greater than 7 percent of the total county population.[15, 16] An additional, separate distribution from the trust fund is available to qualifying fiscally constrained counties.[17]

Funds remitted by sales tax dealers within a local government's jurisdiction and transferred to the trust fund are earmarked and distributed monthly to the governing bodies of participating eligible local governments.[18] Program funds are distributed to participating county and municipal governments based on a distribution formula.[19]

If a majority of the governing body of a county government and a majority of the members of the governing authority of municipalities representing at least 50 percent of the county's municipal population adopt an ordinance, up to $2 million annually of the program funds allocated to that county may be used for the following purposes:[20, 21]

- Funding a facility certified as a new or retained professional sports franchise under s. 288.1162, F.S., or a facility certified as a spring training franchise under s. 288.11621, F.S.
- Funding an applicant certified as a "motorsports entertainment complex" under s. 288.1171, F.S.

Motorsports Entertainment Complex Certification

Section 288.1171, F.S., provides the procedure by which a local government may receive certification for a motorsport entertainment complex in order to use $2 million of Local Government Half-cent Sales Tax Program funds to pay for certain costs associated with the complex. As of March 7, 2013, no local government has received certification for a motorsport entertainment complex to use such funds.[22] A motorsport entertainment complex is defined as a closed-course racing facility.

The Department of Economic Opportunity (DEO) is responsible for screening and certifying applicants to allow them to use program funds. Applicants must be either a unit of local government that owns a motorsport entertainment complex or owns the land on which a complex is located.

Before certifying an applicant as a motorsport entertainment complex, DEO must first verify that:

---

[14] Section 212.20(6)(d)2., F.S.
[15] Section 212.20(6)(d)3., F.S.
[16] *Supra* note 13 at page 55.
[17] Section 218.67, F.S.
[18] Section 218.61, F.S.
[19] Section 218.62, F.S.
[20] Section 218.64(3)(b), F.S.
[21] If a county and municipal government's governing body support using program funds to support funding of professional sports, spring training, or motorsports entertainment complexes, their distribution for general use is provided *after* funding is provided for these projects.
[22] Conversation with Katherine Morrison, Department of Economic Opportunity, (March 7, 2013).

- The local government holds title to the land on which the complex is located or holds title to the complex; and
- The local government in which the complex is located has certified by resolution after a public hearing that the application for certification serves a public purpose.

If DEO determines an applicant meets eligibility requirements, it must notify the applicant and Department of Revenue (DOR) of the applicant's certification through an official letter. If an applicant does not meet the requirements, DEO must notify the applicant within 10 days of such determination. An applicant may not receive more than one certification.

An applicant certified as a motorsport entertainment complex may only use funds provided from the Local Government Half-cent Sales Tax Program for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a motorsport entertainment complex, including related transportation and other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds. Additional eligible uses include paying for advertising and promotional activities related to the motorsport entertainment complex or the municipality or county in which the complex is located, if such activities are designed to increase tourism or promote economic development of the municipality or county.

DOR may perform an audit to ensure the distributions are expended as required, and may pursue recovery of any funds not expended as required by law.

III. Effect of Proposed Changes:

The bill creates three new programs to provide refunds or distributions from state sales tax revenues to owners or master developers of motorsports entertainment complexes.

Section 1 creates s. 212.094, F.S. The bill creates a sales and use tax exemption for building materials used in or that become component parts in the construction, reconstruction, expansion, or renovation of a motorsports entertainment complex. The exemption is inured to the owner or master developer of a motorsports entertainment complex in the form of a one-time nontransferable refund of previously paid state sales and use tax.

Application
To receive a sales and use tax refund, the owner of a motorsports entertainment complex (complex), defined to mean "a complex that includes a closed-course racing facility with at least 50,000 fixed seats, together with any themed, ancillary business establishments and related mixed-used commercial development under common beneficial ownership as of the date of application…," must apply to the Department of Economic Opportunity (DEO) to receive approval for a project prior to beginning construction, reconstruction, expansion, or renovation on the complex. The project must have a total cost of at least $250 million expended by the complex owner and must occur over a 48-month period. The owner must submit an application to DEO by a date to be determined by DEO. The application must include an affidavit certifying the information in the application is true and correct; copies of ordinances enacted by a majority of the members of the governing board of the county and the municipality where the complex is

located that commit to certain funding provisions; [23]and any additional information required by DEO. DEO has 60 days after receiving the application to issue a notice of intent to deny or approve the proposed project.

