

**CS/SB 1160** by **EP, Evers**; (Similar to CS/H 1113) Onsite Sewage Treatment and Disposal Systems

893186 A S L WD AG, Grimsley btw L.14 - 15: 04/07 05:04 PM

**CS/SB 1182** by **CM, Brandes**; (Compare to CS/H 0771) Secondary Metals Recyclers

303254 A S L RCS AG, Brandes Delete L.391 - 404: 04/07 05:04 PM

**CS/SB 1206** by **ED, Montford**; (Similar to CS/CS/H 0487) Agricultural Industry Certifications

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**AGRICULTURE**  
**Senator Montford, Chair**  
**Senator Bullard, Vice Chair**

**MEETING DATE:** Monday, April 7, 2014  
**TIME:** 4:00 —6:00 p.m.  
**PLACE:** 301 Senate Office Building

**MEMBERS:** Senator Montford, Chair; Senator Bullard, Vice Chair; Senators Brandes, Galvano, Garcia, Grimsley, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 1160</b> Environmental Preservation and Conservation / Evers (Similar CS/H 1113)	Onsite Sewage Treatment and Disposal Systems; Delaying the effective date of the prohibition against the land application of septage from onsite sewage treatment and disposal systems; requiring the Department of Environmental Protection to examine and report on potential options for safely and appropriately disposing or reusing septage; requiring the department to submit a report of its findings and recommendations, etc.  EP 03/26/2014 Fav/CS HP 04/01/2014 Favorable AG 04/07/2014 Favorable	Favorable Yeas 5 Nays 0
2	<b>CS/SB 1182</b> Commerce and Tourism / Brandes (Compare CS/H 771)	Secondary Metals Recyclers; Providing for a type two transfer of the regulation of secondary metals recyclers from the Department of Revenue to the Department of Agriculture and Consumer Services; authorizing investigators of the Department of Agriculture and Consumer Services to inspect regulated metals property and records of secondary metals recyclers; requiring that a secondary metals recycler maintain certain insurance coverage throughout the registration period; requiring that certain applicants for a secondary metals recycler registration be fingerprinted by certain agencies, entities, or vendors, etc.  CM 03/24/2014 Fav/CS AG 04/07/2014 Fav/CS AP	Fav/CS Yeas 5 Nays 0

**COMMITTEE MEETING EXPANDED AGENDA**

Agriculture

Monday, April 7, 2014, 4:00 —6:00 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	<b>CS/SB 1206</b> Education / Montford (Similar CS/CS/H 487)	Agricultural Industry Certifications; Requiring the Department of Agriculture and Consumer Services to annually provide to the State Board of Education and the Department of Education information and industry certifications for farm occupations to be considered for placement on industry certification funding lists; defining the term "industry certification"; requiring the state board to adopt rules for implementing an industry certification process for farm occupations, etc.	Favorable Yeas 5 Nays 0
		ED 03/18/2014 Temporarily Postponed ED 03/25/2014 Fav/CS AG 04/07/2014 Favorable AP	

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Other Related Meeting Documents

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**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 1160

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Evers

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: April 7, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gudeman</u>	<u>Uchino</u>	<u>EP</u>	<b>Fav/CS</b>
2.	<u>Peterson</u>	<u>Stovall</u>	<u>HP</u>	<b>Favorable</b>
3.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<b>Favorable</b>

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1160 extends the effective date of the ban on land application of septage to January 1, 2017. It also requires the Department of Environmental Protection (DEP), in consultation with others, to examine and report to the Governor and Legislature on options for disposing of or reusing septage, and the contents of portable toilets, grease interceptors, and holding tanks.

**II. Present Situation:**

The Department of Health (DOH) oversees the administration of onsite sewage treatment and disposal systems (OSTDSs, septic systems) in order to detect and prevent disease caused by natural and manmade factors in the environment.<sup>1</sup> The DOH estimates there are approximately 2.6 million septic tanks in use statewide.<sup>2</sup> An onsite sewage treatment and disposal system is:<sup>3</sup>

“a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-

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<sup>1</sup> See s. 381.006(7), F.S.

<sup>2</sup> Fla. Dept. of Health, *Onsite Sewage*, <http://www.floridahealth.gov/healthy-environments/onsite-sewage/index.html> (last visited April 3, 2014).

<sup>3</sup> Section 381.0065(2)(k), F.S.

composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of, or in conjunction with, the system. The term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.”

The systems operate by allowing sewage to flow from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria, which do not require oxygen, in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.<sup>4</sup>

The DOH’s Onsite Sewage Program, in the Bureau of Environmental Health (bureau), develops statewide rules and provides training and standardization for county health department employees responsible for permitting the installation and repair of OSTDSs. The bureau also licenses septic system contractors, approves continuing education courses and courses provided for septic system contractors, funds a hands-on training center, and mediates septic system contracting complaints. The bureau also manages a state-funded research program, prepares research grants, and reviews and approves innovative products and OSTDS designs.<sup>5</sup>

The majority of septage is regulated by the DOH; however, the DEP permits OSTDSs when the estimated domestic sewage flow from the establishment is over 10,000 gallons per day or the commercial sewage flow is over 5,000 gallons per day. The DEP also has jurisdiction over OSTDSs where there is a likelihood that the system will receive toxic, hazardous or industrial wastes, where a sewer system is available, or if any system or flow from the establishment is currently regulated by the DEP. Variances can be granted by either agency as needed.<sup>6</sup>

### **Land Application of Septage**

The land application of septage from OSTDSs is an approved method of disposal in Florida, and is common in rural areas.<sup>7</sup> Septage is defined as a mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of an OSTDS.<sup>8</sup> Approximately 100,000 septic tanks are pumped each year, generating 100 million gallons of septage requiring treatment and disposal.<sup>9</sup> When used for land application, the septage is stabilized by raising the pH to 12 for at least 2 hours or to a pH of 12.5 for 30 minutes.<sup>10</sup> The treated septage is then spread over

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<sup>4</sup> Environmental Protection Agency, *Primer for Municipal Wastewater Treatment Systems*, 2004, p. 22, available at [http://water.epa.gov/aboutow/owm/upload/2005\\_08\\_19\\_primer.pdf](http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf) (last visited April 3, 2014).

<sup>5</sup> Fla. Dept. of Health, *Resource Manual*, 169 (FY 2012 – 2013) (on file with the Senate Health Policy Committee).

<sup>6</sup> Fla. Dept. of Environmental Protection, *Septic Systems*, <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm> (last visited April 3, 2014).

<sup>7</sup> Fla. Dept. of Health, Bureau of Onsite Sewage Programs, *Report on Alternative Methods for the Treatment and Disposal of Septage*, 1 (Feb. 1, 2011), available at [http://pk.b5z.net/i/u/6019781/f/FINAL\\_REPORT\\_ON\\_ALTERNATIVE\\_METHODS\\_FOR\\_THE\\_TREATMENT\\_AND\\_DISPOSAL\\_OF\\_SEPTAGE\\_03282011\\_2\\_.pdf](http://pk.b5z.net/i/u/6019781/f/FINAL_REPORT_ON_ALTERNATIVE_METHODS_FOR_THE_TREATMENT_AND_DISPOSAL_OF_SEPTAGE_03282011_2_.pdf) (last visited April 3, 2014).

<sup>8</sup> Section 381.0065(2)(n), F.S.

<sup>9</sup> *Supra* note 6, at 1.

<sup>10</sup> Rule 64E-6.010(7)(a), F.A.C.

the land at DOH-regulated land application sites.<sup>11</sup> In addition to septage, onsite systems serving restaurants include tanks that separate grease from the sewage stream. The grease is collected, hauled, treated, and land applied similarly to septage. There are 92 land application sites receiving septage from 108 treatment facilities. The land application of septage accounts for approximately 40 percent of disposal in Florida. The rest is either managed at a wastewater treatment facility or a municipal landfill.<sup>12</sup>

In 2010, the Legislature passed SB 550, which created a 5-year OSTDS inspection program to be fully implemented by the DOH by January 2016, and banned the land application of septage by January 1, 2016.<sup>13</sup> The law required the DOH to adopt rules and begin initial inspections of OSTDSs by January 1, 2011.<sup>14</sup>

During the November 2010 Special Session, the Legislature acted to extend the implementation date of the inspection program to July 1, 2011, so it could take up the issue during the 2011 Regular Session.<sup>15</sup> Several bills were introduced in 2011 to address the inspection program and repeal the ban on land application of septage. Although none passed, provisions were included in the implementing act for the 2011-2012 General Appropriations Act that prohibited the DOH from expending funds to move forward with an inspection program until it submits a plan for approval by the Legislative Budget Committee.<sup>16</sup>

In 2012, the statewide inspection program and the DOH's rulemaking authority were repealed. A county or municipality with a first magnitude spring<sup>17</sup> was required to adopt a local ordinance for an OSTDS evaluation and assessment program, unless the county or municipality opted out. All other counties were given the option to opt in.<sup>18</sup> All counties required to opt out of the inspection program have done so, and no county or municipality has opted in.

### ***Department of Health Requirements***

The DOH regulates the land application of septage pursuant to Rule 64E-6.010, F.A.C., which requires land application of septage be applied at least:

- 3000 feet from a Class I water body or Outstanding Florida Waters;
- 300 feet from any surface water bodies, except canals or bodies of water that are used for irrigation;
- 500 feet from any public water supply wells;
- 300 feet from any private drinking water supply well;
- 300 feet from a habitable building; and
- 75 feet from property lines and drainage ditches.

The following provisions are required for the land application site and timing of land application:

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<sup>11</sup> See Rule 64E-6.010, F.A.C.

<sup>12</sup> *Supra* note 6 at 1.

<sup>13</sup> Chapter 2010-205, s. 35, Laws of Fla.

<sup>14</sup> *Id.*

<sup>15</sup> Chapter 2010-283, Laws of Fla.

<sup>16</sup> Chapter 2011-47, s. 13, Laws of Fla.

<sup>17</sup> "First magnitude spring" is a spring that has a median water discharge of greater than or equal to 100 cubic feet per second for the period of record, as determined by the DEP. (s. 381.00651(1), F.S.)

<sup>18</sup> Chapter 2012-184, s. 33, Laws of Fla.

- A minimum of 24 inches of unsaturated soil above the ground water table at the time of septage or sludge application;
- If the wet season high ground water table is within 2 feet of the surface or is not determined in the Agricultural Use Plan, then the water table at the time of application must be determined using a monitoring well;
- Land application is prohibited during rain events that are significant enough to cause runoff, or when the soil is saturated;
- The application area must have sufficient buffer areas or stormwater management structures to retain the run-off from a 10-year, 1-hour storm;
- The topographic grade shall not exceed 8 percent;
- A layer of permeable soil at least 2 feet thick must cover the surface of the land application area; and
- The land application area and an area 200 feet wide adjacent to the site must not contain:
  - Subsurface fractures,
  - Solution cavities;
  - Sink holes;
  - Excavation core holes;
  - Abandoned holes; or
  - Other natural or manmade conduits.

Sufficient storage capacity for the septage or sludge is required during periods of equipment failure. All facilities must be designed, located, and operated to prevent nuisance conditions and runoff.

Groundwater quality criteria for groundwater and surface water cannot be violated as a result of land application of septage or sludge and the DOH may require water quality testing. The site owner must suspend activities if water quality is violated.

Application rates of septage and food establishment sludge are limited by nitrogen content of the waste and not phosphorus content, unless otherwise provided. For the application rate limited by nitrogen:

- The maximum annual surface application rate is 500 pounds per acre in a 12-month period (equates to six dry tons or 40,000 gallons of typical septage per acre per year);
- Septage must be applied as evenly as possible to ensure maximum uptake of nitrogen;
- The annual application rate of nitrogen (AAR) can be calculated using the following formula:  $AAR = N \div 0.0026$ , where N is the amount of nitrogen in pounds per acre per 365 day period needed by the crop or vegetation.

Where the application rate is limited by phosphorus:

- The maximum annual surface application rate is 40 pounds per acre in a 12-month period (equates to two dry tons or 12,000 gallons of typical septage per year);
- The formulas to calculate AAR of phosphorus are:
  - $AAR = P \div 0.0076$  (if crop demand is calculated for  $P_2O_5$ ); and
  - $AAR = P \div 0.0033$  (if crop demand is calculated P).

The rule requires permanent records be kept of the application areas and rates. The records are to be maintained by the site owner, lessee, or the land applicator for 5 years and must be available for inspection by the DOH. The annual summary of total septage or sludge must be included in the annual update to the Agricultural Use Plan. The records must include the:

- Location of the septage treatment facility where each load of treated septage is obtained;
- Date and time the treated septage was obtained from the treatment facility;
- Dates of septage or sludge land application;
- Weather conditions when applied;
- Location of septage or sludge application site;
- Amounts of septage or sludge applied;
- Specific area of the site where septage or sludge was applied;
- pH of stabilized septage or sludge;
- Soil groundwater table when septage was applied; and,
- Vegetational status of application area.<sup>19</sup>

### **Alternatives to Land Application of Septage**

There are two current practices in Florida that serve as alternatives to land application of septage. Neither is available in every part of the state. Typically, septage that is not land applied is either treated at wastewater treatment facilities or is dewatered and then disposed of in landfills. There are other alternatives that process small quantities of septage, but they are not yet commercially available in Florida.<sup>20</sup>

#### ***Wastewater Treatment Facilities***

There are approximately 2,100 domestic wastewater treatment facilities in Florida.<sup>21</sup> Only 60 have permitted capacities greater than 10 million gallons per day, resulting in less than 30 percent of counties that have a facility this large. The DOH has determined the capacity of the facility is directly related to its ability to accept septage.<sup>22</sup>

Disposing septage at a wastewater treatment facility centralizes the waste treatment process, however, the high strength septage from septic tanks leads to increased operational costs. High strength septage is produced from properly functioning OSTDSs, which separate the liquids from the solids, concentrating the solids at the bottom of the tank. The result is high strength septage with a higher concentration of solid to liquid than wastewater treatment plants typically receive.<sup>23</sup>

There are two current methods facilities used to assimilate septage into the waste stream. The less desirable of the two is allowing septage haulers to discharge the entire load in one “slug” into the main lift station or headworks. This method has the potential to upset the process because of the high concentration of solids entering the system quickly. A more desirable

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<sup>19</sup> Rule 64E—6.010, F.A.C.

