The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

COMMUNITY AFFAIRS
Senator Simpson, Chair
Senator Thompson, Vice Chair

MEETING DATE: Tuesday, April 1, 2014
TIME: 3:00 —6:00 p.m.
PLACE: 301 Senate Office Building

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

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 1342** Agriculture / Dean (Similar H 1147)	Nonresidential Farm Buildings; Exempting nonresidential farm buildings, farm fences, and farm signs that are located on lands used for bona fide agricultural purposes from any county or municipal assessment, etc. AG 03/17/2014 Fav/CS CA 04/01/2014 Favorable AP	Favorable Yeas 9 Nays 0
2	**SJR 916** Brandes (Identical HJR 825, Compare H 827, Link S 922)	Ad Valorem Assessments/Renewable Energy Source Devices; Proposing an amendment to the State Constitution to revise the Legislature's authority to exempt the value of renewable energy source devices from consideration in determining the assessed value of real property by removing a restriction that limits such exemptions to property used for residential purposes and restricting such exemptions to installation by an end-use customer of a renewable energy source device that is primarily intended to offset part or all of that customer's electricity demands, etc. CU 03/04/2014 Favorable CA 04/01/2014 Favorable JU RC	Favorable Yeas 9 Nays 0
3	**SB 922** Brandes (Identical H 827, Compare HJR 825, Link SJR 916)	Renewable Energy Source Devices; Prohibiting consideration by a property appraiser of the increased value of real property due to the installation of a renewable energy source device by an end-use customer; revising the definition of the term "renewable energy source device", etc. CU 03/04/2014 Favorable CA 04/01/2014 Favorable RC	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/SB 1326** Military and Veterans Affairs, Space, and Domestic Security / Brandes (Compare H 7065)	Emergency Management; Specifying the availability of a cause of action with respect to a governmental entity implementing a Flood Insurance Rate Map; revising the duties of the Division of Emergency Management to conform to changes made by the act; requiring the division to contract for a flood risk analysis; exempting state employees from specified travel expense provisions when traveling under the Emergency Management Assistance Compact pursuant to a request for assistance from another state under certain circumstances; providing appropriations, etc. MS 03/19/2014 Fav/CS CA 04/01/2014 Favorable AP	Favorable Yeas 9 Nays 0
5	**SB 1052** Evers (Identical H 999)	Department of Transportation; Citing this act as the "Northwest Florida Regional Transportation Finance Authority Act"; specifying the powers and duties of a regional transportation finance authority; authorizing certain counties to form a regional finance authority to construct, maintain, or operate transportation projects in a given region of the state; authorizing the authority to issue bonds that meet certain requirements; providing that the state will not limit or alter the vested rights of a bondholder with regard to any issued bonds or other rights relating to the bonds under certain conditions, etc. TR 03/20/2014 Favorable CA 04/01/2014 Favorable AFT AP	Favorable Yeas 9 Nays 0
6	**SB 978** Evers (Identical H 841)	Crime Stoppers Trust Fund; Authorizing a county that is awarded funds from the trust fund to use such funds for promotional items; making technical changes, etc. CJ 03/03/2014 Favorable CA 04/01/2014 Favorable AP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**SB 620** Detert (Identical H 627, Compare H 1177, CS/S 912)	Service of Process; Requiring sheriffs to charge a uniform fee for service of process; requiring an employer to allow an authorized individual to make service on an employee in a private area designated by the employer; providing a civil fine for employers who fail to comply with the process; requiring the person requesting service or the person authorized to serve the process to file the return-of-service form; authorizing a sheriff to apply for instructions from the court regarding the distribution of proceeds from the sale of a levied property, etc. JU 02/11/2014 Favorable CA 04/01/2014 Favorable	Favorable Yeas 9 Nays 0
8	**SB 910** Legg (Compare H 1107)	Utility Projects; Citing this act as the "Utility Cost Containment Bond Act"; authorizing certain local government entities to finance the cost of a utility project by issuing utility cost containment bonds upon application by a local agency; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; requiring the governing body of the authority to adopt a financing resolution and impose a utility project charge on customers of a publicly owned utility as a condition of utility project financing, etc. CU 03/18/2014 Favorable CA 04/01/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0
9	**SB 1382** Hays (Similar CS/H 1121)	Hazardous Walking Conditions; Revising criteria that determine a hazardous walking condition for public school students; revising procedures for inspection and identification of hazardous walking conditions; requiring a district school board to provide transportation to students who would be subjected to hazardous walking conditions; revising provisions relating to funding for the transportation of students subjected to a hazardous walking condition; providing requirements relating to a civil action for damages, etc. ED 03/18/2014 Favorable CA 04/01/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	**CS/SB 974** Transportation / Abruzzo (Similar CS/CS/H 617)	Towing of Vehicles and Vessels; Authorizing an owner or lessee of real property to have a vehicle or vessel removed from the property without certain signage if the vehicle or vessel has remained on the property for a specified period; providing that the specified period does not begin until a certain notice is physically attached to the vehicle or vessel; providing requirements for the notice, etc. TR 03/13/2014 Fav/CS CA 03/25/2014 Temporarily Postponed CA 04/01/2014 Temporarily Postponed	Temporarily Postponed
11	**CS/SB 1474** Ethics and Elections / Abruzzo (Similar CS/H 1315)	Public Officers and Employees; Authorizing the electors of a political subdivision to impose additional or more stringent standards of conduct and disclosure requirements upon the political subdivision's officers and employees; requiring a local ethics agency or commission to establish certain procedures, etc. EE 03/17/2014 Fav/CS CA 04/01/2014 Fav/CS AP	Fav/CS Yeas 8 Nays 1
12	**SB 884** Smith (Similar H 371)	Special Assessment for Law Enforcement Services; Authorizing municipalities to levy a special assessment to fund the costs of providing law enforcement services; requiring a municipality to adopt an ordinance and reduce its ad valorem millage to levy the special assessment; providing a methodology for the apportionment of the special assessment and the reduction of the ad valorem millage; requiring the property appraiser to list the special assessment on the notice of property taxes; specifying exceptions to the reduction of the ad valorem millage by more than a certain percentage, etc. CA 04/01/2014 Favorable CJ AFT AP	Favorable Yeas 8 Nays 1
13	**SB 1034** Latvala (Identical H 359)	Renovation of Educational Facilities; Requiring school districts, state universities and Florida College System institutions to retrofit the doors and windows of educational facilities to comply with certain Florida Building Code standards; providing funding through the capital outlay millage levy and capital outlay funds, etc. CA 04/01/2014 Temporarily Postponed ED AED AP	Temporarily Postponed

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
14	**CS/SB 1048** Transportation / Latvala (Similar CS/H 1161, Compare H 259, CS/H 345, CS/CS/CS/S 218, S 1152)	Department of Transportation; Authorizing the department to seek certain investors for certain leases; providing that a public information system is subject to the requirements of the Highway Beautification Act of 1965 and all federal laws and agreements when applicable; amending provisions relating to outdoor advertising signs; providing that an outdoor advertising license is not required solely to erect or construct outdoor signs or structures; exempting from permitting certain signs placed by tourist-oriented businesses, certain farm signs placed during harvest seasons, certain acknowledgment signs on publicly funded school premises, and certain displays on specific sports facilities, etc. TR 03/20/2014 Fav/CS CA 04/01/2014 Fav/CS	Fav/CS Yeas 9 Nays 0
15	**SB 550** Hukill (Similar H 427)	Traveling Across County Lines to Commit a Felony Offense; Defining the terms “county of residence” and “felony offense” for the purpose of the crime of traveling across county lines with the intent to commit a felony offense; providing a criminal penalty; adding the crime of traveling across county lines with the intent to commit a felony offense to the factors a court must consider in determining whether to release a defendant on bail, etc. CJ 03/17/2014 Not Considered CJ 03/24/2014 Favorable CA 04/01/2014 Favorable ACJ AP	Favorable Yeas 6 Nays 3
16	**SB 1532** Bradley (Compare H 5305)	Juvenile Detention Costs; Revising the responsibilities of specified counties and the state relating to financial support for juvenile detention care; requiring the Department of Juvenile Justice to provide specified information to specified counties, etc. CA 03/25/2014 Temporarily Postponed CA 04/01/2014 Favorable AP	Favorable Yeas 9 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
17	**CS/SB 1632** Ethics and Elections / Stargel (Similar CS/H 1237)	Special Districts; Revising duties of the Legislative Auditing Committee; specifying applicability of procedures regarding suspension and removal of a member of the governing body of a special district; revising the circumstances under which the Department of Economic Opportunity may declare a special district inactive; requiring the Legislative Auditing Committee to provide notice of the failure of special districts to file certain required reports to the chair of the county legislative delegation or the chair or equivalent of the local general-purpose government, as applicable, etc. EE 03/17/2014 Fav/CS CA 04/01/2014 Fav/CS AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1342
INTRODUCER:	Agriculture Committee and Senator Dean
SUBJECT:	Nonresidential Farm Buildings
DATE:	March 31, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Weidenbenner	Becker	AG	**Fav/CS**
2.	White	Yeatman	CA	**Favorable**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1342 exempts nonresidential farm buildings, farm fences, and farm signs from county or municipal assessments, including assessments by a dependent special district, except those arising from floodplain management regulations.

II. Present Situation:

Nonresidential Farm Building Exemptions

A nonresidential farm building is a temporary or permanent structure on a farm,[1] or on land used primarily for agricultural purposes, that is not intended to be used as a residential dwelling.[2] Examples include barns, greenhouses, shade houses, farm offices, storage buildings, and poultry houses. Section 604.50, F.S., exempts nonresidential farm buildings,[3] farm fences, and farm signs from the Florida Building Code, any county or municipal code, and any county or municipal fee.[4] The legislative history of the exemption reaches back to 1998 when nonresidential farm buildings were exempted from having to follow building code provisions.[5] In

[1] *See* s. 553.73(10)(c), F.S.
[2] Section 604.50(2)(d), F.S.
[3] To qualify for the exemption, the nonresidential farm buildings must be located on lands used for bona fide agricultural purposes, as defined in s. 193.461(3)(b), F.S.
[4] Section 604.50(1), F.S. However, this exemption does not extend to any code provisions implementing floodplain management regulations.
[5] Chapter 98-396, Laws of Fla.

2011, legislation exempted nonresidential farm buildings from any county or municipal fees.[6] Currently, these buildings are not exempt from assessments.

Special Districts

Special districts are local units of special purpose government, within limited geographical areas, which are utilized to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services. Special districts have existed in Florida since 1845 when the Legislature authorized five commissioners to drain the "Alachua Savannah" also known as Paynes Prairie. The project was financed by special assessments made on landowners based on the number of acres owned and the benefit derived. Since that time, special districts have been useful to local governments in providing a broad range of government services. All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 which was enacted by the Legislature to reform and consolidate laws relating to special districts. The Act provides for the definitions, creation, operation, financial report, taxation and non-ad valorem assessments, elections and dissolution of most special districts.

Special districts serve a limited purpose, function as an administrative unit separate and apart from the county or city in which they may be located, and are often referred to as a local unit of special purpose. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.

The Special District Information Program (SDIP) within the Department of Economic Opportunity serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function which can include community development districts (575), community redevelopment districts (213), downtown development districts (14), drainage and water control districts (86), economic development districts (11), fire control and rescue districts (65), mosquito control districts (18), and soil and water conservation districts (62).[7] There are a total of 1,634 special districts. There are two types of special districts, dependent and independent. There are 1,008 independent special districts and 644 dependent special districts.

Dependent Special Districts

A dependent district meets at least one of the following criteria:

- The special district governing body members are the same as the governing body members of the county or city that created the district;
- The special district governing board members are appointed by the governing body of the county or city that created the district;
- During the terms of membership, the governing board members of the special district are subject to removal at will by the governing body of the county or city that created the district;
- The special district budget must be approved by an affirmative vote of the governing body of the county or city that created the district; or

[6] Chapter 2011-7, Laws of Fla.

[7] Information relating to special districts and their functions can be found in the SDIP online publication "Florida Special District Handbook Online" which can be found at http://www.floridaspecialdistricts.org/handbook/.

- The special district budget can be vetoed by the governing body of the county or city that created the district.

The ordinance creating a dependent special district must provide the following:

- A statement referencing the district's dependent status, including a statement that explains why the special district is the best way to provide the service being provided;
- The purpose, powers, functions, authority, and duties of the district;
- District boundaries;
- The membership, organization, compensation, and administrative duties of the special district governing board;
- Applicable financial disclosure, noticing, and reporting requirements;
- The method by which the special district will be financed; and
- A declaration that the creation of the special district is consistent with the approved local government comprehensive plan.

Independent Special Districts

An independent special district does not have any of the characteristics of a dependent district, may encompass more than one county unless the district lies wholly within the boundaries of one city, and generally is created by an act of the Legislature. However, counties and cities may create community development districts of less than 1,000 acres,[8] public hospital districts,[9] county children's services districts,[10] and county health and mental health care districts.[11] Two or more counties may create regional jail districts,[12] and any combination of counties or cities, or both, may create regional water supply authorities.[13] Regional transportation authorities may be created by any combination of contiguous counties, cities, or other political subdivisions.[14] Finally, the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission, have the authority to create community development districts.[15]

With the exception of a community development district, the charter creating an independent special district must contain the following information:

- The purpose of the special district;
- The powers, functions and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;

[8] Chapter 190.005(2), F.S.
[9] Chapter 155.04 and 155.05, F.S.
[10] Section 125.901, F.S.
[11] Section 154.331, F.S.
[12] Section 950.001, F.S.
[13] Section 373.1962, F.S.
[14] Section 163.567, F.S.
[15] Section 190.005(1), F.S.

- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- District boundaries.

Revenue Sources Based on Home Rule Authority

The Florida Constitution provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depends on the context of requirements established in Florida case law.[16]

Special Assessments

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S., authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments for municipal governments. Section 125.271, F.S., authorizes the levy of special assessments for county emergency medical services. Special districts derive their authority to levy special assessments through general law or special act creating the district.[17]

As established by case law, two requirements exist for the imposition of a valid special assessment: 1) the property assessed must derive a special benefit from the improvement or service provided; and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.[18]

The test to be applied in evaluating whether a special benefit is conferred on property by the provision of a service is whether there is a "logical relationship" between the services provided and the benefit to real property.[19] Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,[20] fire protection,[21] fire and rescue services,[22] and stormwater management services.[23]

[16] See Office of Economic and Demographic Research, *Local Government Financial Information Handbook*, at 9-15 (2013).
[17] For example, s. 153.73, F.S., for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.
[18] See *City of Boca Raton v. State*, 595 So 2d 25 (Fla. 1992).
[19] *Whisnant v. Stringfellow*, 50 So. 2d 885 (Fla. 1951).
[20] *Harris v. Wilson*, 693 So. 2d 945 (Fla 1997).
[21] *South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d380 (Fla. 1973).
[22] *Lake County v. Water Oak Mgmt Corp.*, 695 So. 2d 667 (Fla. 1997).
[23] *Sarasota County v. Sarasota Church of Christ*, 667 So. 2d 180 (Fla. 1995).

Once an identified service or capital facility satisfies the special benefit test, the assessed amount is required to be fairly apportioned among the benefited property in a manner consistent with the logical relationship embodied in the special benefit requirement.

Generally, a special assessment, whether imposed for capital projects or services, is collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a "non-ad valorem assessment."[24]

Assessments by Independent Fire Control Districts

Chapter 2013-183, Laws of Fla.,[25] amended s. 191.009, F.S., to authorize independent special fire control districts to levy non-ad valorem assessments for emergency medical and emergency transport services. The provision of such services is recognized, in law, as constituting a benefit to real property. The legislation also provided that if a district levies a non-ad valorem assessment for either service, then the district must cease charging an ad valorem tax for the service. Additionally, the legislation provided that a district can levy non-ad valorem assessments on lands within the district without limitation to only being able to impose assessments to benefited real property.

III. Effect of Proposed Changes:

Section 1 amends s. 604.50, F.S., to exempt nonresidential farm buildings, farm fences, and farm signs from county or municipal assessments, including assessments by dependent special districts. The bill would provide this exemption in addition to, and not replacing, the presently existing exemption from county or municipal fees. Fees arising from floodplain management regulations would still apply.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill reduces the authority of counties and municipalities to raise revenues because it would eliminate their ability to collect assessments on nonresidential agricultural buildings. Article VII, section 18(b) of the Florida Constitution requires a two-thirds vote of the membership of each house of the Legislature in order to enact a general law that reduces the authority of municipalities and counties to raise revenues in the aggregate. Article VII, section 18(d) of the Florida Constitution provides an exemption if the law is determined to have an insignificant fiscal impact. An insignificant fiscal impact means an amount not greater than the average statewide population for the applicable fiscal year times ten cents.[26] A fiscal estimate is not available for this bill. If it is determined that this bill has more than an insignificant fiscal impact, the bill will require a two-thirds vote of the membership of each house of the Legislature for passage.

[24] *See* s. 197.3632(1)(d), F.S.
[25] CS/CS/SB 1410 (2013).
[26] As of April 1, 2013, the total state population is estimated to be 19,259,543. University of Florida, Bureau of Economic and Business Research, *Florida Estimates of Population 2013* (Apr. 1, 2013), at p. 21.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill reduces revenues to counties and municipalities by providing an exemption from assessments for qualified agricultural buildings. An estimate of the extent of revenue reduction will not be available until the Revenue Estimating Conference has analyzed the bill.

B. Private Sector Impact:

Owners of nonresidential farm buildings used for bona fide agricultural purposes will benefit monetarily by being exempt from county and municipal assessments.

C. Government Sector Impact:

The bill will eliminate the ability of counties and municipalities to collect assessments on qualified agricultural buildings.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 604.50 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 Agriculture on March 17, 2014:
Clarifies that the assessments being exempted includes assessments by dependent special districts.

B. Amendments:

None.

By the Committee on Agriculture; and Senator Dean

575-02733-14 20141342c1

A bill to be entitled

An act relating to nonresidential farm buildings; amending s. 604.50, F.S.; exempting nonresidential farm buildings, farm fences, and farm signs that are located on lands used for bona fide agricultural purposes from any county or municipal assessment; providing an effective date.

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

Section 1. Section 604.50, Florida Statutes, is amended to read:

604.50 Nonresidential farm buildings; farm fences; farm signs.—

(1) Notwithstanding any provision of law to the contrary, a ~~any~~ nonresidential farm building, farm fence, or farm sign that is located on lands used for bona fide agricultural purposes is exempt from the Florida Building Code and any county or municipal code, ~~or~~ fee, or assessment, including a dependent special district assessment, except for code provisions implementing local, state, or federal floodplain management regulations. A farm sign located on a public road may not be erected, used, operated, or maintained in a manner that violates any of the standards provided in s. 479.11(4), (5)(a), and (6)-(8).

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

(a) "Bona fide agricultural purposes" has the same meaning as provided in s. 193.461(3)(b).

(b) "Farm" has the same meaning as provided in s. 823.14.

(c) "Farm sign" means a sign erected, used, or maintained on a farm by the owner or lessee of the farm which relates solely to farm produce, merchandise, or services sold, produced, manufactured, or furnished on the farm.

(d) "Nonresidential farm building" means a ~~any~~ temporary or permanent building or support structure that is classified as a nonresidential farm building on a farm under s. 553.73(10)(c) or that is used primarily for agricultural purposes, is located on land that is an integral part of a farm operation or is classified as agricultural land under s. 193.461, and is not intended to be used as a residential dwelling. The term may include, but is not limited to, a barn, greenhouse, shade house, farm office, storage building, or poultry house.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic NONRESIDENTIAL FARM BUILDINGS

Bill Number 1342 *(if applicable)*

Name STEPHEN JAMES

Amendment Barcode *(if applicable)*

Job Title

Address 100 S. MONROE
Street

TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850 922.4300

E-mail

Speaking: ☐ For ☒ Against ☐ Information

Representing FLA. ASSOC. OF COUNTIES

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic Ag. Bill Number CS/SB 1342 *(if applicable)*

Name Doug Mann Amendment Barcode *(if applicable)*

Job Title

Address 310 W. College Ave Phone 222-7535
Street

Tallahassee FL 32301 E-mail
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing AIF

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Non Residential Farm Buildings Bill Number 1342 *(if applicable)*

Name Adam Basford Amendment Barcode *(if applicable)*

Job Title Director of Legislative Affairs

Address 315 S Calhoun St Phone

Street

Tallahassee FL 32301 E-mail

City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Farm Bureau

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2014
Meeting Date

Topic Non Residential Farm Buildings

Bill Number 1342 *(if applicable)*

Name Amber Hughes

Amendment Barcode — *(if applicable)*

Job Title Legislative Advocate

Address PO Box 1757 *Street*

Phone 701-3421

Tall. *City* FL *State* 32301 *Zip*

E-mail ahughes@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

SENATOR CHARLES S. DEAN, SR.
5th District

March 20, 2014

The Honorable Wilton Simpson
322 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Simpson,

I respectfully request you place Senate Bill 1342, relating to Nonresidential Farm Buildings, on your Community Affairs Committee agenda at your earliest convenience.

If you have any concerns, please do not hesitate to contact me personally.

Sincerely,

Charles S. Dean
State Senator District 5

cc: Tom Yeatman, Staff Director

REPLY TO:
☐ 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
☐ 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
☐ 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SJR 916
INTRODUCER:	Senator Brandes
SUBJECT:	Ad Valorem Assessments/Renewable Energy Source Devices
DATE:	March 24, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Favorable**
2.	White	Yeatman	CA	**Favorable**
3.			JU	
4.			RC	

I. Summary:

SJR 916 proposes a constitutional amendment to existing provisions that authorize the Legislature to prohibit property appraisers, in appraising real property for ad valorem tax purposes, from considering the value of improvements to residential real property that constitute either enhancements to the property's wind resistance or the installation of a renewable energy device. The bill preserves the application of the wind-resistance provisions solely to residential real property. It expands the application of the renewable-energy provisions to all real property, but limits application to instances when the device is installed by an end-use customer primarily to offset part or all of that end-use customer's electricity demands.

II. Present Situation:

Property Tax Assessments

Article VII, s. 4, Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1] Both the constitution and the statutes require that a property appraiser consider changes, additions, or improvements to residential property in determining the property's just valuation.[2]

[1] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

[2] FLA. CONST. art. VII, s. 4. and ss. 193.011, 193.155(4), and 193.1554(6), F.S.

Initial Constitutional Ad Valorem Renewable Energy Source Incentive

Property tax incentives to promote renewable energy in Florida date back over 30 years. In 1980, Florida voters added the following ad valorem tax exemption authorization to the Florida Constitution:

> By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, for the period of time fixed by general law not to exceed ten years.[3]

During that same year, the Legislature enacted s. 196.175, F.S., to implement the constitutional amendment.[4] The legislation limited the ad valorem exemption to the lesser of:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

The statute limited the exemption to a 10-year period, and the statute itself expired after 10 years. Specifically, the statute was in effect from January 1, 1980, through December 31, 1990. Therefore, no exemptions were granted after December 31, 1990, and exemptions granted in December 1990 expired 10 years later in December 2000. At this point, the statute was rendered inoperative and art. VII, s. 3(d), Florida Constitution, was no longer implemented by general law.

2008: Legislative Action and Constitutional Amendment 3

On April 30, 2008, the Legislature removed the expiration date of the property tax exemption for renewable energy source devices.[5] This allowed property owners to apply again for the exemption effective January 1, 2009, again with a 10-year life span.

In November 2008, Florida voters approved the following constitutional amendment placed on the ballot by the Florida Tax and Budget Reform Commission (TBRC):

> (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:
> (1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
> (2) The installation of a renewable energy source device.[6]

[3] FLA. CONST. art. VII, s. 3(d).
[4] Section 196.175, F.S.
[5] House Bill 7135, Ch. 2008-227, Laws of Florida.
[6] FLA. CONST. art. VII, s. 4.

The amendment was permissive; unless the Legislature enacted implementing legislation, it had no effect. The 2008 amendment also repealed the previous constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated. Thus, the first constitutional provisions granting the ad valorem tax exemptions were repealed in 2008, with the related implementing language in s. 196.175, F.S., and a new set of ad valorem tax exemptions were added to the constitution, but with no implementing statute.

2009 Senate Interim Report

In 2009, the Senate Committee on Finance and Tax issued an interim report evaluating the 2008 Constitutional Amendment.[7] The report reviewed proposed legislation filed during the 2009 legislative session to implement the constitutional amendment. It also discussed property tax incentives that are provided in other states for installing renewable energy equipment or improving disaster resistance.[8]

At the time of the interim report, 17 states had enacted property tax incentives for renewable energy equipment including devices related to solar, wind, and geothermal energy. Although the report noted that tax incentives for improvements related to disaster preparedness are less common, three states had enacted such laws.

2013 Legislation

After several attempts to implement the 2008 constitutional amendment, implementing legislation was enacted in the 2013 Regular Session.[9] That statute provides that in determining the assessed value of real property used for residential purposes, a property appraiser cannot consider an increase in the just value of the property attributable to the installation of a renewable energy source device.[10] The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters.
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
- Rockbeds.
- Thermostats and other control devices.
- Heat exchange devices.
- Pumps and fans.
- Roof ponds.
- Freestanding thermal containers.
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.

[7] Comm. on Finance and Tax, The Florida Senate, *Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008*, (Interim Report 2010-116) (Oct. 2009).
[8] *Id. citing State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).
[9] HB 277, Ch. 2013-77, Laws of Fla.
[10] Section 193.624, F.S.

- Windmills and wind turbines.
- Wind-driven generators.
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The statute applied to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property, and to assessments beginning January 1, 2014.

The statutes that provide for homestead[11] and non-homestead residential[12] property assessment were amended by cross reference to include this new prohibition.

Non-utility Production of Electricity

Non-Utility Sales to the Public

The Florida Supreme Court has held that the Florida Statutes mandate that any person who sells electricity to even a single person is a public utility subject to regulation by the Florida Public Service Commission (PSC).[13] The facts of that case are as follows. PW Ventures signed a letter of intent with Pratt and Whitney to provide electric and thermal power at Pratt's industrial complex in Palm Beach County. PW Ventures proposed to construct, own, and operate a cogeneration electric power plant on land leased from Pratt and to sell its output to Pratt under a long-term contract. Before proceeding with construction of the plant, PW Ventures sought a declaratory statement from the PSC that it would not be a public utility subject to PSC regulation. After a hearing, the PSC ruled that PW Ventures proposed transaction with Pratt fell within its regulatory jurisdiction.

The Court reviewed similar Florida regulatory statutes where the Legislature had expressly provided for exclusions from regulation based on a stated limited number of customers and found that the failure of the Legislature to create such an exclusion for electric services indicated its intent that the term "to the public" include a sale to even one person.

The Court also reviewed the statutory system of electric utility regulation[14] and found that the regulation of the production and sale of electricity necessarily contemplates the granting of monopolies in the public interest. The Court noted that if the proposed sale of electricity by PW Ventures was outside of PSC jurisdiction, duplication of facilities could occur in contradiction of statutory direction that the PSC exercise its powers to avoid uneconomic duplication of generation, transmission, and distribution facilities.[15] The Court stated that PW Ventures essentially proposed to go into an area served by a utility and take away a major customer. Such an interpretation could allow other ventures to enter into similar contracts with other high use

[11] Section 193.155(4), F.S.
[12] Section 193.1554(6), F.S.
[13] *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (1988).
[14] Chapter 366, F.S.
[15] Section 366.04(3), Florida Statutes (1985).

industrial complexes on a one-to-one basis and drastically change the regulatory scheme in this state. "The effect of this practice would be that revenue that otherwise would have gone to the regulated utilities which serve the affected areas would be diverted to unregulated producers. This revenue would have to be made up by the remaining customers of the regulated utilities since the fixed costs of the regulated systems would not have been reduced."[16] Finally the Court found that the Legislature had determined that the protection of the public interest required limiting competition in the sale of electric service.

Based upon these findings, the Court upheld the PSC's order that under the proposed arrangement PW Ventures would be a public utility subject to PSC regulation.

Self-Generation

PW Ventures

The prohibition on non-utility sales of electricity does not prohibit a person or business from producing electricity solely to furnish its own power. In its finding that the Legislature determined that the protection of the public interest required limiting competition in the sale of electric service, the Florida Supreme Court expressly noted that this determination of public interest did not require a prohibition against self-generation.[17]

Cogeneration and Small Power Producers

The statutes expressly provide for self-generation, and for the sale of any excess electricity to a public utility. A public utility is required to purchase electricity from a cogenerator[18] or small power producer[19] located in that public utility's service territory.[20] The PSC is required to establish guidelines relating to the purchase of power or energy and may set rates at which a public utility must purchase the power or energy.[21] In fixing rates, the PSC must authorize a rate equal to the purchasing utility's full avoided costs. Full avoided costs are defined as the incremental costs to the utility of the electric energy or capacity, or both, which the utility would generate itself or purchase from another source, if not for the purchase from cogenerators or small power producers.[22]

Standard Purchase Contract

Each public utility and each municipal electric utility or rural electric cooperative that meets specified criteria[23] must continuously offer a purchase contract to producers of renewable

[16] *PW Ventures*, at 283.
[17] *Id*, at 284.
[18] Cogeneration is the sequential production of thermal energy and electrical or mechanical energy from the same fuel source. *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 30.
[19] A small-power producer generates electricity from facilities using biomass, solid waste, geothermal energy or renewable resources (including wind, solar, and small hydroelectric) as their primary energy sources. *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 188.
[20] Section 366.051, F.S. This was mandated by the federal Public Utility Regulatory Policies Act of 1978, which required that electric utilities purchase the energy produced from qualifying facilities (cogenerators and small power producers) at the utility's avoided cost of generation.
[21] *Id*.
[22] *Id*.
[23] This includes the Orlando Utilities Commission and JEA (formerly Jacksonville Electric Authority).

energy[24, 25] The contracts must contain payment provisions for energy and capacity (if appropriate) which are based upon the utility's full avoided costs. The minimum contract duration is for a term of at least 10 years.

Net Metering

Each public utility must develop a standardized interconnection agreement and net metering[26] program for customer-owned renewable generation.[27, 28] The PSC must establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and was authorized to adopt rules for this purpose. Additionally, each municipal electric utility and rural electric cooperative that sells electricity at retail is encouraged to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation.[29] In any purchase contract, the contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.

PSC Net Metering Rule

Pursuant to the requirements of the net metering statute, the PSC adopted a rule requiring each investor-owned utility[30] to develop a Standard Interconnection Agreement for expedited interconnection of customer-owned renewable generation[31] up to 2 MW and file for Commission approval of that agreement.[32] A utility must enable net metering[33] for each customer-owned renewable generation facility interconnected to the utility's electrical grid by installing, at no additional cost to the customer, metering equipment capable of measuring the difference between the electricity supplied to the customer from the utility and the electricity generated by the customer and delivered to the utility's electric grid. During any billing cycle, excess customer-owned renewable generation delivered to the utility's electric grid must be credited to the customer's energy consumption for the next month's billing cycle. These energy credits must

[24] Section 366.91(2)(d), F.S., defines the term "renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

[25] Section 366.91(3) and (4), F.S.

[26] The term "net metering" is defined to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site. Section 366.91(2)(c), F.S.

[27] The term "customer-owned renewable generation" is defined to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. Section 366.91(2)(b), F.S.

[28] Section 366.91(5), F.S.

[29] Section 366.91(6), F.S.

[30] This is Florida Power and Light, Duke Energy Florida, Tampa Electric Company, Gulf Power, and Florida Public Utilities Company.

[31] The rule defines the term "customer-owned renewable generation" to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.

[32] Rule 25-6.065 Interconnection and Net Metering of Customer-Owned Renewable Generation, Florida Administrative Code.

[33] The rule defines the term "net metering" to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on-site.

accumulate and be used to offset the customer's energy usage in subsequent months for a period of not more than twelve months. At the end of each calendar year, the utility must pay the customer for any unused energy credits at an average annual rate based on the investor-owned utility's COG-1, as-available energy tariff.[34, 35] The customer must continue to pay the applicable customer charge and applicable demand charge for the maximum measured demand during the billing period.[36]

III. Effect of Proposed Changes:

The bill proposes a constitutional amendment to the provisions that authorize the Legislature to prohibit property appraisers, in appraising real property for ad valorem tax purposes, from considering the value of improvements to residential real property that constitute either enhancements to the property's wind resistance or the installation of a renewable energy device. Under the joint resolution, the provisions on improving the property's resistance to wind damage would remain limited to real property used for residential purposes. The provisions on installation of a renewable energy source device would be expanded to all real property, but only when the installation is by an "end-use customer" of a device "that is primarily intended to offset part or all of that end-use customer's electricity demands." The quoted language precludes any person or entity from getting an exclusion from ad valorem taxes for the value of a renewable energy source device that was installed primarily for the purpose of producing electricity for sale, whether installed by a non-utility or a utility.

The amendment is permissive; the Legislature is not required to implement it and it has no effect unless implemented.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

[34] The investor-owned utility's COG-1, as-available energy tariff price is the price a utility would receive if it sold excess electricity on the wholesale market with no contract. This omits any capacity payment and is basically fuel cost. It is the equivalent of the utility's as-available, full avoided cost price, which means it is basically the cost of fuel for that utility to produce that amount of electricity at that time.

[35] Essentially this means that the primary benefit to the customer is in producing electricity and avoiding that amount of purchases from the utility. An additional benefit is that excess-generation credits are carried over and when used also offset purchases at the retail price. If these carried-over credits are not used before the end of a calendar year (or before leaving the utility) they are purchased at the utility's cost of producing energy, which is basically its fuel cost.

[36] This ensures that the customer continues to pay its share of cost recovery for generation and transmission facilities.

D. Other Constitutional Issues:

A proposed constitutional amendment such as this one must be passed by three-fifths of the membership of each house of the Legislature.[37] A proposed constitutional amendment must be submitted to the electors at the next general election held more than 90 days after the joint resolution proposing it is filed with the custodian of state records, unless, pursuant to law enacted by the affirmative vote of three-fourths of the membership of each house of the Legislature and limited to a single amendment or revision, it is submitted at an earlier special election held more than 90 days after such filing.[38] To pass, a proposed constitutional amendment must be approved by vote of at least 60 percent of the electors voting on the measure, and if passed, unless otherwise specifically provided for elsewhere in the constitution, it becomes effective as an amendment on the first Tuesday after the first Monday in January following the election, or on such other date as may be specified in the amendment or revision.[39]

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If the SJR passes both the Legislature and the electorate, and if SB 922 or other similar implementing legislation becomes law, the Revenue Estimating Conference has determined that local governments' ad valorem tax revenues may be reduced by the estimated amounts[40] found in the table below.

Table 1. Estimated Fiscal Impact (Millions)

	2014-15	2015-16	2016-17	2017-18	2018-19
Fiscal Impact to Local Ad Valorem Tax Revenues	0	2.1	3.8	5.4	6.7

B. Private Sector Impact:

The bill may provide an incentive for owners of nonresidential property to install renewable energy source devices as this will no longer result in increased ad valorem taxes.

The Solar Foundation recently released its *National Solar Jobs Census 2012: A Review of the U.S. Solar Workforce*. The report notes a 77 percent compound annual growth rate in

[37] FLA. CONST. art. XI, s. 1.
[38] FLA. CONST. art. XI, s. 5.
[39] *Id*.
[40] Revenue Estimating Conference, Impact Conference, *Analysis of SB 922* (2014).

photovoltaic installed capacity between 2006 and 2011[41] and a total of 119,016 solar industry jobs in 2012, an increase of 13.2 percent over 2011.[42] The report also notes:

> The results of this year's Census confirm that one of the major factors contributing to this growth is the continued decline in the price of solar products. Over the last three years, component prices have dropped dramatically, with a 44% decline in 2011 alone…. This decline in PV module prices is mirrored by a similar decrease in total average installed system costs, estimated to have declined by one-third over the same period.[43]

This report indicates that one of the major drivers in increasing photovoltaic installed capacity and solar jobs is the decreasing overall cost of this capacity, which may include the avoidance of an increase in ad valorem tax that this bill allows.

As long as any excess electricity produced by any new renewable energy source device is sold to utilities under current law (at the purchasing utility's full avoided cost[44] and with no third party sales), there will be no near-term fiscal impact on utilities' ratepayers. There may be some customer fiscal impacts in the longer term. Some potential impacts could be positive; for example, the avoidance of the costs of construction of a new power plant. Some potential impacts could be negative. The Florida Supreme Court noted in *PW Ventures* that when a regulated utility loses sales revenue, this revenue must be made up by the remaining customers since the fixed costs of the regulated systems would not have been reduced. Loss of one large customer is not the only event that will produce this result; it will happen any time a utility loses enough sales revenue that it can no longer recover all of its costs, including a loss of revenue due to customers' energy production or, for that matter, customers' conservation and efficiency efforts.

C. Government Sector Impact:

Each constitutional amendment is required to be published in a newspaper of general circulation in each county, once in the sixth week and once in the tenth week preceding the general election.[45] Costs for advertising vary depending upon the length of the amendment. Due to new federal regulations, the advertisements must now be provided in Spanish statewide (in addition to English). Because of this new requirement, the Division of Elections is unable to provide an accurate estimate for the cost to advertise at this time.

The bill may have some impact on the workload of property appraisers.

VI. Technical Deficiencies:

None.

[41] Page 9.
[42] Page 17.
[43] Page 10.
[44] See discussion above under *Self-Generation*.
[45] FLA. CONST. art. XI, s. 5(d).

VII. Related Issues:

SB 922 is the implementing bill for this proposed constitutional amendment.

SJR 916 provides:

> (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property:
>
> (2) The installation *by an end-use customer* of a renewable energy source device *that is primarily intended to offset part or all of that end-use customer's electricity demands*.

The Department of Revenue's Legislative Bill Analysis states that this language makes it "unclear whether the property appraiser must consider the value of the renewable energy source device should that end-use customer no longer hold title to the real property." However, the benefit of exclusion would likely attach to the property and transfer with the property upon any conveyance, depending upon determination of the property appraiser.[46] The bill conditions application of the exclusion on the installation of a renewable energy source device being done by a property owner/customer primarily to offset that customer's purchases of electricity from a utility. The installation **does not qualify** for the benefit of exclusion from ad valorem tax if done primarily for the purpose of producing electricity for sale, either by a utility or a non-utility. A property appraiser will have to determine that the qualification is met in order to apply the exclusion, but once the improvement is determined to qualify, the benefit attaches to the property and is transferable with the property.

VIII. Statutes Affected:

This bill proposes substantially amending Article VII, section 4 of the Florida Constitution.

IX. Additional Information:

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

None.

[46] Similarly, an existing constitutional provision authorizes the Legislature to prohibit a property appraiser from considering the value of a change or improvement that is "for the purpose of improving the property's resistance to wind damage." Although this constitutional provision has not yet been implemented, it is doubtful that it would be implemented in such a way as to require a property appraiser to take a property owner's word that any improvement qualifies for the exclusion from consideration. Instead, an implementing statute very likely would require evidence that the subject improvement qualifies not only as one done for the purpose of improving wind resistance but also as one that is within accepted industry standards as having the effect of improving wind resistance. And under such a statute, once this qualification was established, the benefit of exclusion would attach to the property and transfer with the property upon any conveyance.

B. Amendments:

None.

By Senator Brandes

22-00981A-14 2014916__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article VII of the State Constitution to revise the Legislature's authority to exempt the value of renewable energy source devices from consideration in determining the assessed value of real property by removing a restriction that limits such exemptions to property used for residential purposes and restricting such exemptions to installation by an end-use customer of a renewable energy source device that is primarily intended to offset part or all of that customer's electricity demands.

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

That the following amendment to Section 4 of Article VII of the State Constitution is agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers, or land used exclusively for noncommercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) As provided by general law and subject to conditions, limitations, and reasonable definitions specified therein, land used for conservation purposes shall be classified by general law and assessed solely on the basis of character or use.

(c) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax purposes, or may be exempted from taxation.

(d) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

(2) No assessment shall exceed just value.

(3) After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year, unless the provisions of paragraph (8) apply. Thereafter, the homestead shall be assessed as provided in this subsection.

(4) New homestead property shall be assessed at just value

as of January 1st of the year following the establishment of the homestead, unless the provisions of paragraph (8) apply. That assessment shall only change as provided in this subsection.

(5) Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(6) In the event of a termination of homestead status, the property shall be assessed as provided by general law.

(7) The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(8)a. A person who establishes a new homestead as of January 1, 2009, or January 1 of any subsequent year and who has received a homestead exemption pursuant to Section 6 of this Article as of January 1 of either of the two years immediately preceding the establishment of the new homestead is entitled to have the new homestead assessed at less than just value. If this revision is approved in January of 2008, a person who establishes a new homestead as of January 1, 2008, is entitled to have the new homestead assessed at less than just value only if that person received a homestead exemption on January 1, 2007. The assessed value of the newly established homestead shall be determined as follows:

1. If the just value of the new homestead is greater than or equal to the just value of the prior homestead as of January

1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be the just value of the new homestead minus an amount equal to the lesser of $500,000 or the difference between the just value and the assessed value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned. Thereafter, the homestead shall be assessed as provided in this subsection.

2. If the just value of the new homestead is less than the just value of the prior homestead as of January 1 of the year in which the prior homestead was abandoned, the assessed value of the new homestead shall be equal to the just value of the new homestead divided by the just value of the prior homestead and multiplied by the assessed value of the prior homestead. However, if the difference between the just value of the new homestead and the assessed value of the new homestead calculated pursuant to this sub-subparagraph is greater than $500,000, the assessed value of the new homestead shall be increased so that the difference between the just value and the assessed value equals $500,000. Thereafter, the homestead shall be assessed as provided in this subsection.

b. By general law and subject to conditions specified therein, the Legislature shall provide for application of this paragraph to property owned by more than one person.

(e) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The

requirements for eligible properties must be specified by general law.

(f) A county may, in the manner prescribed by general law, provide for a reduction in the assessed value of homestead property to the extent of any increase in the assessed value of that property which results from the construction or reconstruction of the property for the purpose of providing living quarters for one or more natural or adoptive grandparents or parents of the owner of the property or of the owner's spouse if at least one of the grandparents or parents for whom the living quarters are provided is 62 years of age or older. Such a reduction may not exceed the lesser of the following:

(1) The increase in assessed value resulting from construction or reconstruction of the property.

(2) Twenty percent of the total assessed value of the property as improved.

(g) For all levies other than school district levies, assessments of residential real property, as defined by general law, which contains nine units or fewer and which is not subject to the assessment limitations set forth in subsections (a) through (d) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) After a change of ownership or control, as defined by general law, including any change of ownership of a legal entity that owns the property, such property shall be assessed at just

value as of the next assessment date. Thereafter, such property shall be assessed as provided in this subsection.

(4) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law; however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(h) For all levies other than school district levies, assessments of real property that is not subject to the assessment limitations set forth in subsections (a) through (d) and (g) shall change only as provided in this subsection.

(1) Assessments subject to this subsection shall be changed annually on the date of assessment provided by law; but those changes in assessments shall not exceed ten percent (10%) of the assessment for the prior year.

(2) No assessment shall exceed just value.

(3) The legislature must provide that such property shall be assessed at just value as of the next assessment date after a qualifying improvement, as defined by general law, is made to such property. Thereafter, such property shall be assessed as provided in this subsection.

(4) The legislature may provide that such property shall be assessed at just value as of the next assessment date after a change of ownership or control, as defined by general law, including any change of ownership of the legal entity that owns the property. Thereafter, such property shall be assessed as provided in this subsection.

(5) Changes, additions, reductions, or improvements to such property shall be assessed as provided for by general law;

however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided in this subsection.

(i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property ~~used for residential purposes~~:

(1) Any change or improvement made to property used for residential purposes for the purpose of improving the property's resistance to wind damage.

(2) The installation by an end-use customer of a renewable energy source device that is primarily intended to offset part or all of that end-use customer's electricity demands.

(j)(1) The assessment of the following working waterfront properties shall be based upon the current use of the property:

a. Land used predominantly for commercial fishing purposes.

b. Land that is accessible to the public and used for vessel launches into waters that are navigable.

c. Marinas and drystacks that are open to the public.

d. Water-dependent marine manufacturing facilities, commercial fishing facilities, and marine vessel construction and repair facilities and their support activities.

(2) The assessment benefit provided by this subsection is subject to conditions and limitations and reasonable definitions as specified by the legislature by general law.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE VII, SECTION 4

AD VALOREM ASSESSMENTS; INSTALLATION OF RENEWABLE ENERGY SOURCE DEVICES.—Proposing an amendment to the State Constitution to revise the Legislature's authority to exempt the value of renewable energy source devices from consideration in determining the assessed value of real property by removing a restriction limiting such exemptions to property used for residential purposes and restricting such exemptions to installation by an end-use customer of a renewable energy source device that is primarily intended to offset part or all of that customer's electricity demands.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Ad Valorem Ren. Energy

Bill Number SJR 916 *(if applicable)*

Name David Cullen

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 1674 University
Street

Sarasota FL 34243
City *State* *Zip*

Phone 941.323.2424

E-mail cullenasq@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.

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)

4/1/2014
Meeting Date

Topic 916 Bill Number SB 916 *(if applicable)*

Name Dan Gardner Amendment Barcode *(if applicable)*

Job Title VP Busn. Development

Address 2303 Town St. Phone 850 439-0835
Street

Pensacola FL 32505 E-mail dan@compassolar.com
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing Compass Solar Energy

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2014
Meeting Date

Topic SB 916 Bill Number SB 916 *(if applicable)*

Name JUSTIN VANDENBROECK Amendment Barcode *(if applicable)*

Job Title PV Installer/Designer + FSU Student

Address 1854 Bellevue Way Phone 954 816 9315
Street

Tallahassee FL 32304 E-mail JUSTIN.VANDENBROECK@GMAIL.COM
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2014
Meeting Date

Topic Solar, SB 916 Bill Number SB 916 *(if applicable)*

Name Matthew Chentnik Amendment Barcode *(if applicable)*

Job Title Founder of Independent Green Technologies

Address 3954 W. Pensacola St. Phone 850-570-0000

Street
Tallahassee FL. 32304
City *State* *Zip*

E-mail

Speaking: ☑ For ☐ Against ☐ Information

Representing

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4-1-2014 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic tax abatement on solar

Bill Number STR 916 *(if applicable)*

Name John Porter

Amendment Barcode *(if applicable)*

Job Title CEO/Founder

Address 405 Atlantis RD *Street*

Cape Canaveral FL 32920 *City State Zip*

Phone 321.615 8155

E-mail john.porter@clean-footprint.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Clean Footprint

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Solar Tax abatement

Bill Number SJR 916 *(if applicable)*

Name Patrick Adler

Amendment Barcode *(if applicable)*

Job Title Owner President

Address 202 SW 33rd Ave
Street

Phone 352 916 0507

Ocala FL 34474
City *State* *Zip*

E-mail patrick@gosolartoo.com

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

Representing FlaSEIA

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

Lobbyist registered with Legislature: [ ] Yes [ ] No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic SJR / Renewable Energy Devices

Bill Number SJR 916 *(if applicable)*

Name Jonathan Rees

Amendment Barcode _____ *(if applicable)*

Job Title Deputy Legislative Affairs Director

Address 400 S. Monroe St.
Street

Phone (850) 617-7700

Tallahassee FL 32399
City *State* *Zip*

E-mail Jonathan.Rees@freshfromflorida.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Department of Agriculture and Consumer Svcs.

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

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

4.1
Meeting Date

Topic Solar Tax Exemption

Bill Number SJR 916 *(if applicable)*

Name Stephen Smith

Amendment Barcode _____ *(if applicable)*

Job Title Executive Director Southern Alliance for Clean Energy

Address 5443 Yosemite Trl

Phone 865-637-6055

Knoxville TN 37909
City *State* *Zip*

E-mail ssmith@cleanenergy.org

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

Representing Southern Alliance for Clean Energy

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

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

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 6, 2014

I respectfully request that **Senate Bill #916**, relating to Ad Valorem/ Renewable Energy Source Devices, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 922
INTRODUCER:	Senator Brandes
SUBJECT:	Renewable Energy Source Devices
DATE:	March 11, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Favorable**
2.	White	Yeatman	CA	**Favorable**
3.			RC	

I. Summary:

SB 922 is implementing legislation for SJR 916 or a similar joint resolution having substantially the same specific intent and purpose. SB 922 amends s. 193.624, F.S., on assessment of residential property for ad valorem tax purposes. The bill changes the definition of the term "renewable energy source device" to require that such a device be installed by an end-use customer and be primarily intended to offset part or all of the end-use customer's electricity demands. The bill deletes existing language that limits application of the statute to real property used for residential purposes, thereby expanding application of the statute to all real property. These changes would apply to nonresidential real property upon which a renewable energy source device is installed on or after January 1, 2015, and to all assessments beginning on that date.

The bill takes effect January 1, 2015, if SJR 916 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held in November 2014 or at an earlier special election specifically authorized by law for that purpose.

II. Present Situation:

Property Tax Assessments

Article VII, s. 4, Florida Constitution, requires that all property be assessed at just value for ad valorem tax purposes. Just value has been interpreted by the courts to mean fair market value, or what a willing buyer would pay a willing seller for the property in an arm's length transaction.[1]

[1] *See Walter v. Shuler*, 176 So. 2d 81 (Fla. 1965); *Deltona Corp. v. Bailey*, 336 So. 2d 1163 (Fla. 1976); *Southern Bell Tel. & Tel. Co. v. Dade County*, 275 So. 2d 4 (Fla. 1973).

Both the constitution and the statutes require that a property appraiser consider changes, additions, or improvements to residential property in determining the property's just valuation.[2]

Initial Constitutional Ad Valorem Renewable Energy Source Incentive

Property tax incentives to promote renewable energy in Florida date back over 30 years. In 1980, Florida voters added the following ad valorem tax exemption authorization to the Florida Constitution:

> By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, for the period of time fixed by general law not to exceed ten years.[3]

During that same year, the Legislature enacted s. 196.175, F.S., to implement the constitutional amendment.[4] The legislation limited the ad valorem exemption to the lesser of:

- The assessed value of the property less any other exemptions applicable under the chapter;
- The original cost of the device, including the installation costs, but excluding the cost of replacing previously existing property removed or improved in the course of the installation; or
- Eight percent of the assessed value of the property immediately following the installation.

The statute limited the exemption to a 10-year period, and the statute itself expired after 10 years. Specifically, the statute was in effect from January 1, 1980, through December 31, 1990. Therefore, no exemptions were granted after December 31, 1990, and exemptions granted in December 1990 expired 10 years later in December 2000. At this point, the statute was rendered inoperative and art. VII, s. 3(d), Florida Constitution, was no longer implemented by general law.

2008: Legislative Action and Constitutional Amendment 3

On April 30, 2008, the Legislature removed the expiration date of the property tax exemption for renewable energy source devices.[5] This allowed property owners to apply again for the exemption effective January 1, 2009, again with a 10-year life span.

In November 2008, Florida voters approved the following constitutional amendment placed on the ballot by the Florida Tax and Budget Reform Commission (TBRC):

> (i) The legislature, by general law and subject to conditions specified therein, may prohibit the consideration of the following in the determination of the assessed value of real property used for residential purposes:

[2] FLA. CONST. art. VII, s. 4. and ss. 193.011, 193.155(4), and 193.1554(6), F.S.
[3] FLA. CONST. art. VII, s. 3(d).
[4] Section 196.175, F.S.
[5] House Bill 7135, Ch. 2008-227, Laws of Florida.

(1) Any change or improvement made for the purpose of improving the property's resistance to wind damage.
(2) The installation of a renewable energy source device.[6]

The amendment was permissive; unless the Legislature enacted implementing legislation, it had no effect. The 2008 amendment also repealed the previous constitutional authority for the Legislature to grant an ad valorem tax exemption to a renewable energy source device and to real property on which such a device is installed and operated. Thus, the first constitutional provisions granting the ad valorem tax exemptions were repealed in 2008 with the related implementing language in s. 196.175, F.S., and a new set of ad valorem tax exemptions were added to the constitution, but with no implementing statute.

2009 Senate Interim Report

In 2009, the Senate Committee on Finance and Tax issued an interim report evaluating the 2008 Constitutional Amendment.[7] The report reviewed proposed legislation filed during the 2009 legislative session to implement the constitutional amendment. It also discussed property tax incentives that are provided in other states for installing renewable energy equipment or improving disaster resistance.[8]

At the time of the interim report, 17 states had enacted property tax incentives for renewable energy equipment including devices related to solar, wind, and geothermal energy. Although the report noted that tax incentives for improvements related to disaster preparedness are less common, three states had enacted such laws.

2013 Legislation

After several attempts to implement the 2008 constitutional amendment, implementing legislation was enacted in the 2013 Regular Session.[9] That statute provides that in determining the assessed value of real property used for residential purposes, a property appraiser cannot consider an increase in the just value of the property attributable to the installation of a renewable energy source device.[10] The statute defines the term "renewable energy source device" to mean any of the following equipment that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits:

- Solar energy collectors, photovoltaic modules, and inverters.
- Storage tanks and other storage systems, excluding swimming pools used as storage tanks.
- Rockbeds.
- Thermostats and other control devices.
- Heat exchange devices.
- Pumps and fans.

[6] FLA. CONST. art. VII, s. 4.
[7] Comm. on Finance and Tax, The Florida Senate, *Assessment of Renewable Energy Devices and Improvements That Increase Resistance to Wind Damage – Implementation of Constitutional Amendment Approved in November 2008*, (Interim Report 2010-116) (Oct. 2009).
[8] *Id. citing State Tax Guide Volume 2*, Commerce Clearing House (Chicago, IL).
[9] HB 277, Ch. 2013-77, Laws of Florida.
[10] Section 193.624, F.S.

- Roof ponds.
- Freestanding thermal containers.
- Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.
- Windmills and wind turbines.
- Wind-driven generators.
- Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.
- Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

The statute applied to the installation of a renewable energy source device installed on or after January 1, 2013, to new and existing residential real property, and to assessments beginning January 1, 2014.

The statutes that provide for homestead[11] and non-homestead residential[12] property assessment were amended by cross reference to include this new prohibition.

Non-utility Production of Electricity

Non-Utility Sales to the Public

The Florida Supreme Court has held that the Florida Statutes mandate that any person who sells electricity to even a single person is a public utility subject to regulation by the Florida Public Service Commission (PSC).[13] The facts of that case were as follows. PW Ventures signed a letter of intent with Pratt and Whitney to provide electric and thermal power at Pratt's industrial complex in Palm Beach County. PW Ventures proposed to construct, own, and operate a cogeneration electric power plant on land leased from Pratt and to sell its output to Pratt under a long-term contract. Before proceeding with construction of the plant, PW Ventures sought a declaratory statement from the PSC that it would not be a public utility subject to PSC regulation. After a hearing, the PSC ruled that PW Ventures proposed transaction with Pratt fell within its regulatory jurisdiction.

The Court reviewed similar Florida regulatory statutes where the Legislature had expressly provided for exclusions from regulation based on a stated limited number of customers and found that the failure of the Legislature to create such an exclusion for electric services indicated its intent that the term "to the public" include a sale to even one person.

The Court also reviewed the statutory system of electric utility regulation[14] and found that the regulation of the production and sale of electricity necessarily contemplates the granting of monopolies in the public interest. The Court noted that if the proposed sale of electricity by PW Ventures was outside of PSC jurisdiction, duplication of facilities could occur in contradiction to

[11] Section 193.155(4), F.S.
[12] Section 193.1554(6), F.S.
[13] *PW Ventures, Inc. v. Nichols*, 533 So.2d 281 (1988).
[14] Chapter 366, F.S.

the statutory direction to the PSC to exercise its powers to avoid uneconomic duplication of generation, transmission, and distribution facilities.[15] The Court stated that what PW Ventures proposed was to go into an area served by a utility and take one of its major customers, an interpretation which could allow other ventures to enter into similar contracts with other high use industrial complexes on a one-to-one basis and drastically change the regulatory scheme in this state. "The effect of this practice would be that revenue that otherwise would have gone to the regulated utilities which serve the affected areas would be diverted to unregulated producers. This revenue would have to be made up by the remaining customers of the regulated utilities since the fixed costs of the regulated systems would not have been reduced."[16] Finally the Court found that the Legislature had determined that the protection of the public interest required limiting competition in the sale of electric service.

Based upon these findings, the Court upheld the PSC's order that under the proposed arrangement PW Ventures would be a public utility subject to PSC regulation.

Self-Generation

PW Ventures

The prohibition on non-utility sales of electricity does not prohibit a person or business from producing electricity solely to furnish its own power. In its finding that the Legislature determined that the protection of the public interest required limiting competition in the sale of electric service, the Florida Supreme Court expressly noted that this determination of public interest did not require a prohibition against self-generation.[17]

Cogeneration and Small Power Producers

The statutes expressly provide for self-generation, and for the sale of any excess electricity to a public utility. A public utility is required to purchase electricity from a cogenerator[18] or small power producer[19] located in that public utility's service territory.[20] The PSC is required to establish guidelines relating to the purchase of power or energy and may set rates at which a public utility must purchase the power or energy.[21] In fixing rates, the PSC must authorize a rate equal to the purchasing utility's full avoided costs, defined as the incremental costs to the utility of the electric energy or capacity, or both, which, but for the purchase from cogenerators or small power producers, such utility would generate itself or purchase from another source.[22]

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[15] Section 366.04(3), Florida Statutes (1985).
[16] *PW Ventures*, page 283.
[17] *Id*, page 284.
[18] Cogeneration is the sequential production of thermal energy and electrical or mechanical energy from the same fuel source. *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 30.
[19] A small-power producer generates electricity from facilities using biomass, solid waste, geothermal energy or renewable resources (including wind, solar, and small hydroelectric) as their primary energy sources. *Florida's Electric Utilities: A Reference Guide*, Revised 1994 Edition, Florida Electric Power Coordinating Group, Inc., Tampa, Florida, page 188.
[20] Section 366.051, F.S. This was mandated by the federal Public Utility Regulatory Policies Act of 1978, which required that electric utilities purchase the energy produced from qualifying facilities (cogenerators and small power producers) at the utility's avoided cost of generation.
[21] *Id*.
[22] *Id*.