Refund Certification
Upon project completion, the owner of the complex must again apply to DEO for certification of a sales tax refund. The refund application must include the following information:
- The name and physical in-state address of the complex;
- A copy of the original application and approval for the project;
- The address and the applicable assessment roll parcel numbers for the complex;
- A copy of a valid building permit issued by the county or municipal building department authorizing the construction, reconstruction, expansion, or renovation of the complex;
- A sworn statement from the general contractor the owner of the complex has contracted with to construct, reconstruct, or renovate the complex, listing the building materials used in the project, the building materials' actual cost, and the amount of sales and use tax paid in Florida on the materials. If a general contractor is not used, the owner of the complex must make the sworn statement. Copies of invoices evidencing the purchase of building materials for the project and the payment of sales and use tax on such building materials must be attached to the sworn statement;
- A certification by the local building code inspector that the project is substantially complete; and
- A detailed accounting, attested to by a licensed certified public accountant, that at least $250 million was spent towards the project during a 48-month period.

DEO has 90 working days from receipt of the application for refund certification to determine if the application meets all applicable requirements. The bill requires DEO to certify all applications that contain the required information and are otherwise found eligible for a refund.

If an applicant is certified by DEO to receive a refund, it must apply to the Department of Revenue (DOR) to receive a one-time, nontransferable refund of sales taxes paid for building materials used in the project. The applicant has 6 months to submit the application to DOR.

Reduction of Local Government Half-cent Sales Tax Distributions
The bill requires that no state sales tax refund may be awarded unless a majority of the members of the governing board of the county and municipality where the project is located adopt an ordinance committing to assist in the funding of the project through a reduction of local government half-cent sales tax distributions.

DOR is required to reduce the total amount of local government half-cent sales tax revenue available for distribution to local governments that adopt ordinances. The reduction in distributions is equal to 10 percent of the total refund granted to each certified applicant. Reductions are to be prorated over a 12-month period. A county's share of the reduction is equal to the county's share of the local government half-cent sales tax revenue. If there are multiple refunds, a county's local government half-cent sales tax distribution will not be reduced by the same amount refunded to the motorsports complex in that county.

[23] The bill provides that the ordinance is "binding and irrevocable" upon enactment.

If a refund is issued to a certified applicant *on or before* June 30, distribution reductions begin in the first month of the local fiscal year that follows the refund issuance. If a refund is issued *after* June 30, distribution reductions begin in the first month of the *second* local fiscal year following the issuance of such refund.

The bill requires an amount equal to the local government distribution reductions to be transferred each month from the Local Government Half-cent Sales Tax Clearing Trust Fund to the General Revenue Fund.

DOR has 14 days after issuing a refund to provide written notice to each local government subject to reduced distributions, specifying the amount of the reductions and the timing of such reductions.

Audits, Decertification, and Recapture of Refunds
The bill permits DOR to perform additional audits and investigations necessary to verify the accuracy of a state sales tax refund request and to ensure compliance with the refund requirements. DEO must provide technical assistance for any technical audits or examinations if DOR requests such assistance.

If DOR finds that a refund was issued to an ineligible taxpayer as a result of an audit or examination or any information obtained from DEO, it may determine there are grounds for forfeiture of previously claimed refunds. DEO may revoke or modify any certification granting eligibility for a refund if it finds a taxpayer made a false statement or representation in any application, record, report, plan, or other document filed in an attempt to receive certification for a tax refund. DEO must notify DOR of any revoked or modified certifications affecting previously granted tax refunds.

Section 2 creates s. 212.0943, F.S. The bill allows a motorsports complex to apply for a state sales tax distribution payment under s. 212.20(6)(d)6.b., F.S. Under current law, monthly distributions of $166,667 are available to eight certified new or retained professional sports franchise facilities that serve franchises of the NBA, MLB, NFL, or NHL; and monthly distributions of $41,667 to up to 10 certified spring training facilities serving MLB baseball franchises.

The bill requires any applicant certified under s. 212.094(4), F.S., created in Section 1 of the bill, to use sales tax distribution funds under s. 212.20(6)(d)6.b., F.S., for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a complex, including related transportation or other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; reimbursement for such costs; or the refinancing of bonds issued for such purposes.