<sup>20</sup> *Supra* note 6 at 2-4.

<sup>21</sup> Fla. Dept. of Environmental Protection, *General Facts and Statistics about Wastewater in Florida*, <http://www.dep.state.fl.us/WATER/wastewater/facts.htm> (last visited April 3, 2014).

<sup>22</sup> *Supra* note 6 at 2-3.

<sup>23</sup> *Supra* note 6 at 2-3.



method is to discharge the slug load into a holding tank and then slowly release the septage into any of various treatment points in the system as capacity allows.<sup>24</sup> The average rate for this disposal method is 6 to 12 cents per gallon.<sup>25</sup>

### *Disposal in Landfills*

A second option for septage disposal is at Class I landfills. There are 48 active Class I landfills in Florida. This method also has benefits and drawbacks. The main benefits are:

- It increases microbial activity within the landfill resulting in faster decomposition and waste stabilization;
- It requires less acreage than land application sites; and,
- Purchasing additional land is not required for disposal at existing Class I landfills.

However, disposal of dewatered septage can lead to some instability, as well as slick working conditions for compaction equipment. Septage also needs to be covered quickly to avoid health hazards for workers from pathogen exposure and to avoid attracting birds, insects, and rodents.<sup>26</sup>

Landfills follow state rules based on an Environmental Protection Agency Paint Filter test when accepting septage. Typically, septage is 2 to 3 percent solids and must be dewatered to achieve 12 percent solids before it passes the paint filter test. The dewatering process releases effluent that must be disposed of properly. Alternatively, some landfill operators add dry solids to septage to meet the paint filter test requirements. In either scenario, septage must be processed before it can be landfilled. The average cost of landfilling septage is 10 cents per gallon.<sup>27</sup>

### **III. Effect of Proposed Changes:**

The bill amends s. 381.0065, F.S., to extend the effective date of the ban on the land application of septage from January 1, 2016, to January 1, 2017.

The bill requires the DEP, in consultation with the Department of Agriculture and Consumer Services, the Department of Economic Opportunity, the University of Florida Institute of Food and Agricultural Sciences, local governments, and other stakeholders, to examine and report on the options for disposing of or reusing septage, and the contents of portable toilets, grease inceptors, and holding tanks. The report is to include:

- An inventory of domestic wastewater utilities and solid waste management facilities that receive and treat septage, and the contents of portable toilets, grease inceptors, and holding tanks;
- An inventory of permitted septage land application sites;
- An analysis of nutrient concentrations of septage;
- An analysis of the technical limitations for domestic wastewater utilities and solid waste management facilities to receive and treat septage, and the contents of portable toilets, grease inceptors, and holding tanks;

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<sup>24</sup> *Supra* note 6, at 2-3.

<sup>25</sup> *Supra* note 6, at 3.

<sup>26</sup> *Supra* note 6, at 3.

<sup>27</sup> *Supra* note 6, at 3-4.

- An analysis of the sufficiency of Rule 64E-6, F.A.C., in managing nutrient loading from application sites. The analysis must emphasize high recharge areas and sensitive surface waters or groundwaters;
- An analysis of compliance rates with Rule 64E-6, F.A.C., and the sufficiency of operator oversight;
- An analysis of the sufficiency of penalties for noncompliance;
- An analysis of the transfer of regulatory authority over the land application of septage from the DOH to the DEP. This analysis must include:
  - The environmental benefits of applying nutrient management plan requirements;
  - Setbacks;
  - Site-monitoring requirements; and
  - Provisions of Rule 62-640, F.A.C.

The bill requires the DEP to submit a report of its findings and recommendations to the Governor, the Senate President, and the Speaker of the House of Representatives by February 1, 2015.

The bill provides an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The DEP will incur a cost to conduct the study; however, the DEP did not provide this information, therefore the amount is indeterminate.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 381.0065 of the Florida Statutes.

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

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

**CS by Environmental Preservation and Conservation on March 26, 2014:**

The CS for SB 1160:

- Extends the effective date of the ban on land application of septage to January 1, 2017; and,
- Requires the DEP to submit a report to the Governor, the Senate President, and the Speaker of the House of Representatives by February 1, 2015.

**B. Amendments:**

None.



893186

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/07/2014	.	
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The Committee on Agriculture (Grimsley) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 14 and 15

insert:

Section 1. Section 373.224, Florida Statutes, is amended to read:

373.224 Existing permits.—Any permits or permit agreements for consumptive use of water executed or issued by an existing flood control, water management, or water regulatory district pursuant to this chapter or chapter 378 prior to December 31,



893186

11 1976, shall remain in full force and effect in accordance with  
12 their terms until otherwise modified or revoked as authorized  
13 herein. In the interest of the environment, efficiency, and  
14 capital investment in water- and sewer-related infrastructure,  
15 including reclaimed water distribution systems, a permitholder  
16 that has invested substantially in water- and sewer-related  
17 infrastructure in a given area shall provide water- and sewer-  
18 related services to properties most efficiently served by such  
19 infrastructure. A permitholder may not deny water- or sewer-  
20 related services to properties located outside of a designated  
21 water or sewer service area which are within 1,000 feet of the  
22 permitholder's existing water- and sewer-related infrastructure.

23  
24 ===== T I T L E A M E N D M E N T =====

25 And the title is amended as follows:

26 Delete line 3

27 and insert:

28 disposal systems; amending s. 373.224, F.S.; requiring  
29 certain permitholders to provide water- and sewer-  
30 related services to properties most efficiently served  
31 by such infrastructure; providing that permitholders  
32 may not deny water or sewer related services to  
33 certain properties; amending s. 381.0065, F.S.;

34 delaying

By the Committee on Environmental Preservation and Conservation;  
and Senator Evers

592-03286-14

20141160c1

1 A bill to be entitled  
2 An act relating to onsite sewage treatment and  
3 disposal systems; amending s. 381.0065, F.S.; delaying  
4 the effective date of the prohibition against the land  
5 application of septage from onsite sewage treatment  
6 and disposal systems; requiring the Department of  
7 Environmental Protection to examine and report on  
8 potential options for safely and appropriately  
9 disposing or reusing septage; requiring the department  
10 to submit a report of its findings and  
11 recommendations; providing an effective date.  
12  
13 Be It Enacted by the Legislature of the State of Florida:  
14  
15 Section 1. Subsection (6) of section 381.0065, Florida  
16 Statutes, is amended to read:  
17 381.0065 Onsite sewage treatment and disposal systems;  
18 regulation.—  
19 (6) LAND APPLICATION OF SEPTAGE PROHIBITED.—  
20 (a) Effective January 1, 2017 ~~2016~~, the land application of  
21 septage from onsite sewage treatment and disposal systems is  
22 prohibited.  
23 (b) The Department of Environmental Protection, in  
24 consultation with the Department of Health, the Department of  
25 Agriculture and Consumer Services, the Department of Economic  
26 Opportunity, the University of Florida Institute of Food and  
27 Agricultural Sciences, local governments, and other  
28 stakeholders, shall examine and report on the potential options  
29 for safely and appropriately disposing of or reusing septage and

Page 1 of 3

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

592-03286-14

20141160c1

30 the contents of portable toilets, grease interceptors, and  
31 holding tanks, including, but not limited to:  
32 1. An inventory of domestic wastewater utilities and solid  
33 waste management facilities that are known to receive and treat  
34 septage or the contents of portable toilets, grease  
35 interceptors, and holding tanks.  
36 2. An inventory of permitted septage land application  
37 sites.  
38 3. An analysis of the nutrient concentrations of septage.  
39 4. An analysis of the technical limitations for domestic  
40 wastewater utilities and solid waste management facilities to  
41 receive and treat septage or the contents of portable toilets,  
42 grease interceptors, and holding tanks.  
43 5. An analysis of the sufficiency of chapter 64E-6, Florida  
44 Administrative Code, in managing nutrient loading from land  
45 application sites, with emphasis on high recharge areas of the  
46 aquifer and other sensitive surface waters or groundwaters.  
47 6. An analysis of compliance rates with chapter 64E-6,  
48 Florida Administrative Code, and the sufficiency of operator  
49 oversight to ensure compliance.  
50 7. An analysis of the sufficiency of penalties for  
51 noncompliance.  
52 8. The transfer of regulatory authority over the land  
53 application of septage or the contents of portable toilets,  
54 grease interceptors, and holding tanks from the Department of  
55 Health to the Department of Environmental Protection, including  
56 the environmental benefits of applying the nutrient management  
57 plan requirements, setbacks, site-monitoring requirements, and  
58 provisions of chapter 62-640, Florida Administrative Code, to

Page 2 of 3

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

592-03286-14

20141160c1

59 the land application of septage.

60 (c) The Department of Environmental Protection shall submit  
61 a report of its findings and recommendations, pursuant to  
62 paragraph (b), to the Governor, the President of the Senate, and  
63 the Speaker of the House of Representatives by February 1, 2015.

64 Section 2. This act shall take effect July 1, 2014.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Criminal Justice, *Chair*  
Appropriations Subcommittee on Finance and Tax  
Appropriations Subcommittee on Transportation,  
Tourism, and Economic Development  
Communications, Energy, and Public Utilities  
Military and Veterans Affairs, Space, and  
Domestic Security  
Transportation

### JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

**SENATOR GREG EVERS**

2nd District

April 1, 2014

Honorable Senator Montford  
Senate Agriculture Committee  
214 SOB  
Tallahassee, FL 32399

**RE: SB 1160**

Dear Chairman Montford:

Please allow this letter to serve as my respectful request to include SB 1160 regarding Onsite Sewage Treatment on the agenda for your next Agriculture Committee meeting.

Your kind consideration of this request is greatly appreciated. Please feel free to contact my office for any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Greg Evers".

Greg Evers  
State Senator, District 2

### REPLY TO:

- 209 East Zaragoza Street, Pensacola, Florida 32502-6048 (850) 595-0213 FAX: (888) 263-0013
- 308 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

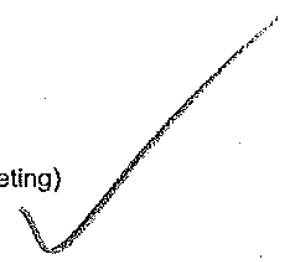
**GARRETT RICHTER**  
President Pro Tempore



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/7/14  
Meeting Date



Topic Septage - Amendment  
Name Mary Jean Yan Yan  
Job Title \_\_\_\_\_

Bill Number ~~893186~~ SB 1160  
(if applicable)  
Amendment Barcode 893186 ✓  
(if applicable)

Address \_\_\_\_\_  
Street  
\_\_\_\_\_  
City State Zip

Phone \_\_\_\_\_  
E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing \_\_\_\_\_

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**



April 7, 2014  
Meeting Date

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

Topic Septage

Bill Number SB 1160  
*(if applicable)*

Name Mary Jean Yon

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Legislative Director

Address 3324 Charleston Road

Phone 850/519-7859

Tallahassee FL 32309  
City State Zip

E-mail maryjeanyon@comcast.net

Speaking:  For  Against  Information

Representing Audubon Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

April 7, 2014  
Meeting Date



Topic OSTDS

Bill Number 1160  
*(if applicable)*

Name David Childs

Amendment Barcode 893186  
*(if applicable)*

Job Title Lobbyist

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*Street*  
Tallahassee FL 32301  
*City State Zip*

Phone 850 222-7500

E-mail DAVIDC@HOSLAW.COM

Speaking:  For  Against  Information

Representing FWBA Utility Council

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**



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

4/7/14  
Meeting Date

Topic Extension of service - CUP

Bill Number 1160  
(if applicable)

Name Ryan Matthews

Amendment Barcode 893186  
(if applicable)

Job Title Leg Advocate

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Phone 222 9684

Street

Tallahassee

FL

32302

City

State

Zip

E-mail rmatthews@flcities.com

Speaking:  For  Against  Information

Representing FL League of Cities

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



4/7/14

Meeting Date

Topic OSTIDS

Bill Number 1160

Name STEPHEN JAMES

Amendment Barcode 893186 (if applicable)

Job Title \_\_\_\_\_

Address 100 S. MONROE

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TALLAHASSEE FL 32301  
City / State Zip

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing FLA. ASSOC OF COUNTIES

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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THE FLORIDA SENATE  
**APPEARANCE RECORD**



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

4/7/14  
Meeting Date

Topic Land App.