Standard Purchase Contract

Each public utility and each municipal electric utility or rural electric cooperative that meets specified criteria[23] must continuously offer a purchase contract to producers of renewable energy.[24, 25] The contracts must contain payment provisions for energy and capacity (if appropriate) which are based upon the utility's full avoided costs. Each contract must be for a term of at least 10 years.

Net Metering

Each public utility must develop a standardized interconnection agreement and net metering[26] program for customer-owned renewable generation.[27, 28] The PSC must establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and was authorized to adopt rules for this purpose. Additionally, each municipal electric utility and rural electric cooperative that sells electricity at retail is encouraged to develop a standardized interconnection agreement and net metering program for customer-owned renewable generation.[29] In any purchase contract, the contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.

PSC Net Metering Rule

Pursuant to the requirements of the net metering statute, the PSC adopted a rule requiring each investor-owned utility[30] to develop a Standard Interconnection Agreement for expedited interconnection of customer-owned renewable generation[31] up to 2 MW and file for Commission approval of that agreement.[32] A utility must enable net metering[33] for each customer-owned renewable generation facility interconnected to the utility's electrical grid by installing, at no additional cost to the customer, metering equipment capable of measuring the difference between

[23] This includes the Orlando Utilities Commission and JEA (formerly Jacksonville Electric Authority).
[24] Section 366.91(2)(d), F.S., defines the term "renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.
[25] Section 366.91(3) and (4), F.S.
[26] The term "net metering" is defined to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site. Section 366.91(2)(c), F.S.
[27] The term "customer-owned renewable generation" is defined to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. Section 366.91(2)(b), F.S.
[28] Section 366.91(5), F.S.
[29] Section 366.91(6), F.S.
[30] This is Florida Power and Light, Duke Energy Florida, Tampa Electric Company, Gulf Power, and Florida Public Utilities Company.
[31] The rule defines the term "customer-owned renewable generation" to mean an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy. The term "customer-owned renewable generation" does not preclude the customer of record from contracting for the purchase, lease, operation, or maintenance of an on-site renewable generation system with a third-party under terms and conditions that do not include the retail purchase of electricity from the third party.
[32] Rule 25-6.065 Interconnection and Net Metering of Customer-Owned Renewable Generation, Florida Administrative Code.
[33] The rule defines the term "net metering" to mean a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on-site.

the electricity supplied to the customer from the utility and the electricity generated by the customer and delivered to the utility's electric grid. During any billing cycle, excess customer-owned renewable generation delivered to the utility's electric grid must be credited to the customer's energy consumption for the next month's billing cycle. These energy credits must accumulate and be used to offset the customer's energy usage in subsequent months for a period of not more than twelve months. At the end of each calendar year, the utility must pay the customer for any unused energy credits at an average annual rate based on the investor-owned utility's COG-1, as-available energy tariff.[34, 35] The customer must continue to pay the applicable customer charge and applicable demand charge for the maximum measured demand during the billing period.[36]

III. Effect of Proposed Changes:

SB 922 is implementing legislation for SJR 916.

SB 922 amends s. 193.624, F.S., to delete language that limits application of the statute to real property used for residential purposes, thereby expanding application of the statute to all real property. The bill changes the definition of the term "renewable energy source device" to require that such a device be installed by an end-use customer and be primarily intended to offset part or all of the end-use customer's electricity demands. This requirement precludes any person or entity from getting an exclusion from ad valorem taxes for the value of a renewable energy source device that was installed primarily for the purpose of producing electricity for sale, whether installed by a non-utility or a utility. These changes would apply to nonresidential real property upon which a renewable energy source device is installed on or after January 1, 2015, and to all assessments beginning on that date.

The bill takes effect January 1, 2015, if SJR 916 or a similar joint resolution having substantially the same specific intent and purpose is approved by the electors at the general election to be held in November 2014 or at an earlier special election specifically authorized by law for that purpose.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[34] The investor-owned utility's COG-1, as-available energy tariff price is the price a utility would receive if it sold excess electricity on the wholesale market with no contract. This omits any capacity payment and is basically fuel cost. It is the equivalent of the utility's as-available, full avoided cost price, which means it is basically the cost of fuel for that utility to produce that amount of electricity at that time.

[35] Essentially this means that the primary benefit to the customer is in producing electricity and avoiding that amount of purchases from the utility. An additional benefit is that excess-generation credits are carried over and when used also offset purchases at the retail price. If these carried-over credits are not used before the end of a calendar year (or before leaving the utility) they are purchased at the utility's cost of producing energy, which is basically its fuel cost.

[36] This ensures that the customer continues to pay its share of cost recovery for generation and transmission facilities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

If the SJR passes both the Legislature and the electorate, and if SB 922 or other similar implementing legislation becomes law, the Revenue Estimating Conference has determined that local governments' ad valorem tax revenues may be reduced by the estimated amounts[37] found in the table below.

Table 1. Estimated Fiscal Impact (Millions)[38]

	2014-15	2015-16	2016-17	2017-18	2018-19
Fiscal Impact to Local Ad Valorem Tax Revenues	0	2.1	3.8	5.4	6.7

B. Private Sector Impact:

The bill may provide an incentive for owners of nonresidential property to install renewable energy source devices as this will no longer result in increased ad valorem taxes.

The Solar Foundation recently released its *National Solar Jobs Census 2012: A Review of the U.S. Solar Workforce*. The report notes a 77 percent compound annual growth rate in photovoltaic installed capacity between 2006 and 2011[39] and a total of 119,016 solar industry jobs in 2012, an increase of 13.2 percent over 2011.[40] The report also notes:

> The results of this year's Census confirm that one of the major factors contributing to this growth is the continued decline in the price of solar products. Over the last three years, component prices have dropped dramatically, with a 44% decline in 2011 alone…. This decline in PV module prices is mirrored by a similar decrease in total average installed system costs, estimated to have declined by one-third over the same period.[41]

[37] Revenue Estimating Conference, Impact Conference, *Analysis of SB 922* (2014).
[38] Revenue Estimating Conference, Impact Conference, *Analysis of SB 922* (2014).
[39] Page 9.
[40] Page 17.
[41] Page 10.

This report indicates that one of the major drivers in increasing photovoltaic installed capacity and solar jobs is the decreasing overall cost of this capacity, which may include the avoidance of an increase in ad valorem tax that this bill allows.

As long as any excess electricity produced by any new renewable energy source device is sold to utilities under current law (at the purchasing utility's full avoided cost[42] and with no third party sales), there will be no near-term fiscal impact on utilities' ratepayers. There may be some customer fiscal impacts in the longer term. Some potential impacts could be positive; for example, the avoidance of the costs of construction of a new power plant. Some potential impacts could be negative. The Florida Supreme Court noted in *PW Ventures* that when a regulated utility loses sales revenue, this revenue must be made up by the remaining customers since the fixed costs of the regulated systems would not have been reduced. Loss of one large customer is not the only event that will produce this result; it will happen any time a utility loses enough sales revenue that it can no longer recover all of its costs, including a loss of revenue due to customers' energy production or, for that matter, customers' conservation and efficiency efforts.

C. Government Sector Impact:

The bill may have some impact on the workload of property appraisers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

SJR 916 proposes a constitutional amendment to existing provisions that authorize the Legislature to prohibit property appraisers, in appraising real property for ad valorem tax purposes, from considering the value of improvements to residential real property that constitute either enhancements to the property's wind resistance or the installation of a renewable energy device. The bill preserves the application of the provisions relating to wind resistance to residential real property only. It expands the provisions on installation of a renewable energy source device to apply to all real property, but limits these provisions to apply only when the installation is by an "end-use customer" of a device "that is primarily intended to offset part or all of that end-use customer's electricity demands."

SB 922 provides the term "renewable energy source device" means any of the following equipment *installed by an end-use customer* that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits *and that is primarily intended to offset part or all of that end-use customer's electricity demands*.

The Department of Revenue's Legislative Bill Analysis states that this language makes it "unclear whether the property appraiser must consider the value of the renewable energy source device should that end-use customer no longer hold title to the real property." However, the benefit of exclusion would likely attach to the property and transfer with the property upon any

[42] See discussion above under *Self-Generation*.

conveyance, depending upon determination of the property appraiser. The bill conditions application of the exclusion on the installation of a renewable energy source device being done by a property owner/customer primarily to offset that customer's purchases of electricity from a utility. The installation **does not qualify** for the benefit of exclusion from ad valorem tax if done primarily for the purpose of producing electricity for sale, either by a utility or a non-utility. A property appraiser will have to determine that the qualification is met in order to apply the exclusion, but once the improvement is determined to qualify, the benefit attaches to the property and is transferable with the property.[43]

VIII. Statutes Affected:

This bill substantially amends section 193.624 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

[43] Similarly, an existing constitutional provision authorizes the Legislature to prohibit a property appraiser from considering the value of a change or improvement that is "for the purpose of improving the property's resistance to wind damage." Although this constitutional provision has not yet been implemented, it is doubtful that it would be implemented in such a way as to require a property appraiser to take a property owner's word that any improvement qualifies for the exclusion from consideration. Instead, an implementing statute very likely would require evidence that the subject improvement qualifies not only as one done for the purpose of improving wind resistance but also as one that is within accepted industry standards as having the effect of improving wind resistance. And under such a statute, once this qualification was established, the benefit of exclusion would attach to the property and transfer with the property upon any conveyance.

By Senator Brandes

22-00982B-14 2014922__

A bill to be entitled

An act relating to renewable energy source devices; amending s. 193.624, F.S.; prohibiting consideration by a property appraiser of the increased value of real property due to the installation of a renewable energy source device by an end-use customer; revising the definition of the term "renewable energy source device"; providing for applicability; providing a contingent effective date.

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

Section 1. Section 193.624, Florida Statutes, is amended to read:

193.624 Assessment of real ~~residential~~ property.—

(1) As used in this section, the term "renewable energy source device" means any of the following equipment installed by an end-use customer that collects, transmits, stores, or uses solar energy, wind energy, or energy derived from geothermal deposits and that is primarily intended to offset part or all of that end-use customer's electricity demands:

(a) Solar energy collectors, photovoltaic modules, and inverters.

(b) Storage tanks and other storage systems, excluding swimming pools used as storage tanks.

(c) Rockbeds.

(d) Thermostats and other control devices.

(e) Heat exchange devices.

(f) Pumps and fans.

(g) Roof ponds.

(h) Freestanding thermal containers.

(i) Pipes, ducts, refrigerant handling systems, and other equipment used to interconnect such systems; however, such equipment does not include conventional backup systems of any type.

(j) Windmills and wind turbines.

(k) Wind-driven generators.

(l) Power conditioning and storage devices that use wind energy to generate electricity or mechanical forms of energy.

(m) Pipes and other equipment used to transmit hot geothermal water to a dwelling or structure from a geothermal deposit.

(2) In determining the assessed value of real property ~~used for residential purposes~~, an increase in the just value of the property attributable to the installation of a renewable energy source device may not be considered.

(3) This section applies to new and existing residential real property upon which ~~the installation of~~ a renewable energy source device was installed on or after January 1, 2013, and to all other real property as set forth in this section upon which such a device is installed on or after January 1, 2015 ~~to new and existing residential real property~~.

Section 2. The amendments made by this act to s. 193.624, Florida Statutes, apply to assessments beginning January 1, 2015.

Section 3. This act shall take effect January 1, 2015, if SJR ____, or a similar joint resolution having substantially the same specific intent and purpose, is approved by the electors at

the general election to be held in November 2014 or at an earlier special election specifically authorized by law for that purpose.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic RENEWABLE ENERGY DEV Bill Number 922
(if applicable)

Name DAVID CULLEN Amendment Barcode
(if applicable)

Job Title

Address 1674 UNIVERSITY PKWY Phone 941.323.2704
Street

SARASOTA FL 34243 E-mail CULLENSR@AOL.COM
City *State* *Zip*

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.

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)

4/1/14
Meeting Date

Topic Renewable Energy Source Devices Bill Number SB 922 *(if applicable)*

Name Jonathan Rees Amendment Barcode _____ *(if applicable)*

Job Title Deputy Legislative Affairs Director

Address 400 S. Monroe St. Phone (850) 617-7700
Street

Tallahassee FL 32399 E-mail Jonathan.Rees@freshfromflorida.com
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Department of Agriculture and Consumer Services

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

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 12, 2014

I respectfully request that **Senate Bill # 922**, relating to Renewable Energy Source Devices, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 22

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1326
INTRODUCER:	Military and Veterans Affairs, Space, and Domestic Security Committee and Senator Brandes
SUBJECT:	Emergency Management
DATE:	March 31, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hoagland	Ryon	MS	**Fav/CS**
2.	Stearns	Yeatman	CA	**Favorable**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1326 amends the Bert J. Harris, Jr., Private Property Rights Protection Act to provide that no cause of action may be predicated upon an act of a governmental entity if such act is for the purpose of participating in the National Flood Insurance Program (NFIP). However, there is an exception to this provision if a governmental entity's action incorrectly applies any aspect of the Flood Insurance Map to a property.

The bill also directs the Division of Emergency Management (DEM) to contract for an analysis of Florida's flood risk as it relates to flood insurance premiums and underwriting capacity. The DEM must maintain and make the risk analysis available to the public. The DEM is also directed to provide assistance to local governments participating in the NFIP Community Rating System (CRS).

Further, the bill provides an exception to state employee travel reimbursement limits when an employee is traveling under the Emergency Management Assistance Compact.

The bill appropriates $127,368 to the DEM from recurring General Revenue funds for assistance to local governments participating in the CRS. The bill also appropriates $500,000 in nonrecurring General Revenue funds for fiscal year 2014-2015 to the DEM to complete the state flood risk analysis required by the bill.

II. Present Situation:

Bert J. Harris, Jr., Private Property Rights Protection Act

In 1995, the Bert J. Harris, Jr., Private Property Rights Protection Act (Act) was enacted by the Legislature to provide a new cause of action for private property owners whose property has been "inordinately burdened" by state and local government action that may not rise to the level of a "taking" under the State or Federal Constitution.[1] The inordinate burden applies to an existing use of real property or a vested right to a specific use.[2]

The Act provides that actions of the United States or any of its agencies, or an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority, when exercising the powers of the United States or any of its agencies through a formal delegation of federal authority are not subject to the Act.[3] For example, the delegation of authority from the United States Environmental Protection Agency to the Florida Department of Environmental Protection to issue National Pollutant Discharge Elimination System permits under Clean Water Act on its behalf would not be subject to the Act.[4]

National Flood Insurance Program

The NFIP was created by the passage of the National Flood Insurance Act of 1968.[5] The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.[6]

In 1973[7] the U.S. Congress passed the Flood Disaster Protection Act. The 1973 Act required property owners with mortgages issued by federally regulated or insured lenders to purchase flood insurance if their properties are located in Special Flood Hazard Areas. Special Flood Hazard Areas are defined by FEMA as high-risk areas where there is at least a 1 in 4 chance of flooding during a 30-year mortgage.[8]

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[1] Section 70.001(1) and (9), F.S.
[2] Section 70.001(2)-(3)(a), F.S.
[3] Section 70.001(3)(c), F.S.
[4] Thomas Ruppert, Esq., Coastal Planning Specialist, Florida Sea Grant College Program and Michael Candiotti, J.D., *Analysis and 2011 Update on the Bert J. Harris, Jr., Private Property Rights Protection Act*, *available at*, https://www.flseagrant.org/wp-content/uploads/2012/01/BertHarrisAct_analysis_FSG-web_1.11.pdf (last visited March 12, 2014) (citing The Clean Water Act, 33 U.S.C. § 1342(b) (2010); see Ronald L. Weaver, *1997 Update on the Bert Harris Private Property Protection Act*, 9 FLA. BAR. J 70, n. 3 (1997)).
[5] http://www.fema.gov/media-library/assets/documents/7277?id=2216 (last visited March 17, 2014).
[6] *National Flood Insurance Program: Program Description*, pgs. 2-4., Federal Emergency Management Agency/Federal Insurance and Mitigation Administration (August 1, 2002) http://www.fema.gov/media-library/assets/documents/1150?id=1480 (last visited March 17, 2014).
[7] http://www.fema.gov/media-library-data/20130726-1545-20490-9247/frm_acts.pdf (last visited March 17, 2014).
[8] http://www.floodsmart.gov/floodsmart/pages/flooding_flood_risks/defining_flood_risks.jsp (last visited March 17, 2014).

The National Flood Insurance Reform Act of 1994[9] (1994 Reform Act) required federal financial regulatory agencies[10] to revise their flood insurance regulations. The 1994 Reform Act applied flood insurance requirements to loans purchased by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) and to agencies that provide government insurance or guarantees such as the Small Business Administration, the Federal Housing Administration, and the U.S. Department of Veterans Affairs. Lending institutions regulated by federal agencies are prohibited from offering loans on properties located in a Special Flood Hazard Area (SFHA) of a community participating in the NFIP unless the property is covered by flood insurance.[11] The amount of flood insurance required by lending institutions must be at least equal to the outstanding principal balance of the loan, or the maximum amount[12] available under the NFIP, whichever is less.

Flood Insurance Rate Maps

A Flood Insurance Rate Map (FIRM), is the most common map produced by FEMA. At a minimum, flood maps show flood risk zones and their boundaries, and may also show floodways and base flood elevations.[13]

National Flood Insurance Program Community Rating System

The NFIP Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. In participating communities, flood insurance premium rates are discounted to reflect reduced flood risk resulting from community actions meeting the three goals of the CRS:

- Reduce flood damage to insurable property;
- Strengthen and support the insurance aspects of the NFIP; and
- Encourage a comprehensive approach to floodplain management.[14]

Communities in the CRS are rated on a scale from 10 to 1. A community that does not apply for the CRS or that does not maintain the minimum number of credit points would be considered a Class 10 community. Most communities enter the program at a Class 9 rating, which entitles residents in SFHAs to a 5 percent discount on their flood insurance premiums. As a community implements additional mitigation activities, its residents become eligible for increased NFIP policy premium discounts. Each CRS class improvement produces a 5 percent greater discount

[9] Title V of the Riegle Community Development and Regulatory Improvement Act of 1994. Pub. L. 103-325, Title V, 108 Stat. 2160, 2255-87 (September 23, 1994).
[10] Office of Comptroller of Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Farm Credit Administration and Federal Reserve.
[11] *FDIC Compliance Manual*, V – 6.1. http://www.fdic.gov/regulations/compliance/manual/index.html (last visited March 17, 2014).
[12] Building coverage is limited to $250,000 for residential dwellings and $500,000 for non-residential buildings. Contents coverage is available for up to $100,000 for a residence and $500,000 for a business. https://www.fema.gov/pdf/fima/FEMA511-12-Chapter11.pdf (last visited March 17, 2014).
[13] http://www.fema.gov/floodplain-management/flood-map (last visited March 12, 2014).
[14] http://www.fema.gov/national-flood-insurance-program-community-rating-system (last visited March 12, 2014).

on flood insurance premiums for properties in the SFHA, with a Class 1 community receiving the maximum 45 percent premium reduction.[15]

A community can improve its CRS class rating by implementing activities that relate to public information, mapping and regulations, flood damage reduction, and flood preparation. Activities within these categories are assigned points that relate to improved Class ratings for the community.[16] As of October 2012, local governments in Florida are rated from Class 10 to Class 5.[17] Class 5 provides a 25 percent discount for SFHA properties and a 10 percent discount for non-SFHA properties. No discounts are provided for communities with Class 10 ratings.[18]

The Biggert-Waters Flood Insurance Reform Act and the Homeowner Flood Insurance Affordability Act

In 2012 the United States Congress passed the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act).[19] The Biggert-Waters Act reauthorized the NFIP for five years. Key provisions of the legislation require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how Flood Insurance Rate Map (FIRM) updates impact policyholders. These changes by Congress would have resulted in premium rate increases for approximately 20 percent of NFIP policyholders nationwide.

The Biggert-Waters Act increased flood insurance premiums purchased through the program for second homes, business properties, severe repetitive loss properties, and substantially improved damaged properties by requiring premium increases of 25 percent per year until premiums meet the full actuarial cost of flood coverage. Most residences would immediately lose their subsidized[20] rates if the property is sold, the policy lapses, repeated and severe flood losses occur, or a new policy is purchased. Policyholders whose communities adopt a new, updated FIRM that results in higher rates would have experienced a five-year phase in of rate increases to achieve rates that incorporate the full actuarial cost of coverage.

However, on March 21, 2014, President Obama signed the Homeowner Flood Insurance Affordability Act, which reverses some of the changes in the Biggert-Waters Flood Insurance Reform Act of 2012.[21] The act contains provisions that:

- Prevent FEMA from raising rates on individual policies above 18 percent per year.

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[15] http://www.fema.gov/media-library-data/20130726-1605-20490-8915/nfip_crs_fact__sheet_sept_2012.txt (last visited March 12, 2014).
[16] *Id.*
[17] http://www.fema.gov/media-library-data/45d30e14bdec841d92462f9424567b73/19_crs_508_oct2013.pdf (last visited March 12, 2014).
[18] *Id.*
[19] http://www.fema.gov/flood-insurance-reform-act-2012 (last visited March 17, 2014).
[20] A subsidized policy is one that does not pay the full actuarial rate and is not reflective of the true risk of flood to that property. Homes located in a high-risk flood zone and built before the first flood insurance rate map became effective, and that have not been substantially damaged or improved, may currently be receiving subsidized flood insurance premium rates. http://www.fema.gov/region-vi/national-flood-insurance-program-reform-frequently-asked-questions (last visited March 17, 2014).
[21] Bruce Alpert, *President Obama Signs Flood Insurance Bill Into Law*, The New Orleans Times-Picayune, Mar. 21, 2014, *available at*, http://www.nola.com/politics/index.ssf/2014/03/do_not_run_president_obama_sig.html (last visited March 28, 2014).

- Repeal the provision in Biggert-Waters that requires homebuyers to pay a full-risk rate at the time of purchase.
- Repeal the provision in Biggert-Waters that required full-risk rate if a property owner voluntarily purchases a new policy.
- Establish a Flood Insurance Advocate within FEMA to answer current and prospective policyholder questions about the flood mapping process and flood insurance rates.
- Require FEMA to clearly communicate full flood risk determinations to policyholders even if their premium rates are less than full risk.
- Require FEMA to certify its mapping process is technologically advanced and to notify and justify to communities that the mapping model it plans to use to create the community's new flood map is appropriate.
- Require FEMA, at least 6 months prior to implementation of rate increases as a result of this Act to make publicly available the rate tables and underwriting guidelines that provide the basis for the change, providing consumers with greater transparency.

NFIP Flood Insurance in Florida

Over 2 million NFIP policies are written on Florida properties, with approximately 268,500 policies receiving subsidized rates.[22] Florida policies account for approximately 37 percent of the total policies written by the NFIP.[23]

Historically, properties insured in Florida have paid approximately $3.60 in premiums for NFIP flood coverage for every $1 received in claims payments.[24] The rate impact of the Biggert-Waters Act on subsidized policies in Florida is approximately as follows:

- Approximately 50,000 secondary residences, businesses, and severe repetitive loss properties are subject to immediate, annual 25 percent increases until their premiums reflect the full risk of the properties.
- Approximately 103,000 primary residences will lose their subsidy if the property is sold, the policy lapses, the property suffers severe, repeated flood losses, or a new policy is purchased.
- Approximately 115,000 non-primary residences, business properties, and severe repetitive loss properties are subject to the elimination of subsidies once FEMA develops guidance for their removal.

Florida Division of Emergency Management

The Division of Emergency Management (DEM), established in the Executive Office of the Governor,[25] is the state's emergency management agency. The duties of the DEM are provided in part I of ch. 252, F.S., known as the State Emergency Management Act.[26]

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[22] Office of Insurance Regulation, *The Biggert-Waters Flood Insurance Reform Act of 2012*, (Presentation to the Florida Senate Banking and Insurance Committee on October 8, 2013). http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2346.pdf (last visited March 17, 2014).
[23] http://bsa.nfipstat.fema.gov/reports/1011.htm (last visited March 17, 2014).
[24] Wharton Center for Risk Management and Decision Processes, *Who's Paying and Who's Benefiting Most From Flood Insurance Under the NFIP? A Financial Analysis of the U.S. National Flood Insurance Program (NFIP)*, (Issue Brief, Fall 2011).
[25] Section 14.2016, F.S.
[26] Section 252.31, F.S.

Section 252.35, F.S., provides the duties of the DEM, including:[27]

- The state comprehensive emergency management plan;
- County emergency management plan oversight and assistance;
- Cooperation with federal entities and other states on emergency management issues;
- Recommended regulations and other safety measures designed to eliminate emergencies or reduce their impact;
- Statewide public awareness programs and other education and information dissemination;
- Training programs for state and local emergency management personnel;
- Review of emergency operating procedures of state agencies;
- Surveys of public and private industries, resources, and facilities; and
- Equipment review and inventories of generators.

The DEM's Bureau of Mitigation houses the State Floodplain Management Office. Floodplain Management Specialists work with Florida's communities, assisting them to manage development in their floodplains, as well as monitoring these efforts to assure compliance with the NFIP. The State Floodplain Management Office also coordinates and/or collaborates on the following activities statewide:[28]

- Map Modernization and FEMA Risk MAP priorities;
- Integration of flood-resistant standards into the Florida Building Code;
- Coordination with federal flood mitigation grant programs;
- Integration of floodplain management concepts and tasks into local mitigation strategies (developed by each of the 67 Florida counties);
- Floodplain management and flooding issues pertaining to the State's Enhanced Hazard Mitigation Plan and planning process;
- State agency management of state-owned facilities in SFHAs;
- Training of local floodplain management officials in partnership with the Florida Floodplain Managers Association;
- Local floodplain management challenges and opportunities;
- Coordination with the Florida Dam Safety Program; and
- Partnerships with federal, state and local organizations pertinent to floodplain management.

The implementation of pre-disaster mitigation incentives, such as the NFIP CRS and federal flood mitigation grant programs,[29] serve Florida's residents and businesses that continue to experience high growth and development.[30]

Emergency Management Assistance Compact

The Emergency Management Assistance Compact (Compact) is a national interstate mutual aid agreement that enables states to share resources during times of disaster. Ratified by Congress,[31]

[27] Subsections 252.35(2)(a)-(y), F.S.
[28] http://www.floridadisaster.org/Mitigation/SFMP/Index.htm (last visited March 13, 2014).
[29] Such as the Flood Mitigation Assistance Program, the Severe Repetitive Loss Program, and the Repetitive Flood Claims Program.
[30] See s*upra* note, 27.
[31] PL-104-321.

the Compact serves as the nation's system for providing relief to states requesting assistance from assisting member states. The Compact can be used either in lieu of federal assistance or in conjunction with federal assistance. The 13 articles of the Compact that set the foundation for sharing resources from state to state have been adopted by all 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.[32]

Article IX of the Compact provides that any state that renders aid to another state is reimbursed by the state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; a state providing aid may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving state without charge or cost. Any two or more states can enter into supplementary agreements establishing a different allocation of costs among those states.[33]

Public Employee Per Diem and Travel Expenses

Section 112.061, F.S., establishes standard travel reimbursement rates applicable to all public officers, employees and authorized persons whose travel is authorized and paid by a public agency.[34] In order for an exemption to the provisions of s. 112.061, F.S., to apply, the exemption must include a specific reference to s. 112.061, F.S., and may only apply to the extent of the exemption.[35]

In Florida, public employees that are deployed to assist during a disaster through the Compact are reimbursed for travel per diem under s. 112.061, F.S. Per diem rates in states requesting assistance may be higher than the Florida allowance causing a hardship for employees supporting these states.[36]

In 2006, the Legislature set the reimbursement rates for travelers as follows:[37]
- The per diem rate is $80.[38]
- The breakfast rate is $6.
- The lunch rate is $11.
- The dinner rate is $19.
- The per mile rate for a privately owned vehicle is 44.5 cents per mile.

III. Effect of Proposed Changes:

Section 1 amends s. 70.001, F.S., relating to private property rights protections, to provide that a cause of action does not exist for administrative actions taken or ordinances adopted by a

[32] http://www.fema.gov/pdf/emergency/nrf/EMACoverviewForNRF.pdf (last visited March 12, 2014).
[33] *Id.*
[34] Subsection 112.016(1), F.S.
[35] *Id.*
[36] Florida Division of Emergency Management, SB 1326 Agency Bill Analysis, March 5, 2014.
[37] Subsection 112.061(6), F.S.
[38] If actual expenses exceed $80, an employee may be reimbursed for actual expenses for lodging in addition to the statutory rates for meals as provided in s. 112.061(6), F.S.

governmental entity,[39] such as a county or municipality, to implement a FIRM issued by the FEMA if such action or ordinance is for the purpose of participating in the NFIP. However, this provision's protection of a governmental entity's action does not apply if the administrative action or ordinance incorrectly applies any aspect of the FIRM to a property such as, but not limited to, incorrectly assessing the elevation of the property.

Section 2 amends s. 252.34, F.S., relating to definitions, to define "state flood risk analysis" to mean the most recent updated flood risk analysis issued by the DEM pursuant to s. 252.441, F.S.

Section 3 amends s. 252.35, F.S., relating to duties of the DEM, to include responsibility for maintaining an updated state flood risk analysis. Such report must be available to the public and is subject to funding by the Legislature. The bill also directs the DEM to provide assistance to local governments participating in the NFIP CRS.

Section 4 creates s. 252.441, F.S., to provide for a state flood risk analysis initiative.

The bill provides legislative findings that the passage by Congress of the Biggert-Waters Act requires a complete and specific analysis of flood risk to Florida property owners to ensure the continued availability of affordable flood insurance. The findings also call for the analysis to provide important data and insights supporting the entry of private insurance companies into the flood insurance market.

The bill requires the DEM to contract, through the competitive bid procedures required by ch. 287, F.S., for a state flood risk analysis to evaluate the state's flood risk. The contract must be awarded to a firm that has experience in natural catastrophe risk modeling, rate analysis consultation services, and transactional services.

The risk analysis must consider existing vendor models recognized by the insurance industry, the FIRMSs, and SFHAs designated by the NFIP. The analysis must include, at a minimum:

- Determining the extent that flood insurance premium rates reasonably reflect the risk of loss to insurers.
- Identifying the likelihood of differentiated premium rates based on property location, value, and vulnerability to flood damage.
- Identifying policies to strengthen and support the investment of new private market underwriting capacity in Florida's flood insurance market.
- Review of the appropriateness of publicly available premium rate factor analyses and commentary as related to latest available data on property vulnerability, flood risk, and cost of repair or rebuilding.
- Pilot studies of at least three sample inventory coastal regions, representing urban, suburban and rural areas in Florida. The pilot studies will include assessment of the building stock and

[39] Subsection 70.001, F.S., defines the term "governmental entity" as an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority. The term does not include the United States or any of its agencies, or an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority, when exercising the powers of the United States or any of its agencies through a formal delegation of federal authority.

quantitative catastrophic storm surge modeling to assess if current insurance premiums are sufficient for long-term, sustainable and affordable flood insurance.
- A comparison of the models' technical pricing of risks with those required by the NFIP and other insurers. The comparison must also consider commentary on potential reasons for any differences and recommended action to resolve those differences.

The DEM must submit a comprehensive report on the results of the risk analysis to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2015.

The Legislature may authorize annual updates to the risk analysis, subject to specific funding in the General Appropriations Act.

Section 5 creates s. 252.9335, F.S., to provide an exception to the travel expense reimbursement limits provided in s. 112.061, F.S., for employees of the state traveling under the Compact. This exception applies when such travel expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

Section 6 appropriates funds to the DEM for assistance to local governments and to complete the state flood risk analysis. See V. Fiscal Statement.

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:

To the extent the state flood risk analysis and the assistance to communities result in factors considered by flood insurance providers, Florida property owners may see increased discounts on National Flood Insurance policies and private insurers may provide competition in the marketplace.

C. Government Sector Impact:

The bill appropriates $127,368 to the DEM from recurring General Revenue for the DEM to provide assistance to local governments participating in the NFIP CRS.

It also appropriates $500,000 to the DEM from nonrecurring General Revenue for the 2014-2015 fiscal year to complete the state flood risk analysis required in the bill.

Government workers who are reimbursed by an entity other than the State of Florida when operating under the Compact, may receive travel reimbursements that exceed the maximum rates provided in s. 112.061, F.S.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 70.001, 252.34, and 252.35

This bill creates the following sections of the Florida Statutes: 252.441 and 252.9335

IX. Additional Information:

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

CS by Military and Veterans Affairs, Space and Domestic Security on March 19, 2014:

- Broadens the effect of the private property rights protections portion of the bill related to participation in the NFIP to include other governmental entities, such as municipalities and counties;
- Requires the DEM to consult with the Office of Insurance Regulation and the Florida Commission on Hurricane Loss Projection Methodology when contracting for the state flood risk analysis;
- Clarifies that the pilot studies are to be conducted as part of the state flood risk analysis; and
- Removes a provision that states completion of the state flood risk analysis is subject to appropriations.

B. Amendments:

None.

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

583-02830-14 20141326c1

A bill to be entitled

An act relating to emergency management; amending s. 70.001, F.S.; specifying the availability of a cause of action with respect to a governmental entity implementing a Flood Insurance Rate Map; amending s. 252.34, F.S.; defining the term "state flood risk analysis"; amending s. 252.35, F.S.; revising the duties of the Division of Emergency Management to conform to changes made by the act; creating s. 252.441, F.S.; providing legislative findings; requiring the division to contract for a flood risk analysis; prescribing requirements for the risk analysis; requiring the division to award the contract in accordance with competitive solicitation requirements; requiring the division to submit a report of the risk analysis results to the Governor and the Legislature by a specified date; providing that the Legislature may authorize annual updates to the risk analysis; creating s. 252.9335, F.S.; exempting state employees from specified travel expense provisions when traveling under the Emergency Management Assistance Compact pursuant to a request for assistance from another state under certain circumstances; providing appropriations; providing an effective date.

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

Section 1. Subsection (14) is added to section 70.001,

Florida Statutes, to read:

70.001 Private property rights protection.—

(14) A cause of action does not exist under this section with respect to an administrative action taken or an ordinance adopted by a governmental entity to implement a Flood Insurance Rate Map issued by the Federal Emergency Management Agency for the purpose of participating in the National Flood Insurance Program unless such administrative action or ordinance incorrectly applies any aspect of the Flood Insurance Rate Map to a property such as, but not limited to, incorrectly assessing the elevation of a property.

Section 2. Present subsection (9) of section 252.34, Florida Statutes, is redesignated as subsection (10), and a new subsection (9) is added to that section, to read:

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

(9) "State flood risk analysis" means the most recently updated flood risk analysis issued by the division pursuant to s. 252.441.

Section 3. Present paragraph (y) of subsection (2) of section 252.35, Florida Statutes, is redesignated as paragraph (z), and a new paragraph (y) is added to that subsection, to read:

252.35 Emergency management powers; Division of Emergency Management.—

(2) The division is responsible for carrying out the provisions of ss. 252.31-252.90. In performing its duties, the division shall:

(y) Maintain an updated state flood risk analysis contingent upon funding by the Legislature and make such

analysis readily available to the public, and provide assistance through designated personnel to local governments participating in the National Flood Insurance Program Community Rating System.

Section 4. Section 252.441, Florida Statutes, is created to read:

252.441 State flood risk analysis initiative.—

(1) The Legislature finds that passage by Congress of the Biggert-Waters Flood Insurance Reform Act of 2012, Pub. L. No. 112-141, requires a complete and specific analysis of flood risk to Florida property owners to ensure the continued availability of flood insurance at affordable rates. Such an analysis could provide important data and insights supporting the entry of private insurance companies into the flood insurance market.

(2) The division, in consultation with the Office of Insurance Regulation and the Florida Commission on Hurricane Loss Projection Methodology, shall contract for a state flood risk analysis to evaluate the state's flood risk. Such analysis shall take into consideration existing vendor models recognized by the insurance industry, Flood Insurance Rate Maps issued by the Federal Emergency Management Agency, and Special Flood Hazard Areas designated by the National Flood Insurance Program (NFIP). The risk analysis must include, but is not limited to, the following:

(a) A determination of the extent to which flood insurance premium rates, including observed rate increases in the NFIP as a result of the Biggert-Waters Flood Insurance Reform Act of 2012, reasonably reflect the risk of loss to insurers;

(b) The identification of the potential of differentiated premium rates based on property location, value, and

vulnerability to flood damage;

(c) The identification of public policies that would strengthen and support the investment of new private market underwriting capacity in this state's flood insurance market as the supply of insurance capacity offered approaches the level of demand;

(d) A review of publicly available premium rate factor analyses and commentary on their appropriateness relative to the latest available data on property vulnerability, flood risk, and cost of repair or rebuilding;

(e) Pilot studies of at least three geographical sample inventory regions representative of construction in coastal regions of this state. Selected sample inventory regions shall be equally representative of urban, suburban, and rural areas that have reliable, comprehensive public domain data available. The pilot study of each selected region must include a detailed data quality assessment of the relevant building stock assessments and quantitative catastrophic storm surge modeling using vendor models recognized by the insurance industry to assess whether current insurance premiums are sufficient to ensure the long-term, sustainable availability of flood insurance at affordable rates; and

(f) A comparison of the available models' technical pricing of risks with those currently required by the NFIP and other insurers, a commentary on possible reasons for any differences, and recommended action to resolve any such differences.

(3) The division must award the contract in accordance with the competitive solicitation requirements in chapter 287 to a firm that has experience in natural catastrophe risk modeling,

rate analysis consultation services, and transactional services.

(4) The division shall submit a comprehensive report of the results of the risk analysis to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2015.

The Legislature may authorize annual updates to the state flood risk analysis contingent upon specific funding in the General Appropriations Act.

Section 5. Section 252.9335, Florida Statutes, is created to read:

252.9335 Expense reimbursement under compact.—The travel expense reimbursement provisions of s. 112.061 do not apply to an employee of the state traveling under the Emergency Management Assistance Compact when such expenses are reimbursed based on the amount agreed upon in an interstate mutual aid request for assistance.

Section 6. The sum of $127,368 is appropriated to the Division of Emergency Management from recurring general revenue for the 2014-2015 fiscal year, which funds shall be used by the division to provide assistance to local governments participating in the National Flood Insurance Program Community Rating System. The sum of $500,000 is appropriated to the division from nonrecurring general revenue for the 2014-2015 fiscal year, which funds shall be used to complete the state flood risk analysis under s. 252.441, Florida Statutes, as created by this act.

Section 7. This act shall take effect July 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Emergency Management

Bill Number 1326 *(if applicable)*

Name Eric Poole

Amendment Barcode *(if applicable)*

Job Title Asst Cty Dir

Address 100 Main *Street*

Phone 9779300

City Tall State FL Zip

E-mail

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Assoc. of Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic EMERGENCY MANAGEMENT

Bill Number SB 1326 *(if applicable)*

Name JEFF SHARKEY

Amendment Barcode *(if applicable)*

Job Title CAG, PRESIDENT

Address 106 E. College Ave *Street*

Phone 850 224 1600

TLH FL 32301 *City* *State* *Zip*

E-mail jsharkey@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Willis Global Risk Solutions

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1052
INTRODUCER:	Senator Evers
SUBJECT:	Department of Transportation
DATE:	March 31, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Favorable**
2.	Stearns	Yeatman	CA	**Favorable**
3.			AFT	
4.			AP	

I. Summary:

SB 1052 creates ch. 345, F.S., to establish the Northwest Florida Regional Transportation Finance Authority Act, consisting of ss. 345.0001-345.0014, F.S. The Act authorizes the formation of the Northwest Florida Regional Transportation Finance Authority (Authority), an agency of the state, to finance, develop, operate, and maintain a regional system of roads, bridges, causeways, tunnels, and mass transit services in the area served. Financing would be provided by bond issuances and contributions from the Florida Department of Transportation (FDOT) and local governments. The FDOT would be the Authority's agent for performing all phases of a project, with some exceptions, as well as the Authority's agent for operating and maintaining the Authority's system.

II. Present Situation:

Escambia County and the only other contiguous Florida County, Santa Rosa, are currently served by the Northwest Florida Transportation Corridor Authority and the Santa Rosa Bay Bridge Authority.

Northwest Florida Transportation Corridor Authority

The Northwest Florida Transportation Corridor Authority (NFTCA) is an agency of the state with the primary purpose of improving mobility on the U.S. 98 corridor in Northwest Florida to enhance traveler safety, identify and develop hurricane routes, promote economic development along the corridor, and implement transportation projects to alleviate current or anticipated traffic congestion. The NFTCA is also authorized to issue bonds.[1] Eight voting members, one each from Escambia, Santa Rosa, Walton, Okaloosa, Bay, Gulf, Franklin and Wakulla counties,

[1] Section 343.82, F.S.

are appointed by the Governor to serve four-year terms on the governing body. The FDOT's District Three Secretary serves as an *ex-officio*, non-voting member.[2]

The NFTCA is not currently operating any facility. According to a report by the Florida Transportation Commission (FTC), NFTCA's general consultant is assisting in evaluating, selecting, and planning transportation projects by assessing their respective economic benefits as part of the Master Plan update. The assessment includes extensive public outreach and involves regional planning councils in the area served by the NFCTA, as well as a series of stakeholder workshops in the region.[3]

The NFTCA currently operates under an agreement that uses federal earmark funds for administrative expenses, professional services, regional transportation planning, and a work plan.[4]

Santa Rosa Bay Bridge Authority

The Santa Rosa Bay Bridge Authority (SRBBA) governing body consists of seven members. The Governor and the Board of County Commissioners each appoint three members, and the FDOT District Three Secretary is an ex-officio member of the Board. Except for the Secretary, all members are required to be permanent residents of Santa Rosa County at all times during their term of office.[5]

The SRBBA owns the Garcon Point Bridge, a 3.5-mile tolled bridge that spans Pensacola/East Bay between Garcon Point (south of Milton) and Redfish Point (between Gulf Breeze and Navarre) in southwest Santa Rosa County.[6] Florida's Turnpike Enterprise provides toll operations for the SRBBA, and the FDOT's District Three performs maintenance functions on the bridge. Because toll revenues are insufficient to pay both debt service on outstanding bonds and operations and maintenance (O&M) expenses, the costs of the O&M are recorded as debt owed to the FDOT. The FTC report indicates that the long-term debt for O&M expenses as of June 30, 2012, was $18.1 million. The report indicates the SRBBA also has outstanding loans from the Toll Facilities Revolving Trust Fund,[7] and the balance on June 30, 2012, was $7.9 million.[8]

III. Effect of Proposed Changes:

Generally, the bill:

- Provides definitions.
- Provides for governing board membership, membership requirements, and terms of office.

[2] Section 343.81, F.S.
[3] Florida Transportation Commission, *Transportation Authority Monitoring and Oversight Fiscal Year 2012 Report*, p. 165, *available at*, http://www.ftc.state.fl.us/documents/reports/TAMO/Final%20FY%202012%20Oversight%20Report%20(5-28-13).pdf (last visited March 27, 2014).
[4] *Id.*at 163.
[5] Section 348.967, F.S.
[6] FTC Report, supra, n. 3 at 60.
[7] The Toll Facilities Revolving Trust Fund was dissolved in 2012. *See* ch. 2012-128, L.O.F. All outstanding repayments are to be deposited into the State Transportation Trust Fund.
[8] Id.

- Sets out the Authority's powers and duties, including the issuance of bonds to finance all or part of the Authority's system, and provides for the rights and remedies of the bondholders.
- Deems the FDOT the agent of the Authority for the purpose of performing all phases of a project, with certain exceptions.
- Deems the FDOT the agent of the Authority for the purposes of operating and maintaining the Authority's system, with the exception of transit facilities, and provides for reimbursement to the FDOT from revenues of the Authority's system.
- Authorizes the FDOT, at the request of the Authority, to provide or contribute to certain costs under specified conditions, and provides for reimbursement to the FDOT from system revenues.
- Authorizes the Authority to acquire public or private property, including through exercise of eminent domain; limits the Authority's liability for certain environmental contamination.
- Provides for the Authority's exemption from certain taxation.
- Supersedes any other law inconsistent with the bill's provisions.

Section 1 creates the following:

- Section 345.0001, F.S., designating the Act as the "Northwest Florida Regional Transportation Finance Authority Act."
- Section 345.0002, F.S., to define terms for purposes of the new chapter, including, but not limited to, the following:
  - "Area served" means Escambia County, as well as the geographical area of a contiguous county, upon the county's and the Authority's mutual consent.
  - "Regional system" or "system" means, generally, a modern system of roads, bridges, causeways, tunnels, and mass transit services with the area of the Authority, with limited or unlimited access, and related buildings, structures, and facilities.
  - "Revenues" means the tolls, revenues, rates, fees, charges, receipts, rentals, contributions, and other income derived from operation and ownership of a regional system, including proceeds of any use and occupancy insurance, but excluding state funds, and any other municipal or county funds available under an agreement between a municipality or county and the Authority.
- Section 345.0003, F.S., to authorize the formation and membership of the Authority as follows:
  - Escambia County, and any other contiguous county, may form a regional finance authority to construct, maintain, and operate transportation projects in the northwest region of the state.
  - The county commission of each county that will be a part of the authority must approve creation of the Authority.
  - The county commission of each county in the area served appoints two members to the Authority's governing body, who must be residents of the county from which each member is appointed and, if possible, represent the community's business and civic interests.
  - The Governor appoints an equal number of members as appointed by each county commission, who must be residents of the area served by the Authority.
  - The FDOT Secretary appoints a District Secretary, or designee, for the FDOT district within which the area served by the Authority is located.

  - Each member serves a term of four years, or until a successor is appointed and qualified; must take and subscribe to a specified oath before entering the member's duties; may not hold elected office while serving as an Authority member; and may be removed from office by the Governor for specified violations.
  - Members serve without compensation but are reimbursed for per diem and certain other expenses.
- Section 345.0004, F.S., to set out the Authority's powers and duties, including, but not limited to, the following:
  - Planning, constructing, improving, operating and maintaining a regional system in the area served, except for an existing system for transporting people and goods owned by another non-consenting entity.
  - Charging and collecting rates, fees, rentals, and other charges for use of any system owned or operated by the Authority, which must be sufficient to comply with any covenants with the bondholders. This power may be assigned or delegated to the FDOT.
  - Borrowing money, and issuing bonds that mature in no more than 30 years, to finance all or part of the improvement of the Authority's system; and to secure the payment of such bonds by a pledge of the Authority's revenues, rates, etc., including municipal or county funds received by the Authority under an agreement between the Authority and the municipality or county.
  - Providing, in general, for the rights and remedies of the bondholders.
  - To make contracts, enter into joint development agreements, and to act and do things necessary or convenient for the conduct of its business and the general welfare of the authority.
  - The Authority is prohibited from the following:
    - Pledging municipal or county funds for the construction of a project for which a toll is to be charged unless the anticipated tolls are reasonably estimated by the governing board of the municipality or county to be sufficient to cover the principal and interest of such obligations. The Authority must reimburse sums spent from municipal or county funds for the payment of bond obligations, with additional requirements if the Authority elects to fund or refund bonds before maturity.
    - Pledging the credit or taxing power of the state or a political subdivision or agency of the state.
    - Entering into an agreement that would legally prohibit the construction of a road by the county or municipality, other than by consent.
- Section 345.0005, F.S., provisions related to Authority bonds, in part to:
  - Authorize issuance of bonds on behalf of the Authority or, alternatively, authorize the Authority to issue bonds on its own.
  - Provide requirements for the authorization and sale of bonds.
  - Prohibit the use or pledging of state funds to pay the principal and interest of any Authority bonds.
- Section 345.0006, F.S., to provide for the remedies of bondholders, including, but not limited to providing for the appointment of a trustee and the trustee's duties and rights, appointment of a receiver and the receiver's duties and powers, and enforcement of the bondholders' rights in the event of a specified default by the Authority in the payment of the principal and interest on the bonds.
- Section 345.0007, F.S., relating to the FDOT as the Authority's agent, to provide in part:

  - The FDOT is the Authority's agent for performing all phases of a project, including construction, extension, and improvements to the system.
  - Alternatively, and with the FDOT's consent and approval, the Authority may appoint a local, FDOT-certified agency to administer federal-aid projects.
  - The FDOT is the Authority's agent for operating and maintaining the system, except for transit facilities; and the costs incurred by the FDOT must be reimbursed from system revenues. However, the Authority remains obligated as principal to operate and maintain the system.
  - The FDOT and the Authority may agree that the Authority will operate and maintain portions of the system.
- Section 345.0008, F.S., relating to FDOT contributions to Authority projects, to provide in part:
  - Subject to appropriation by the Legislature and at the request of the Authority, the FDOT may provide for or contribute to the costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of the Authority project or system.
  - The FDOT may participate in Authority-funded projects that, at a minimum, serve national, statewide, or regional functions; are part of an integrated regional transportation system; are identified in the capital improvements element of a comprehensive plan and local government policies in such plans relative to corridor management; are consistent with the Strategic Intermodal System; and have a local, regional, or private financial match.
  - Before approving a proposed project, the FDOT must determine that the project:
    - Is in the public's best interest;
    - Does not require the use of state funds, unless it is on or would directly benefit the State Highway System;
    - Has adequate safeguards in place to ensure no additional imposed costs or service disruptions if the FDOT cancels or defaults on the agreement; and to ensure that the FDOT and the Authority have opportunity to add capacity to the project and other transportation facilities serving similar origins and destinations.
  - The FDOT may require that money contributed by the department be repaid from tolls of the project, other Authority revenue, or other sources of funds.
  - The FDOT must receive a share of the Authority's net revenues equal to the ratio of the FDOT's total contributions to the Authority to the sum of:
    - The FDOT's total contributions;
    - Any local government contributions to the cost of revenue-producing Authority projects; and
    - The sale proceeds of Authority bonds after payment of costs of issuance.
  - Net revenues of the Authority are determined by deducting from gross revenues the payment of debt service, administrative expenses, operations and maintenance, and all required reserves.
- Section 345.0009, F.S., to provide for the Authority's powers relating to acquisition of private or public property rights by various means and for various purposes, limit the Authority's liability for certain environmental contamination, and authorize the Authority to enter into interagency agreements with the Department of Environmental Protection for performance, funding, and reimbursement of certain investigative and remedial acts.

- Section 345.0010, F.S., to authorize contracts, leases, conveyances, partnerships, or other agreements between the Authority and specified entities to carry out the purposes of the Act.
- Section 345.0011, F.S., to provide that the state will not limit or alter the vested rights in the Authority or the FDOT until the bonds are fully paid; and will not limit or alter the rights and powers of the Authority and the FDOT in a manner inconsistent with the continued operation and maintenance of the system or with performance of any agreement between the Authority and a federal agency that constructs or contributes any funds for the completion, extension, or improvement of any part of the system.
- Section 345.0012, F.S., to exempt the Authority from paying any taxes or assessments of any kind upon any Authority property, rates, fees, or income, etc.; or upon bonds issued by the Authority.
- Section 345.0013, F.S., to provide that Authority bonds or other obligations issued under the Act are eligible for investments and security.
- Section 345.0014, F.S., to provide:
  - The Act's conferred powers are in addition to others conferred by law and do not repeal any other general or special law or local ordinance.
  - The issuance of bonds to finance all or part of the cost of extension or improvement of a system is authorized without compliance with any other law.
  - The Act does not affect any law relating to the FDOT, or the State Board of Administration or its Division of Bond Finance, and supersedes any other inconsistent law, including, but not limited to, s. 215.821, F.S., including s. 215.821, F.S., which provides that provisions of the State Bond Act, ss. 215.57-215.83, F.S., apply to bonds issued by or on behalf of state agencies.

Section 2 provides the bill takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, and 345.0014.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Evers

2-00684B-14 20141052__

A bill to be entitled

An act relating to the Department of Transportation; creating ch. 345, F.S., relating to the Northwest Florida Regional Transportation Finance Authority; creating s. 345.0001, F.S.; providing a short title; creating s. 345.0002, F.S.; defining terms; creating s. 345.0003, F.S.; authorizing certain counties to form a regional finance authority to construct, maintain, or operate transportation projects in a given region of the state; providing governance of the authority; creating s. 345.0004, F.S.; specifying the powers and duties of a regional transportation finance authority; limiting the authority's power with respect to an existing system; prohibiting the authority from pledging the credit or taxing power of the state or any political subdivision or agency of the state; prohibiting the authority from entering into an agreement that would prohibit a county or municipality from constructing a road without the consent of the county; requiring that the authority comply with certain reporting and documentation requirements; creating s. 345.0005, F.S.; authorizing the authority to issue bonds that meet certain requirements; requiring that the resolution that authorizes the issuance of bonds meet certain requirements; authorizing the authority to enter into security agreements for issued bonds with a bank or trust company; providing that issued bonds are negotiable instruments and have the qualities and incidents of

certain negotiable instruments under the law; requiring that a resolution authorizing the issuance of bonds and pledging of revenues of the system include certain requirements; prohibiting the use or pledge of state funds to pay principal or interest of the authority's bonds; creating s. 345.0006, F.S.; providing for the rights and remedies granted to bondholders; authorizing certain actions a trustee may take on behalf of the bondholders; authorizing the appointment of a receiver; establishing and limiting the authority of the receiver; creating s. 345.0007, F.S.; designating the Department of Transportation as the agent of the authority for specified purposes; authorizing the administration and management of projects by the department; limiting the powers of the department as an agent; establishing the fiscal responsibilities of the authority; creating s. 345.0008, F.S.; authorizing the department to provide for or commit its resources for the authority project or system, if approved by the Legislature; authorizing the payment of expenses incurred by the department on behalf of the authority; requiring the department to receive a share of the revenue from the authority; providing calculations for disbursement of revenues; creating s. 345.0009, F.S.; authorizing the authority to acquire private or public property and property rights for a project or plan; authorizing the authority to exercise the right of eminent domain; establishing the rights and liabilities and remedial

actions relating to property acquired for a transportation project or corridor; creating s. 345.0010, F.S.; authorizing contracts between governmental entities and the authority; creating s. 345.0011, F.S.; providing that the state will not limit or alter the vested rights of a bondholder with regard to any issued bonds or other rights relating to the bonds under certain conditions; creating s. 345.0012, F.S.; relieving the authority's obligation to pay certain taxes or assessments for property acquired or used for certain public purposes or on revenues received relating to the issuance of bonds; providing exceptions; creating s. 345.0013, F.S.; providing that the bonds or obligations issued are legal investments of specified entities; creating s. 345.0014, F.S.; providing applicability; providing an effective date.

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

Section 1. Chapter 345, Florida Statutes, consisting of sections 345.0001, 345.0002, 345.0003, 345.0004, 345.0005, 345.0006, 345.0007, 345.0008, 345.0009, 345.0010, 345.0011, 345.0012, 345.0013, and 345.0014, is created to read:

345.0001 Short title.—This act may be cited as the "Northwest Florida Regional Transportation Finance Authority Act."

345.0002 Definitions.—As used in this chapter, the term:

(1) "Agency of the state" means the state and any

department of, or any corporation, agency, or instrumentality created, designated, or established by, the state.

(2) "Area served" means Escambia County. However, upon a contiguous county's consent to inclusion within the area served by the authority and with the agreement of the authority, the term shall also include the geographical area of such county contiguous to Escambia County.

(3) "Authority" means the Northwest Florida Regional Transportation Finance Authority, a body politic and corporate, and an agency of the state, established under this chapter.

(4) "Bonds" means the notes, bonds, refunding bonds, or other evidences of indebtedness or obligations, in temporary or definitive form, which the authority may issue under this chapter.

(5) "Department" means the Department of Transportation.

(6) "Division" means the Division of Bond Finance of the State Board of Administration.

(7) "Federal agency" means the United States, the President of the United States, and any department of, or any bureau, corporation, agency, or instrumentality created, designated, or established by, the United States Government.

(8) "Members" means the governing body of the authority, and the term "member" means one of the individuals constituting such governing body.

(9) "Regional system" or "system" means, generally, a modern system of roads, bridges, causeways, tunnels, and mass transit services within the area of the authority, with access limited or unlimited as the authority may determine, and the buildings and structures and appurtenances and facilities

related to the system, including all approaches, streets, roads, bridges, and avenues of access for the system.

(10) "Revenues" means the tolls, revenues, rates, fees, charges, receipts, rentals, contributions, and other income derived from or in connection with the operation or ownership of a regional system, including the proceeds of any use and occupancy insurance on any portion of the system, but excluding state funds available to the authority and any other municipal or county funds available to the authority under an agreement with a municipality or county.