Further, funds may be used to pay for advertising and promotion activities associated with the complex or the municipality or county in which the complex is located. Such advertising and promotion programs must be designed to increase paid attendance at the complex or to increase tourism or promote economic development of the community in which the complex is located.

DOR may audit to verify distribution payments have been made in accordance with the program. If DOR determines payments have been used improperly, it may pursue recovery of such funds.

Section 3 creates s. 212.0944, F.S. The bill creates an increment-based sales tax refund program for the master developer of a complex. "Master developer" is defined to mean "the primary developer of a motorsports entertainment complex." A master developer is eligible for a refund of sales taxes imposed under ch. 212 on sales made within a certified motorsports complex. The refund is limited to 50 percent of the sales taxes remitted in a year over the base year amount (50 percent of the increment.)

Base Year Refund

The "base year" is the 12 month period occurring *before* the master developer of the complex applies to DEO for approval under Section 1 of the bill to commence the construction, reconstruction, expansion, or renovation of a complex.

Measurement Period

The "measurement period" is a 12 month period starting with the 12 month period *following* submission of an application to DEO for approval under Section 1 of the bill to commence the construction, reconstruction, expansion, or renovation of a complex.

Increment Sales Tax Refund

Within 60 days after the end of the measurement period, the master developer of the complex must submit a refund request for the incremental amount of sales taxes collected by any business within the complex over the measurement period. The amount of sales taxes collected in the measurement period is compared to the amount of sales taxes collected during the base year. Fifty percent of the total sales taxes paid by any business located within the complex during the measurement period *in excess* of the amount of sales taxes paid during the base year would be eligible for the refund. Refunds are only available for payment to the master developer. The application for the refund must contain evidence of previously paid sales taxes by any business within the complex. The refund payment for this amount must be made within 60 days to the master developer. It appears that DEO must approve the refund.

The bill requires the increment sales tax refund program to continue for 30 years. Sales taxes collected and remitted during each subsequent period are also compared to the amount collected and remitted during the original base year.

The bill allows the complex's master developer to require each tenant, lessee, or other third party operating within the complex to provide all documents, returns, or other information necessary to verify the amount of sales tax eligible for the increment sales tax refund program.

Funds provided by the increment sales tax refund program may only be used for the public purposes as defined in Section 2 of the bill, including paying for the construction, reconstruction, expansion, or renovation of a complex, including related transportation or other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; reimbursement for such costs; or the refinancing of bonds issued for such purposes.

DOR may audit to verify refund payments to the master developer are expended as required by the program. DOR may pursue recovery of funds if it finds payments have not been properly expended.

Section 4 amends s. 212.20, F.S. The bill creates a monthly sales tax distribution payment of $166,667 for applicants certified under s. 212.094, F.S., created by Section 1 of the bill. Distribution payments continue for up to 30 years. The bill requires that certified applicants may not receive more in sales tax distributions payments than the amount expended by the applicant for the public purposes of paying for the construction, reconstruction, expansion, or renovation of a complex, including transportation or other infrastructure improvements; paying debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; reimbursement for such costs; or the refinancing of bonds issued for such purposes.

Section 5 provides for an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

This bill has not been evaluated by the Revenue Estimating Conference.

If an applicant is certified as a motorsports entertainment complex under s. 212.094, F.S., created by Section 1 of the bill, it would be eligible to receive up to $2 million per year for up to 30 years, for a total distribution payment amount of $60 million.

B. Private Sector Impact:

The bill will allow the master developer or owner of a motorsport entertainment complex to receive funding to support renovations of such a complex.

C. Government Sector Impact:

The bill may impact the resource demands of the Department of Economic Opportunity.

The bill will have an insignificant operational impact on the Department of Revenue.[24]

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Revenue raised several issues in its analysis of the bill related to the implementation and administration of the new programs.[25]

The bill allows the Department of Economic Opportunity to adopt rules relating to application and certification for receipt of state sales tax refunds for building materials.

The bill allows the Department of Revenue to adopt rules relating to administering the state sales tax refund for building materials.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Commerce and Tourism on April 8, 2013:
The CS does the following:

- Clarifies that DOR and not DEO may audit distribution payments under s. 212.20, F.S. The CS also clarifies that DOR and not DEO may audit sales tax refund payments under the increment-based sales tax refund program.
- Creates a monthly distribution payment of $166,667 under s. 212.20, F.S., for a motorsport complex certified under s. 212.094, F.S., created in Section 1 of the bill.