Bill Number 1760  
*(if applicable)*

Name Jeff MANN

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Owner MANN Septic

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Barlow FL 33830  
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Speaking:  For  Against  Information

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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THE FLORIDA SENATE  
**APPEARANCE RECORD**



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

4/7/14  
Meeting Date

Topic LAND APPLICATION / SEPTAGE Bill Number 1560  
(if applicable)

Name DAVID CULLEN Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

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Street

SARASOTA FL 34243 E-mail cullenase@  
City State Zip @aol.com

Speaking:  For  Against  Information

Representing SIERRA CLUB FL

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**



7 April 2014

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

Meeting Date

Topic LAND APPLICATION

Bill Number 1160  
*(if applicable)*

Name ROYANNE L. GROOVER

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title EXECUTIVE DIRECTOR

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Phone 863 956 5540

Street

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City

State

Zip

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onsite.com

Speaking:  For  Against  Information

Representing FLORIDA ONSITE WASTEWATER ASSOC

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/20/11)



**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/CS/SB 1182

INTRODUCER: Agriculture Committee; Commerce and Tourism Committee; and Senator Brandes

SUBJECT: Secondary Metals Recyclers

DATE: April 8, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Malcolm	Hrdlicka	CM	<b>Fav/CS</b>
2.	Akhavein	Becker	AG	<b>Fav/CS</b>
3.			AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1182 transfers regulatory authority over secondary metals recyclers from the Department of Revenue (DOR) to the Department of Agriculture and Consumer Services (DACS) and makes a number of regulatory changes to provide increased oversight of secondary metals recyclers.

Specifically, the bill:

- Requires a secondary metals recycler to maintain workers' compensation insurance and general liability insurance;
- Requires the DACS to immediately suspend the registration or application for registration of a secondary metals recycler if it or any of its senior personnel is convicted of certain felonies;
- Allows the DACS to suspend, revoke, or restrict the registration of a secondary metals recycler if it has been convicted of certain crimes or violated certain regulations in a prior 10-year period;
- Expands the list of prohibited acts related to secondary metals recyclers that constitute a third-degree felony;
- Specifies that a person who knowingly provides false information and then receives payment from a secondary metals recycler in return for regulated metals commits a second- or third-degree felony depending upon the value of the payment received and makes it a second-degree felony if the payment received is for restricted regulated metals;
- Prohibits the purchase of regulated metals, restricted regulated metals, or ferrous metals on Sundays;

- Revises the types of restricted regulated metals the purchase of which is prohibited without obtaining proof that the seller is authorized to sell the metals;
- Authorizes a DACS investigator to inspect a secondary metals recycler and all records maintained by a secondary metals recycler;
- Authorizes the DACS to seek an inspection warrant if DACS personnel are denied access to a registrant's place of business in order to verify registration; and
- Authorizes the DACS to levy administrative penalties for certain violations of the secondary metals recycler regulations.

The bill appropriates \$259,721 in recurring funds and \$185,664 in nonrecurring funds to the DACS and authorizes 4 full-time equivalent positions to the DACS to implement this act.

## II. Present Situation:

Secondary metals recyclers are currently regulated by the DOR under Part II of ch. 538, F.S. A secondary metals recycler is, generally, a person who is engaged in the business of obtaining used ferrous<sup>1</sup> or nonferrous<sup>2</sup> metals or converting such metals into raw material products.<sup>3</sup> Current law requires a secondary metals recycler to register with the DOR prior to engaging in business, provides for the inspection of regulated metals and records kept by the recycler, regulates methods of payment, and provides certain prohibitions and penalties.<sup>4</sup>

The DACS is charged with, among other things, protecting consumers from unsafe or defective products and deceptive business practices. The Division of Consumer Services (division) within the DACS is tasked with receiving the state's consumer complaints. It is also responsible for overseeing and regulating a broad range of business activities, including commercial weight loss practices, telephone solicitations, dance studios, pawnshops, health studios, sellers of travel, and telemarketers. The division is also responsible for protecting consumers from unfair and unsafe business practices across a wide range of products, including petroleum products, brake fluid, antifreeze, lubricating oil, and weighing and measuring devices.

## III. Effect of Proposed Changes:

**Section 1** transfers the authority, responsibility, and funding for regulating secondary metals recyclers from the DOR to the DACS as a type two transfer.<sup>5</sup>

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<sup>1</sup> Section 538.18(3), F.S., defines ferrous metals as any metals containing significant quantities of iron or steel.

<sup>2</sup> Section 538.18(6), F.S., defines nonferrous metals as metals not containing significant quantities of iron or steel, including copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys.

<sup>3</sup> Section 538.18(11), F.S.

<sup>4</sup> A number of organizations, such as charities, non-profit corporations, and religious institutions, and individuals, such as law enforcement officers and bankruptcy trustees, are exempt from part II of ch. 538, F.S. Section 538.22, F.S.

<sup>5</sup> Section 20.06(2), F.S., defines a type two transfer to include the merging or removal of an existing program of one department into another department. Any program transferred by a type two transfer retains all its statutory powers, duties, and functions. Unless provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

## The DOR Confidentiality and Information Sharing

Under s. 213.053, F.S., information contained in returns, reports, or other documents received by the DOR, including investigative reports, is confidential and exempt from public disclosure. This protection applies to certain taxes, trust funds, and regulatory programs, including the registration of secondary metals recyclers.<sup>6</sup> The DOR may disclose certain information to other agencies, and those agencies are bound by the same requirements of confidentiality as the DOR. For example, the DOR may disclose only the name, addresses, and sales tax registration information to the division at the DACS.<sup>7</sup> Additionally, the DOR is authorized to disclose to a law enforcement officer whether a secondary metals recycler's certificate of registration is valid and provide the name of the certificate holder.<sup>8</sup>

**Section 3** amends s. 213.053, F.S., to authorize the DOR to also provide sales tax information to the division in addition to names, addresses, and sales tax registration information allowed in current law. This information may only be provided to the DACS for the purposes of enforcing the regulations related to payment methods for purchases of certain metals by secondary metals recyclers.<sup>9</sup>

The bill also repeals the DOR's authorization to disclose to a law enforcement officer whether a secondary metals recycler's certificate of registration is valid and to provide the name of the certificate holder. Because secondary metals recycler registration is transferred to the DACS, this provision in s. 213.053, F.S., is obsolete.

## Registration Requirements

Currently, under s. 538.25, F.S., a secondary metals recycler must register with the DOR and pay an annual fee of \$6 for each location. Applicants are generally required to provide a complete set of fingerprints and a recent identification card with the applicant's photo on it.<sup>10</sup> The DOR must forward an applicant's fingerprints to the Florida Department of Law Enforcement (FDLE) for a criminal background check.<sup>11</sup> The DOR may issue a temporary registration to each location pending completion of the background check.<sup>12</sup>

One application is required for each secondary metals recycler, and if a secondary metals recycler owns more than one location, the application must list each location and the DOR will issue a duplicate registration for each location.<sup>13</sup> The registration must be conspicuously displayed at the place of business set forth on the registration.<sup>14</sup>

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<sup>6</sup> Section 213.053(1), F.S.

<sup>7</sup> *Id.* at (8)(p).

<sup>8</sup> Section 213.053(11), F.S.

<sup>9</sup> Section 538.235(3), F.S.

<sup>10</sup> Section 538.25(1)(c), F.S.

<sup>11</sup> *Id.* at (1)(b). According to the DACS, the fingerprinting fee paid by an applicant is \$31.50. DACS, *Agency Analysis: SB 1182*, 2 (Mar. 3, 2014) (on file with the Committee on Commerce and Tourism).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.* at (1)(a).

<sup>14</sup> *Id.* at (2).

A fine of up to \$10,000 may be imposed for each knowing and intentional violation of the registration requirements, and if the fine is not paid within 60 days, the DOR may bring a civil action.<sup>15</sup> The DOR may also deny, revoke, restrict, or suspend a registration if, within the preceding 24 months, the applicant or registrant, knowingly and intentionally:<sup>16</sup>

- Violates provisions related to inspections<sup>17</sup> or hold notices;<sup>18</sup>
- Engages in a pattern of failing to keep records;<sup>19</sup>
- Makes a material false statement in the application for registration; or
- Engages in fraud in connection with any purchase or sale of regulated metals.

The same penalties may be assessed if, within the preceding 24 months:

- The applicant or registrant has been convicted of or pled guilty to a felony involving property, any felony drug offense, or knowingly and intentionally violating laws relating to registration as a secondary metals recycler; or
- The applicant has, after receipt of written notice from the DOR of failure to pay sales tax, failed to pay within 30 days after the receipt of the notice.<sup>20</sup>

**Section 10** amends s. 538.25, F.S., to require a secondary metals recycler to register on an application form prescribed by the DACS. The required information on the application is generally consistent with current law but must also include the full name and address of the applicant and any other information required by the DACS. If the applicant is not an individual, the applicant must state the full name and address of each owner of at least 10 percent equity interest in the business. If the applicant is a corporation, the application must state the full name and address of each officer and director.

Applicants must also be fingerprinted by an approved agency, entity, or vendor for state and national background checks. The Florida Department of Law Enforcement (FDLE) must retain the fingerprints and enroll them in the Federal Bureau of Investigation's (FBI) national retained print arrest notification program once the FDLE begins participating in the program. The applicant must pay a fee equal to the federal and state fingerprint processing costs for a criminal background check and fingerprint retention. The DACS is required to screen background results to determine if an applicant meets registration requirements. When a person is no longer registered, the DACS must notify the FDLE. During annual registration renewal, fingerprint fees are forwarded by the DACS to the FDLE for fingerprint processing and retention.

The bill repeals the fine for each knowing and intentional violation of the registration requirements.<sup>21</sup>

The bill requires each secondary metals recycler to maintain workers' compensation insurance and general liability insurance and must provide the DACS with evidence of each. Failure to

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<sup>15</sup> *Id.* at (3). See s. 120.69, F.S.

<sup>16</sup> Section 538.25(4), F.S.

<sup>17</sup> Section 538.20, F.S.

<sup>18</sup> Section 538.21, F.S.

<sup>19</sup> Section 538.19, F.S.

<sup>20</sup> Section 539.25(4)(b) and (c), F.S.

<sup>21</sup> A secondary metal recycler that does not register still commits a third-degree felony, pursuant to s. 538.23(5), F.S., and may be subject to additional administrative fines under s. 538.27, F.S., which is created in section 12 of the bill.

maintain either form of insurance constitutes an immediate threat to the public health, safety, and welfare of the residents of Florida, and the DACS may immediately suspend or deny the recycler's registration.

In addition, the bill requires a secondary metals recycler to allow the DACS personnel to enter the secondary metals recycler's place of business in order to verify that a registration is valid. If the DACS personnel are refused entry for this purpose, the DACS can seek an inspection warrant<sup>22</sup> to obtain compliance with this requirement.

The DACS may deny, suspend, revoke, or restrict a registration if the secondary metals recycler or any senior personnel of the recycler has been convicted of knowingly and intentionally violating certain requirements and regulations or been convicted of certain crimes within a 10-year period, as opposed to the current 2-year period, immediately preceding the denial, suspension, revocation, or restriction.

Upon notification from a law enforcement agency, court, state attorney, or the FDLE, the DACS must immediately suspend the registration or application of a secondary metals recycler, if the recycler, or any of its senior personnel are convicted of a felony under chs. 812<sup>23</sup> or 817, F.S.<sup>24</sup>

### **Inspections**

A properly identified law enforcement officer has the right to inspect during usual business hours any purchased regulated metals in the possession of a secondary metals recycler and any records required to be maintained by the recycler.<sup>25</sup>

**Section 7** amends s. 538.20, F.S., to provide that, in addition to a law enforcement officer, an employee of the DACS who is a nonsworn, trained regulatory investigator has the right to inspect any purchased regulated metals in possession of a secondary metals recycler and any records maintained by a recycler.

### **Violations and Penalties**

Section 538.23, F.S., makes it a third-degree felony<sup>26</sup> for a secondary metals recycler to knowingly and intentionally violate s. 538.26(2), F.S., which prohibits a secondary metals recycler from purchasing regulated metals, restricted regulated metals, or ferrous metals from a seller when such items were not transported in a motor vehicle.<sup>27</sup> This is the only prohibited act listed under s. 538.26, F.S., that is a third-degree felony. Violations of the other prohibited acts under s. 538.26, F.S., are currently first-degree misdemeanors with a fine of up to \$10,000.<sup>28</sup>

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<sup>22</sup> See ss. 933.20-933.30, F.S.

<sup>23</sup> Chapter 812, F.S., relates to theft, robbery, and related crimes.

<sup>24</sup> Chapter 817, F.S., relates to fraudulent practices including false pretenses and fraud, credit card crimes, credit service organizations, and credit counseling services.

<sup>25</sup> Section 538.20, F.S.

<sup>26</sup> A third-degree felony is punishable by up to 5 years in prison, or up to 10 years for a habitual offender, and a \$5,000 fine. Sections 775.082(3)(d), 775.083(1)(c), and 775.084(4)(a), F.S.

<sup>27</sup> Section 538.26(2), F.S.

<sup>28</sup> Section 538.07, F.S. A first degree misdemeanor is punishable by a term of imprisonment not to exceed 1 year. Section 775.082, F.S.