345.0003 Transportation finance authority; formation; membership.—

(1) Escambia County, as well as any other contiguous county, may form a regional finance authority for the purposes of constructing, maintaining, and operating transportation projects in the northwest region of this state. The authority shall be governed in accordance with this chapter. An authority may not be created without the approval of the county commission of each county that will be a part of the authority.

(2) The governing body of the authority shall consist of a board of voting members as follows:

(a) The county commission of each county in the area served by the authority shall appoint two members. Each member must be a resident of the county from which he or she is appointed and, if possible, must represent the business and civic interests of the community.

(b) The Governor shall appoint an equal number of members to the board as those appointed by each county commission. The members appointed by the Governor must be residents of the area

served by the authority.

(c) The secretary of the department shall appoint a district secretary, or his or her designee, for the district within which the area served by the authority is located.

(3) The term of office of each member shall be for 4 years or until his or her successor is appointed and qualified.

(4) A member may not hold an elected office during the term of his or her membership.

(5) A vacancy occurring in the governing body before the expiration of the member's term shall be filled for the balance of the unexpired term by the respective appointing authority in the same manner as the original appointment.

(6) Before entering upon his or her official duties, each member must take and subscribe to an oath before an official authorized by law to administer oaths that he or she will honestly, faithfully, and impartially perform the duties of his or her office as a member of the governing body of the authority and that he or she will not neglect any duties imposed upon him or her by this chapter.

(7) The Governor may remove from office a member of the authority for misconduct, malfeasance, misfeasance, or nonfeasance in office.

(8) The members of the authority shall designate a chair from among the membership.

(9) The members of the authority shall serve without compensation, but are entitled to reimbursement for per diem and other expenses in accordance with s. 112.061 while in performance of their duties.

(10) A majority of the members of the authority shall

constitute a quorum, and resolutions enacted or adopted by a vote of a majority of the members present and voting at any meeting are effective without publication, posting, or any further action of the authority.

345.0004 Powers and duties.—

(1) The authority shall plan, develop, finance, construct, reconstruct, improve, own, operate, and maintain a regional system in the area served by the authority. The authority may not exercise these powers with respect to an existing system for transporting people and goods by any means that is owned by another entity without the consent of that entity. If the authority acquires, purchases, or inherits an existing entity, the authority shall inherit and assume all rights, assets, appropriations, privileges, and obligations of the existing entity.

(2) The authority may exercise all powers necessary, appurtenant, convenient, or incidental to the carrying out of the purposes of this section, including, but not limited to, the following rights and powers:

(a) To sue and be sued, implead and be impleaded, and complain and defend in all courts in its own name.

(b) To adopt and use a corporate seal.

(c) To have the power of eminent domain, including the procedural powers granted under chapters 73 and 74.

(d) To acquire, purchase, hold, lease as a lessee, and use any property, real, personal, or mixed, tangible or intangible, or any interest therein, necessary or desirable for carrying out the purposes of the authority.

(e) To sell, convey, exchange, lease, or otherwise dispose

of any real or personal property acquired by the authority, including air rights.

(f) To fix, alter, charge, establish, and collect rates, fees, rentals, and other charges for the use of any system owned or operated by the authority, which rates, fees, rentals, and other charges must be sufficient to comply with any covenants made with the holders of any bonds issued under this act; however, such right and power may be assigned or delegated by the authority to the department.

(g) To borrow money; make and issue negotiable notes, bonds, refunding bonds, and other evidences of indebtedness or obligations, in temporary or definitive form, to finance all or part of the improvement of the authority's system and appurtenant facilities, including the approaches, streets, roads, bridges, and avenues of access for the system and for any other purpose authorized by this chapter, the bonds to mature no more than 30 years after the date of the issuance; to secure the payment of such bonds or any part thereof by a pledge of its revenues, rates, fees, rentals, or other charges, including municipal or county funds received by the authority under an agreement between the authority and a municipality or county; and, in general, to provide for the security of the bonds and the rights and remedies of the holders of the bonds. However, municipal or county funds may not be pledged for the construction of a project for which a toll is to be charged unless the anticipated tolls are reasonably estimated by the governing board of the municipality or county, on the date of its resolution pledging the funds, to be sufficient to cover the principal and interest of such obligations during the period

when the pledge of funds is in effect.

1. The authority shall reimburse a municipality or county for sums spent from municipal or county funds used for the payment of the bond obligations.

2. If the authority elects to fund or refund bonds issued by the authority before the maturity of the bonds, the proceeds of the funding or refunding bonds shall, pending the prior redemption of the bonds to be funded or refunded, be invested in direct obligations of the United States, and the outstanding bonds may be funded or refunded by the issuance of bonds under this chapter.

(h) To make contracts of every name and nature, including, but not limited to, partnerships providing for participation in ownership and revenues, and to execute each instrument necessary or convenient for the conduct of its business.

(i) Without limitation of the foregoing, to cooperate with, to borrow money and accept grants from, and to enter into contracts or other transactions with any federal agency, the state, or any agency or any other public body of the state.

(j) To employ an executive director, attorney, staff, and consultants. Upon the request of the authority, the department shall furnish the services of a department employee to act as the executive director of the authority.

(k) To enter into joint development agreements.

(l) To accept funds or other property from private donations.

(m) To act and do things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it by

this act or any other law.

(3) The authority may not pledge the credit or taxing power of the state or a political subdivision or agency of the state. Obligations of the authority may not be considered to be obligations of the state or of any other political subdivision or agency of the state. Except for the authority, the state or any political subdivision or agency of the state is not liable for the payment of the principal of or interest on such obligations.

(4) The authority may not, other than by consent of the affected county or an affected municipality, enter into an agreement that would legally prohibit the construction of a road by the county or the municipality.

(5) The authority shall comply with the statutory requirements of general application which relate to the filing of a report or documentation required by law, including the requirements of ss. 189.4085, 189.415, 189.417, and 189.418.

345.0005 Bonds.—

(1) Bonds may be issued on behalf of the authority under the State Bond Act. The authority may also issue bonds in such principal amount as it deems necessary to provide sufficient moneys for achieving its corporate purposes, including construction, reconstruction, improvement, extension, repair, maintenance, and operation of the system; the cost of acquisition of all real property; interest on bonds during construction and for a reasonable period thereafter; establishment of reserves to secure bonds; and other expenditures of the authority incident and necessary or convenient to carry out its corporate purposes and powers.

(2) Bonds issued by the authority under subsection (1) must:

(a) Be authorized by resolution of the members of the authority and bear such date or dates; mature at such time or times, not exceeding 30 years after their respective dates; bear interest at such rate or rates, not exceeding the maximum rate fixed by general law for authorities; be in such denominations; be in such form, either coupon or fully registered; carry such registration, exchangeability, and interchangeability privileges; be payable in such medium of payment and at such place or places; be subject to such terms of redemption; and be entitled to such priorities of lien on the revenues and other available moneys as such resolution or any resolution after the bonds' issuance provides.

(b) Be sold at public sale in the same manner provided in the State Bond Act. Temporary bonds or interim certificates may be issued to the purchaser or purchasers of such bonds pending the preparation of definitive bonds and may contain such terms and conditions as determined by the authority.

(3) A resolution that authorizes bonds may specify provisions that must be part of the contract with the holders of the bonds as to:

(a) The pledging of all or any part of the revenues, available municipal or county funds, or other charges or receipts of the authority derived from the regional system.

(b) The construction, reconstruction, improvement, extension, repair, maintenance, and operation of the system, or any part or parts of the system, and the duties and obligations of the authority with reference thereto.

(c) Limitations on the purposes to which the proceeds of the bonds, then or thereafter issued, or of any loan or grant by any federal agency or the state or any political subdivision of the state may be applied.

(d) The fixing, charging, establishing, revising, increasing, reducing, and collecting of tolls, rates, fees, rentals, or other charges for use of the services and facilities of the system or any part of the system.

(e) The setting aside of reserves or of sinking funds and the regulation and disposition of the reserves or sinking funds.

(f) Limitations on the issuance of additional bonds.

(g) The terms of any deed of trust or indenture securing the bonds, or under which the bonds may be issued.

(h) Any other or additional matters, of like or different character, which in any way affect the security or protection of the bonds.

(4) The authority may enter into deeds of trust, indentures, or other agreements with banks or trust companies within or without the state, as security for such bonds, and may, under such agreements, assign and pledge any of the revenues and other available moneys, including any available municipal or county funds, under the terms of this chapter. The deed of trust, indenture, or other agreement may contain provisions that are customary in such instruments or that the authority may authorize, including, but without limitation, provisions that:

(a) Pledge any part of the revenues or other moneys lawfully available.

(b) Apply funds and safeguard funds on hand or on deposit.

(c) Provide for the rights and remedies of the trustee and the holders of the bonds.

(d) Provide for the terms of the bonds or for resolutions authorizing the issuance of the bonds.

(e) Provide for any other or additional matters, of like or different character, which affect the security or protection of the bonds.

(5) Bonds issued under this act are negotiable instruments and have the qualities and incidents of negotiable instruments under the law merchant and the negotiable instruments law of the state.

(6) A resolution that authorizes the issuance of authority bonds and pledges the revenues of the system must require that revenues of the system be periodically deposited into appropriate accounts in sufficient sums to pay the costs of operation and maintenance of the system for the current fiscal year as set forth in the annual budget of the authority and to reimburse the department for any unreimbursed costs of operation and maintenance of the system from prior fiscal years before revenues of the system are deposited into accounts for the payment of interest or principal owing or that may become owing on such bonds.

(7) State funds may not be used or pledged to pay the principal or interest of any authority bonds, and all such bonds must contain a statement on their face to this effect.

345.0006 Remedies of bondholders.—

(1) The rights and the remedies granted to authority bondholders under this chapter are in addition to and not in limitation of any rights and remedies lawfully granted to such

bondholders by the resolution or indenture providing for the issuance of bonds, or by any deed of trust, indenture, or other agreement under which the bonds may be issued or secured. If the authority defaults in the payment of the principal or interest on the bonds issued under this chapter after such principal or interest becomes due, whether at maturity or upon call for redemption, as provided in the resolution or indenture, and such default continues for 30 days, or if the authority fails or refuses to comply with this chapter or any agreement made with, or for the benefit of, the holders of the bonds, the holders of 25 percent in aggregate principal amount of the bonds then outstanding are entitled as of right to the appointment of a trustee to represent such bondholders for the purposes of the default if the holders of 25 percent in aggregate principal amount of the bonds then outstanding first gave written notice to the authority and to the department of their intention to appoint a trustee.

(2) The trustee and a trustee under a deed of trust, indenture, or other agreement may, or upon the written request of the holders of 25 percent or such other percentages specified in any deed of trust, indenture, or other agreement, in principal amount of the bonds then outstanding, shall, in any court of competent jurisdiction, in its own name:

(a) By mandamus or other suit, action, or proceeding at law, or in equity, enforce all rights of the bondholders, including the right to require the authority to fix, establish, maintain, collect, and charge rates, fees, rentals, and other charges, adequate to carry out any agreement as to, or pledge of, the revenues, and to require the authority to carry out any

other covenants and agreements with or for the benefit of the bondholders, and to perform its and their duties under this chapter.

(b) Bring suit upon the bonds.

(c) By action or suit in equity, require the authority to account as if it were the trustee of an express trust for the bondholders.

(d) By action or suit in equity, enjoin any acts or things that may be unlawful or in violation of the rights of the bondholders.

(3) A trustee, if appointed under this section or acting under a deed of trust, indenture, or other agreement, and regardless of whether all bonds have been declared due and payable, is entitled to the appointment of a receiver. The receiver may enter upon and take possession of the system or the facilities or any part or parts of the system, the revenues, and other pledged moneys, for and on behalf of and in the name of, the authority and the bondholders. The receiver may collect and receive revenues and other pledged moneys in the same manner as the authority. The receiver shall deposit such revenues and moneys in a separate account and apply all such revenues and moneys remaining after allowance for payment of all costs of operation and maintenance of the system in such manner as the court directs. In a suit, action, or proceeding by the trustee, the fees, counsel fees, and expenses of the trustee, and the receiver, if any, and all costs and disbursements allowed by the court must be a first charge on any revenues after payment of the costs of operation and maintenance of the system. The trustee also has all other powers necessary or appropriate for

the exercise of any functions specifically described in this section or incident to the representation of the bondholders in the enforcement and protection of their rights.

(4) A receiver appointed pursuant to this section to operate and maintain the system or a facility or a part of a facility may not sell, assign, mortgage, or otherwise dispose of any of the assets belonging to the authority. The powers of the receiver are limited to the operation and maintenance of the system or any facility or part of a facility and to the collection and application of revenues and other moneys due the authority, in the name and for and on behalf of the authority and the bondholders. A holder of bonds or trustee does not have the right in any suit, action, or proceeding, at law or in equity, to compel a receiver, or a receiver may not be authorized or a court may not direct a receiver, to sell, assign, mortgage, or otherwise dispose of any assets of whatever kind or character belonging to the authority.

345.0007 Department to construct, operate, and maintain facilities.—

(1) The department is the agent of the authority for the purpose of performing all phases of a project, including, but not limited to, constructing improvements and extensions to the system, with the exception of the transit facilities. The division and the authority shall provide to the department complete copies of the documents, agreements, resolutions, contracts, and instruments that relate to the project and shall request that the department perform the construction work, including the planning, surveying, design, and actual construction of the completion of, extensions of, and

improvements to the system. After the issuance of bonds to finance construction of an improvement or addition to the system, the division and the authority shall transfer to the credit of an account of the department in the State Treasury the necessary funds for construction. The department shall proceed with construction and use the funds for the purpose authorized by law for construction of roads and bridges. The authority may alternatively, with the consent and approval of the department, elect to appoint a local agency certified by the department to administer federal aid projects in accordance with federal law as the authority's agent for the purpose of performing each phase of a project.

(2) Notwithstanding subsection (1), the department is the agent of the authority for the purpose of operating and maintaining the system, with the exception of transit facilities. The costs incurred by the department for operation and maintenance shall be reimbursed from revenues of the system. The appointment of the department as agent for the authority does not create an independent obligation on the part of the department to operate and maintain a system. The authority shall remain obligated as principal to operate and maintain its system, and the authority's bondholders do not have an independent right to compel the department to operate or maintain the authority's system. This appointment does not preclude the department and the authority from agreeing that some portions of the system will be operated and maintained by the authority.

(3) The authority shall fix, alter, charge, establish, and collect tolls, rates, fees, rentals, and other charges for the

authority's facilities, as otherwise provided in this chapter.

345.0008 Department contributions to authority projects.—

(1) The department may, at the request of the authority, provide for or contribute to the payment of costs of financial or engineering and traffic feasibility studies and the design, financing, acquisition, or construction of the authority project or system, subject to appropriation by the Legislature.

(2) The department may use its engineers and other personnel, including consulting engineers and traffic engineers, to conduct the feasibility studies authorized under subsection (1).

(3) The department may participate in authority-funded projects that, at a minimum:

(a) Serve national, statewide, or regional functions and function as part of an integrated regional transportation system.

(b) Are identified in the capital improvements element of a comprehensive plan that has been determined to be in compliance with part II of chapter 163. Further, the project shall be in compliance with local government comprehensive plan policies relative to corridor management.

(c) Are consistent with the Strategic Intermodal System Plan developed under s. 339.64.

(d) Have a commitment for local, regional, or private financial matching funds as a percentage of the overall project cost.

(4) Before approval, the department must determine that the proposed project:

(a) Is in the public's best interest;

(b) Unless it is on or would directly benefit the State Highway System, does not require the use of state funds;

(c) Has adequate safeguards in place to ensure that no additional costs will be imposed on or service disruptions will affect the traveling public and residents of this state if the department cancels or defaults on the agreement; and

(d) Has adequate safeguards in place to ensure that the department and the authority have the opportunity to add capacity to the proposed project and other transportation facilities serving similar origins and destinations.

(5) An obligation or expense incurred by the department under this section is a part of the cost of the authority project for which the obligation or expense was incurred. The department may require that money contributed by the department under this section be repaid from tolls of the project on which the money was spent, other revenue of the authority, or other sources of funds.

(6) The department shall receive from the authority a share of the authority's net revenues equal to the ratio of the department's total contributions to the authority under this section to the sum of: the department's total contributions under this section; contributions by any local government to the cost of revenue-producing authority projects; and the sale proceeds of authority bonds after payment of costs of issuance. For the purpose of this subsection, the net revenues of the authority are determined by deducting from gross revenues the payment of debt service, administrative expenses, operations and maintenance expenses, and all reserves required to be established under any resolution under which authority bonds are

issued.

345.0009 Acquisition of lands and property.—

(1) For the purposes of this chapter, the authority may acquire private or public property and property rights, including rights of access, air, view, and light, by gift, devise, purchase, condemnation by eminent domain proceedings, or transfer from another political subdivision of the state, as the authority may deem necessary for any of the purposes of this chapter, including, but not limited to, any lands reasonably necessary for securing applicable permits, areas necessary for management of access, borrow pits, drainage ditches, water retention areas, rest areas, replacement access for landowners whose access is impaired due to the construction of a facility, and replacement rights-of-way for relocated rail and utility facilities; for existing, proposed, or anticipated transportation facilities on the system or in a transportation corridor designated by the authority; or for the purposes of screening, relocation, removal, or disposal of junkyards and scrap metal processing facilities. Each authority shall also have the power to condemn any material and property necessary for such purposes.

(2) The authority shall exercise the right of eminent domain conferred under this section in the manner provided by law.

(3) An authority that acquires property for a transportation facility or in a transportation corridor is not liable under chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or

future owners of the acquired property or the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The authority and the Department of Environmental Protection may enter into interagency agreements for the performance, funding, and reimbursement of the investigative and remedial acts necessary for property acquired by the authority.

345.0010 Cooperation with other units, boards, agencies, and individuals.—A county, municipality, drainage district, road and bridge district, school district, or any other political subdivision, board, commission, or individual in, or of, the state may make and enter into a contract, lease, conveyance, partnership, or other agreement with the authority within the provisions of this chapter. The authority may make and enter into contracts, leases, conveyances, partnerships, and other agreements with any political subdivision, agency, or instrumentality of the state and any federal agency, corporation, or individual to carry out the purposes of this chapter.

345.0011 Covenant of the state.—The state pledges to, and agrees with, any person, firm, or corporation, or federal or state agency subscribing to or acquiring the bonds to be issued by the authority for the purposes of this chapter that the state will not limit or alter the rights vested by this chapter in the authority and the department until all bonds at any time issued, together with the interest thereon, are fully paid and discharged insofar as the rights vested in the authority and the department affect the rights of the holders of bonds issued under this chapter. The state further pledges to, and agrees

with, the United States that if a federal agency constructs or contributes any funds for the completion, extension, or improvement of the system, or any parts of the system, the state will not alter or limit the rights and powers of the authority and the department in any manner that is inconsistent with the continued maintenance and operation of the system or the completion, extension, or improvement of the system, or that would be inconsistent with the due performance of any agreements between the authority and any such federal agency, and the authority and the department shall continue to have and may exercise all powers granted in this section, so long as the powers are necessary or desirable to carry out the purposes of this chapter and the purposes of the United States in the completion, extension, or improvement of the system, or any part of the system.

345.0012 Exemption from taxation.—The authority created under this chapter is for the benefit of the people of the state, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions. The authority performs essential governmental functions under this chapter, therefore, the authority is not required to pay any taxes or assessments of any kind or nature upon any property acquired or used by it for such purposes, or upon any rates, fees, rentals, receipts, income, or charges received by it. Also, the bonds issued by the authority, their transfer and the income from their issuance, including any profits made on the sale of the bonds, shall be free from taxation by the state or by any political subdivision, taxing agency, or instrumentality of the state. The exemption granted by this section does not

apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

345.0013 Eligibility for investments and security.—Bonds or other obligations issued under this chapter are legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries, and for all state, municipal, and other public funds, and are also securities eligible for deposit as security for all state, municipal, or other public funds, notwithstanding any other law to the contrary.

345.0014 Applicability.—

(1) The powers conferred by this chapter are in addition to the powers conferred by other law and do not repeal any other general or special law or local ordinance, but supplement such other laws in the exercise of the powers provided in this chapter, and provide a complete method for the exercise of the powers granted in this chapter. The extension and improvement of a system, and the issuance of bonds under this chapter to finance all or part of the cost of such extension or improvement, may be accomplished upon compliance with this chapter without regard to or necessity for compliance with the provisions, limitations, or restrictions contained in any other general, special, or local law, including, but not limited to, s. 215.821, and approval of any bonds issued under this act by the qualified electors or qualified electors who are freeholders in the state or in any political subdivision of the state is not required for the issuance of such bonds under this chapter.

(2) This act does not repeal, rescind, or modify any other law relating to the State Board of Administration, the

Department of Transportation, or the Division of Bond Finance of the State Board of Administration; however, this chapter supersedes any other law that is inconsistent with its provisions, including, but not limited to, s. 215.821.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

_____
Meeting Date

Topic Transportation Bill Number 1052 *(if applicable)*

Name Eric Poole Amendment Barcode _____ *(if applicable)*

Job Title Asst. Legis. Director

Address 100 Monroe Phone 9779300
Street

Tall FL E-mail _____
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Assoc. of Counties

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic Transportation

Bill Number 1052 *(if applicable)*

Name RICHARD GENTRY

Amendment Barcode *(if applicable)*

Job Title

Address 2305 BRAEBURN CIR *Street*

Phone 251-1837

TLH FL 32309 *City State Zip*

E-mail

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

Representing Escambia County

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

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

March 21, 2014

Honorable Senator Simpson
Senate Community Affairs Committee
322 SOB
404 S. Monroe St.
Tallahassee, FL 32399

RE: SB 1052

Dear Chairman Simpson:

Please allow this letter to serve as my respectful request to include SB 1052 regarding "Northwest Florida Regional Transportation Finance Authority Act" on the agenda for your next Community Affairs Committee meeting.

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

Sincerely,

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*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 978
INTRODUCER:	Senator Evers and others
SUBJECT:	Crime Stoppers Trust Fund
DATE:	March 31, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	**Favorable**
2.	Stearns	Yeatman	CA	**Favorable**
3.			AP	

I. Summary:

SB 978 amends s. 16.555, F.S., to authorize a county to use funds from the Crime Stopper Trust Fund for promotional items to increase public awareness and educate the public about Crime Stoppers.

II. Present Situation:

The Crime Stoppers concept originated in Albuquerque, New Mexico, in 1976. A homicide detective with the Albuquerque Police asked a local television station to broadcast a re-enactment of an unsolved murder, offered a reward from his own pocket for any information leading to an arrest, and guaranteed the tipster's anonymity. A caller contacted the police the next day with a tip that led the police to the two men who were responsible. The success of this concept launched the Crime Stoppers. There are now over 1,200 Crime Stoppers programs worldwide.[1]

The Central Florida Crime Watch Program, now Central Florida Crimeline, was formed one year after the first Crime Stoppers program. Today there are 31 programs in Florida operating under the umbrella organization, Florida Association of Crime Stoppers, Inc.[2]

Section 16.555, F.S., provides a funding mechanism for Crime Stopper programs.[3] The Department of Legal Affairs is required to establish a trust fund to administer grants to Crime Stoppers programs in the state, make applications for all federal and state or private grants which

[1] Florida Association of Crime Stoppers, *Where It All Started, available at*, http://www.facsflorida.org/pages/where (last visited March 8, 2014).
[2] Florida Association of Crime Stoppers, *Who We Are, available at*, http://www.facsflorida.org/pages/who (last visited March 8, 2014).
[3] Section 16.555(1)(c) defines "Crime Stoppers" as the Florida Association of Crime Stoppers, Incorporated, a Florida Corporation.

meet the purposes of advancing Crime Stoppers programs, and deposit the received funds in the trust fund. The fund cannot exceed $4.5 million.

County or circuit courts are required to assess an additional fine of $20 to any fine assessed as a result of a criminal conviction.[4] The funds received from this additional fine (less $3 per assessment to be retained by the clerk of the court as a service charge) are to be forwarded to the Department of Revenue for deposit in the Crime Stoppers Trust Fund.[5] The funds are to be designated according to the judicial circuit in which they were collected.[6] Any county may apply to the Department of Revenue for a grant from the funds collected from the judicial circuit in which the county is located.[7] However, a grant may be awarded only to counties which are served by an official member of the Florida Association of Crime Stoppers and may only be used to support Crime Stoppers and their crime fighting programs.[8]

III. Effect of Proposed Changes:

Section 1 amends s. 16.555, F.S., to authorize a county that is awarded funds from the Crime Stopper Trust Fund to purchase and distribute promotional items to increase public awareness and educate the public about Crime Stoppers. The bill also makes technical changes.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

Article III, section 19(f) of the Florida Constitution prohibits the Legislature from creating or re-creating a trust fund unless the trust fund is created or re-created by a law approved by a three-fifths vote of the membership of each house of the Legislature in a separate bill for that purpose only.

The bill allows funds from the Crime Stoppers Trust Fund to be used to purchase and distribute promotional items. It does not create or re-create a trust fund. Therefore it does not need to be approved by a three-fifths vote.

[4] Section 938.06(1), F.S.
[5] Section 938.06(2), F.S.
[6] Section 16.555(4)(b), F.S.
[7] Section 16.555(5)(b), F.S.
[8] *Id.*

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 16.555 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Evers

2-01148-14 2014978__

A bill to be entitled

An act relating to the Crime Stoppers Trust Fund; amending s. 16.555, F.S.; authorizing a county that is awarded funds from the trust fund to use such funds for promotional items; making technical changes; providing an effective date.

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

Section 1. Subsection (5) of section 16.555, Florida Statutes, is amended to read:

16.555 Crime Stoppers Trust Fund; rulemaking.—

(5)(a) The department shall be the disbursing authority for the distribution of funding to units of local government that apply~~, upon their application~~ to the department for funding assistance.

(b) Funds deposited in the trust fund pursuant to paragraph (4)(b) shall be disbursed as provided in this paragraph. A ~~Any~~ county may apply to the department under s. 938.06 for a grant from the funds collected in the judicial circuit in which the county is located ~~under s. 938.06~~. A grant may be awarded only to counties that ~~which~~ are served by an official member of the Florida Association of Crime Stoppers and may ~~only~~ be used only to support Crime Stoppers and its ~~their~~ crime fighting programs. Only one such official member is ~~shall be~~ eligible for support within any county. In order to aid the department in determining eligibility, the secretary of the Florida Association of Crime Stoppers shall furnish the department with a schedule of authorized crime stoppers programs and shall update the schedule

as necessary. The department shall award grants to eligible counties from available funds and shall distribute funds as equitably as possible, based on amounts collected within each county, if ~~when~~ more than one county is eligible within a judicial circuit.

(c) A county that is awarded funds under this section may use such funds to purchase and distribute promotional items to increase public awareness and educate the public about Crime Stoppers.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.1.14
Meeting Date

Topic CRIME STOPPERS TRUST FUND. Bill Number SB 0978 *(if applicable)*

Name DET. BELVIN SMOKER Amendment Barcode *(if applicable)*

Job Title DETECTIVE

Address 2008 E 8TH AVE Phone 813.247.6719
Street

TAMPA FL 33605 E-mail
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Representing HILLSBOROUGH CO. S.O.

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)

4/1/14
Meeting Date

Topic Crime Stoppers Trust Fund

Bill Number SR978 *(if applicable)*

Name Sgt. Don Heaton

Amendment Barcode *(if applicable)*

Job Title Sergeant Volusia County Sheriff

Address 250 N. Beach St Daytona Bch
Street

Phone 386-804-6825

Daytona Bch FL 32119
City *State* *Zip*

E-mail dheaton@vcso.us

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

Representing FSA / Sheriff Ben Johnson

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

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

March 21, 2014

Honorable Senator Simpson
Senate Community Affairs Committee
322 SOB
404 S. Monroe St.
Tallahassee, FL 32399

RE: SB 978

Dear Chairman Simpson:

Please allow this letter to serve as my respectful request to include SB 978 regarding Crime Stoppers Trust Fund on the agenda for your next Community Affairs Committee meeting.

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

Sincerely,

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*

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 620
INTRODUCER:	Senator Detert
SUBJECT:	Service of Process
DATE:	March 31, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Munroe	Cibula	JU	**Favorable**
2.	Stearns	Yeatman	CA	**Favorable**

I. Summary:

SB 620 revises the procedures for serving process as follows:

- Authorizes a sheriff to charge a $40 fee for each summons served instead of a $40 fee for serving multiple summons at the same time.
- Provides that if a sheriff relies on an affidavit from a levying creditor, the sheriff is immune from liability for the wrongful levy or distribution of the proceeds of an execution sale.
- Requires that the party requesting service of process or the process server file the return-of-service form instead of the person issuing the process.
- Adds a noncriminal violation punishable by a fine of up to $1,000 for an employer, employee, or a representative or agent of the employer who refuses to accommodate service on an employee.
- Permits service of process on a corporation at any address where the registered agent, president, vice president, or other head of the corporation is located.

II. Present Situation:

Service of Process

The sheriff in the county where the person to be served is located is responsible for completing service of process.[1] The sheriff may appoint special process servers who meet specified statutory minimum requirements.[2] The chief judge of the circuit court may establish an approved list of certified process servers.[3]

Authorized process servers serve the complaint or petition on a defendant or a respondent in a civil case so that the court may acquire personal jurisdiction over the person who receives service. Strict compliance with the statutory provisions of service of process is required in order

[1] Section 48.021, F.S.
[2] *Id.*
[3] Section 48.27, F.S.

for the court to obtain jurisdiction over a party and to assure that a defendant or respondent receives notice of the proceedings filed.[4] Failure to strictly comply with the statutory terms renders service defective, resulting in a failure to acquire jurisdiction over the defendant or respondent.[5]

The law specifies the manner and methods that service of process must be executed by process servers. Service of original process and most witness subpoenas are made by delivering a copy of the complaint, petition, or other initial pleading or paper to the person to be served or by leaving the copies at his or her usual place of abode with any resident who is 15 years of age or older and informing the person of their contents.[6] Each process server must document all service of process by placing the date and time of service and the process server's identification number and initials on the copy served.[7] The person issuing the process is obligated to file the return of service form with the court to show that service was made.[8]

The sheriffs of all counties of the state in civil cases must charge fixed, nonrefundable fees for service of process.[9] The sheriffs must charge $40 for recording and serving each summons or writ of execution, except if duplicate process is to be served in the same action on the same person.[10] This may occur, for example, when a defendant is sued both individually and in some representative capacity in the same action. In such an event, two summons are issued and served. Current law precludes the sheriff from charging for service of each summons served in such an event or for serving multiple individuals at the same time.[11]

Sheriffs may levy upon or seize a person's assets to satisfy a judgment and sell those assets to pay the judgment when they are provided a writ of execution by the court.[12] The judgment creditor must provide an affidavit assuring the sheriff that the judgment debtor has clear title to an asset to be seized.[13] However, there is no statutory requirement that the parties in interest direct the sheriff how to distribute the proceeds of sale.

Service on Employees and Businesses

Section 48.031, F.S., requires employers to allow a process server to serve an employee in a private area designated by the employer. However, the law does not specify a penalty for an employer who fails to permit such service.

[4] *Vidal v. SunTrust Bank*, 41 So.3d 401 (Fla. 4th DCA 2010).
[5] *Vidal* (holding that the process server's failure to note the time of service of the bank's complaint on the copy of the complaint which was served on the debtor rendered the service of the complaint defective).
[6] Subsections 48.031(1) and (3), F.S.
[7] Sections 48.29(6) and 48.031(5), F.S.
[8] Section 48.031(5), F.S.
[9] Section 30.231(1), F.S.
[10] Section 30.231(1)(a), F.S.
[11] *Id.*
[12] See s. 30.30, F.S.
[13] Section 56.27(4), F.S.

Service on Corporations

Section 48.081, F.S., provides that service of process on a corporation is made on the registered agent, president, vice president, or other head of the corporation, and in their absence, upon another officer, and in their absence, a director. Current law states that if the address *provided* for the registered agent, officer, director, or principal place of business is a residence or private mailbox, service of process may be made in accordance with the general procedures for serving process set forth in s. 48.031, F.S. Current law suggests that the address must be actually given in order to be used in the service of process.

III. Effect of Proposed Changes:

This bill revises the procedures relating to the service of legal process, such as complaints and subpoenas.

Sheriff's Fees for Service (Section 1)

The bill amends s. 30.231, F.S., which currently provides that when serving more than one process regarding the same action at one location, the sheriff is only entitled to one fee. The bill deletes this limitation, and allows the sheriff to charge $40 per process served at the same time in the same cause of action. In effect, the sheriff may be paid multiple fees to serve a single person who is being sued in multiple capacities in one lawsuit.

Service on an Employee of a Business (Section 2)

Existing s. 48.031, F.S., requires an employer to permit service of process on an employee in a private area designated by the employer. The bill creates a noncriminal penalty[14] punishable by a fine of up to $1,000 for an employer or an agent who fails to comply with this requirement.

Filing the Return of Service (Section 2)

The bill requires either the person requesting service or the person authorized to serve process to file the return of service with the court. Under existing law, the person issuing the process has this responsibility.

Service on a Corporation (Section 3)

Section 48.081(3)(b), F.S., states that if the address *provided* for the registered agent, officer, director, or principal place of business is a residence or private mailbox, then service may be made by serving the registered agent, officer, or director in accordance with s. 48.031, F.S. The bill deletes the word "provided" to clarify that if the address for the registered agent, officer, director, or principal place of business is a residence or private mailbox, then service may be made by serving the registered agent, officer, or director in accordance with the general procedures for serving process, regardless of whether the address was actually provided to the state or not.

[14] A noncriminal violation is any offense punishable by nothing more than a fine, forfeiture, or other civil penalty, and does not constitute a crime. *State v. Knowles*, 625 So. 2d 88, 90 (Fla. 5th DCA 1993).

Sheriff Sales in Execution of Judgments (Section 4)

The bill amends s. 56.27(5), F.S., to provide that a sheriff may rely on an affidavit submitted as required under the section. The bill also provides immunity from liability for the wrongful distribution of the proceeds of an execution sale (in addition to immunity from the wrongful levy, which already exists in statute), if the sheriff paid the money out in accordance with the information in an affidavit from a levying creditor.

The bill creates a new subsection (6) to provide that, if the sheriff is uncertain as to whom to disburse the proceeds of the sale of levied property, the sheriff may apply for instructions from the court that:

- entered the judgment that is the basis of the judgment lien; or
- the appropriate court where the levied property was located at the time of the levy.

The bill requires the sheriff to serve the application for instructions and the notice of hearing on the levying creditor, the judgment debtor, and any other parties identified in the affidavit.

Effective Date (Section 5)

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:

The sheriff may be paid multiple fees to serve a single person who is being sued in multiple capacities in one lawsuit.

C. Government Sector Impact:

Sheriffs may receive additional fees for serving process in some instances.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 30.231, 48.031, 48.081, and 56.27.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Detert

28-00630A-14 2014620__

A bill to be entitled

An act relating to service of process; amending s. 30.231, F.S.; requiring sheriffs to charge a uniform fee for service of process; providing that such uniform fee does not include the cost of docketing; amending s. 48.031, F.S.; requiring an employer to allow an authorized individual to make service on an employee in a private area designated by the employer; providing a civil fine for employers who fail to comply with the process; revising provisions relating to substitute service if a specified number of attempts of service have been made at a business that is a sole proprietorship under certain circumstances; requiring the person requesting service or the person authorized to serve the process to file the return-of-service form; amending s. 48.081, F.S.; revising a provision related to service on a corporation; amending s. 56.27, F.S.; providing that a sheriff may rely on the affidavit submitted by the levying creditor; authorizing a sheriff to apply for instructions from the court regarding the distribution of proceeds from the sale of a levied property; providing an effective date.

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

Section 1. Subsection (1) of section 30.231, Florida Statutes, is amended to read:

30.231 Sheriffs' fees for service of summons, subpoenas,

and executions.—

(1) The sheriffs of all counties of the state in civil cases shall charge fixed, nonrefundable fees for ~~docketing and~~ service of process, according to the following schedule:

(a) All summons or writs except executions: $40 for each summons or writ to be served~~, except when more than one summons or writ is issued at the same time out of the same cause of action to be served upon one person or defendant at the same time, in which case the sheriff shall be entitled to one fee~~.

(b) All writs except executions requiring a levy or seizure of property: $50 in addition to the $40 fee as stated in paragraph (a).

(c) Witness subpoenas: $40 for each witness to be served.

(d) Executions:

1. Forty dollars for processing each writ of execution, regardless of the number of persons involved.

2. Fifty dollars for each levy.

a. A levy is considered made when any property or any portion of the property listed or unlisted in the instructions for levy is seized, or upon demand of the sheriff the writ is satisfied by the defendant in lieu of seizure. Seizure requires that the sheriff take actual possession, if practicable, or, alternatively, constructive possession of the property by order of the court.

b. When the instructions are for levy upon real property, a levy fee is required for each parcel described in the instructions.

c. When the instructions are for levy based upon personal property, one fee is allowed, unless the property is seized at

different locations, conditional upon all of the items being advertised collectively and the sale being held at a single location. However, if the property seized cannot be sold at one location during the same sale as advertised, but requires separate sales at different locations, the sheriff may ~~is~~ then ~~authorized to~~ impose a levy fee for the property and sale at each location.

3. Forty dollars for advertisement of sale under process.

4. Forty dollars for each sale under process.

5. Forty dollars for each deed, bill of sale, or satisfaction of judgment.

Section 2. Paragraph (b) of subsection (1), paragraph (b) of subsection (2), and subsection (5) of section 48.031, Florida Statutes, are amended to read:

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

(1)

(b) An employer ~~Employers~~, when contacted by an individual authorized to serve ~~make service of~~ process, shall allow ~~permit~~ the authorized individual to serve an employee ~~make service on employees~~ in a private area designated by the employer. An employer who fails to comply with this paragraph commits a noncriminal violation, punishable by a fine of up to $1,000.

(2)

(b) Substitute service may be made on an individual doing business as a sole proprietorship at his or her place of business, during regular business hours, by serving the person in charge of the business at the time of service if two ~~or more~~ attempts to serve the owner have been made at the place of

business.

(5) A person serving process shall place, on the first page of at least one of the processes served, the date and time of service and his or her identification number and initials for all service of process. The person serving process shall list on the return-of-service form all initial pleadings delivered and served along with the process. The person requesting service or the person authorized to serve ~~issuing~~ the process shall file the return-of-service form with the court.

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

48.081 Service on corporation.—

(3)

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

Section 4. Subsection (5) of section 56.27, Florida Statutes, is amended, and subsection (6) is added to that section, to read:

56.27 Executions; payment of money collected.—

(5) A sheriff may rely on the affidavit submitted as required under this section, and a sheriff paying money received under an execution in accordance with the information contained in the affidavit required under subsection (4) is not liable to anyone for damages arising from a wrongful levy or wrongful distribution of funds.

(6) A sheriff who is uncertain as to whom to disburse the

proceeds from the sale of the levied property may apply for instructions from:

(a) The court that entered the judgment that is the basis of the judgment lien; or

(b) The appropriate court where the levied property was located at the time of the levy,

if the sheriff serves, by process pursuant to chapter 48, by certified mail, or by return receipt requested, a copy of his or her application and the notice of hearing on the levying creditor, the judgment debtor, and any other parties identified in the affidavit.

Section 5. 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)

4/1/14
Meeting Date

Topic Service of Process — Bill Number SB 0620 *(if applicable)*

Name Don Heaton — Amendment Barcode _____ *(if applicable)*

Job Title Sergeant Volusia County Sheriff

Address 250 N. Beach ST, — Phone 386-804/6825
Street

Daytona Bch FL 32119 — E-mail dheaton@vcso.us
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing FSA / Sheriff Ben Johnson

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

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S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 4, 2014

I respectfully request that **620**, relating to Service of Process, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Nancy C. Detert
Florida Senate, District 28

File signed original with committee office

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 910
INTRODUCER:	Community Affairs Committee and Senator Legg
SUBJECT:	Utility Projects
DATE:	April 1, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	**Favorable**
2.	White	Yeatman	CA	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 910 creates an alternative method for financing the costs of certain utility projects using utility cost containment bonds. These bonds are issued by an authority on behalf of a local agency that owns and operates a publicly owned utility that provides public utility services, including water, wastewater, or stormwater. The bonds may receive a lower interest rate because payment is secured by a pledge of the utility project property. The utility project property charge serves as the primary utility project property, and would ensure timely payment of all financing costs with respect to utility cost containment bonds. The utility project charge on customers is based on estimates of water, wastewater, or stormwater service usage.

II. Present Situation:

The Florida Interlocal Cooperation Act of 1969 is intended to permit local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities.[1] The Act provides that local governmental entities may conduct a joint exercise of power by entering into a contract in the form of an interlocal agreement.[2] Further, an interlocal agreement may provide for a separate legal or administrative entity to administer or execute the agreement,

[1] Section 163.01(2), F.S.
[2] Section 163.01(5), F.S.

which may be a commission, board, or council.[3] Among the authority granted such an entity is the power to authorize, issue, and sell bonds.[4]

Separate provisions relate to projects for water or wastewater or for electricity. A separate legal entity, the membership of which is limited to municipalities and counties and which may include a special district, may acquire, own, construct, improve, operate, and manage public facilities, or finance facilities on behalf of any person, relating to a governmental function or purpose, including, but not limited to, wastewater facilities, water or alternative water supply facilities, and water reuse facilities, which may serve populations within or outside the boundaries of the members of the entity.[5] Such an entity may finance or refinance the acquisition, construction, expansion, and improvement of such facilities through the issuance of its bonds, notes, or other obligations. Except as may be limited by the interlocal agreement under which the entity is created, all of the privileges, benefits, powers, and terms of the statutes relating to counties[6] and municipalities[7] are fully applicable to the entity. Bonds, notes, and other obligations issued by the entity are issued on behalf of the public agencies that are members of the entity.

A separate legal entity, the membership of which consists only of electric utilities and which is created for the purpose of exercising the powers granted by the Joint Power Act, may exercise specified powers relating to ownership and operation of an electric project[8] and may, for the purpose of financing or refinancing the costs of an electric project, exercise all powers in connection with the authorization, issuance, and sale of bonds as are conferred by the bond financing statutes for counties,[9] or municipalities,[10] or both.[11]

There is one separate legal entity organized for water utilities, the Florida Governmental Utility Authority (FGUA), and one organized for electric utilities, the Florida Municipal Power Agency (FMPA). The FGUA consists of seven counties: Citrus, DeSoto, Hendry, Lee, Marion, Pasco, and Polk.[12] The FMPA is owned by 31 municipal electric utilities: Alachua, Bartow, Blountstown, Bushnell, Chattahoochee, Clewiston, Fort Meade, Fort Pierce, Gainesville, Green Cove Springs, Havana, Homestead, Jacksonville Beach, Key West, Kissimmee, Lake Worth, Lakeland, Leesburg, Moore Haven, Mount Dora, New Smyrna Beach, Newberry, Ocala, Orlando, Quincy, St. Cloud, Starke, Vero Beach, Wauchula, Williston, and Winter Park.[13]

[3] Section 163.01(7), F.S.
[4] Section 163.01(7)(d), F.S.
[5] Section 163.01(7)(g), F.S.
[6] Section 125.01, F.S.
[7] Section 166.021, F.S.
[8] Section 163.01(15), F.S.
[9] Chapter 159, F.S.
[10] Chapter 166, F.S.
[11] Section 163.01(7)(c), F.S.
[12] FGUA, *The Board*, http://www.fgua.com/the-board (last visited Mar. 28, 2014).
[13] FMPA, *Members*, http://www.fmpa.com/index.php/about-us/members (last visited Mar. 28, 2014).

III. Effect of Proposed Changes:

Section 1 creates an alternative method for financing[14] the costs[15] of certain utility projects[16] using utility cost containment bonds.[17] These bonds are issued by an authority[18] on behalf of a local agency[19] that owns and operates a publicly owned utility[20] that provides public utility services, including water, wastewater, or stormwater. The bonds may receive a lower interest rate because payment is secured by a pledge of the utility project property [21] for the benefit of, and enforceable by, the beneficiaries of the pledge to the extent provided in the financing documents relating to the utility cost containment bonds. The primary utility project property is the utility project charge, which is imposed on customers,[22] based on estimates of water, wastewater, or stormwater service usage, to ensure timely payment of all financing costs[23] with respect to utility cost containment bonds.

[14] The terms "finance" or "financing" include refinancing.

[15] "Cost," as applied to a utility project or a portion of a utility project financed under this act, means:

- Any part of the expense of constructing, renovating or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project.
- The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal.
- Finance charges.
- Interest, as determined by the authority.
- Provisions for working capital and debt service reserves.
- Expenses for extensions, enlargements, additions, replacements, renovations, and improvements.
- Expenses for architectural, engineering, financial, accounting, and legal services, plans, specifications, estimates, and administration.
- Any other expense necessary or incidental to determining the feasibility of constructing any utility project or incidental to the construction, acquisition, or financing of any utility project.

[16] "Utility project" means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located within or outside this state which is used in connection with the operations of a publicly owned utility.

[17] "Utility cost containment bonds" means bonds, notes, commercial paper, variable rate securities, and any other evidence of indebtedness issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project, and which are secured by a pledge of, and are payable from, utility project property.

[18] "Authority" means an entity created pursuant to s. 163.01(7)(g), F.S., which provides public utility services and whose membership consists of at least three counties. The term includes any successor to the powers and functions of such an entity. – As is stated above, the FGUA is currently the only entity created under this paragraph.

[19] "Local agency" means a member of the authority, or an agency or subdivision of that member, which is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, or other governmental entity of the state that is sponsoring or refinancing a utility project.

[20] "Publicly owned utility" means a utility furnishing water, wastewater, or stormwater service that is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

[21] "Utility project property" means the property right, title, and interest of an authority in any of the following:

- The financing resolution, the utility project charge, and any adjustment to the utility project charge.
- The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge.
- All rights to obtain adjustments to the utility project charge.

[22] "Customer" means a person receiving water, wastewater, stormwater service from a publicly owned utility.

[23] "Financing costs" means any of the following:

- Interest and redemption premiums that are payable on utility cost containment bonds.

Bond Issuance

To obtain utility cost containment bonds, a local agency that owns and operates a publicly owned utility may apply to an authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. The local agency must specify the utility project to be financed by the cost containment bonds and the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

Before applying, the governing body[24] of the local agency must determine, in a duly noticed public meeting, all of the following:

- The project to be financed is a utility project.
- The local agency will finance costs of the utility project and the financing costs associated with the financing will be paid from utility project property (the charge to utility customers).
- Based on the best information available to the governing body, the rates charged to the local agency's retail customers by the publicly owned utility, including the utility project charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

A determination by the governing body that a project to be financed with utility cost containment bonds is a utility project is final and conclusive and the utility cost containment bonds issued to finance the utility project and the utility project charge are valid and enforceable as set forth in the financing resolution and the documents relating to the utility cost containment bonds.

An authority may issue utility cost containment bonds to finance or refinance utility projects; refinance debt of a local agency incurred in financing or refinancing utility projects, provided the refinancing results in present value savings to the local agency; or, with the approval of the local agency, refinance previously issued utility cost containment bonds.

Transfer of Authority to Other Related Entities

To finance a utility project, the authority may form a single-purpose limited liability company and authorize the company to adopt the financing resolution of such utility project or create a new single-purpose entity by interlocal agreement whose membership shall consist of the authority and two or more of its members or other public agencies. The authority may create a single-purpose limited liability company or a single-purpose entity solely for the purpose of performing the cost containment bond related duties and responsibilities of the authority and

- The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption.
- The cost related to issuing or servicing utility cost containment bonds, including any payment under an interest rate swap agreement and any type of fee.
- A payment or expense associated with a bond insurance policy; financial guaranty; a contract, agreement, or other credit or liquidity enhancement for bonds; or a contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds.
- Any coverage charges.
- The funding of one or more reserve accounts relating to utility cost containment bonds.

[24] "Governing body" means the body that governs a local agency.

constitutes an authority for all cost containment bond purposes. Reference to the authority includes such a company or entity.

If a local agency that has outstanding utility cost containment bonds ceases to operate a water, wastewater, or stormwater utility, directly or through its publicly owned utility, references to the local agency or to its publicly owned utility apply to the successor entity. The successor entity must assume and perform all obligations of the local agency and its publicly owned utility and assume the servicing agreement while the utility cost containment bonds remain outstanding.

Financing Resolution

The governing body of an authority that is financing the costs of a utility project must adopt a financing resolution[25] and impose a utility project charge. All provisions of a financing resolution adopted pursuant to this section are binding on the authority. The financing resolution must:

- Provide a brief description of the financial calculation method the authority will use in determining the utility project charge. The calculation method must include a periodic adjustment methodology to be applied at least annually to the utility project charge. The authority must establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decision of the authority is final and conclusive, and the method of calculating the utility project charge and the periodic adjustment may not be changed.
- Require each customer in the class or classes of customers specified in the financing resolution who receives water, wastewater, or stormwater service through the publicly owned utility to pay the utility project charge regardless of whether the customer has an agreement to receive water, wastewater, or stormwater service from a person other than the publicly owned utility.
- Require that the utility project charge be charged separately from other charges on the bill of customers of the publicly owned utility in the class or classes of customers specified in the financing resolution.
- Require that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

The authority may require in the financing resolution that, in the event of a default by the local agency or its publicly owned utility with respect to revenues from the utility project property, the authority, upon application by the beneficiaries of the statutory lien, must order the sequestration and payment to the beneficiaries of revenues arising from utility project property. This provision does not limit any other remedies available to the beneficiaries by reason of default.

Utility Project Charges

The utility project charge imposed on customers to ensure timely payment of all financing costs with respect to utility cost containment bonds is a nonbypassable charge to all present and future

[25] "Financing resolution" means a resolution adopted by the governing body of an authority that provides for the financing or refinancing of a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds. A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

customers of the publicly owned utility in the class or classes of customers specified in the financing resolution upon its adoption. If a customer of the publicly owned utility that is subject to a utility project charge enters into an agreement to purchase service from a person other than the publicly owned utility, the customer remains liable for the payment of the utility project charge as if the customer had not entered into the agreement. The customer may discharge the liability by continuing to pay the utility project charge as it accrues or by making a one-time payment, as determined by the authority.

Safeguards for Customers

Prior to a local agency applying to an authority for the financing of a utility project, the governing body must determine, in a duly noticed public meeting, that the project to be financed is a utility project, and that the rates charged to the local agency's retail customers by the publicly owned utility are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

The authority must determine at least annually whether adjustments to the utility project charge are required to correct for any overcollection or undercollection of financing costs from the utility project charge or to make any other adjustment necessary to ensure the timely payment of the financing costs of the utility cost containment bonds. If the authority determines that an adjustment is required, the adjustment must be made using the methodology specified in the financing resolution. Savings from utility bond cost containment must be passed on to customers directly in the form of rate reductions or other programs.

The adjustment may not impose the utility project charge on a class of customers that was not subject to the utility project charge pursuant to the financing resolution imposing the utility project charge. A customer is liable for the usage charges for only as long as they receive any service or benefit from the utility.

Safeguards for Bondholders

The timely and complete payment of all utility project charges by the customer is a condition of receiving water, wastewater, or stormwater service from the publicly owned utility. The local agency or its publicly owned utility may use its established collection policies and remedies provided under law to enforce collection of the utility project charge. A customer liable for a utility project charge may not withhold payment, in whole or in part.

The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state, or any other entity, may not reduce, impair, or otherwise adjust the utility project charge, except that the authority shall implement the periodic adjustments to the utility project charge as provided under this subsection.

The utility project charge imposed on customers constitutes utility project property on the effective date of the financing resolution authorizing such utility project charge.[26] Utility project

[26] This appears to mean that if the bond is for construction of new facilities, customer payment on the bond will begin before construction is complete and the facility comes into use.

property constitutes property, including contracts securing utility cost containment bonds, regardless of whether the revenues and proceeds arising with respect to the utility project property have accrued. Utility project property must continuously exist as property for all purposes with all of the rights and privileges of this section for the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

Upon the effective date of the financing resolution, the utility project property is subject to a first priority statutory lien to secure the payment of the utility cost containment bonds. The lien secures the payment of all financing costs then existing or subsequently arising to the holders of the utility cost containment bonds, the trustee or representative for the holders of the utility cost containment bonds, and any other entity specified in the financing resolution or the documents relating to the utility cost containment bonds. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or other person. Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility project property and all third parties and additional public notice is not required. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property, regardless of whether the revenues or proceeds have accrued.

All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, must be applied first to the payment of the financing costs of the utility cost containment bonds then due, including the funding of reserves for the utility cost containment bonds. Any excess revenues must be applied as determined by the authority for the benefit of the utility for which the utility cost containment bonds were issued.

If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility must enter into a contract with the authority which requires, at a minimum, that the publicly owned utility:

- Continue to operate its publicly owned utility, including the utility project that is being financed or refinanced.
- Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the utility project charge.
- Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

Utility cost containment bonds are nonrecourse to the credit or any assets of the local agency or the publicly owned utility but are payable from, and secured by a pledge of, the utility project property relating to the utility cost containment bonds and any additional security or credit enhancement specified in the documents relating to the utility cost containment bonds. If the authority is financing the project through a single-purpose limited liability company, the utility cost containment bonds are payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This provision is the exclusive method of perfecting a pledge of utility project property by the company securing the payment of financing costs under any agreement of the company in connection with the issuance of utility cost containment bonds.

The authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of utility cost containment bonds. Except as provided with respect to adjustments to a utility project charge, the recovery of the financing costs for the utility cost containment bonds from the utility project charge is irrevocable and the authority does not have the power, either by rescinding, altering, or amending the applicable financing resolution, to revalue or revise for ratemaking purposes the financing costs of utility cost containment bonds; to determine that the financing costs for the related utility cost containment bonds or the utility project charge is unjust or unreasonable; or to in any way reduce or impair the value of utility project property that includes the utility project charge, either directly or indirectly. The amount of revenues arising with respect to the financing costs for the related utility cost containment bonds or the utility project charge are not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the utility project charge are fully met and discharged.

Subject to the terms of the pledge document, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

Except as provided with respect to adjustments to a utility project charge, the state does hereby pledge and agree with the owners of utility cost containment bonds that the state shall neither limit nor alter the financing costs or the utility project property, including the utility project charge, relating to the utility cost containment bonds, or any rights in, to, or under the utility project property until all financing costs with respect to the utility cost containment bonds are fully met and discharged. This paragraph does not preclude limitation or alteration if adequate provision is made by law for the protection of the owners. The authority may include this pledge by the state in the governing documents for utility cost containment bonds.

Notwithstanding any other law, an authority that issued utility cost containment bonds may not, and no governmental officer or organization shall so authorize the authority to, become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the utility cost containment bonds.

Safeguards for State and Local Governments

The issuance of utility cost containment bonds does not obligate the state or any political subdivision thereof to levy or to pledge any form of taxation to pay the utility cost containment bonds or to make any appropriation for their payment. All utility cost containment bonds must contain on their face a statement in substantially the following form:

> Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond.

Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision thereof.

Financing costs are not a pledge of the full faith and credit of the state or any political subdivision thereof, including the authority, but are payable solely from the funds in the documents relating to the utility cost containment bonds. This provision does not preclude guarantees or credit enhancements in connection with utility cost containment bonds.

The provisions of the bill and all grants of power and authority are to be liberally construed to effectuate their purposes. All incidental powers necessary to carry into effect the provisions of this section are expressly granted to, and conferred upon, public entities.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent that a publicly owned utility has lower interest costs and passes these savings on to customers, these customers will benefit.

C. Government Sector Impact:

Governmental entities that own and operate a publicly owned utility that provides water, wastewater, or stormwater services and that finance a project using cost containment bonds may have lower interest costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill defines "utility project" to mean the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property *located within or outside this state* which is used in connection with the operations of a publicly owned utility (lines 166-171). It is unclear under what circumstances a publicly owned utility would acquire real property or other property located outside Florida for use in connections with its operations.

VIII. Statutes Affected:

This bill creates an unnumbered section of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on April 1, 2014:

- Restricts utility cost containment bonds from being issued for public utility projects that would provide electric, internet, or cable services;
- Clarifies that the customer is liable for the usage charges for only as long as they receive any service or benefit from the utility;
- Requires that any savings from utility bond cost containment must be passed on to customers directly in the form of rate reductions or other programs; and
- Requires a local government to have a duly-noticed public meeting before a local municipality opts to use utility cost containment bonding.

B. Amendments:

None.