B. Amendments:

None.

[24] Department of Revenue, *Agency Bill Analysis: SB 1394*, (March 20, 2013), (on file with the Senate Commerce and Tourism Committee).
[25] *Id.*

563522

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/08/2013	.	

The Committee on Commerce and Tourism (Ring) recommended the following:

Senate Amendment (with title amendment)

Before line 45
insert:

Section 1. Paragraph (b) of subsection (1) of section 125.35, Florida Statutes, is amended to read:

125.35 County authorized to sell real and personal property and to lease real property.—

(1)

(b) Notwithstanding ~~the provisions of~~ paragraph (a), the board of county commissioners may ~~is expressly authorized to~~:

1. Negotiate the lease of an airport or seaport facility;

563522

2. Modify or extend an existing lease of real property for an additional term not to exceed 25 years, where the improved value of the lease has an appraised value in excess of $20 million; or

3. Lease a professional sports franchise facility financed by revenues received pursuant to s. 125.0104 or s. 212.20, which may include commercial development that is ancillary to the sports facility if the ancillary development property is part of or contiguous to the professional sports franchise facility;

under such terms and conditions as negotiated by the board.

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

And the title is amended as follows:

Delete lines 2 - 3

and insert:

An act relating to sports facilities; amending s. 125.35, F.S.; providing that a county may include a commercial development that is ancillary to a professional sports facility in the lease of a sports facility; creating s. 212.094, F.S.; providing

141882

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete lines 296 - 302
and insert:

<u>(3) As provided in s. 212.094(6), the department may audit to verify that distributions pursuant to this section have been expended as required. If the department determines that the distributions have not been expended as required, it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.</u>

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

141882

And the title is amended as follows:

Delete line 22

and insert:

Revenue to audit the expenditure of such

570688

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete lines 354 - 360
and insert:

<u>(7) As provided in s. 212.094(6), the department may audit to verify that the distributions pursuant to this section have been expended as required. If the department determines that the distributions have not been expended as required, it may pursue recovery of such funds pursuant to the laws and rules governing the assessment of taxes.</u>

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

570688

And the title is amended as follows:

Delete line 34

and insert:

Department of Revenue to audit the

442424

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/08/2013	.	
	.	
	.	
	.	

The Committee on Commerce and Tourism (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete line 438
and insert:
pursuant to s. 288.1162. The department shall distribute $166,667 monthly pursuant to s. 212.0943 to an applicant certified as a motorsports entertainment complex under s. 212.094. Up to $41,667 shall be distributed

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

442424

Between lines 36 and 37

insert:

providing for a monthly distribution of a specified amount of sales tax revenue to a facility certified by the Department of Economic Opportunity as a motorsports entertainment complex;

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic ______________________ Bill Number 1394 *(if applicable)*

Name Joey Chitwood Amendment Barcode — *(if applicable)*

Job Title President, Daytona Int'l Speedway

Address 1801 W. Int'l Speedway Blvd Phone 386-681-4211
Street

Daytona Beach FL 32114 E-mail jchitwood@daytonainternationalspeedway.com
City *State* *Zip*

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 /2013
Meeting Date

Topic ____________________ Bill Number 1394 *(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

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic MOTORSPORTS ENT

Bill Number 1394 (if applicable)

Name ~~Wayn~~ WAYNE JUSTICE

Amendment Barcode ________ (if applicable)

Job Title MARITIME CONST / MERCHANTS ASSN.

Address 502 COCOA ISLES BLVD
Street

COCOA BEACH FL 32931
City State Zip

Phone 757-474-5777

E-mail Wejustice@aol.com

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

Representing ________

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: Motorsports

Bill Number: 1394 (if applicable)

Name: J. David Tillman

Amendment Barcode: (if applicable)

Job Title: Civil Engineer

Address: 1720 SE 16th Ave
Street

Ocala FL 34471
City State Zip

Phone: 352-307-1947

E-mail: dtillman@tillmaneng.com

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

Representing

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: MOTORSPORTS ENT COMP

Bill Number: 1394 (if applicable)

Name: STANLEY ESCUDERO

Amendment Barcode: ____ (if applicable)

Job Title: AMBASSADOR OF US (RET)

Address: 3034 SOUTH PENINSULA
Street

Phone: ____

DAYTONA BEACH FL 32118
City State Zip

E-mail: ____

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

Representing: ____

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: MOTORSPORTS COMPLEX

Bill Number: 1394 (if applicable)