Section 538.23(3), F.S., also prohibits a person from knowingly providing false verification of ownership or providing false or altered identification and receiving payment from a secondary metals recycler in return for regulated metals. If the person receives payment less than \$300, he or she is guilty of a third-degree felony. If the payment is \$300 or more, it is a second-degree felony.<sup>29</sup>

**Section 9** amends s. 538.23, F.S., to make any knowing and intentional violation by a secondary metals recycler of any of the prohibitions listed in s. 538.26, F.S., (*see* Prohibited Acts below) that constitute a third-degree felony. The bill also includes a person who knowingly provides false information and receives payment from a secondary metals recycler in return for regulated metals as a third-degree felony if the value of the payment is less than \$300. If the payment is \$300 or more, it is a second-degree felony. In addition, the bill adds that a person commits a second-degree felony if the payment received is for *restricted* regulated metals.<sup>30</sup>

### Prohibited Acts

Currently, s. 538.26, F.S., contains a number of unlawful acts that a secondary metals recycler is prohibited from doing. Prohibited acts include purchasing regulated metals, restricted regulated metals, or ferrous metals before 7 a.m. or after 7 p.m. Additionally, a secondary metals recycler is prohibited from purchasing a number of restricted regulated metals items without obtaining proof that the seller is authorized to sell the items. Such items include:

- An electric light pole or other utility structure and its fixtures, wires, and hardware that are readily identifiable as connected to the utility structure;
- Communication, transmission, distribution, and service wire from a utility, including copper or aluminum bus bars, connectors, grounding plates, or grounding wire; and
- More than two lead-acid batteries, or any part or component of the battery, in a single purchase or from the same individual in a single day.

**Section 11** amends s. 538.26, F.S., to prohibit the purchase of regulated metals, restricted regulated metals, or ferrous metals on Sundays. The bill also adds the following items to the list of regulated metals that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller is authorized to sell the item:

- A *metal* electric light pole and its fixtures, and hardware that is readily identifiable as connected to a *metal electric light structure*; and
- Three or more lead-acid batteries.

In addition, the bill removes the following from the list of regulated metals that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller is authorized to sell the items:

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<sup>29</sup> A second-degree felony is punishable by up to 15 years in prison, or up to 30 years for a habitual offender, and a \$10,000 fine. Sections 775.082(3)(c), 775.083(1)(b), and 775.084(4)(a), F.S.

<sup>30</sup> “Restricted regulated metals” are defined as those regulated metals, such as manhole covers, electrical wiring, and railroad equipment, the purchase of which is prohibited without obtaining proof that the seller owns or is authorized to sell the metals. Sections 538.18(10) and 538.26(5), F.S.

- Utility structures other than metal electric light poles, including their fixtures, wires, and hardware; and
- Wires for metal electric light poles.

### **Administrative Penalties**

Except for authorizing the DOR to levy a fine of up to \$10,000 for violating the secondary metals recycler registration requirements,<sup>31</sup> part II of ch. 538, F.S., does not provide any other administrative fines or penalties if a secondary metals recycler violates part II.

**Section 12** creates s. 538.27, F.S., to authorize the DACS to levy administrative penalties for violations of ss. 538.19,<sup>32</sup> 538.235,<sup>33</sup> 538.25,<sup>34</sup> and 538.26, F.S.<sup>35</sup> Upon its determination that a violation has occurred, the DACS may initiate one of the following administrative penalties:

- Issue a notice of noncompliance pursuant to s. 120.695, F.S.;
- Impose an administrative fine up to \$200 per violation and up to \$5,000 per inspection; and
- Issue a cease and desist order.

Any administrative proceedings that could result in any of the above penalties must be conducted in accordance with the Administrative Procedures Act.<sup>36</sup> The DACS may bring a civil action under s. 120.69, F.S., to recover any fine imposed under this section that is not paid within 60 days.

Fines collected under this section must be deposited into the General Inspection Trust Fund.

**Section 5** amends s. 538.18, F.S., to update the definition of “department” from the DOR to the DACS.

**Sections 2, 4, and 6** amend ss. 213.05, 319.30, and 538.19, F.S., respectively to correct references to the DACS.

**Section 8** amends s. 538.21, F.S., to transfer current law related to hold notices that was located in s. 538.25(2), F.S., to this section, which deals with hold notices. The bill also clarifies that property at any of the recycler’s locations cannot be disposed of until any holding period expires.

**Section 13** creates s. 538.29, F.S., to authorize the DACS to adopt rules and forms to administer part II of ch. 538, F.S., and it requires the rules to include tiered penalties for violations of part II.

**Section 14** appropriates \$259,721 in recurring funds and \$185,664 in nonrecurring funds from the General Inspection Trust Fund to the DACS for Fiscal Year 2014-15, and authorizes 4 full-time equivalent positions with an associated salary rate of \$138,181 to the DACS to implement this act.

<sup>31</sup> Section 538.25(3), F.S.

<sup>32</sup> See Required Records section above.

<sup>33</sup> See Methods of Payment section above.

<sup>34</sup> See Registration section above.

<sup>35</sup> See Prohibited Acts and Practices section above.

<sup>36</sup> Chapter 120, F.S.

**Section 15** provides an effective date of July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

Please refer to sections below.

B. Private Sector Impact:

Secondary metals recyclers would be required to maintain current and valid workers' compensation insurance and general liability coverage.

Secondary metals recyclers may also incur greater costs due to any fines levied by the DACS and any violations prosecuted by the Attorney General or the State Attorney.

C. Government Sector Impact:

The DACS estimates \$283,886 in registration and fingerprinting revenue to be deposited into the General Inspection Trust Fund. For Fiscal Year 2014-2015, the DACS will require four positions and \$445,385 to implement the provisions in the bill.

**REVENUES**

(General Inspection Trust Fund)

	<b>FY 2014-15</b>	<b>FY 2015-16</b>
Registration Fees (744 dealers @ \$6)	4,464	4,464
Fingerprint Fees	<u>23,436</u>	<u>4,464</u>
Total	27,900	8,928

**EXPENDITURES**

(General Inspection Trust Fund)

Salaries and Benefits	207,916	207,916
Expenses	46,519	26,993
Contracted Services	111,836	23,436



Special Category - Human Resources	1,376	1,376
OCO	8,800	0
Acquisition of Motor Vehicles	68,938	0
Non-operating	<u>30,991</u>	<u>30,991</u>
Total	476,376	290,712

The DACS states an undetermined amount of revenue will be generated from administrative penalties.<sup>37</sup>

The Criminal Justice Impact Conference has not yet determined the impact of this bill on prison beds.

The Department of Agriculture and Consumer Services has indicated that the bill’s decrease in fee revenue would make it difficult for the department to fund the regulation of secondary metals recyclers.

**VI. Technical Deficiencies:**

The bill limits information the DOR may provide to the DACS to only names, addresses, sales tax registration information, and information related to sales tax remittances *only* for the purpose of enforcing the methods of payment regulations for secondary metals recyclers. It appears the bill may prohibit the DOR from releasing names, addresses, and sales tax information to any other division of the DACS for any other purpose, which is permitted in current law.

The bill retains current law that allows the DACS to subtract administrative costs from any fees collected before the fees are deposited to the General Inspection Trust Fund. Similar language does not appear to exist anywhere else in current law.

The bill also retains current law that requires secondary metals recyclers to renew their annual registration by October 1 of each year. The DACS is pursuing a policy of allowing rolling renewals rather than specific annual filing dates. Rolling renewals distribute application cycles throughout the year and allow current staffing levels to be sufficient to process the workload and prevent large backlogs of registrations.

**VII. Related Issues:**

The bill authorize the DACS to adopt rules to implement the act and must include tiered penalties for violations.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 213.05, 213.053, 319.30, 538.18, 538.19, 538.20, 538.21, 538.23, 538.25, and 538.26.

This bill creates the following sections of the Florida Statutes: 538.27 and 528.29.

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<sup>37</sup> *Id.*

**IX. Additional Information:**

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

**CS/CS by Agriculture Committee on April 7, 2014:**

The committee substitute revises the registration fee for secondary metals recyclers from \$350, back to current law of \$6.

**CS by Commerce and Tourism Committee on March 24, 2014:**

The committee substitute:

- Clarifies that property at any of the secondary metals recycler's locations cannot be disposed of until any holding period expires;
- Updates fingerprinting language to the standard language in other statutes as requested by FDLE;
- Restores the prohibition on the resale of wire from a utility to current law; and
- Provides an appropriation to the DACS and authorizes the hiring of 4 FTEs necessary for the DACS to implement the bill.

- B. **Amendments:**

None.



303254

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2014	.	
	.	
	.	
	.	

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The Committee on Agriculture (Brandes) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 391 - 404

and insert:

(b)-(a) An applicant shall remit a registration fee of \$6 for each of the applicant's business locations with each application for registration and, if applicable, a fee equal to the federal and state costs for processing required fingerprints must be submitted to the department with each application for registration. One application is required for each secondary



303254

11 ~~metals recycler. If a secondary metals recycler is the owner of~~  
12 ~~more than one secondary metals recycling location, the~~  
13 ~~application must list each location, and the department shall~~  
14 ~~issue a duplicate registration for each location. For purposes~~  
15 ~~of subsections (3), (4), and (5), these duplicate registrations~~  
16 ~~shall be deemed individual registrations. A secondary metals~~  
17 ~~recycler shall pay a fee of \$6 per location at the time of~~  
18 ~~registration and an annual renewal fee of \$6 per location~~

19  
20 ===== T I T L E   A M E N D M E N T =====

21 And the title is amended as follows:

22       Delete lines 46 and 47

23 and insert:

24       of background checks; requiring that fees be deposited  
25       into

By the Committee on Commerce and Tourism; and Senator Brandes

577-03116-14

20141182c1

1 A bill to be entitled  
 2 An act relating to secondary metals recyclers;  
 3 providing for a type two transfer of the regulation of  
 4 secondary metals recyclers from the Department of  
 5 Revenue to the Department of Agriculture and Consumer  
 6 Services; amending s. 213.05, F.S.; repealing  
 7 provision that requires that the Department of Revenue  
 8 regulate the registration of secondary metals  
 9 recyclers; amending s. 213.053, F.S.; authorizing the  
 10 Department of Revenue to share specified information  
 11 with the Department of Agriculture and Consumer  
 12 Services; conforming provisions to changes made by the  
 13 act; amending s. 319.30, F.S.; redefining the term  
 14 "certificate of registration number"; amending s.  
 15 538.18, F.S.; redefining terms; amending s. 538.19,  
 16 F.S.; requiring the Department of Agriculture and  
 17 Consumer Services, rather than the Department of Law  
 18 Enforcement, to approve the form of certain records  
 19 maintained by secondary metals recyclers; amending s.  
 20 538.20, F.S.; authorizing investigators of the  
 21 Department of Agriculture and Consumer Services to  
 22 inspect regulated metals property and records of  
 23 secondary metals recyclers; amending s. 538.21, F.S.;  
 24 clarifying a provision of law; amending s. 538.23,  
 25 F.S.; providing criminal penalties for specified  
 26 prohibited acts and practices; amending s. 538.25,  
 27 F.S.; revising required application information for a  
 28 secondary metals recycler registration; requiring that  
 29 a secondary metals recycler maintain certain insurance

Page 1 of 23

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577-03116-14

20141182c1

30 coverage throughout the registration period; requiring  
 31 that certain applicants for a secondary metals  
 32 recycler registration be fingerprinted by certain  
 33 agencies, entities, or vendors; requiring such  
 34 agencies, entities, or vendors to submit a complete  
 35 set of the applicant's fingerprints to the Department  
 36 of Law Enforcement for state processing; requiring the  
 37 Department of Law Enforcement to forward the  
 38 applicant's fingerprints to the Federal Bureau of  
 39 Investigation for national processing; providing that  
 40 fees for fingerprint processing and retention be borne  
 41 by the applicant; providing for retention of the  
 42 fingerprints; requiring the department to notify the  
 43 Department of Law Enforcement of certain individuals  
 44 who are no longer registered as secondary metals  
 45 recyclers; requiring the department to screen results  
 46 of background checks; increasing registration and  
 47 renewal fees; requiring that fees be deposited into  
 48 the General Inspection Trust Fund, rather than the  
 49 Operating Trust Fund; requiring a secondary metals  
 50 recycler to allow personnel of the Department of  
 51 Agriculture and Consumer Services to inspect a  
 52 registration at the listed place of business;  
 53 providing remedies to the Department of Agriculture  
 54 and Consumer Services if a secondary metals recycler  
 55 fails to allow such inspection; repealing certain  
 56 civil fines; revising criteria to deny or revoke a  
 57 registration as a secondary metals recycler; providing  
 58 for immediate suspension of an application for

Page 2 of 23

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577-03116-14

20141182c1

59 registration or a registration if the applicant or  
 60 registrant, or an owner, officer, director, or trustee  
 61 of an applicant or registrant is convicted of certain  
 62 felonies; conforming provisions to changes made by the  
 63 act; amending s. 538.26, F.S.; prohibiting a secondary  
 64 metals recycler from purchasing or allowing any person  
 65 to purchase certain metals on a Sunday; revising the  
 66 list of regulated metals subject to certain purchase  
 67 restrictions; creating s. 538.27, F.S.; providing  
 68 administrative penalties; specifying administrative  
 69 procedures; providing for the collection of  
 70 administrative fines; creating s. 538.29, F.S.;  
 71 authorizing the Department of Agriculture and Consumer  
 72 Services to adopt certain rules and forms; providing  
 73 an appropriation; providing an effective date.

74  
 75 Be It Enacted by the Legislature of the State of Florida:

76  
 77 Section 1. All powers; duties; functions; records;  
 78 personnel; property; pending issues and existing contracts;  
 79 administrative authority; administrative rules; and unexpended  
 80 balances of appropriations, allocations, and other funds for the  
 81 regulation of secondary metal recyclers are transferred by a  
 82 type two transfer, as defined in s. 20.06(2), Florida Statutes,  
 83 from the Department of Revenue to the Department of Agriculture  
 84 and Consumer Services.