By Senator Legg

17-01136-14 2014910__

A bill to be entitled

An act relating to utility projects; providing a short title; providing definitions; authorizing certain local government entities to finance the cost of a utility project by issuing utility cost containment bonds upon application by a local agency; specifying application requirements; requiring any successor entity of a local agency to assume and perform the obligations of the local agency with respect to the financing of a utility project; authorizing an authority to issue utility cost containment bonds for specified purposes related to utility projects; authorizing an authority to form alternate entities to finance utility projects; requiring the governing body of the authority to adopt a financing resolution and impose a utility project charge on customers of a publicly owned utility as a condition of utility project financing; specifying required and optional provisions of the financing resolution; specifying powers of the authority; requiring the local agency or its publicly owned utility to assist the authority in the establishment or adjustment of the utility project charge; requiring that customers of the public utility specified in the financing resolution pay the utility project charge; providing for adjustment of the utility project charge; establishing ownership of the revenues of the utility project charge; requiring the local agency or its publicly owned utility to collect the utility project charge; conditioning a customer's

receipt of public utility services on payment of the utility project charge; authorizing a local agency or its publicly owned utility to use available remedies to enforce collection of the utility project charge; providing that the pledge of the utility project charge or the utility project property to secure payment of bonds issued to finance the utility project is irrevocable and cannot be reduced or impaired except under certain conditions; providing that a utility project charge constitutes utility project property; providing that utility project property is subject to a lien to secure payment of costs relating to utility cost containment bonds; establishing payment priorities for the use of revenues of the utility project property; providing for the issuance and validation of utility cost containment bonds; securing the payment of utility cost containment bonds and related costs; providing that utility cost containment bonds do not obligate the state or any political subdivision thereof and are not backed by their full faith and credit and taxing power; requiring that certain disclosures be printed on utility cost containment bonds; providing that financing costs related to utility cost containment bonds are an obligation of the authority only; securing the payment of the financing costs of utility cost containment bonds; prohibiting an authority with outstanding payment obligations on utility cost containment bonds from becoming a debtor under certain

federal or state laws; providing for construction; endowing public entities with certain powers; providing an effective date.

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

Section 1. Utility Cost Containment Bond Act.—

(1) SHORT TITLE.—This section may be cited as the "Utility Cost Containment Bond Act."

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

(a) "Authority" means an entity created pursuant to s. 163.01(7)(g), Florida Statutes, which provides public utility services and whose membership consists of at least three counties. The term includes any successor to the powers and functions of such an entity.

(b) "Cost," as applied to a utility project or a portion of a utility project financed under this act, means:

1. Any part of the expense of constructing, renovating or acquiring lands, structures, real or personal property, rights, rights-of-way, franchises, easements, and interests acquired or used for a utility project.

2. The expense of demolishing or removing any buildings or structures on acquired land, including the expense of acquiring any lands to which the buildings or structures may be moved, and the cost of all machinery and equipment used for the demolition or removal.

3. Finance charges.

4. Interest, as determined by the authority.

5. Provisions for working capital and debt service

reserves.

6. Expenses for extensions, enlargements, additions, replacements, renovations, and improvements.

7. Expenses for architectural, engineering, financial, accounting, and legal services, plans, specifications, estimates, and administration.

8. Any other expense necessary or incidental to determining the feasibility of constructing any utility project or incidental to the construction, acquisition, or financing of any utility project.

(c) "Customer" means a person receiving water, wastewater, electric, or stormwater service from a publicly owned utility.

(d) "Financing costs" means any of the following:

1. Interest and redemption premiums that are payable on utility cost containment bonds.

2. The cost of retiring the principal of utility cost containment bonds, whether at maturity, including acceleration of maturity upon an event of default, or upon redemption, including sinking fund redemption.

3. The cost related to issuing or servicing utility cost containment bonds, including any payment under an interest rate swap agreement and any type of fee.

4. A payment or expense associated with a bond insurance policy; financial guaranty; a contract, agreement, or other credit or liquidity enhancement for bonds; or a contract, agreement, or other financial agreement entered into in connection with utility cost containment bonds.

5. Any coverage charges.

6. The funding of one or more reserve accounts relating to

utility cost containment bonds.

(e) "Finance" or "financing" includes refinancing.

(f) "Financing resolution" means a resolution adopted by the governing body of an authority that provides for the financing or refinancing of a utility project with utility cost containment bonds and that imposes a utility project charge in connection with the utility cost containment bonds in accordance with subsection (4). A financing resolution may be separate from a resolution authorizing the issuance of the bonds.

(g) "Governing body" means the body that governs a local agency.

(h) "Local agency" means a member of the authority, or an agency or subdivision of that member, which is sponsoring or refinancing a utility project, or any municipality, county, authority, special district, public corporation, or other governmental entity of the state that is sponsoring or refinancing a utility project.

(i) "Public utility services" means any of the following services provided by a publicly owned utility:

1. Water.

2. Wastewater.

3. Electric.

4. Stormwater.

(j) "Publicly owned utility" means a utility furnishing water, wastewater, electric, or stormwater service that is owned and operated by a local agency. The term includes any successor to the powers and functions of such a utility.

(k) "Revenue" means income and receipts of the authority from any of the following:

1. A bond purchase agreement.

2. Bonds acquired by the authority.

3. Installment sales agreements and other revenue-producing agreements entered into by the authority.

4. Utility projects financed or refinanced by the authority.

5. Grants and other sources of income.

6. Moneys paid by a local agency.

7. Interlocal agreements with a local agency.

8. Interest or other income from any investment of money in any fund or account established for the payment of principal, interest, or premiums on utility cost containment bonds, or the deposit of proceeds of utility cost containment bonds.

(l) "Utility cost containment bonds" means bonds, notes, commercial paper, variable rate securities, and any other evidence of indebtedness issued by an authority, the proceeds of which are used directly or indirectly to pay or reimburse a local agency or its publicly owned utility for the costs of a utility project, and which are secured by a pledge of, and are payable from, utility project property.

(m) "Utility project" means the acquisition, construction, installation, retrofitting, rebuilding, or other addition to or improvement of any equipment, device, structure, process, facility, technology, rights, or property located within or outside this state which is used in connection with the operations of a publicly owned utility.

(n) "Utility project property" means the property right created pursuant to subsection (6) including the right, title, and interest of an authority in any of the following:

1. The financing resolution, the utility project charge, and any adjustment to the utility project charge established in accordance with subsection (5).

2. The financing costs of the utility cost containment bonds and all revenues, and all collections, claims, payments, moneys, or proceeds for, or arising from, the utility project charge.

3. All rights to obtain adjustments to the utility project charge pursuant to subsection (5).

(3) UTILITY PROJECTS.—

(a) A local agency that owns and operates a publicly owned utility may apply to an authority to finance the costs of a utility project using the proceeds of utility cost containment bonds. In its application to the authority, the local agency shall specify the utility project to be financed by the utility cost containment bonds and the maximum principal amount, the maximum interest rate, and the maximum stated terms of the utility cost containment bonds.

(b) A local agency may not apply to an authority for the financing of a utility project under this section unless the governing body has determined all of the following:

1. The project to be financed is a utility project.

2. The local agency will finance costs of the utility project and the financing costs associated with the financing will be paid from utility project property, including the utility project charge for the utility cost containment bonds.

3. Based on the best information available to the governing body, the rates charged to the local agency's retail customers by the publicly owned utility, including the utility project

charge resulting from the financing of the utility project with utility cost containment bonds, are expected to be lower than the rates that would be charged if the project was financed with bonds payable from revenues of the publicly owned utility.

(c) A determination by the governing body that a project to be financed with utility cost containment bonds is a utility project is final and conclusive and the utility cost containment bonds issued to finance the utility project and the utility project charge shall be valid and enforceable as set forth in the financing resolution and the documents relating to the utility cost containment bonds.

(d) If a local agency that has outstanding utility cost containment bonds ceases to operate a water, wastewater, electric, or stormwater utility, directly or through its publicly owned utility, references in this section to the local agency or to its publicly owned utility shall be to the successor entity. The successor entity shall assume and perform all obligations of the local agency and its publicly owned utility required by this section and shall assume the servicing agreement required under subsection (4) while the utility cost containment bonds remain outstanding.

(4) FINANCING UTILITY PROJECTS.—

(a) An authority may issue utility cost containment bonds to finance or refinance utility projects; refinance debt of a local agency incurred in financing or refinancing utility projects, provided such refinancing results in present value savings to the local agency; or, with the approval of the local agency, refinance previously issued utility cost containment bonds.

1. To finance a utility project, the authority may:

a. Form a single-purpose limited liability company and authorize the company to adopt the financing resolution of such utility project; or

b. Create a new single-purpose entity by interlocal agreement whose membership shall consist of the authority and two or more of its members or other public agencies.

2. A single-purpose limited liability company or a single-purpose entity may be created by the authority solely for the purpose of performing the duties and responsibilities of the authority specified in this section and shall constitute an authority for all purposes of this section. Reference to the authority includes a company or entity created under this paragraph.

(b) The governing body of an authority that is financing the costs of a utility project shall adopt a financing resolution and shall impose a utility project charge as described in subsection (5). All provisions of a financing resolution adopted pursuant to this section are binding on the authority.

1. The financing resolution must:

a. Provide a brief description of the financial calculation method the authority will use in determining the utility project charge. The calculation method shall include a periodic adjustment methodology to be applied at least annually to the utility project charge. The authority shall establish the allocation of the utility project charge among classes of customers of the publicly owned utility. The decision of the authority shall be final and conclusive, and the method of

calculating the utility project charge and the periodic adjustment may not be changed.

b. Require each customer in the class or classes of customers specified in the financing resolution who receives water, wastewater, electric, or stormwater service through the publicly owned utility to pay the utility project charge regardless of whether the customer has an agreement to receive water, wastewater, electric, or stormwater service from a person other than the publicly owned utility.

c. Require that the utility project charge be charged separately from other charges on the bill of customers of the publicly owned utility in the class or classes of customers specified in the financing resolution.

d. Require that the authority enter into a servicing agreement with the local agency or its publicly owned utility to collect the utility project charge.

2. The authority may require in the financing resolution that, in the event of a default by the local agency or its publicly owned utility with respect to revenues from the utility project property, the authority, upon application by the beneficiaries of the statutory lien as set forth in subsection (6), shall order the sequestration and payment to the beneficiaries of revenues arising from utility project property. This provision does not limit any other remedies available to the beneficiaries by reason of default.

(c) An authority has all the powers provided in this section and under s. 163.01(7)(g), Florida Statutes.

(5) UTILITY PROJECT CHARGE.—

(a) The authority shall impose a sufficient utility project

charge, based on estimates of water, wastewater, electric, or stormwater service usage, to ensure timely payment of all financing costs with respect to utility cost containment bonds. The local agency or its publicly owned utility shall provide the authority with information concerning the publicly owned utility which may be required by the authority in establishing the utility project charge.

(b) The utility project charge is a nonbypassable charge to all present and future customers of the publicly owned utility in the class or classes of customers specified in the financing resolution upon its adoption. If a customer of the publicly owned utility that is subject to a utility project charge enters into an agreement to purchase water, wastewater, electric, or stormwater service from a person other than the publicly owned utility, the customer shall remain liable for the payment of the utility project charge as if the customer had not entered into the agreement. The customer may discharge the liability by continuing to pay the utility project charge as it accrues or by making a one-time payment, as determined by the authority.

(c) The authority shall determine at least annually and at such additional intervals as provided in the financing resolution and documents related to the applicable utility cost containment bonds whether adjustments to the utility project charge are required. The authority shall use the adjustment to correct for any overcollection or undercollection of financing costs from the utility project charge or to make any other adjustment necessary to ensure the timely payment of the financing costs of the utility cost containment bonds, including adjustment of the utility project charge to pay any debt service

coverage requirement for the utility cost containment bonds. The local agency or its publicly owned utility shall provide the authority with information concerning the publicly owned utility which may be required by the authority in adjusting the utility project charge.

1. If the authority determines that an adjustment to the utility project charge is required, the adjustment shall be made using the methodology specified in the financing resolution.

2. The adjustment may not impose the utility project charge on a class of customers that was not subject to the utility project charge pursuant to the financing resolution imposing the utility project charge.

(d) Revenues from a utility project charge are special revenues of the authority and do not constitute revenue of the local agency or its publicly owned utility for any purpose, including, but not limited to, any dedication, commitment, or pledge of revenue, receipts, or other income that the local agency or its publicly owned utility has made or will make for the security of any of its obligations.

(e) The local agency or its publicly owned utility shall act as a servicing agent for collecting the utility project charge throughout the duration of the servicing agreement required by the financing resolution. The local agency or its publicly owned utility shall hold the money collected in trust for the exclusive benefit of the persons entitled to have the financing costs paid from the utility project charge and the money does not lose its character as revenues of the authority by virtue of possession by the local agency or its publicly owned utility.

(f) The timely and complete payment of all utility project charges by the customer shall be a condition of receiving water, wastewater, electric, or stormwater service from the publicly owned utility. The local agency or its publicly owned utility may use its established collection policies and remedies provided under law to enforce collection of the utility project charge. A customer liable for a utility project charge may not withhold payment, in whole or in part, thereof.

(g) The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state, or any other entity, may not reduce, impair, or otherwise adjust the utility project charge, except that the authority shall implement the periodic adjustments to the utility project charge as provided under this subsection.

(6) UTILITIY PROJECT PROPERTY.—

(a) A utility project charge constitutes utility project property on the effective date of the financing resolution authorizing such utility project charge. Utility project property constitutes property, including for contracts securing utility cost containment bonds, regardless of whether the revenues and proceeds arising with respect to the utility project property have accrued. Utility project property shall continuously exist as property for all purposes with all of the rights and privileges of this section for the period provided in the financing resolution or until all financing costs with respect to the related utility cost containment bonds are paid in full, whichever occurs first.

(b) Upon the effective date of the financing resolution, the utility project property is subject to a first priority

statutory lien to secure the payment of the utility cost containment bonds.

1. The lien secures the payment of all financing costs then existing or subsequently arising to the holders of the utility cost containment bonds, the trustee or representative for the holders of the utility cost containment bonds, and any other entity specified in the financing resolution or the documents relating to the utility cost containment bonds.

2. The lien attaches to the utility project property regardless of the current ownership of the utility project property, including any local agency or its publicly owned utility, the authority, or other person.

3. Upon the effective date of the financing resolution, the lien is valid and enforceable against the owner of the utility project property and all third parties and additional public notice is not required.

4. The lien is a continuously perfected lien on all revenues and proceeds generated from the utility project property, regardless of whether the revenues or proceeds have accrued.

(c) All revenues with respect to utility project property related to utility cost containment bonds, including payments of the utility project charge, shall be applied first to the payment of the financing costs of the utility cost containment bonds then due, including the funding of reserves for the utility cost containment bonds. Any excess revenues shall be applied as determined by the authority for the benefit of the utility for which the utility cost containment bonds were issued.

(7) UTILITY COST CONTAINMENT BONDS.—

(a) Utility cost containment bonds shall be within the parameters of the financing provided by the authority pursuant to this section. The proceeds of the utility cost containment bonds made available to the local agency or its publicly owned utility shall be used for the utility project identified in the application for financing of the utility project or used to refinance indebtedness of the local agency which financed or refinanced utility projects.

(b) Utility cost containment bonds shall be issued in accordance with this section and s. 163.01(7)(g)8., Florida Statutes, and may be validated pursuant to s. 163.01(7)(g)9, Florida Statutes.

(c) The authority shall pledge the utility project property as security for the payment of the utility cost containment bonds. All rights of an authority with respect to utility project property pledged as security for the payment of utility cost containment bonds shall be for the benefit of, and enforceable by, the beneficiaries of the pledge to the extent provided in the financing documents relating to the utility cost containment bonds.

1. If utility project property is pledged as security for the payment of utility cost containment bonds, the local agency or its publicly owned utility shall enter into a contract with the authority which requires, at a minimum, that the publicly owned utility:

a. Continue to operate its publicly owned utility, including the utility project that is being financed or refinanced.

b. Collect the utility project charge from customers for the benefit and account of the authority and the beneficiaries of the pledge of the utility project charge.

c. Separately account for and remit revenue from the utility project charge to, or for the account of, the authority.

2. The pledge of a utility project charge to secure payment of utility cost containment bonds is irrevocable, and the state or any other entity may not reduce, impair, or otherwise adjust the utility project charge, except that the authority shall implement periodic adjustments to the utility project charge as provided under subsection (5).

(d) Utility cost containment bonds shall be nonrecourse to the credit or any assets of the local agency or the publicly owned utility but shall be payable from, and secured by a pledge of, the utility project property relating to the utility cost containment bonds and any additional security or credit enhancement specified in the documents relating to the utility cost containment bonds. If, pursuant to subsection (4), the authority is financing the project through a single-purpose limited liability company, the utility cost containment bonds shall be payable from, and secured by, a pledge of amounts paid by the company to the authority from the applicable utility project property. This provision shall be the exclusive method of perfecting a pledge of utility project property by the company securing the payment of financing costs under any agreement of the company in connection with the issuance of utility cost containment bonds.

(e) The issuance of utility cost containment bonds does not obligate the state or any political subdivision thereof to levy

or to pledge any form of taxation to pay the utility cost containment bonds or to make any appropriation for their payment. All utility cost containment bonds must contain on their face a statement in substantially the following form:

"Neither the full faith and credit nor the taxing power of the State of Florida or any political subdivision thereof is pledged to the payment of the principal of, or interest on, this bond."

(f) Notwithstanding any other law or this section, a financing resolution or other resolution of the authority, or documents relating to utility cost containment bonds, the authority may not rescind, alter, or amend any resolution or document that pledges utility cost charges for payment of utility cost containment bonds.

(g) Subject to the terms of the pledge document created under this part, the validity and relative priority of a pledge is not defeated or adversely affected by the commingling of revenues generated by the utility project property with other funds of the local agency or the publicly owned utility collecting a utility project charge on behalf of an authority.

(h) Financing costs in connection with utility cost containment bonds are a special obligation of the authority and do not constitute a liability of the state or any political subdivision thereof. Financing costs are not a pledge of the full faith and credit of the state or any political subdivision thereof, including the authority, but are payable solely from the funds in the documents relating to the utility cost containment bonds. This provision does not preclude guarantees

or credit enhancements in connection with utility cost containment bonds.

(i) Except as otherwise provided in this section with respect to adjustments to a utility project charge, the recovery of the financing costs for the utility cost containment bonds from the utility project charge shall be irrevocable and the authority does not have the power, either by rescinding, altering, or amending the applicable financing resolution, to revalue or revise for ratemaking purposes the financing costs of utility cost containment bonds; to determine that the financing costs for the related utility cost containment bonds or the utility project charge is unjust or unreasonable; or to in any way reduce or impair the value of utility project property that includes the utility project charge, either directly or indirectly. The amount of revenues arising with respect to the financing costs for the related utility cost containment bonds or the utility project charge are not subject to reduction, impairment, postponement, or termination for any reason until all financing costs to be paid from the utility project charge are fully met and discharged.

(j) Except as provided in subsection (5) with respect to adjustments to a utility project charge, the state does hereby pledge and agree with the owners of utility cost containment bonds that the state shall neither limit nor alter the financing costs or the utility project property, including the utility project charge, relating to the utility cost containment bonds, or any rights in, to, or under the utility project property until all financing costs with respect to the utility cost containment bonds are fully met and discharged. This paragraph

does not preclude limitation or alteration if adequate provision is made by law for the protection of the owners. The authority may include this pledge by the state in the governing documents for utility cost containment bonds.

(8) LIMITATION ON DEBT RELIEF.—Notwithstanding any other law, an authority that issued utility cost containment bonds may not, and no governmental officer or organization shall so authorize the authority to, become a debtor under the United States Bankruptcy Code or become the subject of any similar case or proceeding under any other state or federal law if any payment obligation from utility project property remains with respect to the utility cost containment bonds.

(9) CONSTRUCTION.—This section and all grants of power and authority in this section shall be liberally construed to effectuate their purposes. All incidental powers necessary to carry into effect the provisions of this section are expressly granted to, and conferred upon, public entities.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Cost Containment Bonds Bill Number 910 *(if applicable)*

Name Barry Moline Amendment Barcode _____ *(if applicable)*

Job Title Executive Director

Address 410 E. College Ave Phone 850-224-3314
Street

Tallahassee FL 32301 E-mail bmoline@publicpower.com
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Municipal Electric 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)

4-1-14
Meeting Date

Topic Utility Cost Containment Bonds

Bill Number 910 *(if applicable)*

Name Kevin Dempsey

Amendment Barcode *(if applicable)*

Job Title Vice President

Address 100 N Tampa St
Street
Tampa
City *State* *Zip*

Phone 813.766.1660

E-mail Kevin.Dempsey@citi.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Citigroup

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Senate 910 / Utility Cost Cont. Bill Number 910 *(if applicable)*

Name J.C. Howard Amendment Barcode *(if applicable)*

Job Title Managing Director

Address 943 Spoonbill Circle Phone
Street

Weston FL 33326 E-mail James.Howard@MorganStanley.com
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Morgan Stanley

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)

4/11/14
Meeting Date

Topic Board Cost Court

Bill Number SB 910 *(if applicable)*

Name Robert Sheets

Amendment Barcode *(if applicable)*

Job Title FCCUA - System Mg.

Address 1500 Mahan
Street

Phone 850-294-0749

TLH FL 32308
City *State* *Zip*

E-mail RSHEETS@GOUSF.U.COM

Speaking: ☑ For ☐ Against ☐ Information

Representing FCCUA

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Honorable Senator Wilton Simpson, Chair
Community Affairs

CC: Tom Yeatman, Staff Director

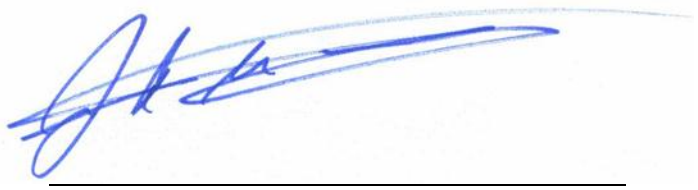
Subject: Committee Agenda Request

Date: March 18, 2014

I respectfully request that **Senate Bill #910**, relating to Utility Projects, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.



Senator John Legg
Florida Senate, District 17
316 Senate Office Building
(850) 487-5017

File signed original with committee office

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 1382
INTRODUCER:	Community Affairs Committee and Senator Hays
SUBJECT:	Hazardous Walking Conditions
DATE:	April 1, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Letarte	Klebacha	ED	**Favorable**
2.	Stearns	Yeatman	CA	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1382 requires district school boards and other governmental entities to work cooperatively to identify and correct hazardous conditions along student walking routes to school. The bill updates the procedures for identifying and reporting hazardous walking conditions.

The bill creates a new hazardous walking condition category related to "crossings over the road."

The bill provides that the determination that a hazardous walking condition exists may not be used as evidence in a civil action for damages against a governmental entity.

II. Present Situation:

Section 1006.23, F.S., states that the Legislature intends for district school boards and other governmental entities to work cooperatively to identify and correct hazardous conditions along student walking routes to school. Until 1981, state funds were prohibited from paying for the transportation of students whose homes were less than two miles from the nearest school. In 1981, the law was amended to provide that state funds would be paid for transportation of students within two miles of the nearest school if those students were subjected to "hazardous

walking conditions" on their route to school.[1] State funding would be provided until the hazardous condition was corrected.

The law provided procedures and criteria for identifying hazardous walking conditions.[2] Since 1981, district school boards and state or local government entities have been required to work cooperatively to identify potential hazardous walking conditions within a two-mile radius of a school and make final determinations on the condition. The state or local governmental entity with jurisdiction over the area has been required to correct such hazardous conditions within a reasonable period of time.[3]

Hazardous Walking Conditions

Hazardous walking conditions are identified under s. 1006.23, F.S. The hazardous conditions are broken down into dangers associated with walking parallel to a road and dangers associated with walkways that are perpendicular to a road.

A hazardous walking condition exists regarding walkways *parallel* to a road when:
- There is less than a four-foot wide area adjacent to the road surface on a student's walking route to and from school;[4] or
- A road that a student walks along is "uncurbed and has a posted speed limit of 55 miles per hour" and the area the student walks in is less than three feet from the road.[5]

However, the above scenarios are not considered hazardous walking conditions if:
- The area is residential and has little or no transient traffic;[6]
- The traffic volume[7] of the road is less than 180 vehicles per hour, per direction at the time that a student would be walking to and from school;[8] or
- The road is in a residential area that has a posted speed limit of 30 miles per hour or less.[9]

A hazardous walking condition exists regarding walkways *perpendicular* to a road when:
- The traffic volume exceeds 360 vehicles per hour, per direction on a road that a student uses to walk to and from school and the crossing area is an uncontrolled crossing site;[10] or
- The total traffic volume of a road exceeds 4,000 vehicles per hour through an intersection or crossing area controlled by a stop sign or other traffic signal, unless a crossing guard or

[1] Section 234.01, F.S. (1981); s. 1, ch. 81-254, L.O.F.
[2] Section 234.021, F.S. (1981); ss. 2 and 3, ch. 81-254, L.O.F.
[3] Section 1006.23(2)(a), F.S. (2013); s. 2, ch. 81-254, L.O.F.
[4] Section 1006.23(4)(a)1., F.S.
[5] *Id.*
[6] Section 1006.23(4)(a)2.a., F.S.
[7] Section 1006.23, F.S. Traffic volume is determined by the most recent state or local government agency traffic engineering study.
[8] Section 1006.23(4)(a)2.b., F.S.
[9] Section 1006.23(4)(a)2.c., F.S.
[10] Section 1006.23(4)(b)1., F.S. An "uncontrolled crossing site" is defined as "an intersection or other designated crossing site where no crossing guard, traffic enforcement officer, or stop sign, or other traffic control signal is present during the times students walk to and from school." *Id.*

traffic enforcement officer is present at the time a student would be walking to and from school.[11]

When a request to review a perceived hazardous walking condition within a two-mile radius of a school is made to the district school superintendent (or the district school superintendent's designee), the condition must be inspected by a school district representative and a representative of the appropriate state or local governmental entity.[12] The school district superintendent, or designee, and the representative of the state or local governmental entity make the final determination as to whether the condition is a hazardous walking condition and report that determination to the Department of Education.[13]

Upon a determination that a hazardous walking condition exists, the district school board must ask the state or local governmental entity if the condition will be corrected and, if so, the estimated completion date.[14] State funds must be provided to transport students who would encounter the hazardous walking condition until the condition is corrected or the projected completion date arrives, whichever is sooner.[15]

III. Effect of Proposed Changes:

Section 1 requires district school boards and other governmental entities to work cooperatively to identify and correct hazardous conditions along student walking routes to school. The bill creates a new hazardous walking condition category regarding "crossings over the road" and provides that the determination that a hazardous walking condition exists may not be used as evidence in a civil action for damages against a governmental entity.

Correction of Hazards and Transportation Funding

The bill requires the state or local governmental entity with jurisdiction over the hazardous condition to correct the condition within three years after it is identified unless a longer period is reasonably required to acquire additional right-of-way needed to correct the condition. Correction may not take longer than five years. Current law requires the condition be corrected within a "reasonable period of time."

The bill requires the district superintendent (rather than the board) to request a position statement regarding correction of the condition from the state or local governmental entity with jurisdiction. The state or local entity must respond within 90 days. If the condition will not be included in the entity's next annual five-year capital improvements program, the response must include the factors justifying that decision.

---

[11] Section 1006.23(4)(b)2., F.S.
[12] Section 1006.23(3), F.S.
[13] *Id.* The school district is required to file the Hazardous Walking Conditions Report for Elementary Students within 2 Miles of Assigned School with the Deputy Commissioner for Finance and Operations. Rule 6A-3.0171(9)(b)2., F.A.C. The Hazardous Walking Conditions Report is required to be filed no later than the end of the full-time equivalent student survey period to claim hazardous walking funding. Florida Department of Education, *Student Transportation General Instructions 2013-2014, available at,* http://www.fldoe.org/fefp/pdf/1314TransIns.pdf (last visited March 28, 2014).
[14] Section 1006.23(2)(b), F.S.
[15] *Id.*

Identification of Hazardous Conditions

The bill requires a third party to join the representative of the school district and the representative of the state or local governmental entity in making the determination that a hazardous condition exists. The identity of the third party depends on the nature of the road. In the case of:

- A municipal road, a representative of the municipal police department must attend;
- A county road, a representative of the sheriff's office must attend; or
- A state road, a representative of the Department of Transportation must attend.

If the jurisdiction is within an area covered by a metropolitan planning organization, a representative of the organization must be included as well.

If the representatives concur that a hazardous condition exists, they must report that determination to the district superintendent who shall initiate a formal request for correction.

If the representatives cannot agree, they must report the reasons for the lack of consensus to the district superintendent who shall provide a report and recommendation to the district school board. After providing at least 30 days' notice to the local governmental entities with jurisdiction over the area, the school board may initiate an administrative proceeding under ch. 120, F.S., to determine whether a hazardous walking condition exists. The school board has the burden of proving the condition exists by the greater weight of the evidence. If the school board prevails, the superintendent shall report the outcome to the Department of Education and request the condition be corrected.

Types of Hazardous Walking Conditions

Walkways Parallel to the Road

Current law requires there to be an area that is at least four feet wide adjacent to the road for students to walk on. The bill provides that drainage ditches, sluiceways, swales, or channels do not count toward the required four-foot walkway.

The bill reduces the posted speed limit at which an uncurbed road must include a buffer area of 3 feet or greater between the road and walkway or else be determined to constitute a hazardous walking condition from 55 miles per hour to 50 miles per hour or greater.

The bill removes the provision that roads in residential areas with little or no transient traffic need not comply with the walkway provisions described above.

Crossings Over the Road

The bill creates a new type of hazardous walking condition for "crossings over the road." Any road with an uncontrolled crossing site will be considered a hazardous walking condition if:

- The road has a posted speed limit of 50 miles per hour or greater; or
- The road has six lanes or more, not including turn lanes, regardless of the speed limit.

Civil Liability

The bill states that a designation of a hazardous walking condition is not admissible in evidence in a civil action for damages brought against a governmental entity under s. 768.28, F.S.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 1006.23 of the Florida Statutes.

IX. Additional Information:

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

CS by Community Affairs on April 1, 2014:

- Removes provisions creating definite deadlines for correction of hazardous walking conditions.
- Removes provisions that explicitly required the local entity with jurisdiction over the area to reimburse the school district if the hazardous condition is not corrected by the projected time.

B. Amendments:

None.

By Senator Hays

11-01095C-14 20141382__

A bill to be entitled

An act relating to hazardous walking conditions; amending s. 1006.23, F.S.; revising criteria that determine a hazardous walking condition for public school students; revising procedures for inspection and identification of hazardous walking conditions; authorizing an administrative proceeding in certain instances; authorizing a district school superintendent to initiate a formal request for correction of a hazardous walking condition under certain circumstances; requiring a district school board to provide transportation to students who would be subjected to hazardous walking conditions; requiring state or local governmental entities with jurisdiction over a road with a hazardous walking condition to correct the condition within a specified period of time; providing requirements for a governmental entity relating to its capital improvements program; revising provisions relating to funding for the transportation of students subjected to a hazardous walking condition; providing requirements relating to a civil action for damages; providing an effective date.

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

Section 1. Section 1006.23, Florida Statutes, is reordered and amended to read:

1006.23 Hazardous walking conditions.—

(1) DEFINITION.—As used in this section, "student" means any public elementary school student whose grade level does not exceed grade 6.

(4) ~~(2)~~ TRANSPORTATION; CORRECTION OF HAZARDS.—

(a) A district school board ~~It is intended that district school boards~~ and other governmental entities shall work cooperatively to identify and correct conditions that are hazardous along student walking routes to school, and a district school board shall ~~that district school boards~~ provide transportation to students who would be subjected to such conditions. Additionally, ~~It is further intended that~~ state or local governmental entities with ~~having~~ jurisdiction over a road along which a hazardous walking condition is determined to exist shall correct the condition ~~such hazardous conditions~~ within 3 years after such determination, unless a longer period is reasonably required to acquire additional right-of-way needed to correct the condition, but, in any event, the condition shall be corrected within 5 years after the determination ~~a reasonable period of time~~.

(b) Upon a determination pursuant to subsection (3) ~~this section~~ that a hazardous walking condition exists ~~is hazardous to students~~, the district school superintendent ~~board~~ shall request a position statement with respect to correction of such condition ~~determination~~ from the state or local governmental entity with ~~having~~ jurisdiction over the road. Within 90 days after receiving such request, the state or local governmental entity shall inform the district school superintendent ~~regarding~~ whether the entity will include correction of the hazardous walking condition in its next annual 5-year capital improvements

program ~~hazard will be corrected~~ and, if so, when correction of the condition will be completed. If the hazardous walking condition will not be included in the state or local governmental entity's next annual 5-year capital improvements program, the factors justifying such conclusion must be stated in writing to the district school superintendent and the Department of Education ~~regarding a projected completion date~~.

(c) State funds shall be allocated for the transportation of students subjected to a hazardous walking condition during the time provided for determination and correction of such condition pursuant to this section. However, ~~such hazards, provided that~~ such funding shall cease upon correction of the hazardous walking condition or, for a road within the jurisdiction of a local governmental entity, expiration of the time provided for correction in this section, whichever occurs first. If a hazardous walking condition is not corrected by a local governmental entity within the time provided in this section and state funding is no longer authorized under this section, funding for the actual operational cost of transportation of students subjected to the hazardous walking condition shall be reimbursed by the local governmental entity to the district school board until the condition is corrected ~~hazard or upon the projected completion date, whichever occurs first~~.

(3) IDENTIFICATION OF HAZARDOUS CONDITIONS.—

(a) When a request for review is made by ~~to~~ the district school superintendent with respect to a road over which a state or local governmental entity has jurisdiction ~~or the district school superintendent's designee~~ concerning a condition

perceived to be hazardous to students in that district who live within the 2-mile limit and who walk to school, such condition shall be inspected jointly by a representative of the school district, ~~and~~ a representative of the state or local governmental entity with ~~that has~~ jurisdiction over the perceived hazardous location, and a representative of the municipal police department for a municipal road, a representative of the sheriff's office for a county road, or a representative of the Department of Transportation for a state road. If the jurisdiction is within an area for which there is a metropolitan planning organization, a representative of that organization shall also be included. The governmental representatives shall determine whether the condition constitutes a hazardous walking condition as provided in subsection (2). If the governmental representatives concur that a condition constitutes a hazardous walking condition as provided in subsection (2), they shall report that determination in writing to the district school superintendent who shall initiate a formal request for correction as provided in subsection (4). ~~The district school superintendent or his or her designee and the state or local governmental entity or its representative shall then make a final determination that is mutually agreed upon regarding whether the hazardous condition meets the state criteria pursuant to this section. The district school superintendent or his or her designee shall report this final determination to the Department.~~

(b) If the governmental representatives are unable to reach a consensus, the reasons for lack of consensus shall be reported to the district school superintendent who shall provide a report

and recommendation to the district school board. The district school board may initiate an administrative proceeding under chapter 120 seeking a determination as to whether the condition constitutes a hazardous walking condition as provided in subsection (2) after providing at least 30 days' notice in writing to the local governmental entities having jurisdiction over the road of its intent to do so, unless within 30 days after such notice is provided, the local governmental entities concur in writing that the condition is a hazardous walking condition as provided in subsection (2). If an administrative proceeding is initiated under this paragraph, the district school board has the burden of proving such condition by the greater weight of evidence. If the district school board prevails, the district school superintendent shall report the outcome to the Department of Education and initiate a formal request for correction of the hazardous walking condition as provided in subsection (4).

(2) ~~(4) STATE CRITERIA FOR DETERMINING~~ HAZARDOUS WALKING CONDITIONS.—

(a) *Walkways parallel to the road.*—

1. It shall be considered a hazardous walking condition with respect to any road along which students must walk in order to walk to and from school if there is not an area at least 4 feet wide adjacent to the road, not including drainage ditches, sluiceways, swales, or channels, having a surface upon which students may walk without being required to walk on the road surface. In addition, whenever the road along which students must walk is uncurbed and has a posted speed limit of 50 ~~55~~ miles per hour or greater, the area as described above for

students to walk upon shall be set off the road by no less than 3 feet from the edge of the road.

2. The provisions of subparagraph 1. do not apply when the road along which students must walk:

~~a. Is in a residential area which has little or no transient traffic;~~

a.~~b.~~ Is a road on which the volume of traffic is less than 180 vehicles per hour, per direction, during the time students walk to and from school; or

b.~~c.~~ Is located in a residential area and has a posted speed limit of 30 miles per hour or less.

(b) *Walkways perpendicular to the road.*—It shall be considered a hazardous walking condition with respect to any road across which students must walk in order to walk to and from school if:

1. ~~If~~ The traffic volume on the road exceeds the rate of 360 vehicles per hour, per direction (including all lanes), during the time students walk to and from school and if the crossing site is uncontrolled. For purposes of this subsection, an "uncontrolled crossing site" is an intersection or other designated crossing site where no crossing guard, traffic enforcement officer, or stop sign or other traffic control signal is present during the times students walk to and from school.

2. ~~If~~ The total traffic volume on the road exceeds 4,000 vehicles per hour through an intersection or other crossing site controlled by a stop sign or other traffic control signal, unless crossing guards or other traffic enforcement officers are also present during the times students walk to and from school.

Traffic volume shall be determined by the most current traffic engineering study conducted by a state or local governmental agency.

(c) *Crossings over the road.*—It shall be considered a hazardous walking condition with respect to any road at any uncontrolled crossing site if:

1. The road has a posted speed limit of 50 miles per hour or greater; or

2. The road has six lanes or more, not including turn lanes, regardless of the speed limit.

(5) CIVIL ACTION.—In a civil action for damages brought against a governmental entity under s. 768.28, the designation of a hazardous walking condition under this section is not admissible in evidence.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2014
Meeting Date

Topic Hazardous Walking Conditions

Bill Number 1382 *(if applicable)*

Name Janet Lamoureux (Lamb-q-row)

Amendment Barcode *(if applicable)*

Job Title

Address 1345 Turkey Trl
Street

Phone 863-899-7301

Lakeland FL 33810
City *State* *Zip*

E-mail janetL@tampabay.rr.com

Speaking: ☐ For ☐ Against ☐ Information

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

Topic Hazardous Walking Conditions Bill Number 1382 *(if applicable)*

Name Eric Poole Amendment Barcode 951478 *(if applicable)*

Job Title Asst. Leg Director

Address 100 Monroe Phone 9224300
Street

City *State* *Zip* E-mail

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Assoc. of Counties

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS
11th District

COMMITTEES:
Appropriations Subcommittee on General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining, *Co-Chair*
Joint Legislative Auditing Committee
Joint Legislative Budget Commission

MEMORANDUM

To: Senator Wilton Simpson, Chair
Community Affairs Committee
CC: Tom Yeatman, Staff Director
Ann Whittaker, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: **Request to agenda SB 1382 – Hazardous Walking Conditions**

Date: March 18, 2014

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:
❒ 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
❒ 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
❒ 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
❒ 685 West Montrose Street, Suite 110, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/SB 974
INTRODUCER:	Transportation Committee and Senator Abruzzo
SUBJECT:	Towing of Vehicles and Vessels
DATE:	March 20, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	White	Yeatman	CA	**Pre-meeting**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 974 authorizes an owner or lessee of real property to have a vehicle or vessel removed from the property without posted tow-away zone signage if the vehicle or vessel has been parked or stored on the property for more than ten days.

II. Present Situation:

Section 715.07, F.S., authorizes the owner or lessee of real property to have towed or removed from the property by a person regularly engaged in the business of towing any vehicle or vessel parked on such property without the property owner's permission and without liability for costs. This authorization is subject to strict compliance with specified conditions relating to storage of the towed vehicle or vessel, time limitations for notifying the local police department or sheriff of the towing, and required provision to the police department or sheriff of vehicle or vessel identification information.

With two exceptions,[1] the property owner or lessee must post a specified notice before towing or removing the vehicle or vessel.

[1] Property that is obviously a part of a single-family residence, or when notice is personally given to the owner or other authorized person in control of the vehicle or vessel that the property is unavailable for unauthorized parking and that the vehicle or vessel is subject to being removed at the owner's or operator's expense. *See* s. 715.07(2)(a)5., F.S.

The notice must:

- Be prominently placed at each driveway access or curb cut allowing vehicular access to the property within five feet from the public right-of-way line, except that if there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage;
- Clearly indicate that unauthorized vehicles will be towed away at the owner's expense, in light-reflective letters not less than 2 inches high on a contrasting background;
- Include in letters not less than 4 inches high the words "tow-away zone"; and
- Provide the name and current telephone number of the person or firm towing or removing the vehicle or vessel.

In addition, the sign structure containing the required notices must be permanently installed with the words "tow-away zone" not less than three feet or more than six feet above ground level and must be continuously maintained on the property for not less than 24 hours prior to towing or removing any vehicle or vessel.

A business with 20 or fewer parking spaces is authorized to satisfy the above-described requirements by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in light-reflective letters not less than 4 inches high.

Section 715.07, F.S., provides for two instances in which towing is permissible although signage is not visible. A business owner or lessee is authorized to have a vehicle or vessel removed by a towing company when the vehicle or vessel is parked in a manner that restricts the normal operation of business. If a vehicle or vessel parked on a public right-of-way obstructs access to a private driveway, the owner, lessee, or agent may have the vehicle or vessel removed by a towing company. An order must be signed by the owner, lessee, or agent for the vehicle or vessel for the vehicle or vessel to be removed without a posted tow-away zone sign.[2]

III. Effect of Proposed Changes:

The bill amends s. 715.07, F.S., to provide that, in addition to current authorizations for causing a vehicle to be towed, when a vehicle or vessel has been parked or stored on private property for more than ten days, the owner or lessee, or agent of the owner or lessee, of the real property may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

The bill provides that the ten-day period does not begin to run until the owner or lessee (or agent) of the real property physically attaches to the vehicle or vessel with adhesive material notice that the vehicle or vessel will be towed or removed from the real property. The notice must:

- In the case of a vehicle, be attached to the vehicle's windshield.
- In the case of a vessel, be attached adjacent to the vessel registration number on the left or port side of the vessel.
- Be at least 8.5 by 11 inches in size.

[2] For parking and towing considerations pertinent to condominium association managers, see Joseph Sanders, *Towing Vehicles The Good, the Bad, and the Ugly*, The Florida Community Association Journal, 26-29 (Jan. 2009).

- Clearly indicate the date on which the notice was posted.
- Clearly indicate in bold letters that the vehicle or vessel will be towed or removed from the real property after ten days from the date on which the notice was posted.

The bill also makes grammatical and editorial changes and corrects cross-references necessitated by statutory changes made elsewhere in the bill.

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:

Owners and lessees of real property are relieved of the cost of posting tow-away zone signage when a vehicle or vessel has been parked or stored on the property for more than 10 days. Practically, it is expected that most business owners and lessees are likely to already have tow-away zone signage pursuant to current law. Thus, the cost savings is more likely to occur for non-business private property owners.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

In the absence of proof that a vehicle or vessel has been parked or stored on private property for the required period exceeding 10 days, those who tow or remove a vehicle or vessel and the owners of the real property causing a tow may be subject to claims for damages incurred by the vehicle or vessel owner.

VIII. Statutes Affected:

This bill amends section 715.07 of the Florida Statutes.

IX. Additional Information:

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

CS by Transportation on March 13, 2014:
Incorporates an amendment to provide that the 10-day period does not begin to run until a written notice is physically attached to the vehicle or vessel stating that it will be towed or removed after ten days from the date on which the notice was posted and to provide requirements for placement, size, and content of the notice.

B. Amendments:

None.

164774

LEGISLATIVE ACTION

Senate . House

. . . . .

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

Senate Amendment (with title amendment)

Delete lines 142 - 170

and insert:

6. Notwithstanding subparagraph 5., an owner or lessee of real property, or an agent of the owner or lessee, may have a vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign if: ~~a business owner or lessee may authorize the removal of a vehicle or vessel by a towing company when~~

164774

a. The vehicle or vessel is parked in ~~such~~ a manner that restricts the normal operation of business or~~,~~ is ~~and if a vehicle or vessel~~ parked on a public right-of-way in a manner that obstructs access to a private driveway; or

b. The owner or~~,~~ lessee, or agent of the owner or lessee, of the real property obtains a report from a law enforcement agency that has jurisdiction which states that the vehicle was parked on the property for at least 10 days ~~may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign~~.

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

And the title is amended as follows:

Between lines 5 and 6

insert:

such owner or lessee obtains a report from a law enforcement agency which states that

By the Committee on Transportation; and Senator Abruzzo

596-02584-14 2014974c1

A bill to be entitled

An act relating to towing of vehicles and vessels; amending s. 715.07, F.S.; authorizing an owner or lessee of real property to have a vehicle or vessel removed from the property without certain signage if the vehicle or vessel has remained on the property for a specified period; providing that the specified period does not begin until a certain notice is physically attached to the vehicle or vessel; providing requirements for the notice; providing an effective date.

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

Section 1. Section 715.07, Florida Statutes, is amended to read:

715.07 Vehicles or vessels ~~parked on private property~~; towing.—

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

(a) "Vehicle" means a ~~any~~ mobile item that ~~which~~ normally uses wheels, whether motorized or not.

(b) "Vessel" means every description of watercraft, barge, and airboat used or capable of being used as a means of transportation on water, other than a seaplane or a "documented vessel" as defined in s. 327.02(9).

(2) The owner or lessee of real property, or a ~~any~~ person authorized by the owner or lessee, which person may be the designated representative of the condominium association if the real property is a condominium, may cause a ~~any~~ vehicle or

vessel parked on such property without her or his permission to be removed by a person regularly engaged in the business of towing vehicles or vessels~~,~~ without liability for the costs of removal, transportation, or storage or damages caused by such removal, transportation, or storage~~,~~ under any of the following circumstances:

(a) The towing or removal of a ~~any~~ vehicle or vessel from private property without the consent of the registered owner or other legally authorized person in control of that vehicle or vessel is subject to strict compliance with the following conditions and restrictions:

1.a. A ~~Any~~ towed or removed vehicle or vessel must be stored at a site within a 10-mile radius of the point of removal in a ~~any~~ county with a population of 500,000 ~~population~~ or more or~~, and~~ within a 15-mile radius of the point of removal in a ~~any~~ county with a population of less than 500,000 ~~population~~. That site must be open for the purpose of redemption of vehicles from 8 a.m. to 6 p.m. on any day that the person or firm towing such vehicle or vessel is open for towing purposes~~, from 8:00 a.m. to 6:00 p.m.,~~ and, when closed, shall have prominently posted a sign indicating a telephone number where the operator of the site can be reached at all times. Upon receipt of a telephoned request to open the site to redeem a vehicle or vessel, the operator must ~~shall~~ return to the site within 1 hour ~~or she or he will be in violation of this section~~.

b. If no towing business providing such service is located within the area of towing limitations under ~~set forth in~~ sub-subparagraph a., the following limitations apply: a ~~any~~ towed or removed vehicle or vessel must be stored at a site within a 20-

mile radius of the point of removal in a ~~any~~ county with a population of 500,000 ~~population~~ or more or~~, and~~ within a 30-mile radius of the point of removal in a ~~any~~ county with a population of less than 500,000 ~~population~~.

2. Within 30 minutes after completion of the towing or removal, the person or firm that towed or removed ~~towing or removing~~ the vehicle or vessel must ~~shall, within 30 minutes after completion of such towing or removal,~~ notify the municipal police department or, in an unincorporated area, the sheriff~~,~~ of: the ~~such~~ towing or removal;~~,~~ the storage site;~~,~~ the time the vehicle or vessel was towed or removed;~~,~~ and the make, model, color, and license plate number of the vehicle or description and registration number of the vessel. The person or firm ~~and~~ shall note on the trip record ~~obtain~~ the name of the person ~~at that department~~ to whom such information was reported ~~and note that name on the trip record~~.

3. A person in the process of towing or removing a vehicle or vessel from the premises or parking lot in which the vehicle or vessel is not lawfully parked must stop when a person seeks the return of the vehicle or vessel. The vehicle or vessel must be returned upon the payment of a reasonable service fee of not more than one-half of the posted rate for the towing or removal service as provided in subparagraph 7. ~~6.~~ The vehicle or vessel may be towed or removed if, after a reasonable opportunity, the owner or legally authorized person in control of the vehicle or vessel is unable to pay the service fee. If the vehicle or vessel is redeemed, a detailed signed receipt must be given to the person redeeming the vehicle or vessel.

4. A person may not pay or accept money or other valuable

consideration for the privilege of towing or removing vehicles or vessels from a particular location.

5. Except when the ~~for~~ property is appurtenant to and obviously a part of a single-family residence or~~, and except for instances~~ when notice is personally given to the owner or other legally authorized person in control of the vehicle or vessel that the area in which that vehicle or vessel is parked is reserved or otherwise unavailable for unauthorized vehicles or vessels and that the vehicle or vessel is subject to being removed at the owner's or operator's expense, before towing or removing a vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel, a ~~any~~ property owner or lessee~~,~~ or person authorized by the property owner or lessee~~, prior to towing or removing any vehicle or vessel from private property without the consent of the owner or other legally authorized person in control of that vehicle or vessel,~~ must post a notice subject to ~~meeting~~ the following ~~requirements~~:

a. The notice must:

(I) Be prominently placed at each driveway access or curb cut allowing vehicular access to the property, within 5 feet from the public right-of-way line. If there are no curbs or access barriers, the signs must be posted not less than one sign for each 25 feet of lot frontage.

(II)~~b. The notice must~~ Clearly indicate, in not less than 2-inch high, light-reflective letters on a contrasting background, that unauthorized vehicles will be towed away at the owner's expense. The words "tow-away zone" must be included on the sign in not less than 4-inch high letters.

(III)~~c.~~ ~~The notice must also~~ Provide the name and current telephone number of the person or firm towing or removing ~~the~~ vehicles or vessels.

b.~~d.~~ The sign structure containing the required notices must be permanently installed with the words "tow-away zone" at least ~~not less than~~ 3 feet but no ~~and not~~ more than 6 feet above ground level and must be continuously maintained on the property for at least ~~not less than~~ 24 hours before ~~prior to the~~ towing or removing a vehicle or vessel ~~removal of any vehicles or vessels~~.

~~e.~~ The local government may require permitting and inspection of such ~~these~~ signs before ~~prior to any~~ towing or removing a vehicle or vessel is ~~removal of vehicles or vessels being~~ authorized.

c.~~f.~~ A business with 20 or fewer parking spaces satisfies the notice requirements of this subparagraph by prominently displaying a sign stating "Reserved Parking for Customers Only Unauthorized Vehicles or Vessels Will be Towed Away At the Owner's Expense" in not less than 4-inch high, light-reflective letters on a contrasting background.

d.~~g.~~ A property owner towing or removing vessels from real property must post notice, consistent with the requirements in sub-subparagraphs a.-c. ~~a.-f.,~~ which apply to vehicles, that unauthorized vehicles or vessels will be towed away at the owner's expense.

6. Notwithstanding subparagraph 5., ~~a business owner or lessee may authorize the removal of a vehicle or vessel by a towing company~~ when a ~~the~~ vehicle or vessel is parked in ~~such~~ a manner that restricts the normal operation of business; is ~~and~~

~~if a vehicle or vessel~~ parked on a public right-of-way in a manner that obstructs access to a private driveway; or has been parked or stored on private property for a period exceeding 10 days, the owner or~~,~~ lessee, or agent of the owner or lessee, of the real property may have the vehicle or vessel removed by a towing company upon signing an order that the vehicle or vessel be removed without a posted tow-away zone sign.

a. The 10-day period after which towing or removal of a vehicle or vessel from real property without tow-away zone signage is authorized does not begin until the owner or lessee, or agent of the owner or lessee, of the real property physically attaches to the vehicle or vessel with adhesive material notice that the vehicle or vessel will be towed or removed from the real property. The notice must:

(I) In the case of a vehicle, be attached to the vehicle's windshield.

(II) In the case of a vessel, be attached adjacent to the vessel registration number on the left or port side of the vessel.

(III) Be at least 8.5 by 11 inches in size.

(IV) Clearly indicate the date on which the notice was posted.

(V) Clearly indicate in bold letters that the vehicle or vessel will be towed or removed from the real property after 10 days from the date on which the notice was posted.

7.~~6.~~ A ~~Any~~ person or firm that tows or removes vehicles or vessels and proposes to require an owner, operator, or person in control of a vehicle or vessel to pay the costs of towing and storage before ~~prior to~~ redemption of the vehicle or vessel must

file and keep on record with the local law enforcement agency a complete copy of the current rates to be charged for such services and post at the storage site an identical rate schedule and any written contracts with property owners, lessees, or persons in control of property which authorize such person or firm to remove vehicles or vessels as provided in this section.

8.~~7.~~ A ~~Any~~ person or firm towing or removing ~~any~~ vehicles or vessels from private property without the consent of the owner or other legally authorized person in control of the vehicles or vessels shall, on any trucks, wreckers as defined in s. 713.78(1)(c), or other vehicles used in the towing or removal, have the name, address, and telephone number of the company performing such service clearly printed in contrasting colors on the driver and passenger sides of the vehicle. The name shall be in at least 3-inch, permanently affixed letters, and the address and telephone number shall be in at least 1-inch, permanently affixed letters.

9.~~8.~~ Vehicle entry for the purpose of removing the vehicle or vessel shall be allowed with reasonable care on the part of the person or firm towing the vehicle or vessel. Such person or firm shall be liable for any damage occasioned to the vehicle or vessel if such entry is not in accordance with the standard of reasonable care.

10.~~9.~~ When a vehicle or vessel has been towed or removed pursuant to this section, it must be released to its owner or custodian within 1 ~~one~~ hour after requested. A ~~Any~~ vehicle or vessel owner or agent of the owner may ~~shall have the right to~~ inspect the vehicle or vessel before accepting its return. A~~,~~ ~~and no~~ release or waiver of any kind which would release the

person or firm towing the vehicle or vessel from liability for damages noted by the owner or other legally authorized person at the time of the redemption may not be required from a ~~any~~ vehicle or vessel owner or~~,~~ custodian~~,~~ or agent of the owner or custodian as a condition of release of the vehicle or vessel to its owner. A detailed, signed receipt showing the legal name of the company or person towing or removing the vehicle or vessel must be given to the person paying towing or storage charges at the time of payment, whether requested or not.

(b) The ~~These~~ requirements of this subsection are minimum standards and do not preclude enactment of additional regulations by a ~~any~~ municipality or county including the right to regulate rates when vehicles or vessels are towed from private property.

(3) This section does not apply to law enforcement, firefighting, rescue squad, ambulance, or other emergency vehicles or vessels that are marked as such or to property owned by a ~~any~~ governmental entity.

(4) When a person improperly causes a vehicle or vessel to be removed, such person shall be liable to the owner or lessee of the vehicle or vessel for the cost of removal, transportation, and storage; any damages resulting from the removal, transportation, or storage of the vehicle or vessel; attorney ~~attorney's~~ fees; and court costs.

(5)(a) A ~~Any~~ person who violates subparagraph (2)(a)2. or subparagraph (2)(a)7. ~~(2)(a)6.~~ commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A ~~Any~~ person who violates subparagraph (2)(a)1.,

subparagraph (2)(a)3., subparagraph (2)(a)4., subparagraph (2)(a)8. ~~(2)(a)7.~~, or subparagraph (2)(a)10. ~~(2)(a)9.~~ commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Vice Chair*
Environmental Preservation and Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Gaming
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
25th District

March 18th, 2014

The Honorable Wilton Simpson
The Florida Senate
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Simpson:

I respectfully request that Senate Bill 974, related to Towing of Vehicles and Vessels, be placed on the Community Affairs committee agenda. This legislation will create additional criteria that allows an owner or lessee, or their agent to have a vehicle removed without a posted tow away zone sign.

Please let me know if you have any further questions. Thank you for your consideration.

Sincerely,

Joseph Abruzzo

cc: Tom Yeatman, Staff Director

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/CS/SB 1474
INTRODUCER:	Community Affairs Committee; Ethics and Elections Committee; and Senator Abruzzo
SUBJECT:	Public Officers and Employees
DATE:	April 1, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	**Fav/CS**
2.	Stearns	Yeatman	CA	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1474 allows the electors of a political subdivision to impose on its officers and employees additional or more stringent standards of conduct than are required in the Code of Ethics. The bill provides that a respondent charged with an ethics violation is entitled to a public hearing. The local ethics ordinance shall establish procedures concerning the hearing. The bill provides that the respondent may choose whether the local ethics board or a hearing officer will preside over the hearing.

II. Present Situation:

Pursuant to s. 112.326, F.S., the governing body of any political subdivision, by ordinance, or agency, by rule, is permitted to impose additional or more stringent standards of conduct and disclosure requirements than are contained in the Code of Ethics. The governing body of a political subdivision or agency may not adopt standards of conduct and disclosure requirements that conflict with the Code of Ethics.

III. Effect of Proposed Changes:

Section 1 amends s. 112.236, F.S., to allow the electors of a political subdivision to impose on its officers and employees additional or more stringent standards of conduct than are required in the Code of Ethics.

The bill provides that, if a local ethics agency determines that probable cause exists that a violation of the local ethics ordinance has occurred, then a respondent charged with an ethics violation is entitled to a public hearing. The local ethics ordinance shall establish procedures concerning the request of and/or waiver of the right to a hearing. The respondent may choose whether the local ethics board or a hearing officer will preside over the hearing. The bill does not prohibit a respondent and a local ethics agency from entering into a consent agreement or stipulation to resolve the allegations.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 112.326 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Community Affairs on April 1, 2014:

- Removes language stating that the local complaint-related procedures are to follow the procedures set forth by the Commission on Ethics.
- States that the respondent is entitled to a public hearing upon a determination of probable cause of a violation of the local ethics ordinance.
- Requires the local ethics ordinance to establish procedures concerning the request of or waiver of the hearing.
- Provides that the respondent may choose whether the local ethics board or a public hearing officer will preside over the hearing.
- Provides that the bill does not prohibit the parties from entering into a consent agreement to resolve the allegations.