Name: RITA CAPUTO

Amendment Barcode: ______ (if applicable)

Job Title: ADMINISTRATOR

Address: 335 Bucknell Dr
Street

Daytona Beach FL 32118
City State Zip

Phone: 386-547-4037

E-mail: rcamang21@yahoo.com

Speaking: [x] For [ ] Against [ ] Information

Representing: ______

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

Lobbyist registered with Legislature: [ ] Yes [x] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-13
Meeting Date

Topic: Motorsports Entertainment

Bill Number: SB 1394 (if applicable)

Name: David Moore

Amendment Barcode: ______ (if applicable)

Job Title: Marion County Commissioner District 1

Address: 1124 SE 33rd Ave
Street

Ocala, FL 34471
City State Zip

Phone: 352-624-2421

E-mail: David.Moore@marioncountyfl.org

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

Representing: Marion County

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-13
Meeting Date

Topic SB 1394 - Motorsports Entertainment Complex

Bill Number SB 1394 *(if applicable)*

Name Jeffrey Hentz

Amendment Barcode ______ *(if applicable)*

Job Title President / CEO . Daytona Beach Convention/Visitors Bureau

Address 126 E. Orange Ave
Street

Daytona Beach FL 32114
City *State* *Zip*

Phone 386-255-0415

E-mail Jhentz@DaytonaBeach.com

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

Representing Daytona Beach CVB

Appearing at request of Chair: [ ] Yes [X] 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)

4-7-13
Meeting Date

Topic Senate Bill 1394

Bill Number SB 1394 *(if applicable)*

Name Michael Sznapstajler (Shnops-tyler)

Amendment Barcode ____ *(if applicable)*

Job Title Attorney

Address 150 Magnolia Ave
Street

Daytona Beach FL 32114
City *State* *Zip*

Phone 386-323-9222

E-mail Michael.Sznapstajler@cobbcole.com

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

Representing Daytona Beach Young Professionals Group

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/2013
Meeting Date

Topic: Daytona Speedway Expansion
Bill Number: SB-1394 *(if applicable)*

Name: Ralph Smith
Amendment Barcode: ______ *(if applicable)*

Job Title: owner of Lake Tire & Auto

Address: 812 W. Burleigh Blvd
Street
Phone: 352-343-0041

Tavares, Fl 32778
City *State* *Zip*
E-mail: LKtire@comcast.net

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.

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic Motorsports Complexes

Bill Number SB 1394 *(if applicable)*

Name Brewster Bevis

Amendment Barcode ______ *(if applicable)*

Job Title Senior VP

Address 516 N Adams St
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-224-7173

E-mail bbevis@aif.com

Speaking: [x] For [ ] Against [ ] Information

Representing Associated Industries of Florida

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

Lobbyist registered with Legislature: [x] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: Daytona Motor Sports

Bill Number: SB 1394 (if applicable)

Name: Richard Watson

Amendment Barcode: ________ (if applicable)

Job Title: Legislative Counsel

Address: P.O. Box 10038
Street

Tallahassee, FL 32302
City State Zip

Phone: 850 222.0000

E-mail: rick@rwatsonandassociates.com

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

Representing: Associated Builders and Contractors

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4/8/2013 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic: Motorsports Entertainment Complexes

Bill Number: SB1394 *(if applicable)*

Name: GEORGIA McKEOWN

Amendment Barcode: ____ *(if applicable)*

Job Title: Consultant & citizen of Volusia County

Address: 2855 S. Atlantic Ave #404 *Street*

Daytona Beach Shores, FL 32118 *City* *State* *Zip*

Phone: 904 303-1611

E-mail: gabrmckeowne gmail.com

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

Representing: MYSELF (Here as citizen of Volusia County

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

Lobbyist registered with Legislature: [X] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-8-13
Meeting Date

Topic SB 1394 - (Speedway) Bill Number SB 1394 *(if applicable)*

Name Leslie Campione Amendment Barcode ______ *(if applicable)*

Job Title Lake County Commissioner - Chairman

Address 18526 CR 44A Phone 352-455-4633
Street

Eustis Fl 32736 E-mail Campionelaw@comcast.net
City *State* *Zip*

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. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: Motorsports Speedway