85 Section 2. Section 213.05, Florida Statutes, is amended to  
 86 read:  
 87 213.05 Department of Revenue; control and administration of

577-03116-14

20141182c1

88 revenue laws.—The Department of Revenue shall have only those  
 89 responsibilities for ad valorem taxation specified to the  
 90 department in chapter 192, taxation, general provisions; chapter  
 91 193, assessments; chapter 194, administrative and judicial  
 92 review of property taxes; chapter 195, property assessment  
 93 administration and finance; chapter 196, exemption; chapter 197,  
 94 tax collections, sales, and liens; chapter 199, intangible  
 95 personal property taxes; and chapter 200, determination of  
 96 millage. The Department of Revenue shall have the responsibility  
 97 of regulating, controlling, and administering all revenue laws  
 98 and performing all duties as provided in s. 125.0104, the Local  
 99 Option Tourist Development Act; s. 125.0108, tourist impact tax;  
 100 chapter 198, estate taxes; chapter 201, excise tax on documents;  
 101 chapter 202, communications services tax; chapter 203, gross  
 102 receipts taxes; chapter 206, motor and other fuel taxes; chapter  
 103 211, tax on production of oil and gas and severance of solid  
 104 minerals; chapter 212, tax on sales, use, and other  
 105 transactions; chapter 220, income tax code; ss. 336.021 and  
 106 336.025, taxes on motor fuel and special fuel; s. 376.11,  
 107 pollutant spill prevention and control; s. 403.718, waste tire  
 108 fees; s. 403.7185, lead-acid battery fees; s. 538.09,  
 109 registration of secondhand dealers; ~~s. 538.25, registration of~~  
 110 ~~secondary metals recyclers;~~ s. 624.4621, group self-insurer's  
 111 fund premium tax; s. 624.5091, retaliatory tax; s. 624.475,  
 112 commercial self-insurance fund premium tax; ss. 624.509-624.511,  
 113 insurance code: administration and general provisions; s.  
 114 624.515, State Fire Marshal regulatory assessment; s. 627.357,  
 115 medical malpractice self-insurance premium tax; s. 629.5011,  
 116 reciprocal insurers premium tax; and s. 681.117, motor vehicle

577-03116-14 20141182c1

117 warranty enforcement.

118 Section 3. Subsection (1), paragraph (p) of subsection (8),

119 and subsection (11) of section 213.053, Florida Statutes, are

120 amended to read:

121 213.053 Confidentiality and information sharing.—

122 (1) This section applies to:

123 (a) Section 125.0104, county government;

124 (b) Section 125.0108, tourist impact tax;

125 (c) Chapter 175, municipal firefighters' pension trust

126 funds;

127 (d) Chapter 185, municipal police officers' retirement

128 trust funds;

129 (e) Chapter 198, estate taxes;

130 (f) Chapter 199, intangible personal property taxes;

131 (g) Chapter 201, excise tax on documents;

132 (h) Chapter 202, the Communications Services Tax

133 Simplification Law;

134 (i) Chapter 203, gross receipts taxes;

135 (j) Chapter 211, tax on severance and production of

136 minerals;

137 (k) Chapter 212, tax on sales, use, and other transactions;

138 (l) Chapter 220, income tax code;

139 (m) Section 252.372, emergency management, preparedness,

140 and assistance surcharge;

141 (n) Section 379.362(3), Apalachicola Bay oyster surcharge;

142 (o) Chapter 376, pollutant spill prevention and control;

143 (p) Section 403.718, waste tire fees;

144 (q) Section 403.7185, lead-acid battery fees;

145 (r) Section 538.09, registration of secondhand dealers;

577-03116-14 20141182c1

146 ~~(s) Section 538.25, registration of secondary metals~~

147 ~~recyclers;~~

148 (s)(t) Sections 624.501 and 624.509-624.515, insurance

149 code;

150 (t)(u) Section 681.117, motor vehicle warranty enforcement;

151 and

152 (u)(v) Section 896.102, reports of financial transactions

153 in trade or business.

154 (8) Notwithstanding any other provision of this section,

155 the department may provide:

156 (p) Names, addresses, ~~and~~ sales tax registration

157 information, and information relative to chapter 212 for

158 purposes of enforcing s.538.235(3), to the Division of Consumer

159 Services of the Department of Agriculture and Consumer Services

160 in the conduct of its official duties.

161

162 Disclosure of information under this subsection shall be

163 pursuant to a written agreement between the executive director

164 and the agency. Such agencies, governmental or nongovernmental,

165 shall be bound by the same requirements of confidentiality as

166 the Department of Revenue. Breach of confidentiality is a

167 misdemeanor of the first degree, punishable as provided by s.

168 775.082 or s. 775.083.

169 (11) Notwithstanding any other provision of this section,

170 with respect to a request for verification of a certificate of

171 registration issued pursuant to s. 212.18 to a specified dealer

172 or taxpayer or with respect to a request by a law enforcement

173 officer for verification of a certificate of registration issued

174 pursuant to s. 538.09 to a specified secondhand dealer ~~or~~

577-03116-14 20141182c1

175 ~~pursuant to s. 538.25 to a specified secondary metals recycler,~~  
 176 the department may disclose whether the specified person holds a  
 177 valid certificate or whether a specified certificate number is  
 178 valid or whether a specified certificate number has been  
 179 canceled or is inactive or invalid and the name of the holder of  
 180 the certificate. This subsection does ~~shall not be construed to~~  
 181 create a duty to request verification of any certificate of  
 182 registration.

183 Section 4. Paragraph (b) of subsection (1) of section  
 184 319.30, Florida Statutes, is amended to read:

185 319.30 Definitions; dismantling, destruction, change of  
 186 identity of motor vehicle or mobile home; salvage.—

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

188 (b) "Certificate of registration number" means the  
 189 certificate of registration number issued by the Department of  
 190 Agriculture and Consumer Services Revenue of the State of  
 191 Florida pursuant to s. 538.25.

192 Section 5. Subsections (2) and (7) of section 538.18,  
 193 Florida Statutes, are amended to read:

194 538.18 Definitions.—As used in this part, the term:

195 (2) "Department" means the Department of Agriculture and  
 196 Consumer Services Revenue.

197 (7) "Personal identification card" means one of the  
 198 following forms of identification, which must be valid and  
 199 contain the individual's photograph and current address:

200 (a) A valid Florida driver license.

201 (b) A Florida identification card issued by the  
 202 Department of Highway Safety and Motor Vehicles.

203 (c) A, an equivalent form of identification equivalent to

577-03116-14 20141182c1

204 paragraph (a) or paragraph (b) issued by another state.

205 (d) A passport.

206 (e) ~~or~~ An employment authorization issued by the United  
 207 States Bureau of Citizenship and Immigration Services ~~that~~  
 208 ~~contains an individual's photograph and current address.~~

209 Section 6. Subsections (1) through (3) of section 538.19,  
 210 Florida Statutes, are amended to read:

211 538.19 Records required; limitation of liability.—

212 (1) A secondary metals recycler shall maintain a legible  
 213 paper record of all purchase transactions to which such  
 214 secondary metals recycler is a party. A secondary metals  
 215 recycler shall also maintain a legible electronic record, in the  
 216 English language, of all such purchase transactions. The  
 217 appropriate law enforcement official may provide data  
 218 specifications regarding the electronic record format, but such  
 219 format must be approved by the department of ~~Law Enforcement~~. An  
 220 electronic record of a purchase transaction shall be  
 221 electronically transmitted to the appropriate law enforcement  
 222 official no later than 10 a.m. of the business day following the  
 223 date of the purchase transaction. The record transmitted to the  
 224 appropriate law enforcement official must not contain the price  
 225 paid for the items. A secondary metals recycler who transmits  
 226 such records electronically is not required to also deliver the  
 227 original or paper copies of the transaction forms to the  
 228 appropriate law enforcement official. However, such official  
 229 may, for purposes of a criminal investigation, request the  
 230 secondary metals recycler to make available the original  
 231 transaction form that was electronically transmitted. This  
 232 original transaction form must include the price paid for the



577-03116-14 20141182c1

233 items. The secondary metals recycler shall make the form  
 234 available to the appropriate law enforcement official within 24  
 235 hours after receipt of the request.

236 (2) The following information must be maintained on the  
 237 form approved by the department ~~of Law Enforcement~~ for each  
 238 purchase transaction:

239 (a) The name and address of the secondary metals recycler.

240 (b) The name, initials, or other identification of the  
 241 individual entering the information on the ticket.

242 (c) The date and time of the transaction.

243 (d) The weight, quantity, or volume, and a description of  
 244 the type of regulated metals property purchased in a purchase  
 245 transaction.

246 (e) The amount of consideration given in a purchase  
 247 transaction for the regulated metals property.

248 (f) A signed statement from the person delivering the  
 249 regulated metals property stating that she or he is the rightful  
 250 owner of, or is entitled to sell, the regulated metals property  
 251 being sold. If the purchase involves a stainless steel beer keg,  
 252 the seller must provide written documentation from the  
 253 manufacturer that the seller is the owner of the stainless steel  
 254 beer keg or is an employee or agent of the manufacturer.

255 (g) The distinctive number from the personal identification  
 256 card of the person delivering the regulated metals property to  
 257 the secondary metals recycler.

258 (h) A description of the person from whom the regulated  
 259 metals property was acquired, including:

260 1. Full name, current residential address, workplace, and  
 261 home and work phone numbers.

577-03116-14 20141182c1

262 2. Height, weight, date of birth, race, gender, hair color,  
 263 eye color, and any other identifying marks.

264 3. The right thumbprint, free of smudges and smears.

265 4. Vehicle description to include the make, model, and tag  
 266 number of the vehicle and trailer of the person selling the  
 267 regulated metals property.

268 5. Any other information required by the form approved by  
 269 the department ~~of Law Enforcement~~.

270 (i) A photograph, videotape, or digital image of the  
 271 regulated metals being sold.

272 (j) A photograph, videotape, or similar likeness of the  
 273 person receiving consideration in which such person's facial  
 274 features are clearly visible.

275 (3) A secondary metals recycler complies with the  
 276 requirements of this section if it maintains an electronic  
 277 database containing the information required by subsection (2)  
 278 as long as the electronic information required by subsection  
 279 (2), along with an electronic oath of ownership with an  
 280 electronic signature of the seller of the secondary metals being  
 281 purchased by the secondary metals recyclers and an electronic  
 282 image of the seller's right thumbprint that has no smudges and  
 283 smears, can be downloaded onto a paper form in the image of the  
 284 form approved by the department ~~of Law Enforcement~~ as provided  
 285 in subsection (2).

286 Section 7. Section 538.20, Florida Statutes, is amended to  
 287 read:

288 538.20 Inspection of regulated metals property and  
 289 records.—During the usual and customary business hours of a  
 290 secondary metals recycler, a law enforcement officer or a

577-03116-14

20141182c1

291 nonsworn, trained regulatory investigator of the department  
 292 shall, after properly identifying herself or himself as a law  
 293 ~~enforcement officer~~, have the right to inspect:

294 (1) Any and all purchased regulated metals property in the  
 295 possession of the secondary metals recycler, and

296 (2) Any and all records required to be maintained under s.  
 297 538.19.

298 Section 8. Subsection (3) of section 538.21, Florida  
 299 Statutes, is amended to read:

300 538.21 Hold notice.—

301 (3) A secondary metals recycler may not dispose of property  
 302 at any location until any holding period has expired. At the  
 303 expiration of the hold period or, if extended in accordance with  
 304 this section, at the expiration of the extended hold period, the  
 305 hold is automatically released and the secondary metals recycler  
 306 may dispose of the regulated metals property unless other  
 307 disposition has been ordered by a court of competent  
 308 jurisdiction.

309 Section 9. Subsections (1) and (3) of section 538.23,  
 310 Florida Statutes, are amended to read:

311 538.23 Violations and penalties.—

312 (1) (a) Except as provided in paragraph (b), a secondary  
 313 metals recycler who knowingly and intentionally:

314 1. Violates s. 538.20, ~~or~~ s. 538.21, s. 538.235, or s.  
 315 538.26; or

316 2. Engages in a pattern of failing to keep records required  
 317 under ~~by~~ s. 538.19;

318 3. ~~Violates s. 538.26(2); or~~

319 4. ~~Violates s. 538.235,~~

Page 11 of 23

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577-03116-14

20141182c1

320  
 321 commits a felony of the third degree, punishable as provided in  
 322 s. 775.082, s. 775.083, or s. 775.084.

323 (b) A secondary metals recycler who commits a third or  
 324 subsequent violation of paragraph (a) commits a felony of the  
 325 second degree, punishable as provided in s. 775.082, s. 775.083,  
 326 or s. 775.084.

327 (3) A ~~Any~~ person who knowingly provides false information,  
 328 gives false verification of ownership, or who gives a false or  
 329 altered identification and who receives money or other  
 330 consideration from a secondary metals recycler in return for  
 331 regulated metals property commits:

332 (a) A felony of the third degree, punishable as provided in  
 333 s. 775.082, s. 775.083, or s. 775.084, if the value of the money  
 334 or other consideration received is less than \$300.

335 (b) A felony of the second degree, punishable as provided  
 336 in s. 775.082, s. 775.083, or s. 775.084, if the value of the  
 337 money or other consideration received is \$300 or more or is for  
 338 restricted regulated metals.

339 Section 10. Section 538.25, Florida Statutes, is amended to  
 340 read:

341 538.25 Registration.—

342 (1) A person may not engage in business as a secondary  
 343 metals recycler at any location without registering with the  
 344 department. To register as a secondary metals recycler, an  
 345 application must be submitted to the department on a department  
 346 prescribed form. One application is required for each secondary  
 347 metals recycler. An applicant must be a natural person who is at  
 348 least 18 years of age or a corporation that is organized or

Page 12 of 23

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577-03116-14 20141182c1

349 qualified to do business in this state. If the applicant is a  
 350 partnership, each partner must separately apply for  
 351 registration.