CS by Ethics and Elections on March 17, 2014:

- Does not require the Florida Commission on Ethics to investigate alleged violations of a local ethics code;
- Does not require the Florida Commission on Ethics to render advisory opinions on the applicability of local ethics codes;
- Removes the conforming provisions relating to imposition of penalties, the applicable statute of limitations, providing materials to assist in complying with the local ethics codes;
- No longer requires that the Florida Commission on Ethics serve as the official custodian of records for complaints and related documents that alleges violations of local ethics codes; and
- Does not extend the prohibition on contingency fees in s. 112.3217, F.S., to local government action.

B. Amendments:

None.

By the Committee on Ethics and Elections; and Senator Abruzzo

582-02729-14 20141474c1

A bill to be entitled

An act relating to public officers and employees; amending s. 112.326, F.S.; authorizing the electors of a political subdivision to impose additional or more stringent standards of conduct and disclosure requirements upon the political subdivision's officers and employees; requiring a local ethics agency or commission to establish certain procedures; providing an effective date.

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

Section 1. Section 112.326, Florida Statutes, is amended to read:

112.326 Additional requirements by political subdivisions and agencies not prohibited. ~~Nothing in~~ This part does not prohibit the electors or ~~act shall prohibit~~ the governing body of a ~~any~~ political subdivision, by ordinance, or agency, by rule, from imposing upon its own officers and employees additional or more stringent standards of conduct and disclosure requirements than those specified in this part, if ~~provided that~~ those standards of conduct and disclosure requirements do not otherwise conflict with ~~the provisions of~~ this part. Procedures of a local ethics agency or commission governing complaints and investigations shall conform with procedures established under s. 112.324.

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

THE FLORIDA SENATE

APPEARANCE RECORD

4/1/14 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Ethics

Bill Number SB1474 *(if applicable)*

Name Brad Ashwell

Amendment Barcode _____ *(if applicable)*

Job Title Good Government Advocate

Address 1536 Chuli Nene

Street

Tallahassee FL 32301

City *State* *Zip*

Phone 850-294-1008

E-mail bradashwell@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Common Cause 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.

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)

4/1/14
Meeting Date

Topic _____ Bill Number CS/SB 1474 *(if applicable)*

Name Amber Washington Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 540 Beverly Ct Phone (850) 224-2595
Street

Tallahassee FL 32303 E-mail _____
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information

Representing League of Women Voters Florida

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SHOULD HAVE BEEN CS/SB 1474 (DID NOT TESTIFY)

1 April 2014
Meeting Date

Topic Ethics / Amendment to

Bill Number CS/SB 1652 *(if applicable)*

Name MARK HERRON

Amendment Barcode ~~[illegible]~~ 587192 *(if applicable)*

Job Title

Address 2618 Centennial Place
Street

Tallahassee FL 32308
City *State* *Zip*

Phone (850) 567-4878

E-mail lykeeon@hotmail.com

Speaking: ☐ For ☐ Against ☒ Information

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Vice Chair*
Environmental Preservation and Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Gaming
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:
Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO
25th District

March 20th, 2014

The Honorable Wilton Simpson
The Florida Senate
315 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Simpson:

I respectfully request that Senate Bill 1474, related to Public Officers and Employees, be placed on the Community Affairs committee agenda. This legislation will require local ethics agencies or commissions to establish a standard of procedures.

Please let me know if you have any further questions. Thank you for your consideration.

Sincerely,

Joseph Abruzzo

cc: Tom Yeatman, Staff Director

REPLY TO:
❒ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
❒ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 884
INTRODUCER:	Senator Smith
SUBJECT:	Special Assessment for Law Enforcement Services
DATE:	March 31, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	**Favorable**
2.			CJ	
3.			AFT	
4.			AP	

I. Summary:

SB 884 grants municipalities explicit authorization to levy special assessments for law enforcement services so long as the municipality (1) adopts an ordinance that apportions the costs among parcels proportionately and (2) reduces the municipal ad valorem taxes for the first year in which the municipality levies the special assessment.

II. Present Situation:

Ad Valorem Taxes

Article VII, section 9 of the Florida Constitution provides that counties, cities, and special districts may levy ad valorem taxes as provided by law and subject to the following millage limitations:

- Ten mills for county purposes.
- Ten mills for municipal purposes.
- Ten mills for school purposes.
- A millage rate fixed by law for a county furnishing municipal services.
- A millage authorized by law and approved by the voters for special districts.
- A millage of not more than 1 mill for water management purposes in all areas of the state except the northwest portion of the state which is limited to 1/20th of 1 mill (.05).[1]

The statutory authority for local governments and schools to assess millage is provided in s. 200.001, F.S. The statutory authority and the maximum rate at which water management districts may assess millage is provided in s. 373.503, F.S.[2]

[1] FLA. CONST. art. VII, s. 9.
[2] *See* ss. 200.001 and 373.503, F.S., for more information.

Municipal Millages

County government millages are composed of four categories of millage rates:[3]

1. General millage is the non-voted millage rate set by the municipality's governing body.
2. Debt service millage is the rate necessary to raise taxes for debt service as authorized by a vote of the electors pursuant to Article VII, section 12 of the Florida Constitution.
3. Voted millage is the rate set by the municipality's governing body as authorized by a vote of the electors pursuant to Article VII, section 9(b) of the Florida Constitution.
4. Dependent special district millage is set by the municipality's governing body pursuant to s. 200.001(5), F.S., and added to the municipal millage to which the district is dependent and included as municipal millage for the purpose of the ten-mill cap.

Method of Fixing Millage

Locally-elected governing boards prepare a tentative budget for operating expenses following certification of the tax rolls by the property appriaser. The millage rate is then set based on the amount of revenue which needs to be raised in order to cover those expenses. The millage rate proposed by each taxing authority must be based on not less than 95 percent of the taxable value according to the certified tax rolls. The Department of Revenue is responsible for ensuring that millage rates are in compliance with the maximum millage rate requirements set forth by law as well as the constitutional millage caps. A public hearing on the proposed millage rate and tentative budget must be held within 65 to 80 days of the certification of the rolls, and a final budget and millage rate must be announced prior to end of said hearing.[4]

Special Assessments[5]

Special assessments are a revenue source that may be used by local governments to fund certain services and maintain capital facilities. Unlike taxes, these assessments are directly linked to a particular service or benefit. Examples of special assessments include fees for garbage disposal, sewer improvements, fire protection, and rescue services.[6] Counties and municipalities have the authority to levy special assessments based on their home rule powers. Special districts derive their authority to levy these assessments through general law or special act.

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[3] The following information was obtained from The Florida Legislature's Office of Economic and Demographic Research, 2010 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, 5 (Oct. 2010), *referencing* s. 200.001(1), F.S.

[4] Section 200.065, F.S.

[5] The following information was obtained from The Florida Legislature's Office of Economic and Demographic Research, 2010 LOCAL GOVERNMENT FINANCIAL INFORMATION HANDBOOK, 15 (2013).

[6] *See Harris v. Wilson*, 693 So. 2d 945 (Fla. 1997); *City of Hallandale v. Meekins*, 237 So. 2d 578 (Fla. 2d DCA 1977); *South Trail Fire Control Dist., Sarasota County v. State*, 273 So. 2d 380 (Fla. 1973); and *Sarasota County v. Sarasota Church of Christ*, 641 So. 2d 900 (Fla. 2d DCA 1994).

As established in Florida case law, an assessment must meet two requirements in order to be classified as a valid special assessment:

1) The assessment must directly benefit the property; and
2) The assessment must be apportioned fairly and reasonably amongst the beneficiaries of the service.[7]

These special assessments are generally collected on the annual ad valorem tax bills, characterized as a "non-ad valorem assessment" under the statutory procedures in ch. 197, F.S.[8] Section 197.3632(1)(d), F.S., defines a non-ad valorem assessment as "those assessments that are not based upon millage and which can become a lien against a homestead as permitted in s. 4, Art. X of the State Constitution."[9]

Supplemental Method of Making Local Improvements

Independent of a municipality's authority to impose special assessments under its home rule powers, ch. 170, F. S., provides a supplemental and alternative method for making municipal improvements. Specifically, s. 170.201(1), F.S., provides that:

> The governing body of a municipality may levy and collect special assessments to fund capital improvements and municipal services including, but not limited to, fire protection, emergency medical services, garbage disposal, sewer improvement, street improvement and parking facilities. The governing body of a municipality may apportion costs of such special assessment on:
>
> a) The front or square footage of each parcel of land; or
> b) An alternative methodology, so long as the amount of the assessment for each parcel of land is not in excess of the proportional benefits as compared to other assessments on other parcels of land.

Although subsection (1) of s. 170.201, F.S., does not explicitly list law enforcement services, the language "including, but not limited to" provides that this is not an exclusive list.

Chapter 125, F.S., allows counties to establish municipal service taxing or benefit units (MSTUs) for any part or all of the county's unincorporated area in order to provide a number of county or municipal services. Such services can be funded, in whole or in part, from special assessments.[10] To the extent not inconsistent with general or special law, counties may also create special districts to include both incorporated and unincorporated areas, upon the approval of the affected municipality's governing body, which may be provided municipal services and facilities from funds derived from service charges, special assessments, or taxes within the district only.[11]

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[7] *City of Boca Raton v. State*, 595 So. 2d 25, 29 (Fla. 1992).
[8] *Primer on Home Rule & Local Government Revenue Sources* at 35 (June 2008).
[9] Article X, section 4(a), of the Florida Constitution, provides, in pertinent part that "[t]here shall be exempt from forced sale under process of any court, and no judgment, decree, or execution shall be a lien thereon, except for the payment of taxes and assessments thereon …"
[10] Section 125.01(1)(q)-(r), F.S.
[11] Section 125.01(5), F.S.

Special Assessments for Law Enforcement Services

In 1998, the Attorney General's Office issued Opinion 98-57, stating that "the imposition of special assessments to fund general law enforcement would not appear to be permissible in light of the" Florida Supreme Court decision, *Lake County v. Water Oak Management*.[12] In *Lake County*, the Fifth District Court of Appeal struck down a special assessment for fire protection services provided by the county on the grounds that there was no special benefit to the properties on which the fire protection special assessment was imposed.

On appeal, the Florida Supreme Court stated that the "test is not whether the services confer a 'unique' benefit or are different in type or degree . . . rather the test is whether there is a logical relationship between services provided and the benefit to real property."[13] In support of a previous 1969 Supreme Court decision, the court held that "fire protection services do, at a minimum, specifically benefit real property by providing for lower insurance premiums and enhancing the value of the property."[14] The Court further stated that the assessment still must meet the second prong of the test and be properly apportioned to the benefit received. Absent the proper apportionment, the assessment becomes an unauthorized tax.

In conclusion the court held that:

> Clearly, services such as general law enforcement activities, the provision of courts, and indigent health care are, like fire protection services, functions required for an organized society. However, unlike fire protection services, those services provide no direct, special benefit to real property.[15]

In 2005, the First District Court of Appeal held that special assessments for law enforcement services in a MSTU that benefited leaseholds were a valid special assessment.[16] In that case, the leaseholds subject to the special assessment were located on an island with "unique tourist and crowd control needs requiring specialized law enforcement services to protect the value of the leasehold property." For these reasons, the court held that the "unique nature and needs of the subject leaseholds" made the special assessments valid.

Based on these court decisions and the 1998 Attorney General Opinion, it would appear that, absent a unique condition of the properties benefited, a municipality currently does not have the authority to levy assessments for general law enforcement services even if the assessment provides a special benefit to the property.

III. Effect of Proposed Changes:

Section 1 creates s. 166.212, F.S., to allow a municipality to levy a special assessment to fund the costs of providing law enforcement services. The municipality must do the following:

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[12] Op. Atty. Gen. Fla. 98-57 (Sept. 18, 1998) *citing* 695 So. 2d 667 (Fla. 1997).
[13] *Lake County* 695 So. 2d at 669.
[14] *Id.* citing *Fire Dist. No. 1 v. Jenkins*, 221 So. 2d 740, 741 (Fla. 1969).
[15] *Id. at 670.*
[16] *Quietwater Entertainment, Inc. v. Escambia County*, 890 So. 2d 525 (Fla. 1st DCA 2005).

- Apportionment Methodology Adopt an ordinance levying the law enforcement services assessment, which apportions the cost of law enforcement services among the parcels of real property in the municipality in reasonable proportion to the benefit each parcel receives. The apportionment is considered using the following factors:
  - The size of structures on the parcel;
  - The location and use of the parcel;
  - The projected amount of time that the municipal law enforcement agency will spend protecting the property, grouped by neighborhood, zone, or category of use;
  - The value of the property (this factor may not be a sole or major factor); and
  - Any other factor that reasonably may be used to determine the benefit of law enforcement services to a parcel of property.
- Reduction in Ad Valorem Millage Reduce its ad valorem millage as follows:
  - In the first year the municipality levies the special assessment, reduce the ad valorem millage by the millage that would be required to collect revenue equal to the revenue that is forecast to be collected from the special assessment.
  - When preparing notice of proposed property taxes[17] in the first year of the assessment, the governing body of the municipality calculates the rolled-back millage rate[18] and determines the preliminary proposed millage rate as if there were no law enforcement services assessment. The preliminary proposed millage rate shall then be reduced by the amount of the law enforcement services assessment.
  - After the first year of the assessment, the municipality's governing body will calculate the millage rate and rolled-back rate for the notice of proposed property taxes, based on the adopted millage rate from the previous year.
  - However, excluding millage approved by a vote of the electors and millage pledged to repay bonds, a municipality is not required to reduce its millage:
    - By more than 75 percent; or
    - By more than 50 percent, if the resolution imposing the special assessment is approved by a two-thirds vote of the governing body of the municipality.

The bill requires the property appraiser to list the special assessment on the notice of property taxes. The bill provides authorization for the Department of Revenue to adopt rules and forms necessary to administer this section. The authorization provided in this Act shall be construed to be general law authorizing a municipality to levy taxes under Article VII, sections 1 and 9 of the Florida Constitution.

Section 2 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

[17] Pursuant to s. 200.069, F.S.
[18] Pursuant to s. 200.065(5), F.S.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

Municipalities will be permitted to levy special assessments for law enforcement services so long as they meet the provisions of this bill.

B. Private Sector Impact:

Individuals that reside in municipalities that levy special assessments for law enforcement services as provided in this bill may be required to pay such special assessments for the law enforcement services they receive.

C. Government Sector Impact:

See Tax/Fee Issues above.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 166.212 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

By Senator Smith

31-01021-14 2014884__

A bill to be entitled

An act relating to a special assessment for law enforcement services; creating s. 166.212, F.S.; authorizing municipalities to levy a special assessment to fund the costs of providing law enforcement services; requiring a municipality to adopt an ordinance and reduce its ad valorem millage to levy the special assessment; providing a methodology for the apportionment of the special assessment and the reduction of the ad valorem millage; requiring the property appraiser to list the special assessment on the notice of property taxes; specifying exceptions to the reduction of the ad valorem millage by more than a certain percentage; authorizing the Department of Revenue to adopt rules and forms; providing for construction; providing an effective date.

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

Section 1. Section 166.212, Florida Statutes, is created to read:

166.212 Law enforcement services special assessment.-

(1) GENERAL.—The governing body of a municipality may levy a law enforcement services special assessment to fund all or a portion of its costs of providing law enforcement services, if the governing body:

(a) Adopts an ordinance levying the law enforcement services special assessment, which apportions the cost of law

enforcement services among the parcels of real property in the municipality in reasonable proportion to the benefit received by each parcel; and

(b) Reduces its ad valorem millage pursuant to subsection (3).

(2) APPORTIONMENT METHODOLOGY.—The methodology used to determine the benefit that a parcel of real property derives from law enforcement services may be based on the following:

(a) The square footage of structures on the parcel.

(b) The location of the parcel.

(c) The use of the parcel.

(d) The projected amount of time that the municipal law enforcement agency will spend serving and protecting the parcel, grouped by neighborhood, zone, or category of use, which may include the projected amount of time that will be spent responding to calls for law enforcement services and the projected amount of time that law enforcement officers will spend patrolling or regulating traffic on the streets that provide access to the parcel.

(e) The value of the real property that is served or protected, including the value of each structure on the parcel and the structure's contents. However, this factor may not be used as the sole factor or as a major factor in determining the benefit of law enforcement services to a parcel of real property.

(f) Any other factor that may reasonably be used to determine the benefit of law enforcement services to a parcel of real property.

(3) REDUCTION IN AD VALOREM MILLAGE.—

(a) In the first year that the special assessment is levied, the governing body of the municipality must reduce its ad valorem millage, calculated as if there were no law enforcement services assessment, by the millage that would be required to collect revenue equal to the revenue that is forecast to be collected from the special assessment.

(b) When preparing the notice of proposed property taxes pursuant to s. 200.069 in the first year of the assessment, the governing body of the municipality shall calculate the rolled-back millage rate pursuant to s. 200.065(5) and shall determine the preliminary proposed millage rate as if there were no law enforcement services assessment. The governing body shall then adopt the proposed law enforcement services assessment and determine the equivalent millage rate pursuant to paragraph (a). The preliminary proposed millage rate shall then be reduced by the amount of the law enforcement services assessment equivalent millage rate and the resulting millage rate shall then be reported to the property appraiser, together with the amount of the law enforcement services assessment, pursuant to the notice requirements of ss. 200.065 and 200.069. The property appraiser shall list the law enforcement services assessment on the notice of proposed property taxes below the line in the columns reserved for non-ad valorem assessments. After the first year of the assessment, the millage rate and rolled-back rate for the notice of proposed property taxes shall be calculated pursuant to s. 200.065(5) and shall be based on the adopted millage rate from the previous year.

(c) Notwithstanding paragraph (a), the governing body of a municipality is not required to reduce its millage, excluding

millage approved by a vote of the electors and millage pledged to repay bonds, by more than 75 percent, or by more than 50 percent if the ordinance levying the law enforcement services assessment is approved by a two-thirds vote of the governing body of the municipality.

(4) RULES AND FORMS.-The Department of Revenue may adopt rules and forms necessary to administer this section.

(5) CONSTRUCTION.—The levy of a law enforcement services special assessment pursuant to this section shall be construed as being authorized by general law in accordance with ss. 1 and 9, Art. VII of the State Constitution.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2014
Meeting Date

Topic Law Enforcement Assessment — Bill Number 884 *(if applicable)*

Name Dave Ericks — Amendment Barcode _____ *(if applicable)*

Job Title Lobbyist

Address 205 S. Adams St *Street* — Phone 850-591-7550

Tallahassee *City* FL *State* 32301 *Zip* — E-mail dave@ericksconsultants.com

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

Representing North Lauderdale

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2014
Meeting Date

Topic Law Enforcement Assessment — Bill Number 884 *(if applicable)*

Name Mayor Jack Brady — Amendment Barcode *(if applicable)*

Job Title Mayor of North Lauderdale

Address 701 SW 71st Ave *Street* — Phone 954-724-7056

North Lauderdale FL 33068 *City State Zip* — E-mail jbrady@nlauderdale.org

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

Representing North Lauderdale

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-2014
Meeting Date

Topic Law Enforcement Assessment

Bill Number 884 *(if applicable)*

Name Steve Chapman

Amendment Barcode *(if applicable)*

Job Title Finance Director

Address 701 SW 71st Ave
Street

Phone 954-724-7056

North Lauderdale FL 33068
City *State* *Zip*

E-mail SChapman@nlauderdale.org

Speaking: ☒ For ☐ Against ☒ Information

Representing North Lauderdale

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 1, 2014
Meeting Date

Topic Law Enforcement Services Assessment

Bill Number 884 *(if applicable)*

Name Amber Hughes

Amendment Barcode _____ *(if applicable)*

Job Title Legislative Advocate

Address PO Box 1757
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850-701-3621

E-mail amberhughes@flcities.com

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1034
INTRODUCER:	Senator Latvala
SUBJECT:	Renovation of Educational Facilities
DATE:	March 31, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	**Pre-meeting**
2.			ED	
3.			AED	
4.			AP	

I. Summary:

SB 1034 requires school districts, state universities, and Florida College System institutions to retrofit doors and windows used by students or school personnel to meet criteria that exceed the current requirements of the Florida Building Code. School districts would be required to use local millage to perform the retrofits, while state colleges and universities would be required to use funds for capital outlay to perform the retrofits.

II. Present Situation:

Florida Building Code on Doors and Windows in Educational Facilities

The Florida Building Code (FBC, or Code) is based on national model building codes and amended for Florida's specific needs, as developed by the Florida Building Commission.[1] The Code is enforced by local governments. Section 423.13, FBC, specifies requirements for doors and windows based on use and occupancy. All spaces with an occupant load of six or more students must have a door opening directly to the exterior, or be fully sprinklered, or have a rescue window in the case of buildings of three stories or less.[2] All doors and gates from spaces with an occupant load of six or more students must swing in the direction of exit travel, be of the side hinged type, and always be operable from the inside by a single operation and without a key.[3]

[1] Section 1013.37, F.S., directs the Florida Department of Education and the Board of Governors to establish a uniform building code for planning and construction of educational facilities by school district boards and Florida colleges. This code is adopted by the Florida Building Commission as part of the Florida Building Code pursuant to s. 553.73, F.S. State universities are subject to the Code as "Business Group B" occupancies and to regulations adopted by the Board of Governors.

[2] Section 423.13.1, Florida Building Code.

[3] *Id*.

Most door locks are locked or unlocked from the exterior with a key; and if locked, most doors can be opened from the inside by pressing down on the door handle and pushing outward in the direction of egress.[4] Door locks and latch mechanisms that are bullet resistant are not readily available in the market for application in educational facilities.[5] Hardware manufacturers specializing in classroom security believe that each school, and each door or window, have different needs.[6] Thus, they manufacture numerous types of door locks[7] that are designed to be either:

- Locked throughout the day;
- Unlocked all day except in emergencies; or
- Controlled from a central location.

The Code requires all windows used in educational facilities to be tempered or safety glass, but not bullet-proof or bullet-resistant.

Number of Rooms in Educational Facilities

According to the Florida Inventory of School Houses data, as of June 2013, there were 904,896 rooms in educational facilities operated by school boards, and 54,997 rooms in educational facilities operated by Florida College System institutions. The State University System has "well over 215,000 rooms."[8] Therefore, the total number of rooms in all educational facilities throughout the state is approximately 1.2 million.

Local Capital Improvement Millage

Allocations from the Capital Outlay and Debt Service Trust Funds have averaged about $16.7 million per year since fiscal year 2007-08.[9] Since 2007, school districts have experienced a decline in collections of the discretionary local capital improvement millage due to reduced ad valorem property values and a legislative reduction in the cap on discretionary assessments from 2.0 mills to 1.5 mills. In fiscal years 2011-12 and 2012-13, actual receipts by school districts were slightly less than 60 percent of collections in fiscal year 2007-08.

III. Effect of Proposed Changes:

The bill would increase the requirements for doors and windows in educational facilities beyond what is currently required by s. 423.13 of the Florida Building Code. The renovations listed in the bill would require all school districts, state universities, and Florida College System institutions to retrofit:

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[4] Florida Dep't of Education, *2014 Agency Bill Analysis of SB 1034* (Feb. 18, 2014).
[5] *Id*.
[6] Sargent Manufacturing Company, *School Security Solutions: Bored and Mortise Locks*, www.sargentlock.com/file_broker.php?document_id=7049 *(last visited Mar. 28, 2014)*; *Alarm Lock, High Security Door Locks Make Schools Safer*, http://www.alarmlock.com/highsecuritydoorlocks.html# (last visited Mar. 28, 2014).
[7] Examples include: bored, mortise, cylindrical, narrow site, networked, double-sided, keypads, and magnetic locks.
[8] State University System of Florida, *2014 Legislative Bill Analysis HB 359* (Feb. 3, 2014).
[9] Florida Dep't of Education, *2014 Agency Bill Analysis of SB 1034* (Feb. 18, 2014).

- Doors, such that they can be "locked by key from the inside without impeding the ability of occupants to exit without unlocking the door;"
- Locks and latch mechanisms on doors, such that they are made of bullet-resistant, protected materials;
- Door windows, such that they are positioned or secured to prevent an intruder from reaching through a broken window to unlock the door; and
- Windows, which are to either be bullet resistant or meet hurricane resistance standards.

The school districts, state universities, and Florida College System institutions would have until June 30, 2018, to comply with the retrofitting of doors and windows contemplated by this legislation.

The bill designates local millage as the source of funding for school districts to perform the required retrofits. The bill designates the capital outlay millage as the source of funding for the state colleges and universities to perform the retrofits.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate. Door, window, and hardware manufacturers, as well as installers would likely experience an indeterminate increase in sales and contracts.

C. Government Sector Impact:

School district boards, colleges, and universities would incur significant costs associated with assessing their educational facilities for compliance, identifying scope and cost of performing the retrofits, preparing specifications and bid documents, advertising for

competitive bids, engaging design and construction professionals, and overseeing completion of construction. The cost of the retrofits contemplated by this bill cannot be determined at this time because the number of affected facilities and the scope of the retrofits are unknown. The cost of each retrofit will vary by facility. For purpose of comparison, the Florida Department of Health has noted in their analysis that the average cost of renovating a 15 year-old high school to meet Enhanced Hurricane Protection Area standards is $5.3 million; and the cost of renovating a 30 year-old high school to meet Enhanced Hurricane Protection Area standards is $7.9 million.

Assuming conservative estimates of $200 for the cost of retrofitting door hardware per entrance,[10] and the assumption of only one door per room, then the cost to retrofit the door hardware in the 1.2 million rooms of the educational facilities throughout the state would be $240 million.

Assuming conservative estimates of $200 per square foot for the cost of bullet resistant glass,[11] and the assumption that the average room has only one standard 24" x 40" window (7 square feet of glass), and no glass on any doors, then the cost to retrofit the glass windows in 1.2 million rooms would be $1.68 billion.

VI. Technical Deficiencies:

The bill does not specify penalties for non-compliance.

VII. Related Issues:

It is not explicitly stated that the requirement to perform retrofits extends to charter schools. Section 1002.33(16), F.S., exempts charter schools from the provisions of chapters 1000-1013, F.S., except those relating to student health, safety and welfare.

It is uncertain whether replacing all existing doors with doors that are "locked by key from the inside without impeding the ability of occupants to exit without unlocking the door" would meet relevant safety codes, fire codes, or ADA compliance. The intent of the bill language may be to require installation of door hardware which allows the door to lock, by key, from the inside, yet still allow occupants to open the door without a key. However, this language might be clarified.

VIII. Statutes Affected:

This bill substantially amends section 1011.71 of the Florida Statutes.

IX. Additional Information:

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

None.

[10] State University System of Florida, *2014 Legislative Bill Analysis HB 359* (Feb. 3, 2014), at 2.
[11] Florida Dep't of Education, *2014 Agency Bill Analysis of SB 1034* (Feb. 18, 2014), at 11.

B. Amendments:

None.

By Senator Latvala

20-01061-14 20141034__

A bill to be entitled

An act relating to the renovation of educational facilities; amending s. 1011.71, F.S.; requiring school districts to retrofit the doors and windows of educational facilities to comply with certain Florida Building Code standards; providing additional requirements; providing funding through the capital outlay millage levy; requiring state universities and Florida College System institutions to retrofit the doors and windows of educational facilities to comply with certain Florida Building Code standards; providing additional requirements; providing funding through capital outlay funds; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 1011.71, Florida Statutes, is amended to read:

1011.71 District school tax.—

(2) In addition to the maximum millage levy as provided in subsection (1), each school board may levy not more than 1.5 mills against the taxable value for school purposes for district schools, including charter schools at the discretion of the school board, to fund:

(b) Maintenance, renovation, and repair of existing school plants or of leased facilities to correct deficiencies pursuant to s. 1013.15(2). Effective July 1, 2014, such renovation shall include retrofitting the doors and windows of classrooms,

offices, and other rooms used by students or school personnel to comply with s. 423.13 of the Florida Building Code. In addition to compliance with such standards:

1. Doors shall be able to be locked by key from the inside without impeding the ability of occupants to exit without unlocking the door.

2. Locks and latch mechanisms in doors shall be made of bullet-resistant, protected materials.

3. Door windows shall be positioned or secured to prevent an intruder from opening the door by reaching through a broken window and unlocking or unlatching the door.

4. Windows shall be bullet resistant or meet current hurricane resistance standards.

The retrofitting of doors and windows in accordance with this paragraph must be completed by June 30, 2018.

Section 2. (1) Effective July 1, 2014, each state university and Florida College System institution shall use funds for capital outlay to retrofit existing doors and windows of classrooms, offices, and other rooms used by students or school personnel to comply with s. 423.13 of the Florida Building Code. In addition to compliance with such standards:

(a) Doors shall be able to be locked by key from the inside without impeding the ability of occupants to exit without unlocking the door.

(b) Locks and latch mechanisms in doors shall be made of bullet-resistant, protected materials.

(c) Door windows shall be positioned or secured to prevent an intruder from opening the door by reaching through a broken

window and unlocking or unlatching the door.

(d) Windows shall be bullet resistant or meet current hurricane resistance standards.

(2) The retrofitting of doors and windows in accordance with this section must be completed by June 30, 2018.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Environmental Preservation and Conservation
Gaming
Judiciary
Rules

SENATOR JACK LATVALA
20th District

February 19, 2014

The Honorable Wilton Simpson
Senate Community Affairs Committee
404 S. Monroe St., 315 Knott Building
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request that my bill, SB 1034/Renovation of Educational Facilities, be placed on the agenda of the Senate Community Affairs Committee at the earliest possible time.

This bill will require school districts, state universities and Florida College System institutions to retrofit the doors and windows of educational facilities to comply with Florida Building Code standards making them safer and prevent unwanted intrusion into school facilities.

Please contact me if you have any questions regarding this request. I appreciate your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

JL:tc

CC: Tom Yeatman, Staff Director; Ann Whittaker, Administrative Assistant

REPLY TO:
❒ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
❒ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/CS/SB 1048
INTRODUCER:	Community Affairs Committee; Transportation Committee; and Senator Latvala
SUBJECT:	Department of Transportation
DATE:	April 1, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	**Fav/CS**
2.	Stearns	Yeatman	CA	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1048 authorizes, but does not require the Florida Department of Transportation (FDOT) to provide for the monetization of the revenue stream from leases for wireless communication facilities on property owned or controlled by the FDOT, and to seek investors to purchase the monetized streams.

The bill provides that certain authorities that have the power to issue bonds may not be subjected to a referendum more than once every eight years. A referendum may only apply to future bond issuances.

The bill also makes revisions to the control of outdoor advertising. The bill provides that Water Management District (WMD) public information systems are subject to the provisions of certain federal laws and agreements and effectively rewrites ch. 479, F.S., to relocate, revise, and repeal various definitions, and to revise various duties of the FDOT to modernize and streamline the administration and enforcement of state and federal outdoor advertising provisions. The substantive revisions:

- Provide criteria to be used in the permitting of signs in commercial or industrial zones, as determined by the local government, and require the FDOT to notify a sign applicant in writing if the FDOT disagrees with a local government determination that a proposed sign location is on a parcel that is in a commercial or industrial zone;
- Require removal of a sign within 30 days if the FDOT determines that the parcel does not meet sign permit requirements, and provide for a reduction in transportation funding to a local government if a local government fails to comply;

- Revise provisions relating to signs visible from more than one highway, make permanent a pilot program under which the distance between certain permitted signs may be reduced to 1,000 feet, revise provisions relating to vegetation management, and revise provisions relating to relocation or reconstruction of signs situated upon right-of-way acquired by the FDOT;
- Provide for additional signs that can be erected without a permit, revises provisions relating to increasing the height of a sign at its location if a noise-attenuation barrier is erected, and expand the logo sign program to the right-of-way of the limited-access system; and
- Repeal a pilot program authorized in 2012 for signs related to tourist-oriented commerce, which is replaced by authority to erect such signs without a permit.

The bill establishes a pilot program for the Palm Beach County School District to recognize its business partners. The school district may recognize its business partners by displaying their names on school district property in the unincorporated areas of the county. This section of the bill preempts conflicting local laws. The program expires June 30, 2015.

II. Present Situation:

FDOT Wireless Communication Leases

The FDOT advises it currently has two contracts related to the leasing of wireless communication facilities whereby the FDOT makes unused communication tower space available to a private party over time for a fee. One is with the Turnpike Enterprise, and payment is received through in-kind services. The FDOT advises it is unlikely the bill's monetization provisions (described below in Effect of Proposed Changes) would be applicable to that contract. The other contract, according to the FDOT, would be eligible for application of the bill's provisions allowing the FDOT to seek investors for agreements to purchase the lease revenue stream.[1] (See Section 1 under "Effect of Proposed Changes.")

Control of Outdoor Advertising

Generally, since the passage of the Highway Beautification Act (HBA) in 1965, the Federal Highway Administration (FHWA) has established controls for outdoor advertising along federal-aid primary, interstate, and National Highway System roads. The HBA allows the location of billboards in commercial or industrial areas, mandates a state compliance program, requires the development of state standards, promotes the expeditious removal of illegal signs, and requires just compensation for takings when appropriate.

The primary features of the HBA include:

- Billboards are allowed, by statute, in commercial and industrial areas consistent with size, lighting, and spacing provisions as agreed to by the state and federal governments. Billboard controls apply to all interstate highways, federal-aid primary roads, and other highways that are part of the National Highway System.

[1] The FDOT email, March 17, 2014, on file in the Senate Community Affairs Committee.

- States have the discretion to remove legal nonconforming signs[2] along highways. However, the payment of just compensation is required for the removal of any lawfully erected billboard along the specified roads.
- States and localities may enact stricter laws than stipulated in the HBA.

The HBA mandates state compliance and the development of standards for certain signs as well as the removal of nonconforming signs. While the states are not directly forced to control signs, failure to impose the required controls can result in a substantial penalty. The penalty for noncompliance with the HBA is a 10 percent reduction of the state's annual federal-aid highway apportionment.[3]

Under the provisions of a 1972 agreement between the State of Florida and the U.S. Department of Transportation (USDOT)[4] incorporating the HBA's required controls, the FDOT requires commercial signs to meet certain requirements when they are within 660 feet of interstate and federal-aid primary highways in urban areas, or visible at any distance from the same roadways when outside of urban areas; *i.e.*, a "controlled area." The agreement embodies the federally-required "effective control" of the erection and maintenance of outdoor advertising signs, displays, and devices. Absent this effective control, a state may be penalized 10 percent of federal highway funds.

Florida's outdoor advertising laws are found in ch. 479, F.S., and are based on federal law and regulations, and the 1972 agreement.

Water Management District Public Information Systems

Under ch. 2012-126, L.O.F., public information systems may be located on WMD property, provided certain terms and conditions are met. The systems must display messages to the general public concerning water management services, activities, events, watering restrictions, severe weather reports, amber alerts, and other essential public information. The law prohibits the use of WMDs funds to acquire, develop, construct, operate, or manage a public information system. Commercial messages are to be paid for by private sponsors.[5]

Section 479.02, F.S., requires the FDOT to regulate the size, height, lighting, and spacing of signs on the interstate highway system in accordance with state and federal regulations. A permit and annual fee are required by any individual that proposes to erect, operate, use, or maintain any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system. Certain signs do not require a permit as long as the signs are in compliance with the provisions in s. 479.11(4)-(8), F.S. However, WMD signs are not currently subject to the requirements of ch. 479, F.S., which governs outdoor advertising along roads throughout the state, or to the HBA or the 1972 agreement. Further, local government review and approval of such signs is not required.

[2] A legal "nonconforming sign" is a sign that was legally erected according to the applicable laws and regulations of the time, but which does not meet current laws or regulations. (s. 479.01(17), F.S.)
[3] 23 U.S.C. § 131(b)
[4] Copy on file in the Senate Community Affairs Committee.
[5] *See* s. 373.618, F.S.

Section 479.16, F.S., specifies that signs owned by a municipality or county that contain messages related to any commercial enterprise, a commercial sponsor of an event, personal messages, or political messages are not considered information regarding government services. If WMD public information signs are located within a "controlled area," the FDOT may be subject to an annual loss of 10 percent of federal highway funding if allowance of the erection and maintenance of these signs is deemed to constitute a loss of effective control of outdoor advertising. (See Section 2 under "Effect of Proposed Changes.")

Commercial and Industrial Areas

Outdoor advertising signs may legally be located in commercial or industrial areas. In conformance with the 1972 agreement, s. 479.01(4), F.S., currently defines "commercial or industrial zone" as a parcel of land designated for commercial or industrial use under both the Future Land Use Map (FLUM) of the local comprehensive plan and the land development regulations adopted pursuant to ch. 163, F.S. This allows the FDOT to consider both land development regulations and FLUMs in determining commercial and industrial land use areas and issuing permits for sign locations in such areas.

If a parcel is located in an area designated for multiple uses on the FLUM, and the land development regulations do not clearly designate the parcel for a specific use, the area will be considered an *unzoned* commercial or industrial area and outdoor advertising signs may be permitted there provided three or more separate commercial or industrial activities take place.[6] However, the following criteria must be met:

- One of the commercial or industrial activities must be located within 800 feet of the sign and on the same side of the highway;
- The commercial or industrial activity must be within 660 feet of the right-of-way; and
- The commercial or industrial activities must be within 1,600 feet of each other.

Regardless of whether the criteria above are met, the following activities are specifically excluded from being recognized as commercial or industrial activities and therefore cannot be considered when determining whether a parcel is an unzoned commercial or industrial area:

- Signs;
- Agricultural, forestry, ranching, grazing, farming, and related activities;
- Transient or temporary activities;
- Activities not visible from the main-traveled way;
- Activities conducted more than 660 feet from the right-of-way;
- Activities conducted in a building principally used as a residence;
- Railroad tracks and minor sidings; and
- Communications towers.[7]

With the exception of communication towers, the exclusion of these activities is specifically required by the 1972 agreement between the State and the United States Department of Transportation (USDOT). (See Sections 3, 4, and 5 under "Effect of Proposed Changes.")

[6] Section 479.01(26), F.S.
[7] Id.

Entry Upon Privately Owned Lands

For the purposes of ch. 479, F.S., all of the state is deemed as the territory under the FDOT's jurisdiction.[8] Employees, agents, or independent contractors working for the FDOT are authorized to enter upon any land upon which a sign is displayed, is proposed to be erected, or is being erected in order to make sign inspections, surveys, and removals. After receiving consent by the landowner, operator, or person in charge, or after an appropriate inspection warrant is issued by an appropriate judge stating that the removal of an illegal outdoor advertising sign is necessary, the FDOT is authorized to enter upon any intervening privately-owned lands for the purpose of removal of illegal signs, provided the FDOT has determined that no other legal or economically feasible means of entry to the sign site is reasonably available. The FDOT is responsible for the repair or replacement in like manner of any physical damage or destruction of the private property. (See Section 6 under "Effect of Proposed Changes.")

License to Engage in the Business of Outdoor Advertising

A person is prohibited from engaging in the business of outdoor advertising without first obtaining a license from the FDOT. A person is not required to obtain the license to erect outdoor advertising signs or structures as an incidental part of a building construction contract.[9] (See Section 7 under "Effect of Proposed Changes.")

Denial or Revocation of License

The FDOT may deny or revoke any license requested or granted under ch. 479, F.S., in any case in which the FDOT determines that the application for the license contains knowingly false or misleading information, or that the licensee has violated any of the provisions of that chapter, unless such licensee corrects such false or misleading information or complies with the provisions of that chapter within 30 days after the receipt of the FDOT notice. Any person aggrieved by any FDOT action in denying or revoking a license is authorized to apply to the FDOT for an administrative hearing within 30 days from the receipt of the notice.[10] (See Sections 8 and 10 under "Effect of Proposed Changes.")

Sign Permits

Section 479.07(1), F.S., provides that a person may not erect any sign on the State Highway System outside an urban area, or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from FDOT and paying the required annual fee. Subsection (2) prohibits a person from applying for a permit unless the person has first obtained the written permission of the owner of the site of the sign. As a part of the application, the applicant must certify in a notarized signed statement that he or she has obtained the written permission of the owner of the site.

[8] Section 479.03, F.S.
[9] Section 479.04, F.S.
[10] Section 479.05, F.S.

The FDOT is required to establish by rule an annual permit fee for each sign facing[11] in an amount sufficient to offset the total cost to the FDOT for the program, but shall not exceed $100.[12] The fee may not be prorated for a period less than the remainder of the permit year to accommodate short-term publicity features, but the first-year fee may be prorated by payment of one-fourth of the annual fee for each remaining whole quarter or partial quarter of the permit year.

The transfer of valid permits from one sign owner to another is currently authorized upon written acknowledgement from the current permittee and submittal of a transfer fee of $5 for each permit to be transferred.[13] The maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction is $100. According to the FDOT, the $100 fee is insufficient to cover its administrative costs in frequent cases of bulk transfers between two outdoor advertisers in a single transaction.

Current law provides a process for sign removal if a permittee has not submitted all permit renewal fees by the expiration date of the license or permit.[14] If at any time before removal of the sign, the permittee demonstrates that a good faith error resulted in cancellation of the permit, the FDOT is authorized to reinstate the permit if the reinstatement fee (of up to $300 based on the size of the sign) is paid; all other permit fees due as of the reinstatement date are paid; and the permittee reimburses the FDOT for all actual costs resulting from the permit. The FDOT advises its administrative costs associated with reviewing reinstatement requests are the same regardless of the size of the sign.

The FDOT is currently required to furnish to a permittee a serially numbered permanent metal permit tag which the permittee is required to securely attach to the sign facing or on the pole nearest the highway. Further, effective July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main traveled way. In addition, the permit becomes void unless the permit tag is properly and permanently displayed at the permitted site within 30 days after the date of permit issuance.[15]

That section also provides for the FDOT to issue a replacement tag in the event a permit tag is lost, stolen, or destroyed and, alternatively, authorizes a permittee to provide its own replacement tag pursuant to the FDOT specifications that the FDOT shall adopt by rule at the time it establishes the service fee for replacement tags.[16]

[11] A "sign facing" includes all sign faces and automatic changeable faces displayed at the same location and facing the same direction. A "sign face" means the part of the sign, including trim and background, which contains the message or informative contents. (s. 479.01(22) and (23), F.S.)
[12] Section 479.07(3)(c), F.S.
[13] Section 479.07(6), F.S
[14] Section 479.07(8), F.S.
[15] Section 479.07(5), F.S.
[16] Rule 14-10.004(5), F.A.C.

If a sign is visible from the controlled area of more than one highway subject to the jurisdiction of the FDOT, the sign must meet the permitting requirements of the highway with the more stringent permitting requirements.[17]

Current law establishes a pilot program in Orange, Hillsborough, and Osceola Counties, and within the boundaries of the City of Miami, under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet under specified conditions. The law also directs the FDOT to track the use of the pilot program by maintaining statistics on the number of notifications received by the FDOT from local governments regarding the program.[18] (See Section 9 under "Effect of Proposed Changes.")

Sign Removal Following Permit Revocation

A sign permittee is currently required to remove a sign within 30 days after the date of revocation of the permit for the sign. If the permittee fails to do so, the FDOT is required to remove the sign without further notice.[19] The FDOT is immune from liability for the removal.[20] Further, all costs incurred by the FDOT in connection with the removal of a sign following the revocation of the permit shall be collected from the permittee.[21] (See Sections 11 and 23 under "Effect of Proposed Changes.")

Signs Erected or Maintained Without the Required Permit/Issuance of Permits for Conforming or Nonconforming Signs

Any sign located adjacent to the right-of-way of any highway on the State Highway System outside an incorporated area or adjacent to the right-of-way on any portion of the interstate or federal-aid primary highway system without the required FDOT permit must be removed. Prior to removal, the FDOT is required to prominently post on the sign face a notice that the sign is illegal and must be removed within 30 days. If the sign bears the name of the licensee or the name and address of the non-licensed sign owner, concurrently with and in addition to posting the notice, the FDOT must provide a written notice to the owner stating that the sign is illegal and must be permanently removed within the 30-day period; and that the sign owner has a right to request a hearing. If after notice the sign owner does not remove the sign, the FDOT is required to do so.[22]

The FDOT is authorized to consider the sign a conforming or nonconforming sign and to issue a permit for the sign upon application and payment of a penalty fee of $300 and all pertinent fees required by ch. 479, F.S., including annual permit renewal fees payable since the date of the erection of the sign,[23] if a sign owner demonstrates to the FDOT that:

- A given sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for a period of seven years or more;

[17] Section 479.07(9)(a), F.S.
[18] Section 479.07(9)(c), F.S.
[19] Section 479.10, F.S.
[20] *Id.*
[21] Section 479.313, F.S.
[22] Section 479.105(1)(a) and (b), F.S.
[23] Section 479.105(1)(e), F.S.

- The sign would have met the criteria established in ch. 479, F.S., for issuance of a permit at any time during the period in which the sign has been erected; and
- The FDOT has not initiated a notice of violation or taken other action to remove the sign during the initial seven-year period and the FDOT determines that the sign is not located on state right-of-way and is not a safety hazard. (See Section 12 under "Effect of Proposed Changes.")

Vegetation Management and View Zones for Outdoor Advertising

Section 479.106, F.S., addresses vegetation management and establishes "view zones" for lawfully permitted outdoor advertising signs on interstates, expressways, federal-aid primary highways, and the State Highway System, excluding other publicly owned property and private property. The intent of the section is to foster partnerships that will improve the appearance of Florida's highways and create a net increase in the vegetative habitat along the roads.[24]

The section requires anyone desiring to remove, cut, or trim trees or vegetation on public right-of-way to improve the visibility of a sign or future sign to obtain written permission from the FDOT. To receive a permit to remove vegetation, the applicant must provide a plan for the removal and for the management of any vegetation planted as the result of a mitigation plan. Rule 14-10.057, F.A.C., requires mitigation where:

- Cutting, trimming, or damaging vegetation permanently detracts from the appearance or health of trees, shrubs, or herbaceous plants, or where such activity is not done in accordance with published standard practices. This does not apply to invasive exotic and other noxious plants;
- Trees taller than the surrounding shrubs and herbaceous plants are permanently damaged or destroyed;
- Species of trees or shrubs not likely to grow to interfere with visibility are damaged or removed;
- Trees or shrubs that are likely to interfere with visibility are trimmed improperly, permanently damaged, or removed; or
- Herbaceous plants are permanently damaged.

When the installation of a new sign requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way, the FDOT may only grant a permit for the new sign when the sign owner has removed at least two non-conforming signs of comparable size and surrendered those signs' permits for cancellation. For signs originally permitted after July 1, 1996,[25] the FDOT is prohibited from granting any permit where such trees or vegetation are part of a beautification project implemented before the date of the original sign permit application, as specified.

The FDOT is currently authorized to establish an application fee not to exceed $25 for each individual application for the removal, cutting, or trimming of trees or vegetation on public right-of-way to defer the costs of processing such application and a fee not to exceed $200 to defer the costs of processing an application for multiple sites.[26] Further, any person who violates or

[24] Section 479.106(8), F.S.
[25] The date of enactment of s. 479.106, F.S.
[26] Section 479.106(4), F.S.

benefits from a violation of ch. 479, F.S., is subject to an administrative penalty of up to $1,000 and is required to mitigate for the unauthorized removal, cutting, or trimming of trees or vegetation.[27] (See Section 13 under "Effect of Proposed Changes.")

Cost of Sign Removal/Additional Fine for Violations

Section 479.107(5), F.S., requires that the cost of removing a specified sign, whether by the FDOT or an independent contractor, shall be assessed by the FDOT against the owner of the sign. In addition, the FDOT is directed to assess a fine of $75 against the sign owner for any sign which violates the requirements of that section. The FDOT advises Senate staff that it infrequently assesses fines related to this section and collection is rare. (See Section 14 under "Effect of Proposed Changes.")

Relocation or Reconstruction of a Publicly Acquired Sign

When the FDOT acquires land with a lawful nonconforming sign, the sign may, at the election of its owner and the FDOT, and subject to FHWA approval, be relocated or reconstructed adjacent to the new right-of-way along the roadway within 100 feet of the current location, provided the nonconforming sign is not relocated to a parcel zoned for residential use, and provided further that such relocation is subject to applicable setback requirements.[28] The relocation is required to be adjacent to the current site, and the face of the sign may not be increased in size or height or structurally modified so as to conflict with the building codes of the jurisdiction in which the sign is located.[29] (See Section 16 under "Effect of Proposed Changes.")

Permits Not Required for Certain Signs

Section 479.16, F.S., currently identifies a number of signs for which permits are not required, including without limitation:

- On-premise signs (signs on property stating only the name of the owner, lessee, or occupant of the premises and not exceeding eight square feet in area);
- Signs that are not in excess of eight square feet that are owned by and relate to the facilities or activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government;
- Signs placed on benches, transit shelters, and waste receptacles; and
- Signs not in excess of 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, in a rural area where a hardship is created because a small business is not visible from the road junction, one sign not in excess of 16 square feet, denoting only the name of, and the distance and direction to, the business. This provision does not apply to charter counties and may not be implemented if the federal government notifies the FDOT that implementation will adversely affect the allocation of federal funds to the FDOT. (See Section 18 under "Effect of Proposed Changes.")

Compensation for Removal of Signs

[27] Section 479.106(7), F.S.
[28] Section 479.15(3), F.S.
[29] Section 479.15(4), F.S.

The FDOT is currently required to pay just compensation upon its removal of a lawful nonconforming sign along any portion of the interstate or federal-aid primary highway system.[30] (See Section 19 under "Effect of Proposed Changes.")

Noise-Attenuation Barriers Blocking View of Signs

The owner of a lawfully erected sign is authorized to increase the height above ground level of such sign at its permitted location if any governmental entity permits or erects a noise-attenuation barrier in such a way as to block visibility of the sign. If construction of a proposed noise-attenuation barrier will screen a lawfully permitted sign, the FDOT is required to provide notice to the local government or jurisdiction in which the sign is located before erection of the noise-attenuation barrier. If it is determined that the increase in height will violate a local ordinance or land development regulation, the local government or jurisdiction is required to notify the FDOT.

When notice has been received from the local government or jurisdiction prior to erection of the noise-attenuation barrier, the FDOT is required to conduct a written survey of all property owners identified as impacted by highway noise and who may benefit from the proposed barrier. The written survey must, in addition to stating the date, time, and location of a required public hearing, specifically advise the impacted property owners that:

- Erection of the noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;
- The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and
- If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction is required to:
    - Allow an increase in the height of the sign in violation of a local ordinance or land development regulation;
    - Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or
    - Pay the fair market value of the sign and its associated interest in the real property.

The FDOT must hold the public hearing and receive input on the proposed noise-attenuation barrier and its conflict with the local ordinance or land development regulations, and suggest or consider alternatives or modification to the proposed barrier to alleviate or minimize the conflict with the local ordinance or regulation or minimize any costs associated with relocating, reconstructing, or paying for the affected sign. Notice of the hearing, in addition to general provisions, must specifically state the same items specified for inclusion in the written survey above.

The FDOT is prohibited from permitting erection of the noise-attenuation barrier to the extent that the barrier screens or blocks visibility of the sign until after the public hearing and until such time as the survey has been conducted and a majority of the impacted property owners have indicated approval. When approved, the FDOT must notify the local governments or local

[30] Section 479.24, F.S.

jurisdictions, and the local government or jurisdiction must, notwithstanding any conflicting ordinance or regulation:

- Issue a permit by variance or otherwise for the reconstruction of a sign;
- Allow the relocation of a sign, or construction of another sign, at an alternative location that is permittable, if the sign owner agrees to relocate the sign or construct another sign; or
- Refuse to issue the required permits for reconstruction of a sign and pay fair market value of the sign and its associated interest in the real property to the sign owner.[31] (See Section 20 under "Effect of Proposed Changes.")

Logo Program

The FDOT is required to establish a logo sign program for the rights-of-way of the interstate highway system to provide information to motorists about available gas, food, lodging, camping, attractions, and other services, as approved by the FHWA, at interchanges through the use of business logos and may include additional interchanges under the program.[32] As indicated, the program is limited to the interstate highway system, but under the federal Manual on Uniform Traffic Control Devices (MUTCD),[33] the program may be extended to other limited-access facilities, thereby expanding opportunities for business participation in the program.

The FDOT is directed to incorporate into the logo sign program "RV-friendly" markers, as approved by the FHWA, for establishments that cater to the needs of persons driving recreational vehicles.[34] Current law requires the FDOT to adopt rules relating to RV-friendly markers, including requirements for large parking spaces, entrances, and exits that can easily accommodate recreational vehicles and facilities having appropriate overhead clearances, if applicable. (See Section 21 under "Effect of Proposed Changes.")

Tourist-Oriented Directional Sign Program

Section 479.262, F.S., establishes a tourist-oriented directional (TOD) sign program for intersections on rural and conventional state, county, or municipal roads in rural counties identified by criteria and population in s. 288.0656, F.S., *i.e.*, rural areas of critical economic concern (RACEC). The program is intended to provide directions to tourist-oriented businesses, services, and activities in RACEC areas, when approved and permitted by county or local government entities.[35]

A county or local government that issues permits for a TOD sign program is responsible for sign construction, maintenance, and program operation for roads on the State Highway System and

[31] Section 479.25, F.S.
[32] Section 479.261, F.S.
[33] Adopted by FDOT pursuant to s. 316.0745, F.S.
[34] Section 479.261, F.S.
[35] Section 288.0656(2), F.S., defines a "rural area of critical economic concern" as a rural community, or a region composed of rural communities, designated by the Governor, that has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact. "Rural community" is defined to mean a county with a population of 75,000 or fewer, a county with a population of 125,000 or fewer that is contiguous to a county with a population of 75,000 or fewer, or a municipality therein.

may establish permit fees sufficient to offset associated costs.[36] The TOD signs installed on the State Highway System must comply with the requirements of the MUTCD and rules established by the FDOT.[37] The MUTCD does not limit use of TOD signs to RACECs.

The TOD signs may be installed on the State Highway System only after being permitted by the FDOT, and placement of TOD signs is limited to rural conventional roads, as required in the MUTCD.[38] The TOD signs may *not* be placed within the right-of-way of limited access facilities; within the right-of-way of a limited access facility interchange, regardless of jurisdiction or local road classification; on conventional roads in urban areas; or at interchanges on freeways or expressways.[39] (See Section 22 under "Effect of Proposed Changes.")

III. Effect of Proposed Changes:

Section 1 - Wireless Communication Leases

Section 339.041, F.S., is created to authorize the monetization of existing FDOT wireless communication leases in order to increase funding for fixed capital expenditures for the statewide transportation system. The bill reflects the intent of the Legislature to create a mechanism for factoring future revenues received by the FDOT for wireless communication facilities on FDOT property. Further, the bill:

- Exempts the revenues from factoring from income taxation under federal law;
- Specifies the FDOT property which may be used for the purpose of factoring revenues;
- Authorizes the FDOT to solicit investors to enter into agreements for the purchase of the revenue stream from one or more existing FDOT leases;
- Exempts such agreements from the competitive procurement provisions of ch. 287, F.S.;
- Specifies that the obligations of the FDOT and investors under such agreements do not constitute a general obligation of the state or pledge of the full faith and credit or taxing power of the state;
- Requires an annual appropriation for the FDOT to make the lease payments to the investors in the manner established in the agreements between the FDOT and investors; and
- Provides for the proceeds received from lease agreements for wireless communication facilities to be deposited into the State Transportation Trust Fund and used for fixed capital expenditures for the statewide transportation system.

The FDOT advises that "[t]he Net Present Value of the estimated revenues through the end of the term of the existing contract (2039) at a discount rate of 5% would be approximately $56 million. These firms generally discount that amount by 25-45%. Our estimated revenue is very subjective based on history."[40]

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[36] Section 479.262(1), F.S.; "Prior to requesting a permit to install TODS on the State Highway System, a local government shall have established, by ordinance, criteria for TODS program eligibility including participant qualifications and location regulations." Rule 14-51.061(3), F.A.C.

[37] Section 479.262(1), F.S.: "Prior to requesting a permit to install TODS on the State Highway System, a local government shall have established, by ordinance, criteria for TODS program eligibility including participant qualifications and location regulations." *See also* Rule 14-51.061(3), F.A.C.

[38] Rule 14-51.063(1) and (2), F.A.C.

[39] *Id.* at (2); s. 2K.01 of Ch. 2K of the MUTCD (2009), *available at* http://mutcd.fhwa.dot.gov/pdfs/2009r1r2/part2ithu2n.pdf (Last visited March 18, 2014).

[40] The FDOT email, March 17, 2014, on file in the Senate Community Affairs Committee.

The investors would receive all revenues from the FDOT lease, but the FDOT would continue to bear both the responsibility and the cost of administering the lease.[41]

Section 2 – Authority Referendums

Section 339.70, F.S., is created to prohibit the holding of more than one referendum every eight years in regard to an authority that:

- Was created by a special act of the Legislature;
- Has authority over matters related to transportation, including matters concerning public rights-of-way; and
- Has the authority to issue bonds.

A referendum may apply only to future bond issuances and may not affect existing bonds.

Section 3 – Water Management District Public Information Systems

Section 373.618, F.S., is amended to provide that WMD public information systems are subject to the requirements of the HBA and all federal laws and agreements when applicable. The requirements of ch. 479, F.S., remain inapplicable to such signs. The provision that local government review and approval is not required remains in law.