Bill Number: 1394 *(if applicable)*

Name: Mario Bailey

Amendment Barcode: ______ *(if applicable)*

Job Title: ______

Address: ______
Street

Phone: ______

______
City *State* *Zip*

E-mail: ______

Speaking: [x] For [ ] Against [ ] Information

Representing: Bethune Cookman University

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

Lobbyist registered with Legislature: [x] Yes [ ] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic: MOTORSPORTS ENTERTAINMENT COMPLEX

Bill Number: 1344 *(if applicable)*

Name: STAN McCLAIN

Amendment Barcode: _______ *(if applicable)*

Job Title: MARION COUNTY COMMISSIONER

Address: 601 SE 25TH AVE
Street

OCALA, FL 34471
City, *State*, *Zip*

Phone: _______

E-mail: _______

Speaking: [x] For [ ] Against [ ] Information

Representing: _______

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

Lobbyist registered with Legislature: [ ] Yes [x] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

____
Meeting Date

Topic ______________ Bill Number 1394 *(if applicable)*

Name STANLEY GLOSTER Amendment Barcode ______________ *(if applicable)*

Job Title POLITICAL CONSULTANT

Address 8011 PEACH DR Phone 813-952-3184
Street

TAMPA FL 33637 E-mail StanleyGloster@yahoo.com
City *State* *Zip*

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

Representing ______________

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

____
Meeting Date

Topic MOTORSPORTS ENT. COMPANY

Bill Number 1394 *(if applicable)*

Name MARCEL (BUTCH) VERRANDO

Amendment Barcode ______ *(if applicable)*

Job Title ENGINEER

Address 8490 SW 138TH TER
Street

DUNNELLON FL 34432
City *State* *Zip*

Phone 352-620-5820

E-mail ______

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

Representing ______

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

____
Meeting Date

Topic: Motorsports Ent

Bill Number: 1394 *(if applicable)*

Name: Jim Handley

Amendment Barcode: _______ *(if applicable)*

Job Title: Retired IBM Corp

Address: 10 Willow Green DR
Street

Cocoa Bch FL 32931
City *State* *Zip*

Phone: 321-795-3949

E-mail: jwhandley@earthlink.net

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

Representing ________________

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic ______________________

Bill Number SB1394 *(if applicable)*

Name Jim Capenera

Amendment Barcode ______________________ *(if applicable)*

Job Title Volunteer

Address 124 Cypress Grove LN
Street

Ormond Beach FL 32174
City *State* *Zip*

Phone (386)

E-mail capzJ@yahoo.com

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

Representing ______________________

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

Lobbyist registered with Legislature: [ ] Yes [X] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic ______________________ Bill Number SB 1344 *(if applicable)*

Name Horace Anderson JR Amendment Barcode ______ *(if applicable)*

Job Title Self employed cosmetologist

Address 114 M.M.B Blvd
Street

Phone 386-405-4734

Daytona Beach FL 32114
City *State* *Zip*

E-mail hay21450@gmail.com

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

Representing ______________________

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic ____________________ Bill Number 1394 *(if applicable)*

Name Heather Post Amendment Barcode ____________________ *(if applicable)*

Job Title Founder Director

Address 911 Fruitwood Place Phone ____________________
Street

port orange FL 32127 E-mail HPost@TESeed.com
City *State* *Zip*

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

Representing ____________________

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/6/12
Meeting Date

Topic: Motorsports Ent. Complex

Bill Number: 1394 *(if applicable)*

Name: Patrick Sullivan

Amendment Barcode: ______ *(if applicable)*

Job Title: Director of Sales Homewood Suites By Hilton

Address: 165 Bill France Blvd
Street

Daytona Beach FL 32114
City *State* *Zip*

Phone: 386-258-2828

E-mail: ______

Speaking: [x] For [ ] Against [ ] Information

Representing ______

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

Lobbyist registered with Legislature: [ ] Yes [x] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic ______ Bill Number 1344 *(if applicable)*

Name Yvonne Gloster Amendment Barcode ______ *(if applicable)*

Job Title Healthcare management

Address 8011 Peach Drive
Street

Phone 813 787-0844

Tampa FL 33637
City *State* *Zip*

E-mail ______

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

Representing ______

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/13
Meeting Date

Topic ______________________

Bill Number 1394 (if applicable)

Name EVA PIPER

Amendment Barcode ______________ (if applicable)