352 (a) The application must include all the following  
 353 information:

354 1. The full name and address of the applicant. If the  
 355 applicant is not a natural person, the applicant shall provide  
 356 the full name and address of each direct and beneficial owner of  
 357 at least 10 percent equity interest in the applicant. If the  
 358 applicant is a corporation, the applicant must also state the  
 359 full name and address of each officer and director. The  
 360 department shall accept applications only from a fixed business  
 361 address. The department may not accept an application that  
 362 provides an address of a hotel room or motel room, a vehicle, or  
 363 a post office box.

364 2. The address of each location where the applicant will  
 365 engage in business as a secondary metals recycler. The  
 366 department shall issue a duplicate registration for each  
 367 location. For purposes of subsections (3) and (4) and s. 538.27,  
 368 duplicate registrations are individual registrations.

369 3. If the applicant is a natural person, a complete set of  
 370 his or her fingerprints, certified by an authorized law  
 371 enforcement officer, and a copy of a valid fullface photographic  
 372 identification card.

373 4. If the applicant is a corporation, the name and address  
 374 of the corporation's registered agent for service of process in  
 375 the state; and a certified copy of a statement from the  
 376 Secretary of State declaring that the corporation is duly  
 377 organized in this state or, if the corporation is organized in

577-03116-14 20141182c1

378 another state, declaring that the corporation is duly qualified  
 379 to do business in this state.

380 5. Evidence of general liability insurance and workers'  
 381 compensation insurance coverage. Each secondary metals recycler  
 382 must maintain general liability insurance and workers'  
 383 compensation insurance throughout the registration period.  
 384 Failure to maintain general liability insurance and workers'  
 385 compensation insurance during the registration period  
 386 constitutes an immediate threat to the public health, safety,  
 387 and welfare, and the department may suspend or deny the  
 388 registration of a secondary metals recycler without such  
 389 insurance coverage.

390 6. Any additional information requested by the department.

391 (b)(a) An applicant shall remit a registration fee of \$350  
 392 for each of the applicant's business locations with each  
 393 application for registration and, if applicable, a fee equal to  
 394 the federal and state costs for processing required fingerprints  
 395 must be submitted to the department with each application for  
 396 registration. One application is required for each secondary  
 397 metals recycler. If a secondary metals recycler is the owner of  
 398 more than one secondary metals recycling location, the  
 399 application must list each location, and the department shall  
 400 issue a duplicate registration for each location. For purposes  
 401 of subsections (3), (4), and (5), these duplicate registrations  
 402 shall be deemed individual registrations. A secondary metals  
 403 recycler shall pay a fee of \$6 per location at the time of  
 404 registration and an annual renewal fee of \$350 \$6 per location  
 405 on October 1 of each year. All fees collected, less costs of  
 406 administration, shall be transferred into the General Inspection

577-03116-14

20141182c1

407 ~~Operating~~ Trust Fund.

408 (c)1. An applicant who is required to submit a copy of his  
 409 or her fingerprints under paragraph (a) must be fingerprinted by  
 410 an agency, entity, or vendor that meets the requirements of s.  
 411 943.053(13). The agency, entity, or vendor shall forward a  
 412 complete set of the applicant's fingerprints to the Department  
 413 of Law Enforcement for state processing, and the Department of  
 414 Law Enforcement shall forward the applicant's fingerprints to  
 415 the Federal Bureau of Investigation for national processing.

416 2. Fees for state and national fingerprint processing and  
 417 fingerprint retention shall be borne by the applicant. The state  
 418 cost for fingerprint processing is that authorized in s.  
 419 943.053(3)(b) for records provided to persons or entities other  
 420 than those specified as exceptions therein.

421 3. All fingerprints submitted to the Department of Law  
 422 Enforcement as required under this paragraph shall be retained  
 423 by the Department of Law Enforcement as provided under s.  
 424 943.05(2)(g) and (h) and enrolled in the Federal Bureau of  
 425 Investigation's national retained print arrest notification  
 426 program. Fingerprints may not be enrolled in the national  
 427 retained print arrest notification program until the Department  
 428 of Law Enforcement begins participation with the Federal Bureau  
 429 of Investigation. Arrest fingerprints will be searched against  
 430 the retained prints by the Department of Law Enforcement and the  
 431 Federal Bureau of Investigation.

432 4. For any renewal of the applicant's registration, the  
 433 department shall request the Department of Law Enforcement to  
 434 forward the retained fingerprints of the applicant to the  
 435 Federal Bureau of Investigation unless the applicant is enrolled

Page 15 of 23

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577-03116-14

20141182c1

436 in the national retained print arrest notification program  
 437 described in subparagraph 3. The fee for the national criminal  
 438 history check shall be paid as part of the renewal fee to the  
 439 department and forwarded by the department to the Department of  
 440 Law Enforcement. If the applicant's fingerprints are retained in  
 441 the national retained print arrest notification program, the  
 442 applicant shall pay the state and national retention fee to the  
 443 department, and the department shall forward the fee to the  
 444 Department of Law Enforcement.

445 5. The department shall notify the Department of Law  
 446 Enforcement regarding any person whose fingerprints have been  
 447 retained but who is no longer registered under this chapter.

448 6. The department shall screen background results to  
 449 determine if an applicant meets registration requirements.

450 ~~(b) The department shall forward the full set of~~  
 451 ~~fingerprints to the Department of Law Enforcement for state and~~  
 452 ~~federal processing, provided the federal service is available,~~  
 453 ~~to be processed for any criminal justice information as defined~~  
 454 ~~in s. 943.045. The cost of processing such fingerprints shall be~~  
 455 ~~payable to the Department of Law Enforcement by the department.~~  
 456 ~~The department may issue a temporary registration to each~~  
 457 ~~location pending completion of the background check by state and~~  
 458 ~~federal law enforcement agencies but shall revoke such temporary~~  
 459 ~~registration if the completed background check reveals a~~  
 460 ~~prohibited criminal background. The Department of Law~~  
 461 ~~Enforcement shall report its findings to the Department of~~  
 462 ~~Revenue within 30 days after the date the fingerprints are~~  
 463 ~~submitted for criminal justice information.~~

464 ~~(c) An applicant for a secondary metals recycler~~

Page 16 of 23

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577-03116-14 20141182c1

465 registration must be a natural person who has reached the age of  
 466 18 years or a corporation organized or qualified to do business  
 467 in the state.

468 1. If the applicant is a natural person, the registration  
 469 ~~must include a complete set of her or his fingerprints,~~  
 470 certified by an authorized law enforcement officer, and a recent  
 471 fullface photographic identification card of herself or himself.

472 2. If the applicant is a partnership, all the partners must  
 473 make application for registration.

474 3. If the applicant is a corporation, the registration must  
 475 include the name and address of such corporation's registered  
 476 agent for service of process in the state and a certified copy  
 477 of statement from the Secretary of State that the corporation is  
 478 duly organized in the state or, if the corporation is organized  
 479 in a state other than Florida, a certified copy of the statement  
 480 that the corporation is duly qualified to do business in this  
 481 state.

482 (2) A secondary metals recycler's registration shall be  
 483 conspicuously displayed at the place of business set forth on  
 484 the registration. A secondary metals recycler must allow  
 485 department personnel to enter the place of business to ascertain  
 486 whether a registration is current. If department personnel are  
 487 refused entry or access for such purpose, the department may  
 488 seek an inspection warrant pursuant to ss. 933.20-933.30 to  
 489 obtain compliance with this subsection A secondary metals  
 490 ~~recycler shall not dispose of property at any location until any~~  
 491 ~~holding period has expired.~~

492 (3) ~~The Department of Revenue may impose a civil fine of up~~  
 493 ~~to \$10,000 for each knowing and intentional violation of this~~

577-03116-14 20141182c1

494 section, which fine shall be transferred into the General  
 495 Revenue Fund. If the fine is not paid within 60 days, the  
 496 department may bring a civil action under s. 120.69 to recover  
 497 the fine.

498 (3)(4) In addition to the penalties ~~fine~~ provided in s.  
 499 538.27 subsection (3), registration under this section may be  
 500 denied or any registration granted may be revoked, restricted,  
 501 or suspended by the department if, after October 2, 1989, and  
 502 within a 10-year ~~24-month~~ period immediately preceding such  
 503 denial, revocation, restriction, or suspension:

504 (a) The applicant or registrant, or an owner, officer,  
 505 director, or trustee of a registrant or applicant has been  
 506 convicted of knowingly and intentionally:

507 1. Violating s. 538.20, ~~or~~ s. 538.21, or s. 538.26;

508 2. Engaging in a pattern of failing to keep records as  
 509 required by s. 538.19;

510 3. Making a material false statement in the application for  
 511 registration; or

512 4. Engaging in a fraudulent act in connection with any  
 513 purchase or sale of regulated metals property;

514 (b) The applicant or registrant, or an owner, officer,  
 515 director, or trustee of a registrant or applicant has been  
 516 convicted of, or entered a plea of guilty or nolo contendere to,  
 517 a felony committed by the secondary metals recycler against the  
 518 laws of the state or of the United States involving theft,  
 519 larceny, dealing in stolen property, receiving stolen property,  
 520 burglary, embezzlement, obtaining property by false pretenses,  
 521 possession of altered property, or any felony drug offense or of  
 522 knowingly and intentionally violating the laws of the state

577-03116-14 20141182c1

523 relating to registration as a secondary metals recycler; or  
 524 (c) The applicant or registrant has, after receipt of  
 525 written notice from the Department of Revenue of failure to pay  
 526 sales tax, failed or refused to pay, within 30 days after the  
 527 secondary metals recycler's receipt of such written notice, any  
 528 sales tax owed to the Department of Revenue.

529 ~~(4)~~~~(5)~~ A denial of an application, or a revocation,  
 530 restriction, or suspension of a registration, by the department  
 531 shall be probationary for a period of 12 months in the event  
 532 that the secondary metals recycler subject to such action has  
 533 not had any other application for registration denied, or any  
 534 registration revoked, restricted, or suspended, by the  
 535 department within the previous 24-month period.

536 (a) If, during the 12-month probationary period, the  
 537 department does not again deny an application or revoke,  
 538 restrict, or suspend the registration of the secondary metals  
 539 recycler, the action of the department shall be dismissed and  
 540 the record of the applicant or secondary metals recycler cleared  
 541 thereof.

542 (b) If, during the 12-month probationary period, the  
 543 department, for reasons other than those existing before ~~prior~~  
 544 ~~to~~ the original denial or revocation, restriction, or  
 545 suspension, again denies an application or revokes, restricts,  
 546 or suspends the registration of the secondary metals recycler,  
 547 the probationary nature of such original action shall terminate,  
 548 and both the original action of the department and the action of  
 549 the department causing the termination of the probationary  
 550 nature thereof shall immediately be reinstated against the  
 551 applicant or secondary metals recycler.

Page 19 of 23

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577-03116-14 20141182c1

552 (c) The department shall immediately suspend a registration  
 553 or the processing of an application for registration upon  
 554 notification and subsequent written verification by a law  
 555 enforcement agency, a court, a state attorney, or the Department  
 556 of Law Enforcement that the registrant or applicant, or an  
 557 owner, officer, director, or trustee of a registrant or  
 558 applicant, is convicted of a felony enumerated in chapter 812 or  
 559 chapter 817.

560 ~~(5)~~~~(6)~~ Upon the request of a law enforcement official, the  
 561 department ~~of Revenue~~ shall release to the official the name and  
 562 address of any secondary metals recycler registered to do  
 563 business within the official's jurisdiction.

564 Section 11. Subsections (1) and (5) of section 538.26,  
 565 Florida Statutes, are amended to read:

566 538.26 Certain acts and practices prohibited.—It is  
 567 unlawful for a secondary metals recycler to do or allow any of  
 568 the following acts:

569 (1) Purchase regulated metals property, restricted  
 570 regulated metals property, or ferrous metals before 7 a.m. or  
 571 after 7 p.m., or any time on Sunday.

572 (5) (a) Purchase any restricted regulated metals property  
 573 listed in paragraph (b) unless the secondary metals recycler  
 574 obtains reasonable proof that the seller:

575 1. Owns such property. Reasonable proof of ownership may  
 576 include, but is not limited to, a receipt or bill of sale; or  
 577 2. Is an employee, agent, or contractor of the property's  
 578 owner who is authorized to sell the property on behalf of the  
 579 owner. Reasonable proof of authorization to sell the property  
 580 includes, but is not limited to, a signed letter on the owner's

Page 20 of 23

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577-03116-14 20141182c1

581 letterhead, dated no later than 90 days before the sale,  
 582 authorizing the seller to sell the property.

583 (b) The purchase of any of the following regulated metals  
 584 property is subject to the restrictions provided in paragraph  
 585 (a):

586 1. A manhole cover.

587 2. A metal ~~An~~ electric light pole ~~or other utility~~  
 588 ~~structure~~ and its fixtures.

589 3. ~~Wires,~~ and Hardware that is ~~are~~ readily identifiable  
 590 as connected to a metal electric light ~~the utility~~ structure.

591 4. ~~A~~ guard rail.

592 5. ~~A~~ street sign, traffic sign, or traffic signal and its  
 593 fixtures and hardware.

594 6. ~~Communication,~~ transmission, distribution, and service  
 595 wire from a utility, including copper or aluminum bus bars,  
 596 connectors, grounding plates, or grounding wire.

597 7. ~~A~~ funeral marker or funeral vase.