Sections 4, 5, and 6 - Commercial and Industrial Areas

Section 479.01, F.S., is amended to revise various definitions as used in ch. 479, F.S., including, but not limited to, the following:

- Revises the definition of "allowable uses" to mean *the intended uses identified in a local government's land development regulations* which are authorized within a zoning category *as a use by right*, without the requirement to obtain a variance or waiver, requiring uses to be present on the parcel in order to be qualified. These revisions clarify that uses must be present on the parcel in order to qualify.
- Repeals the definition of "commercial or industrial zone," and relocates provisions to a new s. 479.024, F.S., under which local governments are required to determine the location of commercial or industrial zones in accordance with ch. 163, F.S.
- Repeals the definition of "unzoned commercial or industrial area," and relocates the criteria for determination of such an area to a new s. 479.024, F.S.
- Relocates and revises provisions related to specified activities that may not be recognized as commercial or industrial activities.

Section 479.02, F.S., is amended to revise various duties of the FDOT, including, but not limited to, the following:

- Expressly incorporates specified law and agreements pertaining to nonconforming signs.
- Revises language to distinguish between commercial and industrial parcels and unzoned commercial or industrial areas.

[41] *Id.*

- Directs the FDOT to determine such parcels and areas in the manner provided in the newly created s. 479.024, F.S.
- Requires the FDOT's rules to provide for determination of such parcels and areas in the manner provided in the new s. 479.024, F.S.
- Makes various other streamlining, editorial, and grammatical changes.

Section 479.024, F.S., entitled "*Commercial and industrial parcels*," is created to provide a framework for local government determinations as to zoning for a parcel, the bulk of which is taken from existing law. The bill:

- Requires that the FDOT permit signs only in commercial or industrial zones, as determined by the local government in compliance with ch. 163, F.S., unless otherwise provided in ch. 479, F.S.
- Provides that commercial and industrial zones are those areas appropriate for commerce, industry, or trade, regardless of how those areas are labeled.
- Defines "parcel" to mean the property where the sign is located or proposed to be located.
- Requires the local government determination as to zoning for a parcel to meet the following criteria:
  - The parcel is comprehensively zoned and includes commercial or industrial uses as allowable uses.
  - The parcel can reasonably accommodate a commercial or industrial use under the FLUM and land use development regulations, as specified.
  - The parcel is not being used exclusively for noncommercial or nonindustrial uses.
- Requires, if a local government has not designated zoning but has designated the parcel under the FLUM for uses that include commercial or industrial uses, the parcel to be considered an unzoned commercial or industrial area.
- Requires three or more distinct commercial or industrial activities within 1,600 feet of each other, with at least one of the commercial or industrial activities located on the same side of the highway as the sign location, and within 800 feet of the sign location for issuance of a permit in an unzoned commercial or industrial area; and requires multiple commercial or industrial activities enclosed in one building when all uses have only shared building entrances to be considered one use.
- Revises existing uses and activities that may not be independently recognized as commercial or industrial.
- Requires the FDOT to notify a sign applicant in writing if the local government has indicated that a proposed sign location is on a parcel that is in a commercial or industrial zone and the FDOT finds it is not.
- Authorizes an applicant whose application is denied to request an administrative hearing for a determination of whether the parcel is located in a commercial or industrial zone and requires the FDOT to notify the local government that the applicant has requested a hearing.
- Provides that if the FDOT in a final order determines that the parcel does not meet the specified permitting conditions and a sign structure exists on the parcel, the applicant shall remove the sign within 30 days after the date of the order and is responsible for all sign removal costs.
- Requires that if the FHWA reduces funds that would otherwise be apportioned to the FDOT due to a local government's failure to be compliant, the FDOT must reduce apportioned transportation funding to the local government by an equivalent amount.

Local governments would make the determination as to zoning, which initially defines whether an outdoor advertising sign is eligible for permitting, with the potential loss of apportioned transportation funding from the FDOT in an amount equivalent to the FDOT's reduced federal funds, should local governments inappropriately apply the provisions of the new section.

Section 7 - Entry Upon Privately Owned Lands

Section 479.03, F.S., is amended to revise the FDOT's authority to enter upon privately owned lands to remove a sign by removing the requirement that the FDOT have received consent from the landowner or person in charge of the land to be entered. The bill inserts a specified written notice requirement, and expands those to whom written notice must be alternatively given to include a person in charge of an intervening privately owned land. The FDOT must have been authorized by a final order or have issued a notice to the sign owner that has not been contested before entering upon the intervening private land. These revisions ensure notice to interested parties and occurrence of appropriate preconditions to the FDOT's entry upon intervening private land.

Section 8 - License to Engage in the Business of Outdoor Advertising

Section 479.04, F.S., is amended to provide that a person is not required to obtain a license solely to erect or construct outdoor advertising signs or structures, to conform to the revised definition of "business of outdoor advertising."

Sections 9 and 11 - Denial or Revocation of License

Section 479.05, F.S., is amended to authorize suspension of any license, in addition to denial or revocation, when the FDOT determines the application for the license contains false or misleading information of material consequence, that the licensee has failed to pay fees or costs owed to the FDOT for outdoor advertising purposes, or that the licensee has violated any of the provisions of ch. 479, F.S., unless such licensee, within 30 days after receipt of the FDOT notice, corrects such false or misleading information, pays the outstanding amounts, or complies with the provisions of ch. 479, F.S. Suspension of a license allows the licensee to maintain existing sign permits, but the FDOT may not grant a transfer of an existing permit or issue an additional permit to a licensee with a suspended license.

Section 479.08, F.S., is amended to revise the FDOT's authority to deny or revoke any permit when it determines that the application contains false or misleading information of material consequence by eliminating the requirement that the information is *knowingly* false or misleading, and by requiring instead that the false or misleading information be *of material consequence*. This revision may result in fewer denials or revocations.

Section 10 - Sign Permits

Section 479.07, F.S., which prohibits any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit, is amended as follows:

- Streamlines processes by removing a requirement for a notarized affidavit in addition to certifying that all information contained in the application is true and correct and by removing an unnecessary certification of receipt of landowner written permission for the designated sign location.
- Removes a prohibition against prorating a fee for a period less than the remainder of the permit year to accommodate short-term publicity features.
- Clarifies that the FDOT must act on a permit application within 30 days after receipt of the application by granting, denying, or returning the incomplete application.
- Revises requirements for placement of permit tags on sign structures; removes a provision rendering a permit void unless the permit tag is properly and permanently displayed as specified; removes permittee authorization to provide its own replacement tag; and removes the FDOT authority to adopt by rule specifications for the replacement tags.
- Increases the maximum transfer fee for any multiple transfers between two outdoor advertisers in a single transaction from $100 to $1,000 to allow the FDOT to recover administrative costs in frequent cases of bulk transfers between two outdoor advertisers in a single transaction.
- Revises the permit reinstatement fee from up to $300, based on the size of the sign, to a static $300.
- Makes "plain language" revisions to provisions relating to permitting signs visible from more than one highway subject to the FDOT jurisdiction and within the controlled area of the highways.
- Makes permanent a pilot program in specified locations under which the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet under specified and revised conditions and removes the FDOT's duty to maintain statistics on the pilot program.
- Deletes obsolete language.

These revisions streamline the permit application process, ease permittee ability to comply with permit tag placement requirements, allow the FDOT to cover administrative expenses relating to bulk transfers, provide increased opportunity for businesses to obtain sign permits under certain conditions, and generally provide language clarity.

Sections 12 and 24 - Sign Removal Following Permit Revocation

Section 479.10, F.S., is amended to require a permittee to remove a sign within 30 days after the date of cancellation, in addition to revocation, of a sign permit and specifies removal of the sign is at the permittee's expense if the FDOT removes the sign because the permittee fails to do so.

Section 479.313, F.S., is amended to provide that all costs incurred by the FDOT for the removal of a sign within a controlled area following permit cancellation, in addition to permit revocation, shall be assessed against and collected from the permittee.

Section 13 - Signs Erected or Maintained Without Required Permit/Issuance of Permits for Conforming or Nonconforming Signs

Section 479.105, F.S., regarding signs erected or maintained without a required permit, is amended to:

- Revise provisions for placement of an FDOT notice of violation on a sign;
- Require the FDOT to provide a written notice of an illegal sign and its required removal to the advertiser displayed on the sign, or the owner of the property, in addition to the owner of the sign;
- Remove the condition that notice be given concurrently to the owner only if the sign bears the name of the licensee or the name and address of the non-licensed sign owner; and
- Relocate and clarify existing provisions for the FDOT issuance of permits for conforming and nonconforming signs erected or maintained without the required permit.

These revisions ensure notice to interested parties; removal of unpermitted signs; and continued issuance of permits for previously unpermitted but erected signs.

Section 14 - Vegetation Management and View Zones for Outdoor Advertising

Section 479.106, F.S., relating to vegetation management and sign visibility, is amended to:
- Require the removal of two nonconforming signs in addition to mitigation or contribution to a plan of mitigation. The requirement is triggered by applications for the removal, cutting, or trimming of trees or vegetation along the highway that a related sign is permitted to. The requirement applies to signs originally permitted after July 1, 1996, signs that are the subject of a new application, or signs related to an application for a change of view zone; and
- Provide that the administrative penalty for engaging in removal, cutting, or trimming in violation of this section or benefiting from such actions is up to $1,000 *per sign facing*.

The first revision may result in increased removal of nonconforming signs. No change in the FDOT's application of the statute is expected due to the second revision, as the FDOT has historically interpreted and continues to interpret and assess the administrative penalty per sign facing.

Section 15 - Cost of Sign Removal/Additional Fine for Violations

Section 479.107(5), F.S., is amended to repeal the $75 fine rarely assessed against and collected from a sign owner who has been assessed the costs of removing a sign.

Section 17 - Relocation or Reconstruction of a Publicly Acquired Sign

Section 479.15, F.S., providing for harmony of state and local regulations, is amended to:
- Strike the definition of "federal-aid primary highway system," also defined in s. 479.01, F.S.;
- Eases the requirements for relocation of a sign located on land acquired by the FDOT, subject to the FHWA approval and the HBA;
- Provide the face of a *nonconforming* sign may not be increased in size or height or structurally modified at the point of relocation as specified; and
- Provide a neighboring sign that is already permitted and that is within the spacing requirements of s. 479.07(9)(a), F.S., is not caused to become nonconforming.

These revisions may ease the process for permittees who wish to relocate a permitted sign located on property acquired by the FDOT.

Section 19 - Permits Not Required for Certain Signs

Section 479.16, F.S., relating to signs for which permits are not required, is amended to:

- Provide that specified provisions allowing certain signs without a permit may not be implemented or continued if the federal government notifies FDOT that implementation or continuation will adversely affect the allocation of federal funds to the FDOT;
- Remove a requirement for FDOT rules relating to lighting restrictions, as the FDOT relies on the existing requirements listed in s. 479.11(5), F.S.;
- Remove a provision rendering the small business sign authorization inapplicable to charter counties and strike relocated language;
- Authorize local tourist-oriented business signs within RACEC; temporary harvest signs; "acknowledgement signs" on publicly-funded school premises, and displays erected on a "sports facility," all under specified conditions; and
- Provide that if the specified exemptions are not implemented or continued due to notice from the federal government that allocation of federal funds to the FDOT will be adversely impacted, the FDOT must provide notice to the sign owner that the sign must be removed within 30 days after receipt of the notice; and, if the sign is not so removed, the FDOT may remove the sign and assess against and collect from the owner the costs incurred.

These revisions eliminate an unnecessary rulemaking requirement and provide greater opportunity for installation and maintenance of the specified signs without obtaining a permit, while protecting against the potential 10 percent federal funds penalty.

Section 20 - Compensation for Removal of Signs

Section 479.24, F.S., is amended to require the FDOT to pay just compensation for acquisition (rather than removal) of a lawful conforming sign, in addition to a nonconforming sign.

Section 21 - Noise-Attenuation Barriers Blocking View of Signs

Section 479.25, F.S., relating to erection of noise-attenuation barriers (sound walls) blocking the view of a sign, is amended to:

- Make "plain language" and conforming changes;
- Upon a determination that an increase in the height of a sign will violate a provision contained in a local ordinance or land development regulation, require the local government or jurisdiction to provide a variance or waiver to allow an increase in the height of the sign (or allow the sign to be relocated, or pay the fair market value of the sign); and
- Strike an FDOT requirement to conduct a written survey of all property owners impacted by noise who may benefit from the barrier.

These revisions revise the duties of the FDOT and local governments with respect to a proposed sound wall.

Section 22 - Logo Program

Section 479.261(1) and (1)(b), F.S., is revised to:

- Expand the logo sign program to the entire limited-access highway system, rather than just the interstate highway system, as is already authorized under the federal MUTCD; and
- Require the FDOT rules relating to "RV-friendly" markers on logo signs to establish minimum requirements for parking spaces, entrances and exits, and overhead clearance which must be met by establishments to qualify as RV-friendly.

Opportunities for business participation in the logo sign program are increased, and the FDOT rule requirements for RV-friendly establishments are minimally, but more specifically, established.

Section 23 - Tourist-Oriented Direction Sign Program

Section 479.262, F.S., is amended to expand the TOD sign program by repealing the restriction limiting the program to roads in a RACEC and providing that the program applies to intersections on rural and conventional state, county, or municipal roads. The bill also expressly states, consistent with Rule 14-51.063, F.A.C., and the MUTCD, that a TOD sign may not be used on roads in urban areas or at interchanges on freeways or expressways. Opportunities for business participation in the TOD sign program are increased.

The bill also makes the following revisions:

Section 16 amends s. 479.111(2), F.S., to insert in a reference to the agreement between the state and the USDOT the year the agreement was entered into; *i.e.*, 1972.

Section 18 amends s. 479.156, F.S., relating to wall murals, to replace references to the "Highway Beautification Act" with references to its statutory placement in federal law, 23 U.S.C. s. 131, and to correct cross-references.

Section 25 repeals s. 76 of ch. 2012-174, L.O.F., which established a pilot program for TOD outdoor advertising signs in RACEC. The program is replaced by authority to erect such signs without a permit under certain conditions, as described in section 18 of the bill.

Section 26 establishes a pilot program for the Palm Beach County School District to recognize its business partners. The school district may recognize its business partners by displaying their names on school district property in the unincorporated areas of the county. The bill provides guidelines for the types of recognitions that are appropriate and the size, color, and placement of the signs. This section of the bill preempts conflicting local laws. The FDOT has the authority to direct the school district to remove a sign if it is determined that permitting the sign will endanger the receipt of federal funding due to loss of effective control of outside advertising. The program expires June 30, 2015. This section of the bill is created in an undesignated section of the Florida Statutes.

Section 27 provides the act takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 9

The maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction is increased from $100 to $1,000, a fee to which those requesting a multiple transfer would be subject. The FDOT notes the transfer fee of $5 for each permit to be transferred is not changing; however, in many instances, the transfer requests are so numerous that the $100 fee is not covering the FDOT's actual costs to transfer the permits.

As to the permit reinstatement fee, the bill strikes the words "up to" and "based on the size of the sign," leaving the fee at a static $300. The FDOT currently charges $300 for permit reinstatement; no private sector fiscal impact will occur.

Section 22

Revision of the TOD sign program to eliminate restriction of the program to signs at intersections in a RACEC provides greater opportunity for business participation in the program. Participants may be subject to permit fees established by local governments.

C. Government Sector Impact:

Section 1

According to the FDOT, existing lease payments for wireless communications total approximately $1.4 million annually. Factoring the revenues from lease payments would provide a lump sum of cash that would be available for statewide transportation projects in the initial year of a factoring agreement with investors. However, the forecasted annual

revenue for existing lease payments would be eliminated in later years of the transportation work program and an alternative fund source would be needed for existing commitments programmed to use those revenues. Factoring the revenues may result in a negative fiscal impact over time.

Although the bill subjects WMD public information signs to the HBA, all federal laws, and the 1972 agreement, s. 373.618, F.S., continues to authorize private sponsors to display commercial messages on WMD public information signs. Should such signs display commercial messages on WMD public information signs located within a "controlled area," the potential for a federal funds penalty of 10 percent of federal highway funds still exists.

Section 9

The FDOT expects to recoup its administrative expenses associated with processing large requests for multiple transfers at the same fee of $5 per transfer but with the increased cap of $1,000 for multiple transfers.

VI. Technical Deficiencies:

Consistent with other revisions in the bill, the word "highway" should be inserted between "primary" and "system" on line 273 and on line 670.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 373.618, 479.01, 479.02, 479.03, 479.04, 479.05, 479.07, 479.08, 479.10, 479.105, 479.106, 479.107, 479.111, 479.15, 479.156, 479.16, 479.24, 479.25, 479.261, 479.262, and 479.313.

This bill creates the following sections of the Florida Statutes: 339.041 and 479.024.

This bill repeals section 76 of chapter 2012-174, Laws of Florida.

IX. Additional Information:

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

CS/CS by Community Affairs on April 1, 2014:

- Prohibits subjecting certain authorities to a referendum more often than once every eight years.
- Provides that referendums may only affect future bond issuances.
- Creates a pilot program authorizing the Palm Beach County School District to recognize its business partners through public displays on school property in

unincorporated areas of the county. Provides guidelines and for preemption. The program is to expire on June 30, 2015.

CS by Transportation on March 20, 2014:

- Removes language from the bill that would have subjected WMD public information signs to the provisions of ch. 479, F.S., governing outdoor advertising.
- Removes from the bill stricken language that would have subjected such signs to local government review and approval.
- Provides that such signs are subject to certain federal laws and agreements when applicable.

The committee also adopted a technical amendment to restore use of the word "regulation," rather than "rules," as it relates to those regulations established and enforced by municipalities and counties with respect to criteria governing wall murals in areas zoned for commercial and industrial use.

B. Amendments:

None.

By the Committee on Transportation; and Senator Latvala

596-02948-14 20141048c1

A bill to be entitled

An act relating to the Department of Transportation; creating s. 339.041, F.S.; providing legislative findings and intent; authorizing the department to seek certain investors for certain leases; prohibiting the department from pledging the credit, general revenues, or taxing power of the state or any political subdivision of the state; specifying the collection and deposit of lease payments by agreement with the department; amending s. 373.618, F.S.; providing that a public information system is subject to the requirements of the Highway Beautification Act of 1965 and all federal laws and agreements when applicable; deleting an exemption; amending s. 479.01, F.S., relating to outdoor advertising signs; revising and deleting definitions; amending s. 479.02, F.S.; revising duties of the Department of Transportation relating to signs; deleting a requirement that the department adopt certain rules; creating s. 479.024, F.S.; limiting the placement of signs to commercial or industrial zones; defining the terms "parcel" and "utilities"; requiring a local government to use specified criteria to determine zoning for commercial or industrial parcels; providing that certain parcels are considered unzoned commercial or industrial areas; authorizing a permit for a sign in an unzoned commercial or industrial area in certain circumstances; prohibiting specified uses and activities from being independently recognized as

commercial or industrial; providing an appeal process for an applicant whose permit is denied; requiring an applicant whose application is denied to remove an existing sign pertaining to the application; requiring the department to reduce certain transportation funding in certain circumstances; amending s. 479.03, F.S.; requiring notice to owners of intervening privately owned lands before the department enters upon such lands to remove an illegal sign; amending s. 479.04, F.S.; providing that an outdoor advertising license is not required solely to erect or construct outdoor signs or structures; amending s. 479.05, F.S.; authorizing the department to suspend a license for certain offenses and specifying activities that the licensee may engage in during the suspension; prohibiting the department from granting a transfer of an existing permit or issuing an additional permit during the suspension; amending s. 479.07, F.S.; revising requirements for obtaining sign permits; conforming and clarifying provisions; revising permit tag placement requirements for signs; deleting a provision that allows a permittee to provide its own replacement tag; increasing the permit transfer fee for any multiple transfers between two outdoor advertisers in a single transaction; revising the permit reinstatement fee; revising requirements for permitting certain signs visible to more than one highway; deleting provisions limiting a pilot program to specified locations; deleting redundant provisions

relating to certain new or replacement signs; deleting provisions requiring maintenance of statistics on the pilot program; amending s. 479.08, F.S.; revising provisions relating to the denial or revocation of a permit because of false or misleading information in the permit application; amending s. 479.10, F.S.; authorizing the cancellation of a permit; amending s. 479.105, F.S.; revising notice requirements to owners and advertisers relating to signs erected or maintained without a permit; revising procedures for the department to issue a permit as a conforming or nonconforming sign to the owner of an unpermitted sign; providing a penalty; amending s. 479.106, F.S.; revising provisions relating to the removal, cutting, or trimming of trees or vegetation to increase sign face visibility; providing that a specified penalty is applied per sign facing; amending s. 479.107, F.S.; deleting a fine for specified violations; amending s. 479.11, F.S.; prohibiting signs on specified portions of the interstate highway system; amending s. 479.111, F.S.; clarifying a reference to a certain agreement; amending s. 479.15, F.S.; deleting a definition; revising provisions relating to relocation of certain signs on property subject to public acquisition; amending s. 479.156, F.S.; clarifying provisions relating to the regulation of wall murals; amending s. 479.16, F.S.; exempting certain signs from ch. 479, F.S.; exempting from permitting certain signs placed by tourist-oriented businesses, certain farm signs

placed during harvest seasons, certain acknowledgment signs on publicly funded school premises, and certain displays on specific sports facilities; prohibiting certain permit exemptions from being implemented or continued if the implementations or continuations will adversely impact the allocation of federal funds to the Department of Transportation; directing the department to notify a sign owner that the sign must be removed if federal funds are adversely impacted; authorizing the department to remove the sign and assess costs to the sign owner under certain circumstances; amending s. 479.24, F.S.; clarifying provisions relating to compensation paid for the department's acquisition of lawful signs; amending s. 479.25, F.S.; revising provisions relating to local government action with respect to erection of noise-attenuation barriers that block views of lawfully erected signs; deleting provisions to conform to changes made by the act; amending s. 479.261, F.S.; expanding the logo program to the limited access highway system; conforming provisions related to a logo sign program on the limited access highway system; amending s. 479.262, F.S.; clarifying provisions relating to the tourist-oriented directional sign program; limiting the placement of such signs to intersections on certain rural roads; prohibiting such signs in urban areas or at interchanges on freeways or expressways; amending s. 479.313, F.S.; requiring a permittee to pay the cost

of removing certain signs following the cancellation of the permit for the sign; repealing s. 76 of chapter 2012-174, Laws of Florida, relating to authorizing the department to seek Federal Highway Administration approval of a tourist-oriented commerce sign pilot program and directing the department to submit the approved pilot program for legislative approval; providing an effective date.

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

Section 1. Section 339.041, Florida Statutes, is created to read:

339.041 Factoring of revenues from leases for wireless communication facilities.—

(1) The Legislature finds that efforts to increase funding for capital expenditures for the transportation system are necessary for the protection of the public safety and general welfare and for the preservation of transportation facilities in this state. Therefore, it is the intent of the Legislature to:

(a) Create a mechanism for factoring future revenues received by the department from leases for wireless communication facilities on department property on a nonrecourse basis;

(b) Fund fixed capital expenditures for the statewide transportation system from proceeds generated through this mechanism; and

(c) Maximize revenues from factoring by ensuring that such revenues are exempt from income taxation under federal law in

order to increase funds available for capital expenditures.

(2) For the purposes of factoring future revenues under this section, department property includes real property located within the department's limited access rights-of-way, real property located outside the current operating right-of-way limits which is not needed to support current transportation facilities, other property owned by the Board of Trustees of the Internal Improvement Trust Fund and leased by the department, space on department telecommunications facilities, and space on department structures.

(3) The department may seek investors willing to enter into agreements to purchase the revenue stream from one or more existing department leases for wireless communication facilities on property owned or controlled by the department. Such agreements are exempt from chapter 287 and, in order to provide the largest possible payout, shall be structured as tax-exempt financings for federal income tax purposes.

(4) The department may not pledge the credit, the general revenues, or the taxing power of the state or of any political subdivision of the state. The obligations of the department and investors under the agreement do not constitute a general obligation of the state or a pledge of the full faith and credit or taxing power of the state. The agreement is payable from and secured solely by payments received from department leases for wireless communication facilities on property owned or controlled by the department, and neither the state nor any of its agencies has any liability beyond such payments.

(5) The department may make any covenant or representation necessary or desirable in connection with the agreement,

including a commitment by the department to take whatever actions are necessary on behalf of investors to enforce the department's rights to payments on property leased for wireless communications facilities. However, the department may not guarantee that actual revenues received in a future year will be those anticipated in its leases for wireless communication facilities. The department may agree to use its best efforts to ensure that anticipated future-year revenues are protected. Any risk that actual revenues received from department leases for wireless communications facilities are lower than anticipated shall be borne exclusively by investors.

(6) Subject to annual appropriation, investors shall collect the lease payments on a schedule and in a manner established in the agreements entered into by the department and investors pursuant to this section. The agreements may provide for lease payments to be made directly to investors by lessees if the lease agreements entered into by the department and the lessees pursuant to s. 365.172(12)(f) allow direct payment.

(7) Proceeds received by the department from leases for wireless communication facilities shall be deposited in the State Transportation Trust Fund created under s. 206.46 and used for fixed capital expenditures for the statewide transportation system.

Section 2. Section 373.618, Florida Statutes, is amended to read:

373.618 Public service warnings, alerts, and announcements.—The Legislature believes it is in the public interest that all water management districts created pursuant to s. 373.069 own, acquire, develop, construct, operate, and manage

public information systems. Public information systems may be located on property owned by the water management district, upon terms and conditions approved by the water management district, and must display messages to the general public concerning water management services, activities, events, and sponsors, as well as other public service announcements, including watering restrictions, severe weather reports, amber alerts, and other essential information needed by the public. Local government review or approval is not required for a public information system owned or hereafter acquired, developed, or constructed by the water management district on its own property. A public information system is subject to ~~exempt from~~ the requirements of the Highway Beautification Act of 1965 and all federal laws and agreements when applicable ~~chapter 479~~. Water management district funds may not be used to pay the cost to acquire, develop, construct, operate, or manage a public information system. Any necessary funds for a public information system shall be paid for and collected from private sponsors who may display commercial messages.

Section 3. Section 479.01, Florida Statutes, is amended to read:

479.01 Definitions.—As used in this chapter, the term:

(1) "Allowable uses" means the intended uses identified in a local government's land development regulations which ~~those uses that~~ are authorized within a zoning category as a use by right, without the requirement to obtain a variance or waiver. The term includes conditional uses and those allowed by special exception if such uses are a present and actual use, but does not include uses that are accessory, ancillary, incidental to

the allowable uses, or allowed only on a temporary basis.

(2) "Automatic changeable facing" means a facing that is capable of delivering two or more advertising messages through an automated or remotely controlled process.

(3) "Business of outdoor advertising" means the business of ~~constructing, erecting,~~ operating, ~~using,~~ maintaining, leasing, or selling outdoor advertising structures, outdoor advertising signs, or outdoor advertisements.

~~(4) "Commercial or industrial zone" means a parcel of land designated for commercial or industrial uses under both the future land use map of the comprehensive plan and the land use development regulations adopted pursuant to chapter 163. If a parcel is located in an area designated for multiple uses on the future land use map of a comprehensive plan and the zoning category of the land development regulations does not clearly designate that parcel for a specific use, the area will be considered an unzoned commercial or industrial area if it meets the criteria of subsection (26).~~

(4)~~(5)~~ "Commercial use" means activities associated with the sale, rental, or distribution of products or the performance of services. The term includes, but is not limited to ~~without limitation~~, such uses or activities as retail sales; wholesale sales; rentals of equipment, goods, or products; offices; restaurants; food service vendors; sports arenas; theaters; and tourist attractions.

(5)~~(6)~~ "Controlled area" means 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary highway system and beyond 660 feet of the nearest edge of the right-of-

way of any portion of the State Highway System, interstate highway system, or federal-aid primary system outside an urban area.

(6) ~~(7)~~ "Department" means the Department of Transportation.

(7) ~~(8)~~ "Erect" means to construct, build, raise, assemble, place, affix, attach, create, paint, draw, or in any other way bring into being or establish. The term~~; but it~~ does not include such ~~any of the foregoing~~ activities when performed as an incident to the change of advertising message or customary maintenance or repair of a sign.

(8) ~~(9)~~ "Federal-aid primary highway system" means the federal-aid primary highway system in existence on June 1, 1991, and any highway that was not a part of such system as of that date but that is, or became after June 1, 1991, a part of the National Highway System, including portions that have been accepted as part of the National Highway System but are unbuilt or unopened ~~existing, unbuilt, or unopened system of highways or portions thereof, which shall include the National Highway System, designated as the federal-aid primary highway system by the department~~.

(9) ~~(10)~~ "Highway" means any road, street, or other way open or intended to be opened to the public for travel by motor vehicles.

(10) ~~(11)~~ "Industrial use" means activities associated with the manufacture, assembly, processing, or storage of products or the performance of related services ~~relating thereto~~. The term includes, but is not limited to ~~without limitation~~, such uses or activities as automobile manufacturing or repair, boat manufacturing or repair, junk yards, meat packing facilities,

citrus processing and packing facilities, produce processing and packing facilities, electrical generating plants, water treatment plants, sewage treatment plants, and solid waste disposal sites.

(11) ~~(12)~~ "Interstate highway system" means the existing, unbuilt, or unopened system of highways or portions thereof designated as the national system of interstate and defense highways by the department.

(12) ~~(13)~~ "Main-traveled way" means the traveled way of a highway on which through traffic is carried. In the case of a divided highway, the traveled way of each of the separate roadways for traffic in opposite directions is a main-traveled way. The term ~~It~~ does not include such facilities as frontage roads, turning roadways which specifically include on-ramps or off-ramps to the interstate highway system, or parking areas.

(13) ~~(14)~~ "Maintain" means to allow to exist.

(14) ~~(15)~~ "Motorist services directional signs" means signs providing directional information about goods and services in the interest of the traveling public where such signs were lawfully erected and in existence on or before May 6, 1976, and continue to provide directional information to goods and services in a defined area.

(15) ~~(16)~~ "New highway" means the construction of any road, paved or unpaved, where no road previously existed or the act of paving any previously unpaved road.

(16) ~~(17)~~ "Nonconforming sign" means a sign which was lawfully erected but which does not comply with the land use, setback, size, spacing, and lighting provisions of state or local law, rule, regulation, or ordinance passed at a later date

or a sign which was lawfully erected but which later fails to comply with state or local law, rule, regulation, or ordinance due to changed conditions.

(17) ~~(18)~~ "Premises" means all the land areas under ownership or lease arrangement to the sign owner which are contiguous to the business conducted on the land except for instances where such land is a narrow strip contiguous to the advertised activity or is connected by such narrow strip, the only viable use of such land is to erect or maintain an advertising sign. If ~~When~~ the sign owner is a municipality or county, the term means ~~"premises" shall mean~~ all lands owned or leased by the ~~such~~ municipality or county within its jurisdictional boundaries ~~as set forth by law~~.

(18) ~~(19)~~ "Remove" means to disassemble all sign materials above ground level and~~,~~ transport such materials from the site~~, and dispose of sign materials by sale or destruction~~.

(19) ~~(20)~~ "Sign" means any combination of structure and message in the form of an outdoor sign, display, device, figure, painting, drawing, message, placard, poster, billboard, advertising structure, advertisement, logo, symbol, or other form, whether placed individually or on a V-type, back-to-back, side-to-side, stacked, or double-faced display or automatic changeable facing, designed, intended, or used to advertise or inform, any part of the advertising message or informative contents of which is visible from any place on the main-traveled way. The term does not include an official traffic control sign, official marker, or specific information panel erected, caused to be erected, or approved by the department.

(20) ~~(21)~~ "Sign direction" means the ~~that~~ direction from

which the message or informative contents are most visible to oncoming traffic on the main-traveled way.

(21) ~~(22)~~ "Sign face" means the part of a ~~the~~ sign, including trim and background, which contains the message or informative contents, including an automatic changeable face.

(22) ~~(23)~~ "Sign facing" includes all sign faces and automatic changeable faces displayed at the same location and facing the same direction.

(23) ~~(24)~~ "Sign structure" means all the interrelated parts and material, such as beams, poles, and stringers, which are constructed for the purpose of supporting or displaying a message or informative contents.

(24) ~~(25)~~ "State Highway System" has the same meaning as in s. 334.03 ~~means the existing, unbuilt, or unopened system of highways or portions thereof designated as the State Highway System by the department~~.

~~(26) "Unzoned commercial or industrial area" means a parcel of land designated by the future land use map of the comprehensive plan for multiple uses that include commercial or industrial uses but are not specifically designated for commercial or industrial uses under the land development regulations, in which three or more separate and distinct conforming industrial or commercial activities are located.~~

~~(a) These activities must satisfy the following criteria:~~

~~1. At least one of the commercial or industrial activities must be located on the same side of the highway and within 800 feet of the sign location;~~

~~2. The commercial or industrial activities must be within 660 feet from the nearest edge of the right-of-way; and~~

~~3. The commercial industrial activities must be within 1,600 feet of each other.~~

~~Distances specified in this paragraph must be measured from the nearest outer edge of the primary building or primary building complex when the individual units of the complex are connected by covered walkways.~~

~~(b) Certain activities, including, but not limited to, the following, may not be so recognized as commercial or industrial activities:~~

~~1. Signs.~~

~~2. Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.~~

~~3. Transient or temporary activities.~~

~~4. Activities not visible from the main-traveled way.~~

~~5. Activities conducted more than 660 feet from the nearest edge of the right-of-way.~~

~~6. Activities conducted in a building principally used as a residence.~~

~~7. Railroad tracks and minor sidings.~~

~~8. Communication towers.~~

(25) ~~(27)~~ "Urban area" has the same meaning as ~~defined~~ in s. 334.03 ~~(31)~~.

(26) ~~(28)~~ "Visible commercial or industrial activity" means a commercial or industrial activity that is capable of being seen without visual aid by a person of normal visual acuity from the main-traveled way and that is generally recognizable as commercial or industrial.

(27)~~(29)~~ "Visible sign" means that the advertising message or informative contents of a sign, whether or not legible, can be ~~is capable of being~~ seen without visual aid by a person of normal visual acuity.

(28)~~(30)~~ "Wall mural" means a sign that is a painting or an artistic work composed of photographs or arrangements of color and that displays a commercial or noncommercial message, relies solely on the side of the building for rigid structural support, and is painted on the building or depicted on vinyl, fabric, or other similarly flexible material that is held in place flush or flat against the surface of the building. The term excludes a painting or work placed on a structure that is erected for the sole or primary purpose of signage.

(29)~~(31)~~ "Zoning category" means the designation under the land development regulations or other similar ordinance enacted to regulate the use of land as provided in s. 163.3202(2)(b), which designation sets forth the allowable uses, restrictions, and limitations on use applicable to properties within the category.

Section 4. Section 479.02, Florida Statutes, is amended to read:

479.02 Duties of the department. ~~It shall be the duty of~~ The department shall ~~to~~:

(1) Administer and enforce ~~the provisions of~~ this chapter, ~~and~~ the 1972 agreement between the state and the United States Department of Transportation ~~relating to the size~~, ~~lighting, and spacing of signs in accordance with Title I of the Highway Beautification Act of 1965 and~~ Title 23 of the~~,~~ United States Code, and federal regulations, including, but not limited to,

those pertaining to the maintenance, continuance, and removal of nonconforming signs ~~in effect as of the effective date of this act~~.

(2) Regulate size, height, lighting, and spacing of signs permitted on commercial and industrial parcels and in unzoned commercial or industrial areas ~~in zoned and unzoned commercial areas and zoned and unzoned industrial areas~~ on the interstate highway system and the federal-aid primary highway system.

(3) Determine ~~unzoned~~ commercial and industrial parcels and unzoned commercial or ~~areas and unzoned~~ industrial areas in the manner provided in s. 479.024.

(4) Implement a specific information panel program on the limited access ~~interstate~~ highway system to promote tourist-oriented businesses by providing directional information safely and aesthetically.

(5) Implement a rest area information panel or devices program at rest areas along the interstate highway system and the federal-aid primary highway system to promote tourist-oriented businesses.

(6) Test and, if economically feasible, implement alternative methods of providing information in the specific interest of the traveling public which allow the traveling public freedom of choice, conserve natural beauty, and present information safely and aesthetically.

(7) Adopt such rules as the department ~~it~~ deems necessary or proper for the administration of this chapter, including rules that ~~which~~ identify activities that may not be recognized as industrial or commercial activities for purposes of determination of a ~~an area as an unzoned~~ commercial or

industrial parcel or an unzoned commercial or industrial area in the manner provided in s. 479.024.

(8) ~~Prior to July 1, 1998,~~ Inventory and determine the location of all signs on the state highway system, interstate highway system, and federal-aid primary highway system to be used as ~~systems. Upon completion of the inventory, it shall become~~ the database and permit information for all permitted signs ~~permitted at the time of completion, and the previous records of the department shall be amended accordingly~~. The inventory shall be updated at least ~~no less than~~ every 2 years. ~~The department shall adopt rules regarding what information is to be collected and preserved to implement the purposes of this chapter.~~ The department may perform the inventory using department staff~~,~~ or may contract with a private firm to perform the work, whichever is more cost efficient. The department shall maintain a database of sign inventory information such as sign location, size, height, and structure type, the permittee's ~~permitholder's~~ name, and any other information the department finds necessary to administer the program.

Section 5. Section 479.024, Florida Statutes, is created to read:

479.024 Commercial and industrial parcels.—Signs shall be permitted by the department only in commercial or industrial zones, as determined by the local government, in compliance with chapter 163, unless otherwise provided in this chapter. Commercial and industrial zones are those areas appropriate for commerce, industry, or trade, regardless of how those areas are labeled.

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

(a) "Parcel" means the property where the sign is located or is proposed to be located.

(b) "Utilities" includes all privately, publicly, or cooperatively owned lines, facilities, and systems for producing, transmitting, or distributing communications, power, electricity, light, heat, gas, oil, crude products, water, steam, waste, and stormwater not connected with the highway drainage, and other similar commodities.

(2) The determination as to zoning by the local government for the parcel must meet all of the following criteria:

(a) The parcel is comprehensively zoned and includes commercial or industrial uses as allowable uses.

(b) The parcel can reasonably accommodate a commercial or industrial use under the future land use map of the comprehensive plan and land use development regulations, as follows:

1. Sufficient utilities are available to support commercial or industrial development; and

2. The size, configuration, and public access of the parcel are sufficient to accommodate a commercial or industrial use, given the requirements in the comprehensive plan and land development regulations for vehicular access, on-site circulation, building setbacks, buffering, parking, and other applicable standards or the parcel consists of railroad tracks or minor sidings abutting commercial or industrial property that meets the criteria of this subsection.

(c) The parcel is not being used exclusively for noncommercial or nonindustrial uses.

(3) If a local government has not designated zoning through

land development regulations in compliance with chapter 163 but has designated the parcel under the future land use map of the comprehensive plan for uses that include commercial or industrial uses, the parcel shall be considered an unzoned commercial or industrial area. For a permit to be issued for a sign in an unzoned commercial or industrial area, there must be three or more distinct commercial or industrial activities within 1,600 feet of each other, with at least one of the commercial or industrial activities located on the same side of the highway as, and within 800 feet of, the sign location. Multiple commercial or industrial activities enclosed in one building shall be considered one use if all activities have only shared building entrances.

(4) For purposes of this section, certain uses and activities may not be independently recognized as commercial or industrial, including, but not limited to:

(a) Signs.

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands.

(c) Transient or temporary activities.

(d) Activities not visible from the main-traveled way, unless a department transportation facility is the only cause for the activity not being visible.

(e) Activities conducted more than 660 feet from the nearest edge of the right-of-way.

(f) Activities conducted in a building principally used as a residence.

(g) Railroad tracks and minor sidings, unless the tracks

and sidings are abutted by a commercial or industrial property that meets the criteria in subsection (2).

(h) Communication towers.

(i) Public parks, public recreation services, and governmental uses and activities that take place in a structure that serves as the permanent public meeting place for local, state, or federal boards, commissions, or courts.

(5) If the local government has indicated that the proposed sign location is on a parcel that is in a commercial or industrial zone but the department finds that it is not, the department shall notify the sign applicant in writing of its determination.

(6) An applicant whose application for a permit is denied may request, within 30 days after the receipt of the notification of intent to deny, an administrative hearing pursuant to chapter 120 for a determination of whether the parcel is located in a commercial or industrial zone. Upon receipt of such request, the department shall notify the local government that the applicant has requested an administrative hearing pursuant to chapter 120.

(7) If the department determines in a final order that the parcel does not meet the permitting conditions in this section and a sign exists on the parcel, the applicant shall remove the sign within 30 days after the date of the order. The applicant is responsible for all sign removal costs.

(8) If the Federal Highway Administration reduces funds that would otherwise be apportioned to the department due to a local government's failure to comply with this section, the department shall reduce transportation funding apportioned to

the local government by an equivalent amount.

Section 6. Section 479.03, Florida Statutes, is amended to read:

479.03 Jurisdiction of the Department of Transportation; entry upon privately owned lands.—The territory under the jurisdiction of the department for the purpose of this chapter includes ~~shall include~~ all the state. Employees, agents, or independent contractors working for the department, in the performance of their functions and duties under the provisions of this chapter, may enter into and upon any land upon which a sign is displayed, is proposed to be erected, or is being erected and make such inspections, surveys, and removals as may be relevant. Upon written notice to ~~After receiving consent by~~ the landowner, operator, or person in charge of an intervening privately owned land that ~~or appropriate inspection warrant issued by a judge of any county court or circuit court of this state which has jurisdiction of the place or thing to be removed, that~~ the removal of an illegal outdoor advertising sign is necessary and has been authorized by a final order or results from an uncontested notice to the sign owner, the department may ~~shall be authorized to~~ enter upon any intervening privately owned lands for the purposes of effectuating removal of illegal signs.~~, provided that~~ The department may enter intervening privately owned lands ~~shall~~ only ~~do so~~ in circumstances where it has determined that ~~no~~ other legal or economically feasible means of entry to the sign site are not reasonably available. Except as otherwise provided by this chapter, the department is ~~shall be~~ responsible for the repair or replacement in a like manner for any physical damage or destruction of private

property, other than the sign, incidental to the department's entry upon such intervening privately owned lands.

Section 7. Section 479.04, Florida Statutes, is amended to read:

479.04 Business of outdoor advertising; license requirement; renewal; fees.—

(1) A ~~No~~ person may not ~~shall~~ engage in the business of outdoor advertising in this state without first obtaining a license ~~therefor~~ from the department. Such license shall be renewed annually. The fee for such license, and for each annual renewal, is $300. License renewal fees are ~~shall be~~ payable as provided for in s. 479.07.

(2) A ~~No~~ person is not ~~shall be~~ required to obtain the license provided for in this section solely to erect or construct outdoor advertising signs or structures ~~as an incidental part of a building construction contract~~.

Section 8. Section 479.05, Florida Statutes, is amended to read:

479.05 Denial, suspension, or revocation of license.—The department may ~~has authority to~~ deny, suspend, or revoke a ~~any~~ license requested or granted under this chapter in any case in which it determines that the application for the license contains ~~knowingly~~ false or misleading information of material consequence, that the licensee has failed to pay fees or costs owed to the department for outdoor advertising purposes, or that the licensee has violated any of the provisions of this chapter, unless such licensee, within 30 days after the receipt of notice by the department, corrects such false or misleading information, pays the outstanding amounts, or complies with ~~the~~

~~provisions of~~ this chapter. Suspension of a license allows the licensee to maintain existing sign permits, but the department may not grant a transfer of an existing permit or issue an additional permit to a licensee with a suspended license. A ~~Any~~ person aggrieved by an ~~any~~ action of the department which denies, suspends, or revokes ~~in denying or revoking~~ a license under this chapter may, within 30 days after ~~from~~ the receipt of the notice, apply to the department for an administrative hearing pursuant to chapter 120.

Section 9. Section 479.07, Florida Statutes, is amended to read:

479.07 Sign permits.—

(1) Except as provided in ss. 479.105(1)~~(c)~~ and 479.16, a person may not erect, operate, use, or maintain, or cause to be erected, operated, used, or maintained, any sign on the State Highway System outside an urban area, ~~as defined in s. 334.03(31),~~ or on any portion of the interstate or federal-aid primary highway system without first obtaining a permit for the sign from the department and paying the annual fee as provided in this section. As used in this section, the term "on any portion of the State Highway System, interstate highway system, or federal-aid primary system" means a sign located within the controlled area which is visible from any portion of the main-traveled way of such system.

(2) ~~A person may not apply for a permit unless he or she has first obtained the~~ Written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign is required for issuance of a ~~in the application for the~~ permit.

(3)(a) An application for a sign permit must be made on a form prescribed by the department, and a separate application must be submitted for each permit requested. A permit is required for each sign facing.

(b) As part of the application, the applicant or his or her authorized representative must certify ~~in a notarized signed statement~~ that all information provided in the application is true and correct ~~and that, pursuant to subsection (2), he or she has obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application~~. Each ~~Every~~ permit application must be accompanied by the appropriate permit fee; a signed statement by the owner or other person in lawful control of the site on which the sign is located or will be erected, authorizing the placement of the sign on that site; ~~and, where local governmental regulation of signs exists,~~ a statement from the appropriate local governmental official indicating that the sign complies with all local government ~~governmental~~ requirements; and, if a local government permit is required for a sign, a statement that the agency or unit of local government will issue a permit to that applicant upon approval of the state permit application by the department.

(c) The annual permit fee for each sign facing shall be established by the department by rule in an amount sufficient to offset the total cost to the department for the program, but may ~~shall~~ not be greater than ~~exceed~~ $100. The ~~A fee may not be prorated for a period less than the remainder of the permit year to accommodate short-term publicity features; however, a~~ first-year fee may be prorated by payment of an amount equal to one-

fourth of the annual fee for each remaining whole quarter or partial quarter of the permit year. Applications received after the end of the third quarter of the permit year must include fees for the last quarter of the current year and fees for the succeeding year.

(4) An application for a permit shall be acted on by granting, denying, or returning the incomplete application ~~the department~~ within 30 days after receipt of the application by the department.

(5)(a) For each permit issued, the department shall furnish to the applicant a serially numbered permanent metal permit tag. The permittee is responsible for maintaining a valid permit tag on each permitted sign facing at all times. The tag shall be securely attached to the upper 50 percent of the sign structure, and ~~sign facing or, if there is no facing, on the pole nearest the highway; and it shall be~~ attached in such a manner as to be plainly visible from the main-traveled way. ~~Effective July 1, 2012, the tag must be securely attached to the upper 50 percent of the pole nearest the highway and must be attached in such a manner as to be plainly visible from the main-traveled way.~~ The permit ~~becomes void unless the permit~~ tag must be ~~is~~ properly and permanently displayed at the permitted site within 30 days after the date of permit issuance. If the permittee fails to erect a completed sign on the permitted site within 270 days after the date on which the permit was issued, the permit will be void, and the department may not issue a new permit to that permittee for the same location for 270 days after the date on which the permit becomes ~~became~~ void.

(b) If a permit tag is lost, stolen, or destroyed, the

permittee to whom the tag was issued must apply to the department for a replacement tag. The department shall adopt a rule establishing a service fee for replacement tags in an amount that will recover the actual cost of providing the replacement tag. Upon receipt of the application accompanied by the service fee, the department shall issue a replacement permit tag. ~~Alternatively, the permittee may provide its own replacement tag pursuant to department specifications that the department shall adopt by rule at the time it establishes the service fee for replacement tags.~~

(6) A permit is valid only for the location specified in the permit. Valid permits may be transferred from one sign owner to another upon written acknowledgment from the current permittee and submittal of a transfer fee of $5 for each permit to be transferred. However, the maximum transfer fee for any multiple transfer between two outdoor advertisers in a single transaction is $1,000 ~~$100~~.

(7) A permittee shall at all times maintain the permission of the owner or other person in lawful control of the sign site in order to have and maintain a sign at such site.

(8)(a) In order to reduce peak workloads, the department may adopt rules providing for staggered expiration dates for licenses and permits. Unless otherwise provided for by rule, all licenses and permits expire annually on January 15. All license and permit renewal fees are required to be submitted to the department by no later than the expiration date. At least 105 days before ~~prior to~~ the expiration date of licenses and permits, the department shall send to each permittee a notice of fees due for all licenses and permits that ~~which~~ were issued to

him or her before ~~prior to~~ the date of the notice. Such notice must ~~shall~~ list the permits and the permit fees due for each sign facing. The permittee shall, no later than 45 days before ~~prior to~~ the expiration date, advise the department of any additions, deletions, or errors contained in the notice. Permit tags that ~~which~~ are not renewed shall be returned to the department for cancellation by the expiration date. Permits that ~~which~~ are not renewed or are canceled shall be certified in writing at that time as canceled or not renewed by the permittee, and permit tags for such permits shall be returned to the department or shall be accounted for by the permittee in writing, which writing shall be submitted with the renewal fee payment or the cancellation certification. However, failure of a permittee to submit a permit cancellation does ~~shall~~ not affect the nonrenewal of a permit. Before ~~Prior to~~ cancellation of a permit, the permittee shall provide written notice to all persons or entities having a right to advertise on the sign that the permittee intends to cancel the permit.

(b) If a permittee has not submitted his or her fee payment by the expiration date of the licenses or permits, the department shall send a notice of violation to the permittee within 45 days after the expiration date, requiring the payment of the permit fee within 30 days after the date of the notice and payment of a delinquency fee equal to 10 percent of the original amount due or, in the alternative to these payments, requiring the filing of a request for an administrative hearing to show cause why the ~~his or her~~ sign should not be subject to immediate removal due to expiration of his or her license or permit. If the permittee submits payment as required by the

violation notice, the ~~his or her~~ license or permit shall ~~will~~ be automatically reinstated and such reinstatement is ~~will be~~ retroactive to the original expiration date. If the permittee does not respond to the notice of violation within the 30-day period, the department shall, within 30 days, issue a final notice of sign removal and may, following 90 days after the date of the department's final notice of sign removal, remove the sign without incurring any liability as a result of such removal. However, if at any time before removal of the sign, the permittee demonstrates that a good faith error on the part of the permittee resulted in cancellation or nonrenewal of the permit, the department may reinstate the permit if:

1. The permit reinstatement fee of ~~up to~~ $300 ~~based on the size of the sign~~ is paid;

2. All other permit renewal and delinquent permit fees due as of the reinstatement date are paid; and

3. The permittee reimburses the department for all actual costs resulting from the permit cancellation or nonrenewal.

(c) Conflicting applications filed by other persons for the same or competing sites covered by a permit subject to paragraph (b) may not be approved until after the sign subject to the expired permit has been removed.

(d) The cost for removing a sign~~, whether~~ by the department or an independent contractor~~,~~ shall be assessed by the department against the permittee.

(9)(a) A permit may ~~shall~~ not be granted for any sign for which a permit had not been granted by the effective date of this act unless such sign is located at least:

1. One thousand five hundred feet from any other permitted

sign on the same side of the highway, if on an interstate highway.

2. One thousand feet from any other permitted sign on the same side of the highway, if on a federal-aid primary highway.

The minimum spacing provided in this paragraph does not preclude the permitting of V-type, back-to-back, side-to-side, stacked, or double-faced signs at the permitted sign site. If a sign is visible to more than one highway subject to the jurisdiction of the department and within the controlled area of the highways ~~from the controlled area of more than one highway subject to the jurisdiction of the department~~, the sign must ~~shall~~ meet the permitting requirements of all highways~~,~~ and~~, if the sign meets the applicable permitting requirements,~~ be permitted to~~,~~ the highway having the more stringent permitting requirements.

(b) A permit may ~~shall~~ not be granted for a sign pursuant to this chapter to locate such sign on any portion of the interstate or federal-aid primary highway system, which sign:

1. Exceeds 50 feet in sign structure height above the crown of the main-traveled way to which the sign is permitted, if outside an incorporated area;

2. Exceeds 65 feet in sign structure height above the crown of the main-traveled way to which the sign is permitted, if inside an incorporated area; or

3. Exceeds 950 square feet of sign facing including all embellishments.

(c) Notwithstanding subparagraph (a)1., ~~there is established a pilot program in Orange, Hillsborough, and Osceola Counties, and within the boundaries of the City of Miami, under~~

~~which~~ the distance between permitted signs on the same side of an interstate highway may be reduced to 1,000 feet if all other requirements of this chapter are met and if:

1. The local government has adopted a plan, program, resolution, ordinance, or other policy encouraging the voluntary removal of signs in a downtown, historic, redevelopment, infill, or other designated area which also provides for a new or replacement sign to be erected on an interstate highway within that jurisdiction if a sign in the designated area is removed;

2. The sign owner and the local government mutually agree to the terms of the removal and replacement; and

3. The local government notifies the department of its intention to allow such removal and replacement as agreed upon pursuant to subparagraph 2.

~~4. The new or replacement sign to be erected on an interstate highway within that jurisdiction is to be located on a parcel of land specifically designated for commercial or industrial use under both the future land use map of the comprehensive plan and the land use development regulations adopted pursuant to chapter 163, and such parcel shall not be subject to an evaluation in accordance with the criteria set forth in s. 479.01(26) to determine if the parcel can be considered an unzoned commercial or industrial area.~~

~~The department shall maintain statistics tracking the use of the provisions of this pilot program based on the notifications received by the department from local governments under this paragraph.~~

(d) This subsection does not cause a sign that was

conforming on October 1, 1984, to become nonconforming.

(10) Commercial or industrial zoning that ~~which~~ is not comprehensively enacted or that ~~which~~ is enacted primarily to permit signs may ~~shall~~ not be recognized as commercial or industrial zoning for purposes of this provision, and permits may ~~shall~~ not be issued for signs in such areas. The department shall adopt rules that ~~within 180 days after this act takes effect which shall~~ provide criteria to determine whether such zoning is comprehensively enacted or enacted primarily to permit signs.

Section 10. Section 479.08, Florida Statutes, is amended to read:

479.08 Denial or revocation of permit.—The department may deny or revoke a ~~any~~ permit requested or granted under this chapter in any case in which it determines that the application for the permit contains ~~knowingly~~ false or misleading information of material consequence. The department may revoke a ~~any~~ permit granted under this chapter in any case in which the permittee has violated ~~any of the provisions of~~ this chapter, unless such permittee, within 30 days after the receipt of notice by the department, complies with ~~the provisions of~~ this chapter. For the purpose of this section, the notice of violation issued by the department must describe in detail the alleged violation. A ~~Any~~ person aggrieved by any action of the department in denying or revoking a permit under this chapter may, within 30 days after receipt of the notice, apply to the department for an administrative hearing pursuant to chapter 120. If a timely request for hearing has been filed and the department issues a final order revoking a permit, such

revocation shall be effective 30 days after the date of rendition. Except for department action pursuant to s. 479.107(1), the filing of a timely and proper notice of appeal shall operate to stay the revocation until the department's action is upheld.

Section 11. Section 479.10, Florida Statutes, is amended to read:

479.10 Sign removal following permit revocation or cancellation.—A sign shall be removed by the permittee within 30 days after the date of revocation or cancellation of the permit for the sign. If the permittee fails to remove the sign within the 30-day period, the department shall remove the sign at the permittee's expense with or without further notice and without incurring any liability as a result of such removal.

Section 12. Section 479.105, Florida Statutes, is amended to read:

479.105 Signs erected or maintained without required permit; removal.—

(1) A ~~Any~~ sign that ~~which~~ is located adjacent to the right-of-way of any highway on the State Highway System outside an incorporated area or adjacent to the right-of-way on any portion of the interstate or federal-aid primary highway system, which sign was erected, operated, or maintained without the permit required by s. 479.07(1) having been issued by the department, is declared to be a public nuisance and a private nuisance and shall be removed as provided in this section.

(a) Upon a determination by the department that a sign is in violation of s. 479.07(1), the department shall prominently post on the sign, or as close to the sign as possible for a

location in which the sign is not easily accessible, ~~face~~ a notice stating that the sign is illegal and must be removed within 30 days after the date on which the notice was posted. ~~However, if the sign bears the name of the licensee or the name and address of the nonlicensed sign owner,~~ The department shall, concurrently with and in addition to posting the notice on the sign, provide a written notice to the owner of the sign, the advertiser displayed on the sign, or the owner of the property, stating that the sign is illegal and must be permanently removed within the 30-day period specified on the posted notice. The written notice shall further state that ~~the sign owner has a right to request~~ a hearing may be requested and that the~~, which~~ request must be filed with the department within 30 days after receipt ~~the date~~ of the written notice. However, the filing of a request for a hearing will not stay the removal of the sign.

(b) If, pursuant to the notice provided, the sign is not removed by the ~~sign~~ owner of the sign, the advertiser displayed on the sign, or the owner of the property within the prescribed period, the department shall immediately remove the sign without further notice; and, for that purpose, the employees, agents, or independent contractors of the department may enter upon private property without incurring any liability for so entering.

(c) However, the department may issue a permit for a sign, as a conforming or nonconforming sign, if the sign owner demonstrates to the department one of the following:

1. If the sign meets the current requirements of this chapter for a sign permit, the sign owner may submit the required application package and receive a permit as a conforming sign, upon payment of all applicable fees.

2. If the sign does not meet the current requirements of this chapter for a sign permit and has never been exempt from the requirement that a permit be obtained, the sign owner may receive a permit as a nonconforming sign if the department determines that the sign is not located on state right-of-way and is not a safety hazard, and if the sign owner pays a penalty fee of $300 and all pertinent fees required by this chapter, including annual permit renewal fees payable since the date of the erection of the sign, and attaches to the permit application package documentation that demonstrates that:

a. The sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for 7 years or more;

b. During the initial 7 years in which the sign has been subject to the jurisdiction of the department, the sign would have met the criteria established in this chapter which were in effect at that time for issuance of a permit; and

c. The department has not initiated a notice of violation or taken other action to remove the sign during the initial 7-year period in which the sign has been subject to the jurisdiction of the department.