Job Title PRESIDENT

Address 931 WOODSTREAM LANE
Street

ORMOND BCH FL 32174
City State Zip

Phone ______________

E-mail ______________

Speaking: [x] For [ ] Against [ ] Information

Representing ______________________

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

Lobbyist registered with Legislature: [ ] Yes [x] No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/6/13
Meeting Date

Topic ______ Bill Number 1394 *(if applicable)*

Name RICHARD TODD Amendment Barcode ______ *(if applicable)*

Job Title FRANCHISE OWNER AAMCO

Address 460 S. WOODLAND BLVD Phone ______
Street

DELAND FL 32720 E-mail ______
City *State* *Zip*

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

Representing ______

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/13
Meeting Date

Topic ____________________ Bill Number 1394 *(if applicable)*

Name JIM CAMERON Amendment Barcode ____________________ *(if applicable)*

Job Title SR. VICE PRES. DAYTONA CHAMBER

Address 126 E. ORANGE AVE Phone 386-566-2140
Street

~~PO~~ DAYTONA BEACH FL 32114 E-mail ____________________
City *State* *Zip*

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

Representing DAYTONA REGIONAL CHAMBER

Appearing at request of Chair: [ ] Yes [X] No Lobbyist registered with Legislature: [ ] Yes [X] No

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

This form is part of the public record for this meeting. S-001 (10/20/11)

CourtSmart Tag Report

Room: EL 110	**Case:**	**Type:**
Caption: Senate Commerce & Tourism	**Judge:**	

Started: **4/8/2013 1:01:25 PM**
Ends: **4/8/2013 2:09:50 PM Length: 01:08:26**

1:01:28 PM	Roll Call
1:02:00 PM	SB 282- Sen. Richter
1:03:17 PM	Alice Vickers- FL Consumer Action Network
1:05:45 PM	Brian Pitts- Justice-2-Jesus
1:07:14 PM	Roll Call
1:07:33 PM	SB 394- Sen. Hays
1:08:38 PM	Amendment Barcode 528392-Substitute Amendment 498458
1:10:29 PM	Brian Pitts- Justice-2-Jesus
1:12:33 PM	Frank Meiners- FL Cultural Alliance
1:14:18 PM	Roll Call
1:14:52 PM	CS/SB 1300- Sen. Simmons
1:15:19 PM	Amendment Barcode 156014
1:16:54 PM	Amendment Barcode 358348
1:18:25 PM	Justin Thames- FL Institute of CPAs
1:20:10 PM	Brian Pitts- Justice-2-Jesus
1:24:09 PM	Sen. Margolis Question
1:26:16 PM	Roll Call
1:27:19 PM	CS/SB 528- Sen. Simpson
1:28:38 PM	Sen.Thompson Question
1:29:00 PM	Brian Pitts- Justice-2-Jesus
1:31:50 PM	Roll Call
1:31:59 PM	SB 1156- Sen. Altman- Temporarily Postponed
1:32:52 PM	SB 1394- Sen. Hukill
1:33:13 PM	Amendment Barcode 563522
1:33:23 PM	Amendment Barcode 141882
1:34:02 PM	Amendment Barcode 570688
1:34:31 PM	Sen. Margolis Question
1:34:58 PM	Amendment Barcode 442424
1:36:08 PM	Sen. Hukill- SB 1394- Background
1:39:17 PM	Sen. Hays Question
1:41:23 PM	Sen. Detert Question
1:46:09 PM	Joey Chitwood- President- Daytona International Speedway
1:48:20 PM	Brian Pitts- Justice-2-Jesus
1:50:07 PM	J. David Tillman- Civil Engineer
1:51:08 PM	Stanley Escudfuro- Ambassador of U.S. (Retired)
1:53:25 PM	Jeffrey Hentz- President/CEO- Daytona Beach Convention/ Visitor Bureau
1:55:30 PM	Michael Sznapstajler- President- Daytona Beach Young Professionals Group
1:57:41 PM	Ralph Smith- Owner of Lake Tire & Auto
1:59:35 PM	Leslie Campione- Lake County Commisioner- Chairman
2:04:30 PM	Sen. Simpson Comment
2:05:10 PM	Sen. Stargel Comment
2:05:18 PM	Sen. Bean Comment
2:05:27 PM	Sen. Richter Comment
2:07:42 PM	Sen. Hukill Close
2:08:14 PM	Roll Call