598 8. ~~A~~ historical marker.

599 9. ~~Railroad~~ equipment, including, but not limited to, a  
 600 tie plate, signal house, control box, switch plate, E clip, or  
 601 rail tie junction.

602 10. ~~Any metal item that is observably marked upon~~  
 603 reasonable inspection with any form of the name, initials, or  
 604 logo of a governmental entity, utility company, cemetery, or  
 605 railroad.

606 11. ~~A copper, aluminum, or aluminum-copper condensing or~~  
 607 evaporator coil, including its tubing or rods, from an air-  
 608 conditioning or heating unit, excluding coils from window air-  
 609 conditioning or heating units and motor vehicle air-conditioning

577-03116-14 20141182c1

610 or heating units.

611 ~~12.11.~~ An aluminum or stainless steel container or bottle  
 612 designed to hold propane for fueling forklifts.

613 ~~13.12.~~ A stainless steel beer keg.

614 ~~14.13.~~ A catalytic converter or any nonferrous part of a  
 615 catalytic converter unless purchased as part of a motor vehicle.

616 ~~15.14.~~ Metallic wire that has been burned in whole or in  
 617 part to remove insulation.

618 ~~16.15.~~ A brass or bronze commercial valve or fitting,  
 619 referred to as a "fire department connection and control valve"  
 620 or an "FDC valve," that is commonly used on structures for  
 621 access to water for the purpose of extinguishing fires.

622 ~~17.16.~~ A brass or bronze commercial potable water backflow  
 623 preventer valve that is commonly used to prevent backflow of  
 624 potable water from commercial structures into municipal domestic  
 625 water service systems.

626 ~~18.17.~~ A shopping cart.

627 ~~19.18.~~ A brass water meter.

628 ~~20.19.~~ A storm grate.

629 ~~21.20.~~ A brass sprinkler head used in commercial  
 630 agriculture.

631 ~~22.21.~~ Three or more ~~than two~~ lead-acid batteries, or any  
 632 part or component thereof, in a single purchase or from the same  
 633 individual in a single day.

634 Section 12. Section 538.27, Florida Statutes, is created to  
 635 read:

636 538.27 Administrative penalties.-

637 (1) Upon a determination that a violation of s. 538.19, s.  
 638 538.235, s. 538.25, or s. 538.26 has occurred, the department

577-03116-14

20141182c1

639 may do one or more of the following:

640 (a) Issue a notice of noncompliance pursuant to s. 120.695.

641 (b) Impose an administrative fine not to exceed \$200 per  
642 violation and not to exceed \$5,000 per inspection.

643 (c) Direct that the secondary metals recycler cease and  
644 desist specified activities.

645 (2) Administrative proceedings that could result in the  
646 entry of an order imposing any penalty specified in this section  
647 must be conducted in accordance with chapter 120.

648 (3) Fines collected under this section shall be deposited  
649 into the General Inspection Trust Fund. The department may bring  
650 a civil action under s. 120.69 to recover any fine imposed under  
651 this section which is not paid within 60 days after imposition.

652 Section 13. Section 538.29, Florida Statutes, is created to  
653 read:

654 538.29 Rulemaking authority.—The department may adopt rules  
655 and forms to administer the provisions of this part. The rules  
656 must include tiered penalties for violations of this part.

657 Section 14. For the 2014-2015 fiscal year, there is  
658 appropriated to the Department of Agriculture and Consumer  
659 Services, the sums of \$259,721 in recurring and \$185,664 in  
660 nonrecurring funds from the General Inspection Trust Fund, and 4  
661 full-time equivalent positions with associated salary rate of  
662 138,181, are authorized for the purpose of implementing this  
663 act.

664 Section 15. This act shall take effect July 1, 2014.





The Florida Senate

## Committee Agenda Request

**To:** Senator Bill Montford, Chair  
Committee on Agriculture

**Subject:** Committee Agenda Request

**Date:** March 28, 2014

---

I respectfully request that **Senate Bill #1182**, relating to Secondary Metal Recyclers, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

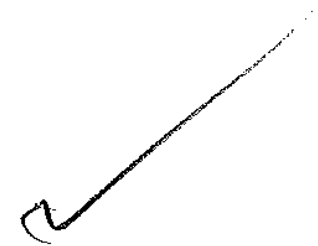
Senator Jeff Brandes  
Florida Senate, District 22

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-7-14

Meeting Date



Topic \_\_\_\_\_

Bill Number SB 1182  
*(if applicable)*

Name Doug Mann

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title \_\_\_\_\_

Address 310 W. College Ave.  
*Street*

Phone 222-7535

Tallahassee FL 32301  
*City State Zip*

E-mail \_\_\_\_\_

Speaking:  For  Against  Information

Representing AIF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/7/14  
Meeting Date

Topic Secondary Metals Recyclers

Bill Number 1182  
(if applicable)

Name Keri Rayborn Silver

Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title \_\_\_\_\_

Address PO Box 1565

Phone 850-524-2394

Street

Tallahassee

FL

32302

City

State

Zip

E-mail Keri@raybornconsultants.com

Speaking:  For  Against  Information

Representing Florida Sheriffs Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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)



4/7/14  
Meeting Date

Topic Metal Recycling

Bill Number 1182  
*(if applicable)*

Name SIM MARLE

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title LOBBYIST

Address 101 AL. MONROE ST. SUITE 1090  
*Street*

Phone 681-0411

TLH FL 32307  
*City State Zip*

E-mail SMARLE@BTRC.COM

Speaking:  For  Against  Information

Representing FLA RECYCLERS ASSOC. / TRADEMARK METAL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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



Apr. 7 2014  
Meeting Date

Topic Secondary Metal Recyclers

Bill Number 1182  
*(if applicable)*

Name Grace Lovett

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Dir. Legislative Affairs

Address PL 10 The Capitol  
*Street*

Phone 850 617 7700

Tallahassee FL 32399  
*City State Zip*

E-mail grace.lovette  
freshfromflorida.com

Speaking:  For  Against  Information

Representing FL Dept. of Agriculture + Consumer Services

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**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.)

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Prepared By: The Professional Staff of the Committee on Agriculture

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BILL: CS/SB 1206

INTRODUCER: Education Committee and Senator Montford

SUBJECT: Agricultural Industry Certifications

DATE: April 7, 2014

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>McLaughlin</u>	<u>Klebacha</u>	<u>ED</u>	<u>Fav/CS</u>
2.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Favorable</u>
3.	_____	_____	<u>AP</u>	_____

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/SB 1206 establishes a process by which industry certifications for farm occupations are added to the list of certifications approved for funding in public schools and postsecondary institutions.

Specifically, the bill requires the Department of Agriculture and Consumer Services (DACS), in cooperation with the University of Florida and Florida Agriculture and Mechanical University, to annually furnish to the State Board of Education (SBE) and the Department of Education (DOE) industry certifications for farm occupations to be placed on the Industry Certification Funding List and the Postsecondary Industry Certification Funding List.

Additionally, the bill requires that the SBE use the expertise of the DACS to develop and adopt rules for implementing an industry certification process. The list of industry certifications approved by Workforce Florida, Inc., the DACS, and the DOE must be published and updated annually.

The bill requires the DOE to include the DACS in the analysis of collected student achievement and performance data in industry-certified career education programs and career-themed courses.

The bill provides an effective date of July 1, 2014.

## II. Present Situation:

Section 1003.492, F.S., requires the State Board of Education (SBE) to work with Workforce Florida, Inc., to establish and adopt rules for implementing an industry certification process. The Department of Economic Opportunity (DEO) must identify an industry certification based on the highest available national standards for specific industry certification to ensure student skill proficiency and to address emerging labor market and industry trends.<sup>1</sup>

Current law requires the DEO to define industry certification.<sup>2</sup> The DEO currently defines industry certification as “a voluntary process, through which individuals are assessed by an independent, third-party certifying entity using predetermined standards for knowledge, skills and competencies, resulting in the award of a time-limited credential that is nationally recognized and applicable to an occupation that is included in the workforce system’s targeted occupation list or determined to be an occupation that is critical, emerging, or addresses a local need.”<sup>3</sup>

The selection of industry certifications for academy courses and career-themed courses occurs in two phases. First, Workforce Florida, Inc., must determine industry certifications that meet the DEO definition and compile them into a list.<sup>4</sup> Second, the Department of Education (DOE) must:

- Review the list;<sup>5</sup>
- Identify certifications that are academically rigorous and at least 150 hours in length;<sup>6</sup>
- Compile a preliminary list of industry certifications that qualify for additional weighted funding;<sup>7</sup>
- Consider district requests that industry certifications be added to the approved list;<sup>8</sup> and
- Annually publish a final list.<sup>9</sup>

However, a regional workforce board or a school principal may apply to Workforce Florida, Inc., to request additions to the approved list of industry certification based on high-skill, high-wage, and high-demand job requirements in the regional economy.<sup>10</sup>

Workforce Florida, Inc.’s list includes 428 industry certifications.<sup>11</sup> From this list, the DOE has identified 201 industry certifications and 287 postsecondary industry certifications as eligible for

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<sup>1</sup> Section 1003.492(2), F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Florida Department of Education, Division of Career and Adult Education, *Career and Professional Education Act CAPE*, at 1 (2012), available at <http://www.fldoe.org/workforce/pdf/CAPE-Act-TechAssist.pdf>

<sup>4</sup> Section 1003.492(2), F.S.; Rule 6A-6.0573(1)-(3), F.A.C.

<sup>5</sup> Rule 6A-6.0573(3), F.A.C.

<sup>6</sup> Rule 6A-6.0573(3)(b), F.A.C.

<sup>7</sup> Rule 6A-6.0573(4), F.A.C.

<sup>8</sup> Rule 6A-6.0573(4)(a)-(4)(b), F.A.C.

<sup>9</sup> Rule 6A-6.0573(8), F.A.C.

<sup>10</sup> Section 1003.492(2), F.S.

<sup>11</sup> Workforce Florida, Inc. Career and Professional Education (CAPE), *2013-14 Comprehensive Industry Certification List*, available at <http://careersourceflorida.com/wp-content/uploads/2014/02/2013-14ComprehensiveCondensedFINAL.pdf>

funding in the 2013-2014 school year.<sup>12</sup> Most industry certifications require passage of a subject area examination and some combination of work experience, educational achievement, or on-the-job training. The DOE has approved industry certification in such career fields as information technology, automotive and aircraft mechanics, welding, and nursing. Certifying entities include Adobe System, Apple Computer, Inc., Hewlett-Packard, Microsoft Corporation, the National Institute for Automotive Services Excellence, the American Welding Society, the Federal Aviation Administration, and Florida Department of Health.<sup>13</sup>

Industry certifications on the final approved list are eligible for additional weighted funding through the Florida Education Finance Program (FEFP).<sup>14</sup> The list may include both industry certifications that are achievable in a secondary education program and those that have minimum age, grade-level, diploma or degree, post-graduation work experience of at least twelve months, or other requirements that make it impossible for the student to obtain full certification while in a public secondary school program. Funding industry certifications in which full certification cannot be achieved in a secondary program allows students to begin working toward these certifications while in high school, without having to fulfill all requirements before graduation.<sup>15</sup>

The DOE must also collect student achievement and performance data in industry-certified career education programs and career-themed courses and must work with Workforce Florida, Inc., in the analysis of collected data. The data collection and analyses must examine the performance of participating students over time. Performance factors must include, but are not limited to, graduation rates, retention rates, Florida Bright Futures Scholarship awards, additional educational attainment, employment records, earnings, industry certification, and employer satisfaction.<sup>16</sup>

### III. Effect of Proposed Changes:

CS/SB 1206 establishes a process by which industry certifications for farm occupations are added to the list of certifications approved for funding in public schools and postsecondary institutions. The process used is identical to the process used in use for those industry certifications for occupations previously approved for funding.<sup>17</sup>

Additionally, the bill requires the DACS, in cooperation with the Institute of Food and Agricultural Science at the University of Florida and the College of Agriculture and Food Sciences at Florida Agriculture and Mechanical University, to annually provide to the state board and the DOE information and industry certifications for farm occupations to be considered for placement on the Industry Certification Funding List and the Postsecondary Industry Certification Funding List.

---

<sup>12</sup> Rule 6A-6.0573(6), F.A.C. The Industry Certification Funding List is incorporated by reference in the rule. See also Florida Department of Education, Division of Career and Adult Education, *2013-14 Final Industry Certification Funding List* (2013), available at [www.fldoe.org/workforce/fcpea/pdf/1314icfl.pdf](http://www.fldoe.org/workforce/fcpea/pdf/1314icfl.pdf).

<sup>13</sup> See Florida Department of Education, Division of Career and Adult Education, *Industry Certification Funding List*, available at <http://www.fldoe.org/workforce/pdf/PS-ICFL.pdf>.

<sup>14</sup> Section 1011.62(1)(p), F.S.; Rule 6A-6.0573(3), F.A.C.

<sup>15</sup> Section 1008.44(3), F.S.

<sup>16</sup> Section 1003.492(3), F.S.

<sup>17</sup> Section 1008.44, F.S.



The bill defines industry certification as a voluntary process through which students are assessed by an independent, third-party certifying entity using predetermined standards for knowledge, skills, and competencies, resulting in the award of a time-limited credential that is nationally recognized and must be at least one of the following:

- Within an industry that addresses a critical local or statewide economic need;
- Linked to an occupation that is included in the workforce system's targeted occupation list;  
or
- Linked to an occupation that is identified as emerging.