(d) This subsection does not cause a neighboring sign that is permitted and that is within the spacing requirements under s. 479.07(9)(a) to become nonconforming.

(e) ~~(c)~~ For purposes of this subsection, a notice to the sign owner, when required, constitutes sufficient notice. ~~; and~~ Notice is not required to be provided to the lessee, advertiser, or the owner of the real property on which the sign is located.

(f) ~~(d)~~ If, after a hearing, it is determined that a sign

has been wrongfully or erroneously removed pursuant to this subsection, the department, at the sign owner's discretion, shall either pay just compensation to the owner of the sign or reerect the sign in kind at the expense of the department.

~~(c) However, if the sign owner demonstrates to the department that:~~

~~1. The sign has been unpermitted, structurally unchanged, and continuously maintained at the same location for a period of 7 years or more;~~

~~2. At any time during the period in which the sign has been erected, the sign would have met the criteria established in this chapter for issuance of a permit;~~

~~3. The department has not initiated a notice of violation or taken other action to remove the sign during the initial 7-year period described in subparagraph 1.; and~~

~~4. The department determines that the sign is not located on state right-of-way and is not a safety hazard,~~

~~the sign may be considered a conforming or nonconforming sign and may be issued a permit by the department upon application in accordance with this chapter and payment of a penalty fee of $300 and all pertinent fees required by this chapter, including annual permit renewal fees payable since the date of the erection of the sign.~~

(2)(a) If a sign is under construction and the department determines that a permit has not been issued for the sign as required under ~~the provisions of~~ this chapter, the department may ~~is authorized to~~ require that all work on the sign cease until the sign owner shows that the sign does not violate ~~the~~

~~provisions of~~ this chapter. The order to cease work shall be prominently posted on the sign structure, and ~~no~~ further notice is not required ~~to be given~~. The failure of a sign owner or her or his agents to immediately comply with the order subjects ~~shall subject~~ the sign to prompt removal by the department.

(b) For the purposes of this subsection only, a sign is under construction when it is in any phase of initial construction before ~~prior to~~ the attachment and display of the advertising message in final position for viewing by the traveling public. A sign that is undergoing routine maintenance or change of the advertising message only is not considered to be under construction for the purposes of this subsection.

(3) The cost of removing a sign~~, whether~~ by the department or an independent contractor~~,~~ shall be assessed against the owner of the sign by the department.

Section 13. Subsections (5) and (7) of section 479.106, Florida Statutes, are amended to read:

479.106 Vegetation management.—

(5) The department may only grant a permit pursuant to s. 479.07 for a new sign that ~~which~~ requires the removal, cutting, or trimming of existing trees or vegetation on public right-of-way for the sign face to be visible from the highway the sign will be permitted to when the sign owner has removed at least two nonconforming signs of approximate comparable size and surrendered the permits for the nonconforming signs to the department for cancellation. For signs originally permitted after July 1, 1996, the first application, or application for a change of view zone, ~~no permit~~ for the removal, cutting, or trimming of trees or vegetation along the highway the sign is

permitted to shall require the removal of two nonconforming signs, in addition to mitigation or contribution to a plan of mitigation. The department may not grant a permit for the removal, cutting, or trimming of trees for a sign permitted after July 1, 1996, if the ~~shall be granted where such~~ trees are or the vegetation is ~~are~~ part of a beautification project implemented before ~~prior to~~ the date of the original sign permit application and if~~, when~~ the beautification project is specifically identified in the department's construction plans, permitted landscape projects, or agreements.

(7) Any person engaging in removal, cutting, or trimming of trees or vegetation in violation of this section or benefiting from such actions shall be subject to an administrative penalty of up to $1,000 per sign facing and required to mitigate for the unauthorized removal, cutting, or trimming in such manner and in such amount as may be required under the rules of the department.

Section 14. Subsection (5) of section 479.107, Florida Statutes, is amended to read:

479.107 Signs on highway rights-of-way; removal.—

(5) The cost of removing a sign~~, whether~~ by the department or an independent contractor~~,~~ shall be assessed by the department against the owner of the sign. ~~Furthermore, the department shall assess a fine of $75 against the sign owner for any sign which violates the requirements of this section.~~

Section 15. Section 479.111, Florida Statutes, is amended to read:

479.111 Specified signs allowed within controlled portions of the interstate and federal-aid primary highway system.—Only

the following signs shall be allowed within controlled portions of the interstate highway system and the federal-aid primary highway system as set forth in s. 479.11(1) and (2):

(1) Directional or other official signs and notices that ~~which~~ conform to 23 C.F.R. ss. 750.151-750.155.

(2) Signs in commercial-zoned and industrial-zoned areas or commercial-unzoned and industrial-unzoned areas and within 660 feet of the nearest edge of the right-of-way, subject to the requirements set forth in the 1972 agreement between the state and the United States Department of Transportation.

(3) Signs for which permits are not required under s. 479.16.

Section 16. Section 479.15, Florida Statutes, is amended to read:

479.15 Harmony of regulations.—

(1) A ~~No~~ zoning board or commission or other public officer or agency may not ~~shall~~ issue a permit to erect a ~~any~~ sign that ~~which~~ is prohibited under ~~the provisions of~~ this chapter or the rules of the department, and ~~nor shall~~ the department may not issue a permit for a ~~any~~ sign that ~~which~~ is prohibited by any other public board, officer, or agency in the lawful exercise of its powers.

(2) A municipality, county, local zoning authority, or other local governmental entity may not remove, or cause to be removed, a ~~any~~ lawfully erected sign along any portion of the interstate or federal-aid primary highway system without first paying just compensation for such removal. A local governmental entity may not cause in any way the alteration of a ~~any~~ lawfully erected sign located along any portion of the interstate or

federal-aid primary highway system without payment of just compensation if such alteration constitutes a taking under state law. The municipality, county, local zoning authority, or other local governmental ~~government~~ entity that adopts requirements for such alteration shall pay just compensation to the sign owner if such alteration constitutes a taking under state law. This subsection applies only to a lawfully erected sign the subject matter of which relates to premises other than the premises on which it is located or to merchandise, services, activities, or entertainment not sold, produced, manufactured, or furnished on the premises on which the sign is located. ~~As used in this subsection, the term "federal-aid primary highway system" means the federal-aid primary highway system in existence on June 1, 1991, and any highway that was not a part of such system as of that date but that is or becomes after June 1, 1991, a part of the National Highway System.~~ This subsection may ~~shall~~ not be interpreted as explicit or implicit legislative recognition that alterations do or do not constitute a taking under state law.

(3) It is the express intent of the Legislature to limit the state right-of-way acquisition costs on state and federal roads in eminent domain proceedings, ~~the provisions of~~ ss. 479.07 and 479.155 notwithstanding. Subject to approval by the Federal Highway Administration, if ~~whenever~~ public acquisition of land upon which is situated a lawful permitted ~~nonconforming~~ sign occurs~~,~~ as provided in this chapter, the sign may, at the election of its owner and the department, be relocated or reconstructed adjacent to the new right-of-way and in close proximity to the current site if ~~along~~ the ~~roadway within 100~~

~~feet of the current location, provided the nonconforming~~ sign is not relocated in an area inconsistent with s. 479.024. ~~on a parcel zoned residential, and provided further that~~ Such relocation is ~~shall be~~ subject to the ~~applicable setback~~ requirements in the 1972 agreement between the state and the United States Department of Transportation. The sign owner shall pay all costs associated with relocating or reconstructing a ~~any~~ sign under this subsection, and ~~neither~~ the state or ~~nor~~ any local government may not ~~shall~~ reimburse the sign owner for such costs, unless part of such relocation costs is ~~are~~ required by federal law. If ~~no~~ adjacent property is not available for the relocation, the department is ~~shall be~~ responsible for paying the owner of the sign just compensation for its removal.

(4) For a nonconforming sign, ~~Such relocation shall be adjacent to the current site and~~ the face of the sign may ~~shall~~ not be increased in size or height or structurally modified at the point of relocation in a manner inconsistent with the current building codes of the jurisdiction in which the sign is located.

(5) If ~~In the event that~~ relocation can be accomplished but is inconsistent with the ordinances of the municipality or county within whose jurisdiction the sign is located, the ordinances of the local government shall prevail if~~, provided that~~ the local government assumes ~~shall assume~~ the responsibility to provide the owner of the sign just compensation for its removal.~~, but in no event shall~~ Compensation paid by the local government may not be greater than ~~exceed~~ the compensation required under state or federal law. ~~Further, the provisions of~~ This section does ~~shall~~ not

impair any agreement or future agreements between a municipality or county and the owner of a sign or signs within the jurisdiction of the municipality or county. ~~Nothing in this section shall be deemed to cause a nonconforming sign to become conforming solely as a result of the relocation allowed in this section.~~

(6) ~~The provisions of~~ Subsections (3), (4), and (5) do ~~of this section shall~~ not apply within the jurisdiction of a ~~any~~ municipality that ~~which~~ is engaged in ~~any~~ litigation concerning its sign ordinance on April 23, 1999, and the subsections do not ~~nor shall such provisions~~ apply to a ~~any~~ municipality whose boundaries are identical to the county within which the ~~said~~ municipality is located.

(7) This section does not cause a neighboring sign that is already permitted and that is within the spacing requirements established in s. 479.07(9)(a) to become nonconforming.

Section 17. Section 479.156, Florida Statutes, is amended to read:

479.156 Wall murals.—Notwithstanding any other provision of this chapter, a municipality or county may permit and regulate wall murals within areas designated by such government. If a municipality or county permits wall murals, a wall mural that displays a commercial message and is within 660 feet of the nearest edge of the right-of-way within an area adjacent to the interstate highway system or the federal-aid primary highway system shall be located only in an area that is zoned for industrial or commercial use pursuant to s. 479.024. ~~and~~ The municipality or county shall establish and enforce regulations for such areas which ~~that~~, at a minimum, set forth criteria

governing the size, lighting, and spacing of wall murals consistent with the intent of 23 U.S.C. s. 131 ~~the Highway Beautification Act of 1965~~ and with customary use. If ~~Whenever~~ a municipality or county exercises such control and makes a determination of customary use pursuant to 23 U.S.C. s. 131(d), such determination shall be accepted in lieu of controls in the agreement between the state and the United States Department of Transportation, and the department shall notify the Federal Highway Administration pursuant to the agreement, 23 U.S.C. s. 131(d), and 23 C.F.R. s. 750.706(c). A wall mural that is subject to municipal or county regulation and 23 U.S.C. s. 131 ~~the Highway Beautification Act of 1965~~ must be approved by the Department of Transportation and the Federal Highway Administration when required by federal law and federal regulation under the agreement between the state and the United States Department of Transportation and federal regulations enforced by the Department of Transportation under s. 479.02(1). The existence of a wall mural as defined in s. 479.01~~(30)~~ must ~~shall~~ not be considered in determining whether a sign as defined in s. 479.01~~(20)~~, ~~either~~ existing or new, is in compliance with s. 479.07(9)(a).

Section 18. Section 479.16, Florida Statutes, is amended to read:

479.16 Signs for which permits are not required.—The following signs are exempt from the requirement that a permit for a sign be obtained under ~~the provisions of~~ this chapter but are required to comply with ~~the provisions of~~ s. 479.11(4)-(8), and the provisions of subsections (15)-(19) may not be implemented or continued if the Federal Government notifies the

department that implementation or continuation will adversely affect the allocation of federal funds to the department:

(1) Signs erected on the premises of an establishment~~,~~ which ~~signs~~ consist primarily of the name of the establishment or ~~which~~ identify the principal or accessory merchandise, services, activities, or entertainment sold, produced, manufactured, or furnished on the premises of the establishment and which comply with the lighting restrictions imposed under ~~department rule adopted pursuant to~~ s. 479.11(5), or signs owned by a municipality or a county located on the premises of such municipality or ~~such~~ county which display information regarding governmental ~~government~~ services, activities, events, or entertainment. For purposes of this section, the following types of messages are ~~shall~~ not ~~be~~ considered information regarding governmental ~~government~~ services, activities, events, or entertainment:

(a) Messages that ~~which~~ specifically reference any commercial enterprise.

(b) Messages that ~~which~~ reference a commercial sponsor of any event.

(c) Personal messages.

(d) Political campaign messages.

If a sign located on the premises of an establishment consists principally of brand name or trade name advertising and the merchandise or service is only incidental to the principal activity, or if the owner of the establishment receives rental income from the sign, ~~then~~ the sign is not exempt under this subsection.

(2) Signs erected, used, or maintained on a farm by the owner or lessee of such farm and relating solely to farm produce, merchandise, service, or entertainment sold, produced, manufactured, or furnished on such farm.

(3) Signs posted or displayed on real property by the owner or by the authority of the owner, stating that the real property is for sale or rent. However, if the sign contains any message not pertaining to the sale or rental of the ~~that~~ real property, ~~then~~ it is not exempt under this section.

(4) Official notices or advertisements posted or displayed on private property by or under the direction of any public or court officer in the performance of her or his official or directed duties~~,~~ or by trustees under deeds of trust or deeds of assignment or other similar instruments.

(5) Danger or precautionary signs relating to the premises on which they are located; forest fire warning signs erected under the authority of the Florida Forest Service of the Department of Agriculture and Consumer Services; and signs, notices, or symbols erected by the United States Government under the direction of the United States Forest ~~Forestry~~ Service.

(6) Notices of any railroad, bridge, ferry, or other transportation or transmission company necessary for the direction or safety of the public.

(7) Signs, notices, or symbols for the information of aviators as to location, directions, and landings and conditions affecting safety in aviation erected or authorized by the department.

(8) Signs or notices measuring up to 8 square feet in area

which are erected or maintained upon property and which state ~~stating~~ only the name of the owner, lessee, or occupant of the premises ~~and not exceeding 8 square feet in area~~.

(9) Historical markers erected by ~~duly constituted and~~ authorized public authorities.

(10) Official traffic control signs and markers erected, caused to be erected, or approved by the department.

(11) Signs erected upon property warning the public against hunting and fishing or trespassing ~~thereon~~.

(12) Signs ~~not in excess~~ of up to 8 square feet which ~~that~~ are owned by and relate to the facilities and activities of churches, civic organizations, fraternal organizations, charitable organizations, or units or agencies of government.

(13) ~~Except that~~ Signs placed on benches, transit shelters, modular news racks, street light poles, public pay telephones, and waste receptacles, within the right-of-way, as provided for in s. 337.408 are exempt from ~~all provisions of~~ this chapter.

(14) Signs relating exclusively to political campaigns.

(15) Signs measuring up to ~~not in excess of~~ 16 square feet placed at a road junction with the State Highway System denoting only the distance or direction of a residence or farm operation, or, outside an incorporated ~~in a rural~~ area where a hardship is created because a small business is not visible from the road junction with the State Highway System, one sign measuring up to ~~not in excess of~~ 16 square feet~~,~~ denoting only the name of the business and the distance and direction to the business. ~~The small-business-sign provision of this subsection does not apply to charter counties and may not be implemented if the Federal Government notifies the department that implementation will~~

~~adversely affect the allocation of federal funds to the department.~~

(16) Signs placed by a local tourist-oriented business located within a rural area of critical economic concern as defined in s. 288.0656(2) which are:

(a) Not more than 8 square feet in size or more than 4 feet in height;

(b) Located only in rural areas on a facility that does not meet the definition of a limited access facility, as defined in s. 334.03;

(c) Located within 2 miles of the business location and at least 500 feet apart;

(d) Located only in two directions leading to the business; and

(e) Not located within the road right-of-way.

A business placing such signs must be at least 4 miles from any other business using this exemption and may not participate in any other directional signage program by the department.

(17) Signs measuring up to 32 square feet denoting only the distance or direction of a farm operation which are erected at a road junction with the State Highway System, but only during the harvest season of the farm operation for up to 4 months.

(18) Acknowledgment signs erected upon publicly funded school premises which relate to a specific public school club, team, or event and which are placed at least 1,000 feet from any other acknowledgment sign on the same side of the roadway. The sponsor information on an acknowledgment sign may constitute no more than 100 square feet of the sign. As used in this

subsection, the term "acknowledgment sign" means a sign that is intended to inform the traveling public that a public school club, team, or event has been sponsored by a person, firm, or other entity.

(19) Displays erected upon a sports facility, the content of which is directly related to the facility's activities or to the facility's products or services. Displays must be mounted flush to the surface of the sports facility and must rely upon the building facade for structural support. As used in this subsection, the term "sports facility" means an athletic complex, athletic arena, or athletic stadium, including physically connected parking facilities, which is open to the public and has a seating capacity of 15,000 or more permanently installed seats.

If the exemptions in subsections (15)-(19) are not implemented or continued due to notification from the Federal Government that the allocation of federal funds to the department will be adversely impacted, the department shall provide notice to the sign owner that the sign must be removed within 30 days after receipt of the notice. If the sign is not removed within 30 days after receipt of the notice by the sign owner, the department may remove the sign, and the costs incurred in connection with the sign removal shall be assessed against and collected from the sign owner.

Section 19. Section 479.24, Florida Statutes, is amended to read:

479.24 Compensation for ~~removal of~~ signs; eminent domain; exceptions.—

(1) Just compensation shall be paid by the department upon the department's acquisition ~~removal~~ of a lawful conforming or nonconforming sign along any portion of the interstate or federal-aid primary highway system. This section does not apply to a sign that ~~which~~ is illegal at the time of its removal. A sign loses ~~will lose~~ its nonconforming status and becomes ~~become~~ illegal at such time as it fails to be permitted or maintained in accordance with all applicable laws, rules, ordinances, or regulations other than the provision that ~~which~~ makes it nonconforming. A legal nonconforming sign under state law or rule does ~~will~~ not lose its nonconforming status solely because it additionally becomes nonconforming under an ordinance or regulation of a local governmental entity passed at a later date. The department shall make every reasonable effort to negotiate the purchase of the signs to avoid litigation and congestion in the courts.

(2) The department is not required to remove any sign under this section if the federal share of the just compensation to be paid upon removal of the sign is not available to make such payment, unless an appropriation by the Legislature for such purpose is made to the department.

(3)(a) The department may ~~is authorized to~~ use the power of eminent domain when necessary to carry out ~~the provisions of~~ this chapter.

(b) If eminent domain procedures are instituted, just compensation shall be made pursuant to the state's eminent domain procedures, chapters 73 and 74.

Section 20. Section 479.25, Florida Statutes, is amended to read:

479.25 Erection of noise-attenuation barrier blocking view of sign; procedures; application.—

(1) The owner of a lawfully erected sign that is governed by and conforms to state and federal requirements for land use, size, height, and spacing may increase the height above ground level of such sign at its permitted location if a noise-attenuation barrier is permitted by or erected by any governmental entity in such a way as to screen or block visibility of the sign. Any increase in height permitted under this section may only be the increase in height which is required to achieve the same degree of visibility from the right-of-way which the sign had before ~~prior to~~ the construction of the noise-attenuation barrier, notwithstanding the restrictions contained in s. 479.07(9)(b). A sign reconstructed under this section must ~~shall~~ comply with the building standards and wind load requirements provided ~~set forth~~ in the Florida Building Code. If construction of a proposed noise-attenuation barrier will screen a sign lawfully permitted under this chapter, the department shall provide notice to the local government or local jurisdiction within which the sign is located before construction ~~prior to erection of the noise-attenuation barrier~~. Upon a determination that an increase in the height of a sign as permitted under this section will violate ~~a provision contained in~~ an ordinance or a land development regulation of the local government or local jurisdiction, the local government or local jurisdiction shall, before construction ~~so notify the department. When notice has been received from the local government or local jurisdiction prior to erection of the noise-attenuation barrier, the~~

~~department shall~~:

(a) Provide a variance or waiver to the local ordinance or land development regulations to ~~Conduct a written survey of all property owners identified as impacted by highway noise and who may benefit from the proposed noise-attenuation barrier. The written survey shall inform the property owners of the location, date, and time of the public hearing described in paragraph (b) and shall specifically advise the impacted property owners that:~~

~~1. Erection of the noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;~~

~~2. The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign to make it visible over the barrier; and~~

~~3. If a majority of the impacted property owners vote for construction of the noise-attenuation barrier, the local government or local jurisdiction will be required to:~~

~~a.~~ allow an increase in the height of the sign ~~in violation of a local ordinance or land development regulation~~;

(b)~~b.~~ Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or

(c)~~c.~~ Pay the fair market value of the sign and its associated interest in the real property.

(2)~~(b)~~ The department shall hold a public hearing within the boundaries of the affected local governments or local jurisdictions to receive input on the proposed noise-attenuation barrier and its conflict with the local ordinance or land development regulation and to suggest or consider alternatives or modifications ~~to the proposed noise-attenuation barrier~~ to alleviate or minimize the conflict with the local ordinance or

land development regulation or minimize any costs that may be associated with relocating, reconstructing, or paying for the affected sign. The public hearing may be held concurrently with other public hearings scheduled for the project. The department shall provide a written notification to the local government or local jurisdiction of the date and time of the public hearing and shall provide general notice of the public hearing in accordance with the notice provisions of s. 335.02(1). The notice may ~~shall~~ not be placed in that portion of a newspaper in which legal notices or classified advertisements appear. The notice must ~~shall~~ specifically state that:

(a)~~1.~~ Erection of the proposed noise-attenuation barrier may block the visibility of an existing outdoor advertising sign;

(b)~~2.~~ The local government or local jurisdiction may restrict or prohibit increasing the height of the existing outdoor advertising sign ~~to make it visible over the barrier~~; and

(c)~~3.~~ Upon ~~If a majority of the impacted property owners vote for~~ construction of the noise-attenuation barrier, the local government or local jurisdiction shall ~~will be required to~~:

1.~~a.~~ Allow an increase in the height of the sign through a waiver or variance to ~~in violation of~~ a local ordinance or land development regulation;

2.~~b.~~ Allow the sign to be relocated or reconstructed at another location if the sign owner agrees; or

3.~~c.~~ Pay the fair market value of the sign and its associated interest in the real property.

(3)~~(2)~~ The department may ~~shall~~ not permit erection of the noise-attenuation barrier to the extent the barrier screens or blocks visibility of the sign until after the public hearing is held ~~and until such time as the survey has been conducted and a majority of the impacted property owners have indicated approval to erect the noise-attenuation barrier~~. ~~When the impacted property owners approve of the noise-attenuation barrier construction, the department shall notify the local governments or local jurisdictions. The local government or local jurisdiction shall, notwithstanding the provisions of a conflicting ordinance or land development regulation:~~

~~(a) Issue a permit by variance or otherwise for the reconstruction of a sign under this section;~~

~~(b) Allow the relocation of a sign, or construction of another sign, at an alternative location that is permittable under the provisions of this chapter, if the sign owner agrees to relocate the sign or construct another sign; or~~

~~(c) Refuse to issue the required permits for reconstruction of a sign under this section and pay fair market value of the sign and its associated interest in the real property to the owner of the sign.~~

(4)~~(3)~~ This section does ~~shall~~ not apply to ~~the provisions of~~ any existing written agreement executed before July 1, 2006, between any local government and the owner of an outdoor advertising sign.

Section 21. Subsection (1) of section 479.261, Florida Statutes, is amended to read:

479.261 Logo sign program.—

(1) The department shall establish a logo sign program for

the rights-of-way of the limited access ~~interstate~~ highway system to provide information to motorists about available gas, food, lodging, camping, attractions, and other services, as approved by the Federal Highway Administration, at interchanges through the use of business logos and may include additional interchanges under the program.

(a) As used in this chapter, the term "attraction" means an establishment, site, facility, or landmark that is open a minimum of 5 days a week for 52 weeks a year; that has as its principal focus family-oriented entertainment, cultural, educational, recreational, scientific, or historical activities; and that is publicly recognized as a bona fide tourist attraction.

(b) The department shall incorporate the use of RV-friendly markers on specific information logo signs for establishments that cater to the needs of persons driving recreational vehicles. Establishments that qualify for participation in the specific information logo program and that also qualify as "RV-friendly" may request the RV-friendly marker on their specific information logo sign. An RV-friendly marker must consist of a design approved by the Federal Highway Administration. The department shall adopt rules ~~in accordance with chapter 120~~ to administer this paragraph. Such rules must establish minimum requirements for parking spaces, entrances and exits, and overhead clearance which must be met by~~, including rules setting forth the minimum requirements that~~ establishments that wish ~~must meet in order~~ to qualify as RV-friendly. ~~These requirements shall include large parking spaces, entrances, and exits that can easily accommodate recreational vehicles and facilities~~

~~having appropriate overhead clearances, if applicable.~~

Section 22. Subsection (1) of section 479.262, Florida Statutes, is amended to read:

479.262 Tourist-oriented directional sign program.—

(1) A tourist-oriented directional sign program to provide directions to rural tourist-oriented businesses, services, and activities may be established at intersections on rural and conventional state, county, or municipal roads only ~~in rural counties identified by criteria and population in s. 288.0656~~ when approved and permitted by county or local governmental ~~government~~ entities within their respective jurisdictional areas ~~at intersections on rural and conventional state, county, or municipal roads~~. A county or local government that ~~which~~ issues permits for a tourist-oriented directional sign program is ~~shall be~~ responsible for sign construction, maintenance, and program operation in compliance with subsection (3) for roads on the state highway system and may establish permit fees sufficient to offset associated costs. A tourist-oriented directional sign may not be used on roads in urban areas or at interchanges on freeways or expressways.

Section 23. Section 479.313, Florida Statutes, is amended to read:

479.313 Permit revocation and cancellation; cost of removal.—All costs incurred by the department in connection with the removal of a sign located within a controlled area adjacent to the State Highway System, interstate highway system, or federal-aid primary highway system following the revocation or cancellation of the permit for such sign shall be assessed against and collected from the permittee.

Section 24. Section 76 of chapter 2012-174, Laws of Florida, is repealed.

Section 25. 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)

4/1/14
Meeting Date

Topic Transportation - cigars

Bill Number 1048 *(if applicable)*

Name Vern Pickup-Crawford

Amendment Barcode 389806 *(if applicable)*

Job Title Legislative Liaison

Address 571 Kingsbury Terrace
Street

Phone 561-644-2939

Wellington FL 33414
City *State* *Zip*

E-mail vacrawford@msn.com

Speaking: ☑ For ☐ Against ☐ Information

Representing Palm Beach School District

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

Waive in support

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)

4-1-14
Meeting Date

Topic Support the bill

Bill Number SB 1048 *(if applicable)*

Name Pete Dunbar

Amendment Barcode *(if applicable)*

Job Title

Address 215 So Monroe St #815
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850-599-4100

E-mail pdunbar@dunmead.com

Speaking: ☑ For ☐ Against ☐ Information

Representing The Florida Outdoor Advertising 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)

April 1, 2014
Meeting Date

Topic outdoor advertising

Bill Number 1048 *(if applicable)*

Name Doug Mannheimer

Amendment Barcode _____ *(if applicable)*

Job Title Attorney

Address 215 S. Monroe St. Suite 400
Street

Phone 850 681-6810

E-mail dmannheimer @broadandcassel.com

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Waive in Support

Representing Van Wagner

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Community Affairs
Environmental Preservation and Conservation
Gaming
Judiciary
Rules

SENATOR JACK LATVALA
20th District

March 20, 2014

The Honorable Wilton Simpson
Senate Community Affairs Committee
404 S. Monroe St., 315 K
Tallahassee, FL 32399-1100

Dear Chairman Simpson:

I respectfully request that my bill, SB 1048/Dept. of Transportation, be placed on the agenda of the Senate Community Affairs Committee at the earliest possible time. The bill was favorably referred from the Senate Transportation Committee on March 20th.

This bill updates Chapter 479 including statutes relating to land use and zoning. Florida DOT has worked on a project to update the Chapter to provide consistence and clarity to the regulatory responsibilities relating to outdoor advertising. The Department and the industry have agreed to this language.

Please contact me if you have any questions regarding this request. I appreciate your consideration.

Sincerely,

Jack Latvala
State Senator
District 20

JL:tc

CC: Tom Yeatman, Staff Director; Ann Whitaker, Administrative Assistant

REPLY TO:
❒ 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
❒ 408 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5020

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 550
INTRODUCER:	Senator Hukill
SUBJECT:	Traveling Across County Lines to Commit a Felony Offense
DATE:	March 31, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Cannon	CJ	**Favorable**
2.	Stearns	Yeatman	CA	**Favorable**
3.			ACJ	
4.			AP	

I. Summary:

SB 550 creates s. 843.22, F.S., which makes it a third degree felony for a person who resides in Florida to travel any distance and cross a Florida county boundary with the intent to commit a felony offense in a Florida county that is not their residence. The bill also makes the crossing of a county boundary with intent to commit a felony a factor to be considered in bail determinations.

II. Present Situation:

According to Martin County Sheriff William Snyder, there has been a recent phenomenon in Martin County, and most Florida counties, where traveling burglars dubbed "the pillowcase burglars" break into houses near the interstate, stuff the most valuable items into pillowcases and immediately flee to another county. According to Snyder, traditional methods of law enforcement such as using local pawn shop databases, confidential informants, normal proactive police patrols, or targeted patrols based on time and place of burglary are less effective because of the burglars' speedy departure from the county of the burglary.[1]

Bail Determinations

Pretrial release is an alternative to incarceration that allows arrested defendants to be released from jail while they await disposition of their criminal charges.[2] Generally, pretrial release is

[11] Sascha Cordner, *Sheriff Enlists Legislative Help To Crack Down On Growing Problem: 'Pillowcase Burglars,'* WFSU-FM, Dec. 18, 2013, *available at*, http://news.wfsu.org/post/sheriff-enlists-legislative-help-crack-down-growing-problem-pillowcase-burglars.

[2] Report No. 10-08, "*Pretrial Release Programs' Compliance with New Reporting Requirements is Mixed,"* Office of Program Policy Analysis & Government Accountability, January 2010 (on file with Community Affairs Committee).

granted by releasing a defendant on their own recognizance, by requiring the defendant to post bail, and/or by requiring the defendant to participate in a pretrial release program.[3]

Bail requires an accused to pay a set sum of money to the sheriff to secure his or her release. If a defendant released on bail fails to appear before the court at the appointed place and time, the bail is forfeited. The purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to protect the community against unreasonable danger.[4] Courts must consider certain things when determining whether to release a defendant on bail and what level bail should be set at (e.g., the nature and circumstances of the offense charged, the weight of the evidence against the defendant, the defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition, etc.).[5]

Sentencing Guidelines

Chapter 921, F.S., contains the Criminal Punishment Code, which provides sentencing criteria to guide the imposition of criminal penalties for the commission of a felony offense. The "offense severity ranking chart," provided in s. 921.0022, F.S., has ten offense levels, ranked from least severe, which are level 1 offenses, to most severe, which are level 10 offenses. In the event that a particular felony does not have a specific sentencing severity level set in s. 921.0022, F.S., its severity level is decided according to the following parameters:

- A felony of the third degree is within offense level 1.
- A felony of the second degree is within offense level 4.
- A felony of the first degree is within offense level 7.
- A felony of the first degree punishable by life is within offense level 9.
- A life felony is within offense level 10.[6]

III. Effect of Proposed Changes:

Section 1 creates s. 843.22, F.S., which makes it a third degree felony for a person who resides in Florida to travel any distance and across a Florida county boundary with the intent to commit a felony offense in a Florida county that is not their residence.

The bill defines "county of residence" as the county within Florida in which a person resides. Evidence of a person's county includes but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;
- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.

[3] *Id.*
[4] Section 903.046, F.S.
[5] *Id.*
[6] Section 921.0023, F.S.

The bill defines "felony offense" as an attempt, solicitation, or conspiracy to commit: battery; stalking; kidnapping; sexual battery; lewdness; prostitution; arson; burglary; theft; robbery; carjacking; home-invasion robbery; trafficking in a controlled substance; and racketeering.

Section 2 amends s. 903.046(2)(l), F.S., to prohibit those charged with traveling across county lines with the intent to commit a felony from being released on bail until first appearance to ensure the full participation of the prosecutor and the protection of the public. The bill makes the crossing of a county line with the intent to commit a felony a factor to be considered by the court when making a bail determination.

Section 3 provides an effective date of October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference met on January 30, 2014, and determined the bill will have an insignificant negative impact on state prison beds because the bill creates a new third degree felony offense. The bill may also have a negative jail bed impact because it prohibits persons charged under s. 843.22, F.S., from being released on bail until first appearance. However, since first appearance must occur within 24 hours of arrest, the impact on local jails will likely be insignificant.

According to the Department of Corrections (DOC), there will be a $3,400 fiscal impact on the agency's technology systems due to the need for a new offense code and additional changes to existing codes and tables. DOC estimates 40 hours of work at $85.00 an hour.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOC states that depending on the offender's total Criminal Punishment Code sentencing points, the additional third degree felonies could result in multiple or longer sentences for supervision offenders and/or an increase in the inmate population.

The bill does not allocate an "offense severity level" to the newly created crime for sentencing purposes. Therefore, pursuant to s. 921.0023(1), F.S., the severity level will be level 1, which will score 0.7 points as an additional offense on a score sheet.[7]

VIII. Statutes Affected:

This bill substantially amends section 903.046 of the Florida Statutes.

This bill creates section 843.22 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.

[7] Office of the State Courts Administrator, *2014 Judicial Impact Statement – SB 550* (March 13, 2014) (on file with the Senate Committee on Community Affairs).

By Senator Hukill

8-00792-14 2014550__

A bill to be entitled

An act relating to traveling across county lines to commit a felony offense; creating s. 843.22, F.S.; defining the terms "county of residence" and "felony offense" for the purpose of the crime of traveling across county lines with the intent to commit a felony offense; providing a criminal penalty; amending s. 903.046, F.S.; adding the crime of traveling across county lines with the intent to commit a felony offense to the factors a court must consider in determining whether to release a defendant on bail; providing an effective date.

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

Section 1. Section 843.22, Florida Statutes, is created to read:

843.22 Traveling across county lines with intent to commit a felony offense.—

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

(a) "County of residence" means the county within this state in which a person resides. Evidence of a person's county of residence includes, but is not limited to:

1. The address on a person's driver license or state identification card;

2. Records of real property or mobile home ownership;

3. Records of a lease agreement for residential property;

4. The county in which a person's motor vehicle is registered;

5. The county in which a person is enrolled in an educational institution; and

6. The county in which a person is employed.

(b) "Felony offense" means any of the following felony offenses, including an attempt, solicitation, or conspiracy to commit such offense:

1. Battery as provided in chapter 784.

2. Stalking as provided in s. 784.048.

3. Kidnapping as defined in s. 787.01.

4. Sexual battery as defined in s. 794.011.

5. Lewdness as defined in s. 796.07.

6. Prostitution as defined in s. 796.07.

7. Arson as provided in s. 806.01.

8. Burglary as defined in s. 810.02.

9. Theft as provided in s. 812.014.

10. Robbery as defined in s. 812.13.

11. Carjacking as defined in s. 812.133.

12. Home-invasion robbery as defined in s. 812.135.

13. Trafficking in a controlled substance as provided in s. 893.135.

14. Racketeering as provided in chapter 895.

(2) A person who travels any distance with the intent to commit a felony offense in a county in this state other than the person's county of residence commits an additional felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. Paragraph (l) of subsection (2) of section 903.046, Florida Statutes, is amended to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

(l) Whether the crime charged is a violation of s. 843.22 or chapter 874 or alleged to be subject to enhanced punishment under chapter 874. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement, he or she is ~~shall~~ not ~~be~~ eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

Section 3. This act shall take effect October 1, 2014.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Traveling Across City lines to Commit a Felony

Bill Number SB550 *(if applicable)*

Name Don Heaton

Amendment Barcode _____ *(if applicable)*

Job Title Sergeant Volusia County Sheriff's office

Address 250 N. Beach st
Street
Daytona Bch FL 32019
City *State* *Zip*

Phone 386-804-6825

E-mail dheaton@vcso.us

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

Representing FSA / Volusia County Sheriff Ben Johnson

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

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Finance and Tax, *Chair*
Appropriations
Appropriations Subcommittee on Education
Commerce and Tourism
Communications, Energy, and Public Utilities
Community Affairs
Governmental Oversight and Accountability

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

March 25, 2014

The Honorable Wilton Simpson
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 550 – Traveling Across County Lines to Commit a Felony Offense

Dear Chairman Simpson:

Senate Bill 550, relating to Traveling Across County Lines to Commit a Felony Offense, has been referred to the Community Affairs Committee. I am requesting your consideration to include SB 550 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Dorothy L. Hukill, District 8

cc: Tom Yeatman, Staff Director of the Community Affairs Committee
Ann Whittaker, Administrative Assistant of the Community Affairs Committee

REPLY TO:
☐ 209 Dunlawton Avenue, Unit 17, Port Orange, Florida 32127 (386) 304-7630 FAX: (888) 263-3818
☐ Ocala City Hall, 110 SE Watula Avenue, 3rd Floor, Ocala, Florida 34471 (352) 694-0160

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	SB 1532
INTRODUCER:	Senator Bradley
SUBJECT:	Juvenile Detention Costs
DATE:	March 31, 2014
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	White	Yeatman	CA	**Favorable**
2.			AP	

I. Summary:

SB 1532 provides the Department of Juvenile Justice (department, or DJJ) with a predictable cost sharing methodology to calculate the shared county and state financial obligations for juvenile detention. The bill defines "actual cost" and "participating county," and requires participating counties to pay a share of the actual cost of providing detention care based on the funds spent and county utilization.

II. Present Situation:

Juveniles who are arrested can be held within a secured detention facility where they await a court hearing, when specific criteria are met.[1] Within 24 hours, a judge decides whether ongoing detention is necessary. If ongoing detention is ordered, a juvenile may be held in a secure detention facility awaiting disposition of their case. Youth placed in secure detention have been assessed as a risk to public safety. The DJJ operates 21 secure detention facilities with 1,302 beds in 21 counties. During fiscal year 2012-2013, DJJ detained a total of 17,475 individual youth in secure detention facilities.[2]

The DJJ shares the cost of detention of juveniles in detention centers with the counties. In 2004, s. 985.686, F.S., was created,[3] which established a method of cost sharing of juvenile detention between the state and counties. The statute requires non-fiscally constrained counties to pay for the cost of detention care for juveniles who reside within that county for the period of time prior to "final court disposition," also known as the pre-disposition costs. The state is responsible for

[1] Section 985.215, F.S., provides these criteria, which include current offenses, prior history, legal status, and aggravating or mitigating factors.
[2] DJJ, *Bill Analysis of SB 1532* (Mar. 18, 2014).
[3] Chapter 2004-263, Laws of Fla. (creating s. 985.2155, F.S.); Chapter 2006-120, s. 95, Laws of Fla. (transferring to s. 985.686, F.S.).

all costs of detention incurred in fiscally constrained counties.[4] In fiscal year 2012-13, the final expenditures in the shared county/state juvenile detention trust fund were $64.6 million and expenditures from the general revenue were $20.0 million, for a total of $84.7 million spent.[5]

The definitions of pre-disposition and post-disposition have been controversial since implementation began in 2005, and have formed the basis of several administrative challenges.[6] In June 2013, the First District Court of Appeal affirmed an administrative law judge's order invalidating rules that the department had promulgated in 2010 relating to costs of detention.[7] According to the order, the rules at issue shifted a greater responsibility for costs to the counties than was required by the relevant statute and this constituted an invalid exercise of delegated legislative authority. In July 2013, the department changed their method of billing counties to reflect their analysis of the ruling by the administrative law judge.

III. Effect of Proposed Changes:

Section 1 amends s. 985.6015, F.S., to clarify that Shared County/State Juvenile Detention Trust Fund is a depository for funds to be used for the costs of juvenile detention.

Section 2 amends s. 985.686, F.S., relating to shared county and state responsibility for juvenile detention. The bill defines "actual cost" and "participating county." Participating counties would be required to pay a share of the actual cost of providing detention care. The DJJ is tasked with:

- Determining the actual cost by dividing the total number of detention days for juveniles residing in the county during the prior state fiscal year by the total number of detention days for all juveniles residing in such counties;
- Calculating the share of actual costs counties must pay by multiplying the county's percentage of detention care use by 50 percent of the total actual cost of detention care; and
- Informing the counties by August 1 of each year.

Under the provisions of the bill, the state pays:

- Fifty percent of the total actual cost of providing detention care in participating counties;
- The actual cost of detention care for fiscally constrained counties; and
- The actual cost of providing detention care for juveniles residing out of state.

The bill eliminates disposition as the boundary separating county and state financial obligations for juvenile detention, replacing it with a predictable cost sharing relationship based on actual costs and county utilization.

The state would still pay for the actual cost of detention care for fiscally constrained counties.

---

[4] The term "fiscally constrained county" is defined to mean "a county within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656, F.S., or each county for which the value of a mill will raise no more than $5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., F.S., from the previous July 1. Currently, 29 counties are considered fiscally constrained.

[5] DJJ, *Bill Analysis of SB 1532* (Mar. 18, 2014).

[6] *Hillsborough County v. Dep't of Juvenile Justice,* Case No. 07-4398; *Hillsborough County v. Dep't of Juvenile Justice*, Case No. 07-4432.

[7] *Dep't of Juvenile Justice v. Okaloosa County*, 113 So.3d 1074 (Fla. 1st DCA 2013).

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

In fiscal year 2012-13, the final expenditures in the shared county/state juvenile detention trust fund were $64.6 million and expenditures from general revenue were $20.0 million, for a total of $84.7 million spent.[8] In order to set the collective revenue amount for the counties, the department multiplies this figure by 50 percent, which is $42.3 million. This figure is the collective amount that all participating counties would be required to pay, apportioned among participating counties based upon each county's percentage of utilization.

The calculations of actual cost and share of actual cost described in the bill would change the amount of money spent by participating counties on juvenile detention care. The DJJ notes that the bill should reduce costs for participating counties, which have historically paid between 72-89 percent of the cost of detention care since 2004.[9] Under the bill, participating counties will pay much closer to 50 percent of the cost of detention care.[10]

[8] DJJ, *Bill Analysis of SB 1532* (Mar. 18, 2014).
[9] *Id*.
[10] *Id*.

To the extent that the bill's method of calculating cost sharing reduces obligations by participating county governments, the bill may increase the cost of juvenile detention for the state. The DJJ, more comprehensively, explains:

> The state would receive revenues from the counties based on the expenditures from the most recently completed fiscal year. The revenues would be dependent upon the amount expended by fiscal year for detention care. In years when there are increases in the detention center budget, the following year will see increases in revenues to the state from the counties. In years where reductions occur to the detention center budget, the following year will see revenues from the counties decrease. [11]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 985.6015 and 985.686.

IX. Additional Information:

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

None.

B. Amendments:

None.

[11] *Id*.

By Senator Bradley

7-01273A-14 20141532__

A bill to be entitled

An act relating to juvenile detention costs; amending s. 985.6015, F.S.; conforming provisions to changes made by the act; amending s. 985.686, F.S.; defining the term "actual cost"; revising the responsibilities of specified counties and the state relating to financial support for juvenile detention care; requiring the Department of Juvenile Justice to provide specified information to specified counties; conforming provisions to changes made by the act; deleting obsolete provisions; providing an effective date.

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

Section 1. Subsection (2) of section 985.6015, Florida Statutes, is amended to read:

985.6015 Shared County/State Juvenile Detention Trust Fund.—

(2) The fund is established for use as a depository for funds to be used for the costs of ~~predisposition~~ juvenile detention. Moneys credited to the trust fund shall consist of funds from the counties' share of the costs for ~~predisposition~~ juvenile detention.

Section 2. Section 985.686, Florida Statutes, is amended to read:

985.686 Shared county and state responsibility for juvenile detention.—

(1) It is the policy of this state that the state and the

counties have a joint obligation, as provided in this section, to contribute to the financial support of the detention care provided for juveniles.

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

(a) "Actual cost" means the funds that the department expends for providing detention care less any funds that it receives from the Grants and Donations Trust Fund and the Federal Grants Trust Fund.

(b) ~~(a)~~ "Detention care" means secure detention and respite beds for juveniles charged with a domestic violence crime.

(c) ~~(b)~~ "Fiscally constrained county" means a county within a rural area of critical economic concern as designated by the Governor pursuant to s. 288.0656 or each county for which the value of a mill will raise no more than $5 million in revenue, based on the certified school taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1.

(d) "Participating county" means a county that is not a fiscally constrained county and that does not provide detention care for juveniles or contract with another county to provide such care.

(3)(a) Each participating county shall pay its share of the total actual cost ~~costs~~ of providing detention care as determined by the department pursuant to subsection (5)~~, exclusive of the costs of any preadjudicatory nonmedical educational or therapeutic services and $2.5 million provided for additional medical and mental health care at the detention centers, for juveniles for the period of time prior to final court disposition~~. ~~The department shall develop an accounts payable system to allocate costs that are payable by the~~

~~counties.~~

(b) The state shall pay:

1. Fifty percent of the total actual cost of providing detention care in participating counties as determined by the department pursuant to subsection (5);

2. The actual cost of detention care for fiscally constrained counties in the manner described in subsection (4); and

3. The actual cost of providing detention care for juveniles residing out of state.

(4) ~~Notwithstanding subsection (3), the state shall pay all costs of detention care for juveniles for which a fiscally constrained county would otherwise be billed.~~

~~(a) By October 1, 2004, the department shall develop a methodology for determining the amount of each fiscally constrained county's costs of detention care for juveniles, for the period of time prior to final court disposition, which must be paid by the state. At a minimum, this methodology must consider the difference between the amount appropriated to the department for offsetting the costs associated with the assignment of juvenile pretrial detention expenses to the fiscally constrained county and the total estimated costs to the fiscally constrained county, for the fiscal year, of detention care for juveniles for the period of time prior to final court disposition.~~

~~(b)~~ Subject to legislative appropriation ~~and based on the methodology developed under paragraph (a)~~, the department shall provide funding to offset the actual cost ~~costs~~ to fiscally constrained counties of providing detention care for juveniles

~~for the period of time prior to final court disposition~~. If county matching funds are required by the department to eliminate the difference ~~calculated under paragraph (a) or the difference~~ between the actual cost to ~~costs of~~ the fiscally constrained counties and the amount appropriated in small county grants for use in mitigating such costs, that match amount must be allocated proportionately among all fiscally constrained counties.

(5) Each participating county shall incorporate into its annual county budget sufficient funds to pay its share of the actual cost ~~costs~~ of detention care for juveniles who ~~reside~~ resided in that county for the prior fiscal year ~~the period of time prior to final court disposition~~. ~~This amount shall be based upon the prior use of secure detention for juveniles who are residents of that county, as calculated by the department. Each county shall pay the estimated costs at the beginning of each month. Any difference between the estimated costs and actual costs shall be reconciled at the end of the state fiscal year.~~

(a) The department shall determine the actual cost of detention care and the number of detention days used by each county at the end of each fiscal year.

(b) By August 1 of each year, the department shall inform each participating county of its percentage of detention care use and the amount of its share of the actual cost of detention care for the prior state fiscal year. Each such county shall pay the department one-twelfth of its share of actual costs for the prior state fiscal year by the first day of each month, beginning on July 1 of the year following receipt of the

information.

(c) The department shall calculate the percentage of detention care use for each participating county by dividing the total number of detention days for juveniles residing in the county during the prior state fiscal year by the total number of detention days for all juveniles residing in such counties for the prior state fiscal year.

(d) The department shall calculate the share of actual costs for each participating county by multiplying the county's percentage of detention care use by 50 percent of the total actual cost of detention care for all such counties.

(6) Each county shall pay to the department for deposit into the Shared County/State Juvenile Detention Trust Fund its share of the county's total actual cost ~~costs~~ for juvenile detention, based upon calculations published by the department with input from the counties.

(7) The Department of Juvenile Justice shall determine each quarter whether the counties of this state are remitting to the department their share of the cost ~~costs~~ of detention as required by this section.

(8) The Department of Revenue and the counties shall provide technical assistance as necessary to the Department of Juvenile Justice in order to develop the most cost-effective means of collection.

(9) Funds received from counties pursuant to this section are not subject to the service charges provided in s. 215.20.

(10) This section does not apply to a ~~any~~ county that provides detention care for preadjudicated juveniles or that contracts with another county to provide detention care for

preadjudicated juveniles.

(11) The department may adopt rules to administer this section.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic Juvenile Justice

Bill Number 1532 *(if applicable)*

Name Marty Cassini

Amendment Barcode 192344 *(if applicable)*

Job Title Legislative Counsel

Address 115 S. Andrews Ave, 426
Street

Fort Lauderdale FL 33301
City *State* *Zip*

Phone 954-357-7575

E-mail MCassini@broward.org

Speaking: ☑ For ☐ Against ☐ Information

Representing Broward County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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)

4/1/14
Meeting Date

Topic 1474 Bill Number 1532 *(if applicable)*

Name Todd Bonlarron Amendment Barcode 192344 *(if applicable)*

Job Title Legislative Affairs Director

Address 301 N. Olive Ave Phone (561) 357-7451
Street

West Palm Beach FL 33401 E-mail tbonlarron@pbcgov.org
City *State* *Zip*

Speaking: ☐ For ☐ Against ☒ Information

Representing Palm Beach County

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

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

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)

4/1/14
Meeting Date

Topic Juvenile Detention Costs

Bill Number 1532 *(if applicable)*

Name Bryan Desloge

Amendment Barcode _____ *(if applicable)*

Job Title President FL Assoc. of Counties

Address 100 S. Monroe St
Street
Tallahassee, FL 32301
City *State* *Zip*

Phone 850.922.4300

E-mail _____

Speaking: ☑ For ☐ Against ☐ Information

Representing FL Assoc. of Counties

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/2014
Meeting Date

Topic DJJ Cost Sharing Bill Number SB 1532 *(if applicable)*

Name Beth Pythik (Pit-lick) Amendment Barcode *(if applicable)*

Job Title Intergov. Relations Coordinator

Address 601 E Kennedy Blvd Phone 813 274 6790
Street

Tampa FL 33602 E-mail pythikbe hillsborough county.org
City *State* *Zip*

Speaking: ☒ For ☐ Against ☐ Information

Representing Hillsborough County

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic JUVENILE JUSTICE

Bill Number 1532 *(if applicable)*

Name JEFF SHARKEY

Amendment Barcode *(if applicable)*

Job Title CAO

Address 106 E College Ave
Street
TLH FL 32301
City *State* *Zip*

Phone 850 224 1606

E-mail JeffreyM@leoncountyfl.gov

Speaking: ☒ For ☐ Against ☐ Information

Representing LEON COUNTY

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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)

4/1/14
Meeting Date

Topic Juvenile Detention Costs

Bill Number 1532 *(if applicable)*

Name Lisa Hurley

Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 100 S. Monroe St.
Street
Tallahassee, FL 32301
City *State* *Zip*

Phone 850.922.4310

E-mail lhurley@flcounties.com

Speaking: ☑ For ☐ Against ☐ Information

Representing FL Assoc. of Counties

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Juvenile Detention Costs

Bill Number 1530 *(if applicable)*

Name Mark Sexton

Amendment Barcode *(if applicable)*

Job Title Alachua City Communications Director

Address 12 SE 1st St.
Street
Gainesville, FL 32601
City *State* *Zip*

Phone 352-263-2317

E-mail MSexton@alachuacounty.us

Speaking: ☑ For ☐ Against ☐ Information

Representing Alachua County

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/1/14
Meeting Date

Topic Juvenile Detention Costs Bill Number 1532 *(if applicable)*

Name Robert Lewis Amendment Barcode *(if applicable)*

Job Title DIRECTOR, INTERGOVERNMENTAL RELATIONS

Address 1660 Ringling Blvd Phone 941 444 9532
Street

Sarasota FL 34230 E-mail rlewis@scgov.net
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing

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

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

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

S-001 (10/20/11)

The Florida Senate

Committee Agenda Request

To: Senator Wilton Simpson, Chair
Committee on Community Affairs

Subject: Committee Agenda Request

Date: March 6, 2014

I respectfully request that **Senate Bill # 1532**, relating to Juvenile Detention Costs, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Rob Bradley
Florida Senate, District 7

File signed original with committee office

S-020 (03/2004)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL:	CS/CS/SB 1632
INTRODUCER:	Community Affairs Committee; Ethics and Elections Committee; and Senator Stargel
SUBJECT:	Special Districts
DATE:	April 1, 2014 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carlton	Roberts	EE	**Fav/CS**
2.	White	Yeatman	CA	**Fav/CS**
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1632 is an omnibus special district bill that reorganizes, renumbers and makes numerous technical and conforming changes to the provisions in Chapter 189 of the Florida Statutes. The bill outlines a process by which the Joint Legislative Auditing Committee (JLAC) and the Department of Economic Opportunity (DEO) may enforce reporting and other requirements when special districts fall out of compliance with their obligations or become inactive. Subsequent to notifying DEO, relevant legislators and the local general-purpose government, and subsequent to a public hearing, JLAC may request that DEO file a petition for enforcement with the Circuit Court of Leon County. Additionally, the bill:

- Requires special districts to maintain a website that offers the public specified information;
- Requires special districts to give the website address to the DEO for publication on its website;
- Amends the definition of agency in the Code of Ethics to specifically include special districts;
- Redefines the term special district in s. 189.403, F.S.;
- Removes provisions concerning a special district's application to amend its charter;
- Amends the circumstances under which the DEO may declare a special district inactive;
- Requires the DEO to notify the chair of the county legislative delegation and the Legislative Auditing Committee;
- Prohibits inactive districts from collecting taxes, fees, and assessments;
- Changes the required education for new special district members;

- Revises the provisions concerning the failure to file certain reports;
- Requires administrative fees to be placed into the Operating Trust Fund; and
- Requires public hearings concerning certain noncompliance.

II. Present Situation:

Special Districts

Special districts are local units of special purpose government, within limited geographical areas, which are utilized to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services. Special districts have existed in Florida since 1845 when the Legislature authorized five commissioners to drain the "Alachua Savannah" also known as Paynes Prairie. The project was financed by special assessments made on landowners based on the number of acres owned and the benefit derived. Since that time, special districts have been useful to local governments in providing a broad range of government services. All special districts must comply with the requirements of the Uniform Special District Accountability Act of 1989 which was enacted by the Legislature to reform and consolidate laws relating to special districts. The Act provides for the definitions, creation, operation, financial report, taxation and non-ad valorem assessments, elections and dissolution of most special districts.

Special districts serve a limited purpose, function as an administrative unit separate and apart from the county or city in which they may be located, and are often referred to as a local unit of special purpose. Special districts may be created by general law (an act of the Legislature), by special act (a law enacted by the Legislature at the request of a local government and affecting only that local government), by local ordinance, or by rule of the Governor and Cabinet.

The Special District Information Program (SDIP) within the Department of Economic Opportunity serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function which can include community development districts (575), community redevelopment districts (213), downtown development districts (14), drainage and water control districts (86), economic development districts (11), fire control and rescue districts (65), mosquito control districts (18), and soil and water conservation districts (62).[1] There are a total of 1,634 special districts. There are two types of special districts, dependent and independent. There are 1,008 independent special districts and 644 dependent special districts.

Each special district must file with the SDIP the ordinance or document creating the district, amendments to the creation document, a written statement referencing the basis for the district's dependent or independent status. The SDIP enforces compliance with financial reporting requirements and collects the Annual Special District Fee of $175 to pay the costs of administering the SDIP.

Dependent Special Districts

A dependent district meets at least one of the following criteria:

[1] Information relating to special districts and their functions can be found in the SDIP online publication "Florida Special District Handbook Online" which can be found at http://www.floridaspecialdistricts.org/handbook/.

- The special district governing body members are the same as the governing body members of the county or city that created the district;
- The special district governing board members are appointed by the governing body of the county or city that created the district;
- During the terms of membership, the governing board members of the special district are subject to removal at will by the governing body of the county or city that created the district;
- The special district budget must be approved by an affirmative vote of the governing body of the county or city that created the district; or
- The special district budget can be vetoed by the governing body of the county or city that created the district.

The ordinance creating a dependent special district must provide the following:

- A statement referencing the district's dependent status, including a statement that explains why the special district is the best way to provide the service being provided;
- The purpose, powers, functions, authority, and duties of the district;
- District boundaries;
- The membership, organization, compensation, and administrative duties of the special district governing board;
- Applicable financial disclosure, noticing, and reporting requirements;
- The method by which the special district will be financed; and
- A declaration that the creation of the special district is consistent with the approved local government comprehensive plan.

Independent Special Districts

An independent special district does not have any of the characteristics of a dependent district, may encompass more than one county unless the district lies wholly within the boundaries of one city, and generally is created by an act of the Legislature. However, counties and cities may create community development districts of less than 1,000 acres,[2] public hospital districts,[3] county children's services districts,[4] and county health and mental health care districts.[5] Two or more counties may create regional jail districts,[6] and any combination of counties or cities, or both, may create regional water supply authorities.[7] Regional transportation authorities may be created by any combination of contiguous counties, cities, or other political subdivisions.[8] Finally, the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission, have the authority to create community development districts.[9]

With the exception of a community development district, the charter creating an independent special district must contain the following information:

- The purpose of the special district;

[2] Chapter 190.005(2), F.S.
[3] Chapter 155.04 and 155.05, F.S.
[4] Section 125.901, F.S.
[5] Section 154.331, F.S.
[6] Section 950.001, F.S.
[7] Section 373.1962, F.S.
[8] Section 163.567, F.S.
[9] Section 190.005(1), F.S.