The bill requires the state board to use the expertise of the DACS to develop and adopt rules for implementing an industry certification process. The list of industry certifications approved by Workforce Florida, Inc., the DACS, and the DOE must be published and updated annually.

The bill requires the DOE to include the DACS in the analysis of collected student achievement and performance data in industry-certified career education programs and career-themed courses.

The bill provides an effective date of July 1, 2014.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

#### **VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 570.07, 1003.492, and 1003.4935.

**IX. Additional Information:**

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

**CS by Education on March 25, 2014**

The committee substitute differs from SB 1206 in the following ways:

- Removes secondary schools and “other appropriate agencies” from the list of institutions the Department of Agriculture should cooperate with to provide data.
- Removes the agricultural industry, the Institute of Food and Agricultural Sciences at the University of Florida, Florida Agricultural and Mechanical University, secondary schools, and “other appropriate agencies” the Department of Agriculture should consult with in determining data.
- Removes the term “time limited” in describing an industry certification.

- B. **Amendments:**

None.

By the Committee on Education; and Senator Montford

581-03156A-14

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1 A bill to be entitled  
 2 An act relating to agricultural industry  
 3 certifications; amending s. 570.07, F.S.; requiring  
 4 the Department of Agriculture and Consumer Services to  
 5 annually provide to the State Board of Education and  
 6 the Department of Education information and industry  
 7 certifications for farm occupations to be considered  
 8 for placement on industry certification funding lists;  
 9 amending s. 1003.492, F.S.; defining the term  
 10 "industry certification"; requiring the state board to  
 11 adopt rules for implementing an industry certification  
 12 process for farm occupations; amending s. 1003.4935,  
 13 F.S.; conforming a cross-reference; providing an  
 14 effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Subsection (43) is added to section 570.07,  
 19 Florida Statutes, to read:

20 570.07 Department of Agriculture and Consumer Services;  
 21 functions, powers, and duties.—The department shall have and  
 22 exercise the following functions, powers, and duties:

23 (43) In cooperation with the Institute of Food and  
 24 Agricultural Sciences at the University of Florida and the  
 25 College of Agriculture and Food Sciences at Florida Agricultural  
 26 and Mechanical University, annually provide to the State Board  
 27 of Education and the Department of Education information and  
 28 industry certifications for farm occupations to be considered  
 29 for placement on the Industry Certification Funding List and the

Page 1 of 4

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581-03156A-14

20141206c1

30 Postsecondary Industry Certification Funding List pursuant to s.  
 31 1008.44. The information and industry certifications provided by  
 32 the department must be based upon the best available data.

33 Section 2. Section 1003.492, Florida Statutes, is amended  
 34 to read:

35 1003.492 Industry-certified career education programs.—

36 (1) Secondary schools offering career-themed courses, as  
 37 defined in s. 1003.493(1)(b), and career and professional  
 38 academies shall be coordinated with the relevant and appropriate  
 39 industry to prepare a student for further education or for  
 40 employment in that industry.

41 (2) As used in this section, the term "industry  
 42 certification" means a voluntary process through which students  
 43 are assessed by an independent, third-party certifying entity  
 44 using predetermined standards for knowledge, skills, and  
 45 competencies, and resulting in the award of a credential that is  
 46 nationally recognized and must be at least one of the following:

47 (a) Within an industry that addresses a critical local or  
 48 statewide economic need.

49 (b) Linked to an occupation that is included in the  
 50 workforce system's targeted occupation list.

51 (c) Linked to an occupation that is identified as emerging.

52 ~~(3)(2)~~ The State Board of Education shall use the expertise  
 53 of Workforce Florida, Inc., and the Department of Agriculture  
 54 and Consumer Services, to develop and adopt rules pursuant to  
 55 ss. 120.536(1) and 120.54 for implementing an industry  
 56 certification process.

57 (a) For nonfarm occupations, industry certification shall  
 58 be defined by the Department of Economic Opportunity, based upon

Page 2 of 4

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581-03156A-14 20141206c1

59 the highest available national standards for specific industry  
 60 certification, to ensure student skill proficiency and to  
 61 address emerging labor market and industry trends. A regional  
 62 workforce board or a school principal may apply to Workforce  
 63 Florida, Inc., to request additions to the approved list of  
 64 industry certifications based on high-skill, high-wage, and  
 65 high-demand job requirements in the regional economy. ~~The list  
 66 of industry certifications approved by Workforce Florida, Inc.,  
 67 and the Department of Education shall be published and updated  
 68 annually by a date certain, to be included in the adopted rule.~~

69 (b) For farm occupations submitted pursuant to s. 570.07,  
 70 industry certification shall demonstrate student skill  
 71 proficiency and be based upon the best available data to address  
 72 critical local or statewide economic needs.

73 (4) The list of industry certifications approved by  
 74 Workforce Florida, Inc., the Department of Agriculture and  
 75 Consumer Services, and the Department of Education shall be  
 76 published and updated annually by a date certain, to be included  
 77 in the adopted rule.

78 ~~(5)(3)~~ The Department of Education shall collect student  
 79 achievement and performance data in industry-certified career  
 80 education programs and career-themed courses and shall work with  
 81 Workforce Florida, Inc., and the Department of Agriculture and  
 82 Consumer Services in the analysis of collected data. The data  
 83 collection and analyses shall examine the performance of  
 84 participating students over time. Performance factors shall  
 85 include, but not be limited to, graduation rates, retention  
 86 rates, Florida Bright Futures Scholarship awards, additional  
 87 educational attainment, employment records, earnings, industry

581-03156A-14 20141206c1

88 certification, and employer satisfaction. The results of this  
 89 study shall be submitted to the President of the Senate and the  
 90 Speaker of the House of Representatives annually by December 31.

91 Section 3. Subsection (3) of section 1003.4935, Florida  
 92 Statutes, is amended to read:

93 1003.4935 Middle grades career and professional academy  
 94 courses and career-themed courses.—

95 (3) Beginning with the 2012-2013 school year, if a school  
 96 district implements a middle school career and professional  
 97 academy or a career-themed course, the Department of Education  
 98 shall collect and report student achievement data pursuant to  
 99 performance factors identified under s. 1003.492(5) ~~§~~.  
 100 ~~1003.492(3)~~ for students enrolled in an academy or a career-  
 101 themed course.

102 Section 4. This act shall take effect July 1, 2014.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/7/14  
Meeting Date

Topic Agriculture Industry Certifications

Bill Number 1206  
*(if applicable)*

Name Adam Basford

Amendment Barcode \_\_\_\_\_  
*(if applicable)*

Job Title Director of Legislative Affairs

Address 315 S Calhoun St

Phone 222-2557

Tallahassee FL 32301  
City State Zip

E-mail adam.basford@ffbf.org

Speaking:  For  Against  Information

Representing Florida Farm Bureau

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Apr. 7, 2014  
Meeting Date

Topic Ag Certifications Bill Number 1206  
Name Grace Lovett Amendment Barcode \_\_\_\_\_  
(if applicable)

Job Title Director of legislative Affairs  
Address PL 10 The Capitol Phone 850 617 7700  
Street

Tallahassee FL 32399 E-mail grace.lovette@freshfrom  
City State Zip Florida.com

Speaking:  For  Against  Information

Representing FL Dept. of Agriculture & Consumer Services

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

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

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



## THE FLORIDA SENATE

**Senator Maria Lorts Sachs**  
**Minority Leader Pro Tempore**  
District 34

Committees:

Gaming  
Vice Chair

Agriculture

Education

Appropriations  
Subcommittee on  
Education

Appropriations  
Subcommittee on  
Finance and Tax

Military Affairs, Space,  
and Domestic Security

Regulated Industries

STAFF:

Joshua Freeman  
Legislative Assistant

Matthew Damsky  
Legislative Assistant

Laura Jiménez  
Legislative Assistant

April 7, 2014

The Honorable Bill Montford  
214 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chair Montford,

I will not be able to attend the Committee on Agriculture meeting taking place at 4:00PM on April 7, 2014, as I have a previously scheduled conflict in my district.

Very truly yours,

A handwritten signature in black ink, appearing to read "Maria Lorts Sachs", with a long horizontal stroke extending to the right.

State Senator Maria Sachs  
District 34

CC: Katherine Becker  
Staff Director

100 NW 1st Avenue, Delray Beach, Florida 33444 (561) 279-1427  
216 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5091

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**Don Gaetz**  
President of the Senate

**Garrett Richter**  
President Pro Tempore





## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

**JOINT COMMITTEE:**  
Joint Committee on Administrative Procedures

**SENATOR RENE GARCIA**

38th District

April 7, 2014

The Honorable Bill Montford  
214 Senate Office Building  
404 South Monroe Street  
Tallahassee, FL 32399-1100

Dear Chairman Montford:

Due to some health concerns ; I will not able to attend the Agriculture Committee meeting scheduled for Wednesday April 7, 2014. Please do not hesitate to contact my office if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "René García".

State Senator René García  
District 38  
RG:dm

CC: Katherine Becker, Staff Director

**REPLY TO:**

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: [www.flsenate.gov](http://www.flsenate.gov)

**DON GAETZ**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

Room: SB 301

Case:

Type:

Caption: Senate Agriculture Committee

Judge:

Started: 4/7/2014 4:03:41 PM

Ends: 4/7/2014 4:33:53 PM Length: 00:30:13

4:03:56 PM Roll call by Administrative Assistant, Joyce Butler  
4:04:21 PM Comments from Chairman Montford regarding Senators Garcia and Sachs approved absence  
4:05:20 PM Thanks to Senator Bullard, committee members and staff from Chairman Montford  
4:05:52 PM Tab 2 - CS/SB 1182 introduced  
4:06:26 PM Explanation of CS/SB 1182, Secondary Metals Recyclers by Senator Brandes  
4:06:35 PM Introduction of late-filed Amendment 303254  
4:06:44 PM Explanation of Amendment 303254  
4:06:49 PM Comments from Chairman Montford  
4:06:53 PM Amendment 303254 adopted  
4:07:13 PM Doug Mann, AIF waives in support  
4:07:59 PM Speaker Jim Magill, Lobbyist, Florida Recyclers Association  
4:08:07 PM Keri Rayborn Silver, Florida Sheriffs Association waives in support  
4:08:40 PM Speaker Grace Lovett, Director Legislative Affairs, Florida Department of Agriculture and Consumer Services  
4:08:54 PM Closure waived  
4:09:01 PM Senator Grimsley moves for CS  
4:09:10 PM Roll call by Administrative Assistant, Joyce Butler  
4:09:22 PM CS/CS/SB 1182 reported favorably  
4:09:33 PM Tab 1 - CS/SB 1160 introduced by Chairman Montford  
4:10:02 PM CS/SB 1160 TP'd  
4:10:12 PM Gavel passed to Senator Bullard  
4:10:30 PM Comments from Senator Bullard regarding thanks to Chairman Montford for his leadership  
4:10:41 PM Tab 3 - CS/SB 1206 introduced by Senator Bullard  
4:10:56 PM Explanation of CS/SB 1206 by Chairman Montford  
4:12:13 PM Comments from Senator Bullard  
4:12:30 PM Speaker Adam Basford, Director of Legislative Affairs, Florida Farm Bureau  
4:12:59 PM Doug Mann, AIF waives in support  
4:13:10 PM Grace Lovett, Director Legislative Affairs, Florida Department of Agriculture and Consumer Services waives in support  
4:13:20 PM Comments from Senator Bullard  
4:13:26 PM Comments from Senator Galvano  
4:13:57 PM Closure waived  
4:14:10 PM Roll call by Administrative Assistant, Joyce Butler  
4:14:20 PM CS/SB 1206 reported favorably  
4:14:23 PM Gavel passed back to Chairman Montford  
4:14:29 PM Tab 1 - S/SB 1160 Introduced by Chairman Montford  
4:14:53 PM Explanation of CS/SB 1160 by Senator Evers  
4:16:41 PM Introduction of Amendment 893186 by Chairman Montford  
4:17:09 PM Explanation of Amendment 893186 by Senator Evers  
4:18:07 PM Comments from Chairman Montford  
4:18:20 PM Question from Senator Bullard  
4:18:37 PM Response from Senator Evers  
4:19:32 PM Follow-up question from Senator Bullard  
4:19:43 PM Response from Senator Evers  
4:21:06 PM Question from Senator Galvano  
4:21:16 PM Response from Senator Evers  
4:22:24 PM Comments from Chairman Montford  
4:24:07 PM Speaker Mary Jean Yon, Legislative Director, Audubon Florida in opposition of Amendment  
4:25:12 PM Speaker David Childs, Lobbyist, FWEA Utility Council in opposition of Amendment  
4:26:17 PM Speaker Ryan Matthews, Legislative Advocate, Florida League of Cities in opposition of Amendment  
4:27:03 PM Speaker Stephen James, Florida Association of Counties in opposition of Amendment  
4:28:01 PM Comments from Chairman Montford

**4:28:19 PM** Amendment 893186 withdrawn by Senator Grimsley  
**4:28:32 PM** Comments from Senator Evers  
**4:29:16 PM** Comments from Chairman Montford  
**4:29:26 PM** Speaker Jeff Mann, Owner Mann Septic  
**4:31:06 PM** Speaker David Cullen, Sierra Club Florida  
**4:32:50 PM** Roxanne L. Groover, Executive Director, Florida Onsite Wastewater Association waives in support  
**4:33:07 PM** Closure waived  
**4:33:20 PM** Roll call by Administrative Assistant, Joyce Butler  
**4:33:31 PM** CS/SB 1160 reported favorably  
**4:33:40 PM** Comments from Chairman Montford  
**4:33:45 PM** Senator Grimsley moves to rise