- The powers, functions and duties of the special district relating to ad valorem taxes, bonds and other revenue-raising abilities, budget preparation and approval, liens and lien foreclosures, and the use of tax deeds and certificates for non-ad valorem assessments and contractual agreements;
- Method for establishing the district and amending the district charter;
- The membership, organization, compensation, and administrative duties of the governing board and its members;
- Applicable financial disclosure, noticing, and reporting requirements;
- Procedures and requirements for bond issues, if the special district will issue bonds;
- Election procedures and requirements;
- Method for financing the district;
- Authorized millage rate, and methods for collecting non-ad valorem assessments, fees, or service charges;
- Planning requirements; and
- District boundaries.

III. Effect of Proposed Changes:

General Statutory Structure (Section 1)

The bill takes current Chapter 189 of the Florida Statutes, renames it as "Special Districts," and divides it into the following named parts:

- Part I - "General Provisions"
- Part II - "Dependent Special Districts"
- Part III - "Independent Special Districts"
- Part IV - "Elections"
- Part V - "Finance"
- Part VI - "Oversight and Accountability"
- Part VII - "Merger and Dissolution"
- Part VIII - "Comprehensive Planning"

Legislative Auditing Committee (Section 2)

Current Situation

The Joint Legislative Auditing Committee (Committee) has the authority to enforce provisions against local governmental entities when they fail to submit financial reports required by law. All counties, municipalities, and special districts are required to complete an annual financial report (AFR) for each fiscal year. Counties, municipalities and independent special districts are required to submit the AFR to the Department of Financial Services (DFS). Any dependent special district that is a component unit (as defined by generally accepted accounting principles (Governmental Accounting Standards Board Statement No. 14, The Financial Reporting Entity)) of the county or the municipality to which it is dependent is required to provide that entity the financial information necessary to comply with the AFR reporting requirements. It is then the county's or the municipality's responsibility to include the financial information of the dependent special district in its AFR. A dependent special district that is not determined to be a component

unit of the county or the municipality to which it is dependent is required to file the AFR with the DFS.

In addition, all counties, and municipalities and special districts that meet a certain threshold for revenues or expenditures/expenses are also required to have an annual financial audit (audit) of their accounts and records conducted by an independent certified public accountant (CPA). Audits are required to be submitted to both the DFS and the Auditor General. Each year, these offices provide the Committee with a list of all entities that have failed to comply with these financial reporting requirements. The Committee may choose to take action pursuant to s. 11.40(2), F.S., against noncompliant entities. For counties and municipalities, the Committee may direct the DFS and the Department of Revenue (DOR) to withhold any funds due to the entity that are not pledged for bond debt service satisfaction until they have complied with the law. For special districts, the Committee may direct the Department of Economic Opportunity (DEO or Department) to begin legal proceedings against the special district to compel compliance or declare the special district inactive pursuant to the provisions of s. 189.4044, F.S., if applicable.

Effect of Proposed Changes

Section 2 amends s. 11.40, F.S., to provide additional notification responsibilities for the Joint Legislative Auditing Committee (JLAC) when a special district fails to comply with the financial reporting requirements. If a district was created by special act, the Committee must notify the DEO, the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight, and legislators representing the geographical jurisdiction of the special district. If the district was created by local ordinance, the Committee must notify the local general-purpose government and DEO. If the district was created by any other manner than special act or local ordinance, the Committee must notify the local general-purpose government and DEO. Upon receipt, DEO must proceed pursuant to s. 189.062, F.S., (special procedures for inactive districts) or 189.067 F.S., (failure of district to disclose financial reports).

If the special district remains in noncompliance JLAC may request that DEO file a petition for enforcement with the Circuit Court of Leon County.[10]

Code of Ethics for Public Officers and Public Employees (Section 3)

Current Situation

The term "agency" means: any state, regional, county, local, or municipal government entity of this state, whether executive, judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; or any public school, community college, or state university.[11]

This definition of "agency" would encompass a special district.

[10] *See* Section 43 of the bill.
[11] Section 112.312(2), F.S.

Effect of Proposed Changes

The bill specifically adds to that definition "any special district as defined in s.189.012, F.S."

Governor's Suspension Power (Section 4)

Current Situation

Pursuant to Article IV, s. 7, of the State Constitution, the Governor may suspend any state officer not subject to impeachment, any officer of the militia not in active service of the United States, or any county officer for misfeasance, malfeasance, neglect of duty, public drunkenness, incompetence, permanent inability to perform public duties, or commission of a felony. If the Governor suspends one of these officers, the decision to remove or reinstate the officer is made by the Senate.[12]

Pursuant to Article IV, s. 7(c), of the State Constitution, the Governor may suspend any elected municipal officer indicted for a crime. Additionally, the Legislature provided the Governor the authority to suspend any elected or appointed municipal official for misfeasance, malfeasance, neglect of duty, public drunkenness, incompetence, permanent inability to perform public duties, arrested for a felony or for a misdemeanor related to the duties of office or is indicted or informed against for the commission of a federal felony or misdemeanor or state felony or misdemeanor.[13] This jurisdiction is concurrent in the Governor and in the statutory or charter authority.[14] In the event that a municipal officer is convicted, the Governor is required to remove him or her from office.[15]

Currently, the law contemplates the following types of special districts: an independent special district that is created by special act, an independent special district created by county/municipal charter or ordinance, an independent special district created by agreement between counties, an independent special district created by agreement between a county and a municipality, a county/municipal dependent district created by charter, or a county/municipal dependent special district created by ordinance. Some members of special districts would be considered to be county officers. Some members of special districts would be considered to be municipal officers. Some members of special districts would not be either county or municipal officers. If a Governor were to suspend a member of a special district board that exercises powers and duties that are county-related, the Senate would likely have jurisdiction over the executive order of suspension pursuant to Art. IV, s. 7, Fla. Const. If the Governor were to suspend a member of a special district that exercises powers and duties that are municipal in nature, then the Senate would not have jurisdiction. The Governor could take any action consistent with ss. 112.50-112.52, F.S. It is unclear what would happen in the event that a special district board member whose board is created by interlocal agreement between multiple counties or municipal-county agreement was one to be suspended.

Effect of Proposed Changes

[12] Article IV, s. 7(b), Fla. Const.
[13] Section 112.51, F.S.
[14] Section 112.50, F.S.
[15] Section 112.51(5), F.S.

The bill provides that the Governor may suspend board members of special districts exercising state or county jurisdiction subject to removal or reinstatement by the Senate as provided in Art. IV, s. 7(a), of the State Constitution. Alternatively, the bill provides that the Governor may suspend and remove board members of special districts exercising powers other than state or county powers as provided in s. 112.51, F.S.

Children's Services Independent Special Districts (Section 5)

Current Situation

The governing body of a children's services independent special district is typically composed of 10 members, and serves to promote juvenile welfare. A county, as defined in s. 125.011(1), F.S., may instead have a governing body composed of 33 members, one of whom is a member of the state Legislature who represents residents of the county. The member of the Legislature is selected to serve on the governing body of the children's services district by the chair of the local legislative delegation.

Any children's services district may be dissolved by a special act of the Legislature, or by ordinance of the county governing body. A county ordinance dissolving the independent special district is conditioned upon the approval of the electorate. The question of retention or dissolution of the district must be presented to the electorate in a general election no later than 12 years after initial authorization, although a shorter period for reauthorization may be specified.[16]

Effect of Proposed Changes

The bill removes the selection criteria for the member of the state Legislature serving on the governing body of the children's special district of the county defined in s. 125.011(1), F.S. In the absence of any direction it is unclear how this member would be selected.

Statement of Legislative Intent (Sections 7-9)

Current Situation

Section 189.402, F.S., contains the statements of legislative intent concerning creation and purpose of special districts. In its current form, it contains statements of legislative intent relating to both dependent and independent special districts.

Effect of Proposed Changes

The general statement of legislative intent applicable to both types of districts in ss. 189.402(1), 189.402(6), and 189.402(7), F.S., are transferred to s. 189.011, F.S., which is located in "Part I - General Provisions." The Legislative findings that special districts serve a necessary and useful public purpose and the intent that the public trust be secured by registering and certain financial reports in s. 189.402(6), F.S., are relocated to new s. 189.011(2), F.S.

Additionally, the current statements of legislative intent concerning improvement of communication and uniformity in s. 189.402(2), F.S., are moved and renumbered to s. 189.06, F.S., located in "Part VI - Oversight and Accountability."

[16] Section 125.901(4), F.S.

The statements of legislative intent concerning independent special districts in s. 189.402(3), (4), (5), and (8) are moved to s. 189.03, F.S., in "Part III - Independent Special Districts." Those sections contain substantive revisions to the statements of legislative intent contained therein.

Special District Definition (Section 10)

Current Situation

Under s. 189.403, F.S., "special district" means a local unit of special purpose, as opposed to general-purpose, government within a limited boundary, created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. For the purpose of s. 196.199(1), F.S., special districts shall be treated as municipalities. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

Effect of Proposed Changes

Section 10 transfers, renumbers, and amends s. 189.403, F.S., to redefine the term "special district" as:

> a unit <u>of local government created for a</u> special purpose, as opposed to <u>a general purpose</u>, <u>which has jurisdiction to operate</u> within a limited <u>geographic</u> boundary <u>and is</u> created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, F.S., a municipal service taxing or benefit unit as specified in s. 125.01, F.S., or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

Creation, Dissolution, Reporting Requirements of Special Districts (Section 12)

Current Situation

Section 189.4031, F.S., requires all special districts to follow creation, dissolution, and reporting requirements set forth in Chapter 189 of the Florida Statutes. It also requires certain information concerning powers and duties of the district, methods for establishing and amending the charter, certain information concerning ad valorem taxing and fees, planning requirements, and geographical boundaries to be contained in the charter of an independent special district. Because the only charter available for a community development district is that provided in ss. 190.006-190.041, F.S., an exception is created for community development districts.

Effect of Proposed Changes

The bill moves the provision that all special districts must follow creation, dissolution and reporting requirements to s. 189.013, F.S., which is located in "Part I - General Provisions." The

remaining provisions are moved to s. 189.0311, F.S., which is located in "Part III - Independent Special Districts."

The Official List of Special Districts (Section 13)

Current Situation

Section 189.4035, F.S., requires the Department of Economic Opportunity to compile and maintain an official list of special districts which must be posted on the Department's website. That provision also states that if a special district was created by a local general-purpose government or a state agency, any proposed charter amendments must be approved as a matter of right. If the special district was created by the Legislature, the district must seek legislative amendment to its charter during the next session or it will become a dependent special district.

Effect of Proposed Changes

In addition to moving s. 189.4035, F.S., to s. 189.061, F.S., located in "Part VI - Oversight and Accountability," the bill makes the following changes:

- Requires the Department of Economic Opportunity to post a link to the special district's website. That website is required to contain certain information pursuant to newly created s. 189.069, F.S.;
- Deletes the requirement that charter amendment requests made by a local general-purpose government or state agency be approved as a matter of right; and
- Deletes the requirements that special districts created by the Legislature seek an amendment at the next session and that failure to do so will result in conversion to a dependent special district.

Merger and Dissolution of Special Districts (Sections 18-23)

Current Situation

Section 189.4042, F.S., governs the merger and dissolution of special districts. That section provides definitions, procedures for merger or dissolution of a dependent special district, dissolution of an independent special district, legislative dissolution of special districts created by special acts of the Legislature, dissolution of inactive independent special districts, legislative or voluntary merger of independent special districts, the merger by referendum process, and involuntary merger of independent special districts.

Effect of Proposed Changes

The following provisions of s. 189.4042, F.S., are relocated to "Part VII - Merger and Dissolution:"

- Definitions in s. 189.4042(1), F.S., are moved to s. 189.07, F.S.;
- Merger or Dissolution of Dependent Special Districts provisions in s. 189.4042(2), F.S., are moved to s. 189.071, F.S.;
- Dissolution of Independent Special Districts provisions in s. 189.4042(3), F.S., are moved to s. 189.072, F.S.;
- Legislative Merger of independent special districts provisions are moved from s. 189.4042(4), F.S., to s. 189.073, F.S.;

- The provisions for voluntary merger of independent special districts in s. 189.4042(5), F.S., are moved to s. 189.074, F.S.;
- The provisions relating to involuntary merger of independent special districts in s. 189.4042(6), F.S., are moved to s. 189.075, F.S.; and
- The provisions relating to community development districts is moved from s. 189.4042(7), F.S., to s. 189.0761, F.S.

Effect of Proposed Changes

The provisions relating to community development districts is moved from s. 189.4042(7), F.S., to s. 189.0761, F.S.

Special Procedures for Inactive Districts (Section 24)

Current Situation

Section 189.4044, F.S., requires the DEO to declare a special district inactive and provides the circumstances under which it must do so. That section provides for repayment of an inactive district's debt and that the remainder of any assets or property escheat to the county or municipality wherein the district is located. If the Department declares a district inactive, that statute specifies who the Department must notify.

In the case of a district created by special act of the Legislature, the DEO must send a notice of declaration of inactive status to the Speaker of the House of Representatives, and the President of the Senate.

Effect of Proposed Changes

The bill moves s. 189.4044, F.S., to s. 189.062, F.S., located in "Part VI - Oversight and Accountability." The bill requires DEO to send additional notices of declaration of inactive status to the standing committees of the Senate and the House of Representatives charged with special district oversight, and the Legislative Auditing Committee. Currently, the law authorizes the Department to declare a district inactive when "following an inquiry from the Department, the registered agent of the district or the chair of the governing body of the appropriate unit of local general-purpose government notifies the Department in writing that the district has not had a governing body or a sufficient number of governing body members to constitute a quorum for 2 or more years." The bill removes the condition precedent that the Department must ask whether there has been a board or a quorum for the past two years.

The bill also allows a special district that declares itself inactive by unanimously adopted resolution to be dissolved without a referendum.

The bill prevents a special district declared inactive from collecting taxes, fees, or assessments, unless the declaration is withdrawn or revoked by the department or invalidated in proceedings initiated by the special district. The governing body of the special district may initiate such proceedings by filing a petition for administrative hearing, or filing an action for declaratory and injunctive relief in the circuit court where the majority of the geographic area of the district is located.

The DEO may also file a petition for enforcement of the prohibitions on the district from collecting taxes, fees, or assessments. Such a petition for enforcement would be filed with the circuit court in and for Leon County. The petition may request declaratory, injunctive, or other equitable relief, including appointment of a receiver. The prevailing party shall be awarded litigation costs and reasonable attorney fees.

Governing Body Elections (Sections 27 and 28)

Current Situation

Section 189.405, F.S., provides that elections of board members of dependent special districts shall be conducted by the supervisor of elections of the county where the district is located. That section also provides that elections of board members of independent special districts located entirely within one county may be conducted by the supervisor of elections of that county. Alternatively, if such district conducts its own elections it must report the results to the supervisor of elections. The statute also provides an election process for multicounty special district. It also allows the Department to provide or conducting education for newly elected or appointed board members concerning the Code of Ethics, public records and open meetings laws, public finance, and parliamentary procedure. Education may be provided by means of videotapes, live seminars, workshops, conferences, teleconferences, computer-based training, multimedia presentations, or other available instructional methods. Finally, the law does not apply to community development districts or water management districts.

Effect of Proposed Changes

The bill moves these provisions, with the exception of the education of newly elected or appointed officials, to newly created s. 189.04, F.S., located in "Part IV - Elections." The education programs provisions are moved to newly created s. 189.063, F.S., located in "Part VI - Oversight and Accountability." However, the bill deletes the references to the specific means of providing training.

Special District Information Program (Section 33)

Current Situation

The Special District Information Program is created in s. 189.412, F.S., to:

- Maintain a database of special district non-compliance reports;
- Maintain a master list of special districts for the Department of Economic Opportunity website;
- Publish and update the "Florida Special District Handbook;"
- When feasible, secure and maintain access to special district information collected by all state agencies;
- Facilitation coordination and communication among state agencies regarding special districts;
- Conduct studies relevant to special districts;
- Providing assistance in compliance with the requirements of law, including assistance with an annual conference presented by the Florida Association of Special Districts; and

- Providing assistance to local general-purpose governments and certain state agencies in collecting delinquent reports or information, helping special districts comply with reporting requirements, declaring special districts inactive when appropriate, and initiating enforcement actions when directed to by the Joint Legislative Auditing Committee.

Effect of Proposed Changes

The bill renames the Special District information Program as the "Special District Accountability Program" and moves the program to s. 189.064, F.S., in "Part VI - Oversight and Accountability." It also requires electronic publication of special district noncompliance status reports. The bill requires maintenance of the official list of special districts. Additionally, the bill requires that the program provide technical advisory assistance to special districts which may be performed by DEO or a qualified third-party vendor pursuant to a contract entered into in accordance with applicable bidding requirements.

Failure to File Reports or Information (Sections 41 and 43)

Current Situation

Section 189.419, F.S., requires the person authorized to receive and read the reports or information or the local general-purpose government to notify the district's registered agent. The district can request, and be granted, a 30 day extension of time in which to file the required report or information. If the governing body of the local general-purpose government or governments determines that the failure was unjustified, it may notify the Department. The Department must then provide the district 60 days to get in compliance and follow subsequent remedial procedures in s. 189.421, F.S., if warranted.

If a dependent special district fails to file required reports or information, the local governing authority on which the district is dependent may take whatever steps it deems necessary to enforce the district's accountability, including withholding funds, removing governing board members at will, vetoing the special district's budget, conducting the oversight review process set forth in s. 189.428, F.S., or amending, merging, or dissolving the special district in accordance with the provisions contained in the ordinance that created the dependent special district.

If a special district fails to file a notice of bond issuance with the appropriate state agency, the agency is required to notify the Department of Economic Opportunity. The Department shall notify the district of the requirements and encourage the special district to take steps to assure that noncompliance will not recur.

If a special district fails to file actuarial reports or statements of actuarial impact, the agency shall notify the Department and the Department may begin the remedial measures in s. 189.421(1), F.S.

Finally, if a special district fails to file annual financial reports or annual financial audits, the appropriate state agency or office, the state agency or office shall, and the Legislative Auditing Committee may, notify the Department and the Department shall proceed pursuant to s. 189.421, F.S.

Section 189.421, F.S., provides that if the Department has been notified of a failure to file a required report or information, it must provide a letter to the district notifying the district that it has 60 days to comply and offering assistance to the district in complying. If unable to make the 60 day deadline, the district must notify the Department why it cannot comply and the steps it is taking to prevent a recurrence. The district must also notify the Department when it will file the report. The Department must forward the letter to the appropriate entity. The law provides a mechanism for filing a suit seeking a writ of certiorari.

Effect of Proposed Changes

The bill moves s. 189.419, F.S., to s. 189.066, F.S., located in "Part VI - Oversight and Accountability." The bill makes mandatory that the governing body of the local general-purpose government notify DEO if they determine that a special district has an unjustified failure to file reports or information, required under s. 189.08, 189.014, 189.015, or 189.016(9), F.S.

The bill also provides that if a special district created by special act of the Legislature fails to file annual financial reports or annual financial audits, the Legislative Auditing Committee must notify the President of the Senate, the Speaker of the House of Representatives, and the standing committees of the Senate and the House of Representatives charged with special district oversight. If a special district created by ordinance fails to file annual financial reports or annual financial audits, the Joint Legislative Auditing Committee must notify in writing the Department and chair or equivalent of the local general-purpose government that created the district.

The bill moves s. 189.421, F.S., to s. 189.067, F.S., located in "Part VI - Oversight and Accountability." The bill provides remedies for noncompliance with reporting requirements. To enforce compliance, DEO may file a petition with the circuit court in and for Leon County requesting declaratory, injunctive, any equitable relief, or any remedy provided by law.

Grants and Donations Trust Fund (Section 47)

Current Situation

Section 189.427, F.S., requires the Department of Economic Opportunity to establish a schedule of fees to pay one-half of the costs incurred by the Department in administering the special districts act. The fee may not exceed $175 per district each year. The fees must be deposited in the Grants and Donations Trust Fund, which is administered by the Department. That section also authorizes a fine of $25, not to exceed $50, as penalties for failure to remit required fees.

Effect of Proposed Changes

The bill moves s. 189.427, F.S., to s. 189.018, F.S., located in "Part I - General Provisions." The bill also renames the trust fund as the "Operating Trust Fund."

Oversight Review Process (Sections 48, 51 and 52)

Current Situation

Section 189.428, F.S., contains several statements of legislative intent. It specifies the order in which special districts may be subject to oversight review and criteria for evaluating the district's performance. Special districts being reviewed may provide written questions, concerns, preliminary reports, draft reports, or final reports relating to the district. The final report shall form the basis of a charter modification or dissolution. That section provides the process for legislative dissolution. Deepwater ports, airport authorities, are exempt under certain circumstances. Finally, health systems and health facilities districts are exempt.

Effect of Proposed Changes

The bill moves s. 189.428, F.S., to s. 189.068, F.S., located in "Part VI - Oversight and Accountability." The bill also creates s. 189.034, F.S., located in "Part III - Independent Special Districts." The bill provides JLAC with oversight of special districts created by special act of the Legislature when a special district fails to file required reports or information under ss.11.45(7), 218.32, 218.39, and 218.503(3), F.S. JLAC would perform the following:

- Provide written notice of district's noncompliance to the President of the Senate, the Speaker of the House of Representatives, the standing committees of the Senate and the House of Representatives charged with special district oversight, and legislators representing the geographical jurisdiction of the special district.
- May convene a public hearing on the issue of noncompliance, as well as general oversight of the district, at the discretion of the Speaker of the House of Representatives and the President of the Senate.
- Obtain specified information from a special district in preparation for a public hearing:
  - The district's annual financial report for the previous fiscal year;
  - The district's audit report for the previous fiscal year;
  - An annual report containing:
    - The district's mission;
    - Funding sources;
    - Major activities, programs, and initiatives it undertook in the most recently completed fiscal year and the benchmarks or criteria used by the governing body to determine success or failure;
    - Challenges or obstacles faced by the district in fulfilling its mission and responsibilities;
    - Ways in which the district believes it could better fulfill its mission and related responsibilities and a description of the actions it intends to take during the ensuing fiscal year;
    - Proposed changes to its special act and the justifications for such changes;
    - Any reasons for the district's noncompliance;
    - Whether the district is currently in compliance; and
    - Efforts to promote transparency, including maintenance of the district's website in accordance with new s. 189.069, F.S.

The bill also creates a new provision concerning oversight of special districts created by local ordinance in s. 189.035, F.S., located in "Part III - Independent Special Districts." This new provision requires the Legislative Auditing Committee or its designee to provide written notice of failure to file annual financial reports or annual financial audits to the chair or equivalent of the local general-purpose government. The chair may convene a public hearing on the non-

compliance within 6 months after receipt of such notice. The local general-purpose government is authorized to request:

- The district's annual financial report for the previous fiscal year;
- The district's audit report for the previous fiscal year;
- An annual report containing:
  - The district's purpose;
  - Funding sources;
  - Major activities, programs, and initiatives it undertook in the most recently completed fiscal year and the benchmarks or criteria used by the governing body to determine success or failure;
  - Challenges or obstacles faced by the district in fulfilling its purpose and responsibilities;
  - Ways in which the district believes it could better fulfill its purpose and a description of the actions it intends to take during the ensuing fiscal year;
  - Proposed changes to the ordinance that established it and the justifications for such changes;
  - Any reasons for the district's noncompliance;
  - Whether the district is currently in compliance;
  - Plans to correct any recurring issues of noncompliance; and
  - Efforts to promote transparency, including maintenance of the district's website in accordance with new s. 189.069, F.S.

The local general-purpose government shall report findings of any public hearing to DEO and JLAC within 6 months after completion of such hearing.

Property Tax Exemption (Section 53)

Current Situation

The definition of special district in s. 189.403(1), F.S., in pertinent part, provides, "For the purpose of s. 196.199(1), special districts shall be treated as municipalities." Section 196.99(1), F.S., provides that municipalities are exempt from ad valorem taxes in the same manner that municipalities are exempt from taxes.

Effect of Proposed Changes

The bill creates new s. 189.055, F.S., located in "Part V - Finance." The new statute incorporates the language quoted above to maintain property tax exempt status.

Web-Based Public Access (Section 54)

Current Situation

None.

Effect of Proposed Changes

The bill creates new s. 189.069, F.S., in "Part VI - Oversight and Accountability." Beginning October 1, 2015, or by the end of the first fiscal year after creation of a special district, all special districts would be required to annually update and maintain their official websites and submit

their official website address to the DEO. Independent special districts must maintain a separate internet website, while dependent special districts would be allowed to use the website of the general-purpose government that created them to provide the required information. The following information must be posted on the district's website:

- The full legal name of the special district;
- The public purpose of the special district;
- The name, address, email address, and, if applicable the term and appointing authority for each member of the governing body of the special district;
- The fiscal year of the special district;
- The full text of the special district's charter, the date the special district was established, the entity that established the special district, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established;[17]
- The mailing address, e-mail address, telephone number, and Internet website uniform resource locator of the special district;
- A description of the boundaries or service area of, and the services provided by, the special district;
- A listing of all taxes, fees, assessments, or charges imposed and collected by the special district, including the rates or amounts charged for the fiscal year and the statutory authority for the levy of the tax, fee, or charge;
- The primary contact information for the special district for the purpose of communication from the Department of Economic Opportunity;
- The code of ethics that applies to the special district, and whether the special district has adopted additional ethics provisions;
- The budget of the special district; and amendments; and
- The final, complete audit report for the most recent completed fiscal year.

Effective Date (Section 89)

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

Other Provisions

Section 50 of the bill repeals the following: ss. 189.430, 189.431, 189.432, 189.433, 189.434, 189.435, 189.436, 189.437, 189.438, 189.439, 189.440, 189.441, 189.442, 189.443, and 189.444, F.S. Those sections compose the "Community Improvement Authority Act," the purpose of which is to prescribe a uniform procedure for establishing independent authorities for the purpose of planning, financing, constructing, renovating, developing, operating, and maintaining facilities and other attractions, including professional sports facilities and other related amenities and infrastructure within highly populated counties of the state and within counties contiguous therewith.[18]

[17] Community development districts may use chapter 190, as the uniform charter, but must include information relating to any grant of special powers.
[18] Section 189.431(2), F.S.

Numerous sections of the bill do not need to be specifically addressed because they make only technical, conforming, or renumbering changes to the statutes. Those sections of the bill are: 6, 11, 14-17, 25, 26, 29-32, 34-40, 42, 44-46, 49, 50, 55-88.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article III, s. 11(a)(21) of the Florida Constitution states that there shall be no special law or general law of local application[19] pertaining to "any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote." Prohibited subject matters include s. 189.404(2), F.S., pertaining to independent special districts; and s. 190.049, F.S., pertaining to the creation of independent special districts having the powers enumerated in two or more of the paragraphs of s. 190.012, F.S. The bill raises an issue as to whether proposed conforming changes to s. 190.049 and s. 189.404(2), F.S., require a three-fifths vote of both houses in order to pass.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. It appears that there would be minimal compliance costs for DEO and local governments to develop and maintain additional websites or webpages. The bill contemplates the possibility of hearings and notices which would be conducted by local governments, JLAC, or DEO.

[19] *School Board of Escambia Co. v. State*, 353 So. 2d 834, 839 (Fla. 1977).

VI. Technical Deficiencies:

Section 47 of the bill would have fees established and administered by DEO deposited into the "Operating Trust Fund," instead of going into the Grants and Donations Trust Fund, as is current practice. Although legislation in 2011[20] transferred all unexpended balances of an "Operating Trust Fund" from the Department of Community Affairs to the Department of Economic Opportunity, it appears that such a trust fund is not currently in existence at DEO. If interpreted as an attempt to create a new trust fund, the relevant constitutional restrictions will apply.[21]

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 11.40, 112.312, 112.50, 112.51, 189.401, 189.01, 189.402, 189.011, 189.06, 189.03, 189.403, 189.012, 189.4031, 189.013, 189.0311, 189.4035, 189.061, 189.404, 189.031, 189.40401, 189.033, 189.4041, 189.02, 189.4042, 189.07, 189.071, 189.072, 189.073, 189.074, 189.075, 189.0761, 189.4044, 189.062, 189.4045, 189.076, 189.4047, 189.021, 189.405, 189.04, 189.063, 189.4051, 189.041, 189.4065, 189.05, 189.408, 189.042, 189.4085, 189.051, 189.412, 189.064, 189.413, 189.065, 189.415, 189.08, 189.4155, 189.081, 189.4156, 189.082, 189.416, 189.014, 189.417, 189.015, 189.418, 189.016, 189.419, 189.066, 189.420, 189.052, 189.421, 189.067, 189.4221, 189.053, 189.423, 189.054, 189.425, 189.017, 189.427, 189.018, 189.428, 189.068, 189.429, 189.019, 11.45, 100.011, 101.657, 112.061, 112.63, 112.665, 121.021, 121.051, 125.901, 153.94, 163.08, 165.031, 165.0615, 171.202, 175.032, 190.011, 190.046, 190.049, 191.003, 191.005, 191.013, 191.014, 191.015, 200.001, 218.31, 218.32, 218.37, 255.20, 298.225, 343.922, 348.0004, 373.711, 403.0891, 582.32, and 1013.355.

This bill creates the following sections of the Florida Statutes: 112.5111, 189.034, 189.035, 189.055, 189.069, and 189.0691.

This bill repeals the following sections of the Florida Statutes: 189.430, 189.431, 189.432, 189.433, 189.434, 189.435, 189.436, 189.437, 189.438, 189.439, 189.440, 189.441, 189.442, 189.443, and 189.444**.**

IX. Additional Information:

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

CS/CS by Community Affairs on April 1, 2014:

[20] Chapter 2011-142, s. 3, Laws of Fla.

[21] Article III, s. 19(f) of the Florida Constitution requires that every trust fund be created by a three-fifths vote of the membership in each house of the Legislature in a separate bill for the sole purpose of creating that trust fund. The Constitution also provides that all newly created trust funds terminate not more than four years after the initial creation unless recreated.

- Postpones the date by which a special district must have a website to October 1, 2015;
- Requires a special district's website to include any code of ethics adopted, and any assessments imposed;
- Creates a process by which the JLAC and the DEO may enforce reporting and other requirements when special districts are noncompliant or inactive. Subsequent to notifying DEO, relevant legislators and the local general-purpose government, and subsequent to a public hearing, JLAC may request that DEO file a petition for enforcement with the Circuit Court of Leon County; and
- Establishes separate oversight controls appropriate to different special districts depending on how they were created.

CS by Ethics and Elections on March 17, 2014:

- Provides that the Governor may suspend board members of special districts exercising state or county jurisdiction subject to removal or reinstatement by the Senate;
- Provides that the Governor may suspend and remove board members of special districts exercising powers other than state or county powers; and
- Provides that the Governor may suspend special district officers for violations of the Special District Act in Chapter 189, F.S., but the Governor and appointing authority must ensure that the governing body of the district maintains enough members to constitute a quorum.

B. Amendments:

None.

By the Committee on Ethics and Elections; and Senator Stargel

582-02728-14 20141632c1

A bill to be entitled

An act relating to special districts; designating parts I-VIII of ch. 189, F.S., relating to special districts, and renaming the chapter; amending s. 11.40, F.S.; revising duties of the Legislative Auditing Committee; amending s. 112.312, F.S.; redefining the term "agency" as it applies to the code of ethics for public officers and employees to include special districts; creating s. 112.511, F.S.; specifying applicability of procedures regarding suspension and removal of a member of the governing body of a special district; transferring, renumbering, and amending s. 189.401, F.S.; revising a short title; transferring, renumbering, and amending s. 189.402, F.S.; revising a statement of legislative purpose and intent; making technical changes; conforming provisions to changes made by the act; transferring, renumbering, and amending s. 189.403, F.S.; redefining the term "special district"; transferring, renumbering, and amending ss. 189.4031, 189.4035, 189.404, 189.40401, 189.4041, and 189.4042, F.S.; deleting provisions relating to the application of a special district to amend its charter; conforming provisions and cross-references; transferring, renumbering, and amending s. 189.4044, F.S.; revising the circumstances under which the Department of Economic Opportunity may declare a special district inactive; requiring the department to provide notice of a declaration of inactive status to the chair of

the county legislative delegation and the Legislative Auditing Committee rather than the Legislature; prohibiting special districts that are declared inactive from collecting taxes, fees, or assessments; providing exceptions; providing for enforcement of the prohibition; transferring and renumbering ss. 189.4045 and 189.4047, F.S.; transferring, renumbering, and amending s. 189.405, F.S.; revising requirements related to education programs for new members of special district governing bodies; amending s. 189.4051, F.S.; revising definitions; conforming provisions; transferring and renumbering ss. 189.4065, 189.408, and 189.4085, F.S.; transferring, renumbering, and amending ss. 189.412 and 189.413, F.S.; renaming the Special District Information Program the Special District Accountability Program; revising duties of the Special District Accountability Program; transferring and renumbering ss. 189.415, 189.4155, and 189.4156, F.S.; transferring, renumbering, and amending ss. 189.416, 189.417, and 189.418, F.S.; conforming provisions and cross-references; transferring, renumbering, and amending s. 189.419, F.S.; revising provisions related to the failure of a special district to file certain reports or information; conforming cross-references; transferring and renumbering s. 189.420, F.S.; transferring, renumbering, and amending s. 189.421, F.S.; deleting provisions related to available remedies for the failure of a special district to

disclose required financial reports; transferring and renumbering ss. 189.4221, 189.423, and 189.425, F.S.; transferring, renumbering, and amending s. 189.427, F.S.; providing for the deposit of administration fees into the Operating Trust Fund rather than the Grants and Donations Trust Fund; transferring, renumbering, and amending s. 189.428, F.S.; revising the oversight review process for special districts; transferring and renumbering s. 189.429, F.S.; repealing ss. 189.430, 189.431, 189.432, 189.433, 189.434, 189.435, 189.436, 189.437, 189.438, 189.439, 189.440, 189.441, 189.442, 189.443, and 189.444, F.S., relating to the Community Improvement Authority Act; creating ss. 189.034 and 189.035, F.S.; requiring the Legislative Auditing Committee to provide notice of the failure of special districts to file certain required reports to the chair of the county legislative delegation or the chair or equivalent of the local general-purpose government, as applicable; requiring the chair of the county legislative delegation or the chair or equivalent of the local general-purpose government, as applicable, to convene a public hearing on the issue of noncompliance; authorizing the county legislative delegation or the local general-purpose government, as applicable, to request certain information from a special district before the public hearing; creating s. 189.055, F.S.; requiring special districts to be treated as municipalities for certain purposes; creating s. 189.069, F.S.; requiring special districts

to annually update and maintain certain information on the district's website; requiring special districts to submit the web address of their respective websites to the department; requiring that the department's online list of special districts include a link to the website of certain special districts; creating s. 189.0691, F.S.; providing for the suspension of special district governing body members by the Governor under certain conditions; requiring the Governor and appointing authority to ensure that the governing body maintains a sufficient number of members to constitute a quorum; amending ss. 11.45, 100.011, 101.657, 112.061, 112.63, 112.665, 121.021, 121.051, 125.901, 153.94, 163.08, 165.031, 165.0615, 171.202, 175.032, 190.011, 190.046, 190.049, 191.003, 191.005, 191.013, 191.014, 191.015, 200.001, 218.31, 218.32, 218.37, 255.20, 298.225, 343.922, 348.0004, 373.711, 403.0891, 582.32, and 1013.355, F.S.; conforming cross-references and provisions to changes made by the act; providing effective dates.

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

Section 1. Chapter 189, Florida Statutes, as amended by this act, is divided into the following parts:

(1) Part I, consisting of sections 189.01, 189.011, 189.012, 189.013, 189.014, 189.015, 189.016, 189.017, 189.018, and 189.019, Florida Statutes, as created by this act, and entitled "General Provisions."

(2) Part II, consisting of sections 189.02 and 189.021, Florida Statutes, as created by this act, and entitled "Dependent Special Districts."

(3) Part III, consisting of sections 189.03, 189.031, 189.0311, 189.033, 189.034, and 189.035, Florida Statutes, as created by this act, and entitled "Independent Special Districts."

(4) Part IV, consisting of sections 189.04, 189.041, and 189.042, Florida Statutes, as created by this act, and entitled "Elections."

(5) Part V, consisting of sections 189.05, 189.051, 189.052, 189.053, 189.054, and 189.055, Florida Statutes, as created by this act, and entitled "Finance."

(6) Part VI, consisting of sections 189.06, 189.061, 189.062, 189.063, 189.064, 189.065, 189.066, 189.067, 189.068, 189.069, and 189.0691, Florida Statutes, as created by this act, and entitled "Oversight and Accountability."

(7) Part VII, consisting of sections 189.07, 189.071, 189.072, 189.073, 189.074, 189.075, 189.076, and 189.0761, Florida Statutes, as created by this act, and entitled "Merger and Dissolution."

(8) Part VIII, consisting of sections 189.08, 189.081, and 189.082, Florida Statutes, as created by this act, and entitled "Comprehensive Planning."

Section 2. Chapter 189, Florida Statutes, is renamed "Special Districts."

Section 3. Paragraph (b) of subsection (2) of section 11.40, Florida Statutes, is amended to read:

11.40 Legislative Auditing Committee.—

(2) Following notification by the Auditor General, the Department of Financial Services, or the Division of Bond Finance of the State Board of Administration of the failure of a local governmental entity, district school board, charter school, or charter technical career center to comply with the applicable provisions within s. 11.45(5)-(7), s. 218.32(1), or s. 218.38, the Legislative Auditing Committee may schedule a hearing to determine if the entity should be subject to further state action. If the committee determines that the entity should be subject to further state action, the committee shall:

(b) In the case of a special district created by:

1. A special act, notify the chair of the county legislative delegation and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department ~~of Economic Opportunity~~ shall proceed pursuant to s. 189.062 or s. 189.067 ~~189.4044 or s. 189.421~~.

2. A local ordinance, notify the chair or equivalent of the local general-purpose government and the Department of Economic Opportunity that the special district has failed to comply with the law. Upon receipt of notification, the department shall proceed pursuant to s. 189.062 or s. 189.067.

Section 4. Subsection (2) of section 112.312, Florida Statutes, is amended to read:

112.312 Definitions.—As used in this part and for purposes of the provisions of s. 8, Art. II of the State Constitution, unless the context otherwise requires:

(2) "Agency" means any state, regional, county, local, or municipal government entity of this state, whether executive,

judicial, or legislative; any department, division, bureau, commission, authority, or political subdivision of this state therein; ~~or~~ any public school, community college, or state university; or any special district as defined in s. 189.012.

Section 5. Section 112.511, Florida Statutes, is created to read:

112.511 Members of special district governing bodies; suspension; removal from office.—

(1) A member of the governing body of a special district, as defined in s. 189.012, who exercises the powers and duties of a state or a county officer, is subject to the Governor's power under s. 7(a), Art. IV of the State Constitution to suspend such officers.

(2) A member of the governing body of a special district, as defined in s. 189.012, who exercises powers and duties other than that of a state or county officer, is subject to the suspension and removal procedures under s. 112.51.

Section 6. Section 189.401, Florida Statutes, is transferred, renumbered as section 189.01, Florida Statutes, and amended to read:

189.01 ~~189.401~~ Short title.—This chapter may be cited as the "Uniform Special District Accountability Act ~~of 1989~~."

Section 7. Subsections (1), (6), and (7) of section 189.402, Florida Statutes, are transferred and renumbered as subsections (1), (2), and (3), respectively, of section 189.011, Florida Statutes, and present subsection (6) of that section is amended, to read:

189.011 ~~189.402~~ Statement of legislative purpose and intent.—

(2)~~(6)~~ The Legislature finds that special districts serve a necessary and useful function by providing services to residents and property in the state. The Legislature finds further that special districts operate to serve a public purpose and that this is best secured by certain minimum standards of accountability designed to inform the public and appropriate general-purpose local governments of the status and activities of special districts. It is the intent of the Legislature that this public trust be secured by requiring each independent special district in the state to register and report its financial and other activities. The Legislature further finds that failure of an independent special district to comply with the minimum disclosure requirements set forth in this chapter may result in action against officers of such district body ~~board~~.

Section 8. Subsection (2) of section 189.402, Florida Statutes, is transferred, renumbered as section 189.06, Florida Statutes, and amended to read:

189.06 ~~189.402~~ Legislative intent; centralized location ~~Statement of legislative purpose and intent~~.—

~~(2)~~ It is the intent of the Legislature through the adoption of this chapter to have one centralized location for all legislation governing special districts and to:

(1)~~(a)~~ Improve the enforcement of statutes currently in place that help ensure the accountability of special districts to state and local governments.

(2)~~(b)~~ Improve communication and coordination between state agencies with respect to required special district reporting and state monitoring.

(3) ~~(c)~~ Improve communication and coordination between special districts and other local entities with respect to ad valorem taxation, non-ad valorem assessment collection, special district elections, and local government comprehensive planning.

(4) ~~(d)~~ Move toward greater uniformity in special district elections and non-ad valorem assessment collection procedures at the local level without hampering the efficiency and effectiveness of the current procedures.

(5) ~~(e)~~ Clarify special district definitions and creation methods in order to ensure consistent application of those definitions and creation methods across all levels of government.

(6) ~~(f)~~ Specify in general law the essential components of any new type of special district.

(7) ~~(g)~~ Specify in general law the essential components of a charter for a new special district.

(8) ~~(h)~~ Encourage the creation of municipal service taxing units and municipal service benefit units for providing municipal services in unincorporated areas of each county.

Section 9. Subsections (3), (4), (5), and (8) of section 189.402, Florida Statutes, are transferred, renumbered as subsections (1), (2), (3), and (4), respectively, of section 189.03, Florida Statutes, and amended to read:

189.03 ~~189.402~~ Statement of legislative purpose and intent; independent special districts.—

(1) ~~(3)~~ The Legislature finds that:

(a) There is a need for uniform, focused, and fair procedures in state law to provide a reasonable alternative for the establishment, powers, operation, and duration of

independent special districts ~~to manage and finance basic capital infrastructure, facilities, and services; and that, based upon a proper and fair determination of applicable facts, an independent special district can constitute a timely, efficient, effective, responsive, and economic way to deliver these basic services, thereby providing a means of solving the state's planning, management, and financing needs for delivery of capital infrastructure, facilities, and services in order to provide for projected growth without overburdening other governments and their taxpayers~~.

(b) It is in the public interest that any independent special district created pursuant to state law not outlive its usefulness and that the operation of such a district and the exercise by the district of its powers be consistent with applicable due process, disclosure, accountability, ethics, and government-in-the-sunshine requirements which apply both to governmental entities and to their elected and appointed officials.

~~(c) It is in the public interest that long-range planning, management, and financing and long-term maintenance, upkeep, and operation of basic services by independent special districts be uniform.~~

(2)~~(4)~~ It is the policy of this state:

(a) That independent special districts may be used ~~are a legitimate alternative method available for use~~ by the private and public sectors, as authorized by state law, to manage, own, operate, construct, and finance basic capital infrastructure, facilities, and services.

(b) That the exercise by any independent special district

of its powers~~, as set forth by uniform general law~~ comply with all applicable ~~governmental comprehensive planning~~ laws, rules, and regulations.

(3)~~(5)~~ It is the legislative intent ~~and purpose, based upon, and consistent with, its findings of fact and declarations of policy,~~ to authorize a uniform procedure by general law to create an independent special district, ~~as an alternative method to manage and finance basic capital infrastructure, facilities, and services. It is further the legislative intent~~ and ~~purpose~~ to provide by general law for the uniform operation, exercise of power, and procedure for termination of any such independent special district.

(4)~~(8)~~ The Legislature finds and declares that:

(a) Growth and development issues transcend the boundaries and responsibilities of individual units of government, and often no single unit of government can plan or implement policies to deal with these issues without affecting other units of government.

(b) The provision of capital infrastructure, facilities, and services for the preservation and enhancement of the quality of life of the people of this state may require the creation of multicounty and multijurisdictional districts.

Section 10. Section 189.403, Florida Statutes, is transferred, renumbered as section 189.012, Florida Statutes, reordered, and amended to read:

189.012 ~~189.403~~ Definitions.—As used in this chapter, the term:

(6)~~(1)~~ "Special district" means a ~~local~~ unit of local government created for a ~~of~~ special purpose, as opposed to a

general purpose ~~general-purpose~~, which has jurisdiction to operate ~~government~~ within a limited geographic boundary and is~~,~~ created by general law, special act, local ordinance, or by rule of the Governor and Cabinet. ~~The special purpose or purposes of special districts are implemented by specialized functions and related prescribed powers. For the purpose of s. 196.199(1), special districts shall be treated as municipalities.~~ The term does not include a school district, a community college district, a special improvement district created pursuant to s. 285.17, a municipal service taxing or benefit unit as specified in s. 125.01, or a board which provides electrical service and which is a political subdivision of a municipality or is part of a municipality.

(2) "Dependent special district" means a special district that meets at least one of the following criteria:

(a) The membership of its governing body is identical to that of the governing body of a single county or a single municipality.

(b) All members of its governing body are appointed by the governing body of a single county or a single municipality.

(c) During their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality.

(d) The district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality.

This subsection is for purposes of definition only. Nothing in this subsection confers additional authority upon local

governments not otherwise authorized by the provisions of the special acts or general acts of local application creating each special district, as amended.

(3) "Independent special district" means a special district that is not a dependent special district as defined in subsection (2). A district that includes more than one county is an independent special district unless the district lies wholly within the boundaries of a single municipality.

(1) ~~(4)~~ "Department" means the Department of Economic Opportunity.

(4) ~~(5)~~ "Local governing authority" means the governing body of a unit of local general-purpose government. However, if the special district is a political subdivision of a municipality, "local governing authority" means the municipality.

(7) ~~(6)~~ "Water management district" for purposes of this chapter means a special taxing district which is a regional water management district created and operated pursuant to chapter 373 or chapter 61-691, Laws of Florida, or a flood control district created and operated pursuant to chapter 25270, Laws of Florida, 1949, as modified by s. 373.149.

(5) ~~(7)~~ "Public facilities" means major capital improvements, including, but not limited to, transportation facilities, sanitary sewer facilities, solid waste facilities, water management and control facilities, potable water facilities, alternative water systems, educational facilities, parks and recreational facilities, health systems and facilities, and, except for spoil disposal by those ports listed in s. 311.09(1), spoil disposal sites for maintenance dredging in waters of the state.

Section 11. Subsection (1) of section 189.4031, Florida Statutes, is transferred and renumbered as section 189.013, Florida Statutes, and the catchline of that section shall read: "Special districts; creation, dissolution, and reporting requirements."

Section 12. Subsection (2) of section 189.4031, Florida Statutes, is transferred, renumbered as section 189.0311, Florida Statutes, and amended to read:

189.0311 ~~189.4031~~ Independent special districts ~~Special districts; creation, dissolution, and reporting requirements~~; charter requirements.—

~~(2)~~ Notwithstanding any general law, special act, or ordinance of a local government to the contrary, any independent special district charter enacted after September 30, 1989, ~~the effective date of this section~~ shall contain the information required by s. 189.031(3) ~~189.404(3)~~. Recognizing that the exclusive charter for a community development district is the statutory charter contained in ss. 190.006-190.041, community development districts established after July 1, 1980, pursuant to the provisions of chapter 190 shall be deemed in compliance with this requirement.

Section 13. Section 189.4035, Florida Statutes, is transferred and renumbered as section 189.061, Florida Statutes, and subsections (1), (5), and (6) of that section are amended, to read:

189.061 ~~189.4035~~ ~~Preparation of~~ Official list of special districts.—

(1) The department ~~of Economic Opportunity~~ shall maintain ~~compile~~ the official list of special districts. The official

list of special districts shall include all special districts in this state and shall indicate the independent or dependent status of each district. All special districts on ~~in~~ the list shall be sorted by county. The definitions in s. 189.012 ~~189.403~~ shall be the criteria for determination of the independent or dependent status of each special district on the official list. The status of community development districts shall be independent on the official list of special districts.

(5) The official list of special districts shall be available on the department's website and must include a link to the website of each special district that provides web-based access to the public of the information and documentation required under s. 189.069.

(6) ~~Preparation of~~ The official list of special districts or the determination of status does not constitute final agency action pursuant to chapter 120. If the status of a special district on the official list is inconsistent with the status submitted by the district, the district may request the department to issue a declaratory statement setting forth the requirements necessary to resolve the inconsistency. If necessary, upon issuance of a declaratory statement by the department which is not appealed pursuant to chapter 120, the governing body ~~board~~ of any special district receiving such a declaratory statement shall apply to the entity which originally established the district for an amendment to its charter correcting the specified defects in its original charter. This amendment shall be for the sole purpose of resolving inconsistencies between a district charter and the status of a district as it appears on the official list. ~~Such application~~

~~shall occur as follows:~~

~~(a) In the event a special district was created by a local general-purpose government or state agency and applies for an amendment to its charter to confirm its independence, said application shall be granted as a matter of right. If application by an independent district is not made within 6 months of rendition of a declaratory statement, the district shall be deemed dependent and become a political subdivision of the governing body which originally established it by operation of law.~~

~~(b) If the Legislature created a special district, the district shall request, by resolution, an amendment to its charter by the Legislature. Failure to apply to the Legislature for an amendment to its charter during the next regular legislative session following rendition of a declaratory statement or failure of the Legislature to pass a special act shall render the district dependent.~~

Section 14. Section 189.404, Florida Statutes, is transferred and renumbered as section 189.031, Florida Statutes, and subsection (2) and paragraphs (e), (f), and (g) of subsection (3) of that section are amended, to read:

189.031 ~~189.404~~ Legislative intent for the creation of independent special districts; special act prohibitions; model elements and other requirements; general-purpose local government/Governor and Cabinet creation authorizations.—

(2) SPECIAL ACTS PROHIBITED.—Pursuant to s. 11(a)(21), Art. III of the State Constitution, the Legislature hereby prohibits special laws or general laws of local application which:

(a) Create independent special districts that do not, at a

minimum, conform to the minimum requirements in subsection (3);

(b) Exempt independent special district elections from the appropriate requirements in s. 189.04 ~~189.405~~;

(c) Exempt an independent special district from the requirements for bond referenda in s. 189.042 ~~189.408~~;

(d) Exempt an independent special district from the reporting, notice, or public meetings requirements of s. 189.051, s. 189.08, s. 189.015, or s. 189.016 ~~189.4085, s. 189.415, s. 189.417, or s. 189.418~~;

(e) Create an independent special district for which a statement has not been submitted to the Legislature that documents the following:

1. The purpose of the proposed district;

2. The authority of the proposed district;

3. An explanation of why the district is the best alternative; and

4. A resolution or official statement of the governing body or an appropriate administrator of the local jurisdiction within which the proposed district is located stating that the creation of the proposed district is consistent with the approved local government plans of the local governing body and that the local government has no objection to the creation of the proposed district.

(3) MINIMUM REQUIREMENTS.—General laws or special acts that create or authorize the creation of independent special districts and are enacted after September 30, 1989, must address and require the following in their charters:

(e) The membership and organization of the governing body ~~board~~ of the district. If a district created after September 30,

1989, uses a one-acre/one-vote election principle, it shall provide for a governing body ~~board~~ consisting of five members. Three members shall constitute a quorum.

(f) The maximum compensation of a governing body ~~board~~ member.

(g) The administrative duties of the governing body ~~board~~ of the district.

Section 15. Section 189.40401, Florida Statutes, is transferred and renumbered as section 189.033, Florida Statutes.

Section 16. Section 189.4041, Florida Statutes, is transferred and renumbered as section 189.02, Florida Statutes, and paragraph (e) of subsection (4) of that section is amended, to read:

189.02 ~~189.4041~~ Dependent special districts.—

(4) Dependent special districts created by a county or municipality shall be created by adoption of an ordinance that includes:

(e) The membership, organization, compensation, and administrative duties of the governing body ~~board~~.

Section 17. Subsection (1) of section 189.4042, Florida Statutes, is transferred, renumbered as section 189.07, Florida Statutes, and amended to read:

189.07 ~~189.4042~~ Definitions ~~Merger and dissolution procedures~~.—

~~(1) DEFINITIONS.—~~As used in this part ~~section~~, the term:

(1)~~(a)~~ "Component independent special district" means an independent special district that proposes to be merged into a merged independent district, or an independent special district as it existed before its merger into the merged independent

district of which it is now a part.

(2) ~~(b)~~ "Elector-initiated merger plan" means the merger plan of two or more independent special districts, a majority of whose qualified electors have elected to merge, which outlines the terms and agreements for the official merger of the districts and is finalized and approved by the governing bodies of the districts pursuant to this part ~~section~~.

(3) ~~(c)~~ "Governing body" means the governing body of the independent special district in which the general legislative, governmental, or public powers of the district are vested and by authority of which the official business of the district is conducted.

(4) ~~(d)~~ "Initiative" means the filing of a petition containing a proposal for a referendum to be placed on the ballot for election.

(5) ~~(e)~~ "Joint merger plan" means the merger plan that is adopted by resolution of the governing bodies of two or more independent special districts that outlines the terms and agreements for the official merger of the districts and that is finalized and approved by the governing bodies pursuant to this part ~~section~~.

(6) ~~(f)~~ "Merged independent district" means a single independent special district that results from a successful merger of two or more independent special districts pursuant to this part ~~section~~.

(7) ~~(g)~~ "Merger" means the combination of two or more contiguous independent special districts resulting in a newly created merged independent district that assumes jurisdiction over all of the component independent special districts.

(8)~~(h)~~ "Merger plan" means a written document that contains the terms, agreements, and information regarding the merger of two or more independent special districts.

(9)~~(i)~~ "Proposed elector-initiated merger plan" means a written document that contains the terms and information regarding the merger of two or more independent special districts and that accompanies the petition initiated by the qualified electors of the districts but that is not yet finalized and approved by the governing bodies of each component independent special district pursuant to this part ~~section~~.

(10)~~(j)~~ "Proposed joint merger plan" means a written document that contains the terms and information regarding the merger of two or more independent special districts and that has been prepared pursuant to a resolution of the governing bodies of the districts but that is not yet finalized and approved by the governing bodies of each component independent special district pursuant to this part ~~section~~.

(11)~~(k)~~ "Qualified elector" means an individual at least 18 years of age who is a citizen of the United States, a permanent resident of this state, and a resident of the district who registers with the supervisor of elections of a county within which the district lands are located when the registration books are open.

Section 18. Subsection (2) of section 189.4042, Florida Statutes, is transferred, renumbered as section 189.071, Florida Statutes, and amended to read:

189.071 ~~189.4042~~ Merger or ~~and~~ dissolution of a dependent special district ~~procedures~~.—

~~(2) MERGER OR DISSOLUTION OF A DEPENDENT SPECIAL DISTRICT.—~~

(1)~~(a)~~ The merger or dissolution of a dependent special district may be effectuated by an ordinance of the general-purpose local governmental entity wherein the geographical area of the district or districts is located. However, a county may not dissolve a special district that is dependent to a municipality or vice versa, or a dependent district created by special act.

(2)~~(b)~~ The merger or dissolution of a dependent special district created and operating pursuant to a special act may be effectuated only by further act of the Legislature unless otherwise provided by general law.

(3)~~(c)~~ A dependent special district that meets any criteria for being declared inactive, or that has already been declared inactive, pursuant to s. 189.062 ~~189.4044~~ may be dissolved or merged by special act without a referendum.

(4)~~(d)~~ A copy of any ordinance and of any changes to a charter affecting the status or boundaries of one or more special districts shall be filed with the Special District Accountability ~~Information~~ Program within 30 days after such activity.

Section 19. Subsection (3) of section 189.4042, Florida Statutes, is transferred, renumbered as section 189.072, Florida Statutes, and amended to read:

189.072 ~~189.4042~~ Dissolution of an independent special district ~~Merger and dissolution procedures~~.—

~~(3) DISSOLUTION OF AN INDEPENDENT SPECIAL DISTRICT.—~~

(1)~~(a)~~ *Voluntary dissolution.*—If the governing body ~~board~~ of an independent special district created and operating pursuant to a special act elects, by a majority vote plus one,

to dissolve the district, the voluntary dissolution of an independent special district created and operating pursuant to a special act may be effectuated only by the Legislature unless otherwise provided by general law.

(2) ~~(b)~~ *Other dissolutions.*—

(a) ~~1.~~ In order for the Legislature to dissolve an active independent special district created and operating pursuant to a special act, the special act dissolving the active independent special district must be approved by a majority of the resident electors of the district or, for districts in which a majority of governing body ~~board~~ members are elected by landowners, a majority of the landowners voting in the same manner by which the independent special district's governing body is elected. If a local general-purpose government passes an ordinance or resolution in support of the dissolution, the local general-purpose government must pay any expenses associated with the referendum required under this paragraph ~~subparagraph~~.

(b) ~~2.~~ If an independent special district was created by a county or municipality by referendum or any other procedure, the county or municipality that created the district may dissolve the district pursuant to a referendum or any other procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to dissolve the district.

(3) ~~(c)~~ *Inactive independent special districts.*—An independent special district that meets any criteria for being declared inactive, or that has already been declared inactive,

pursuant to s. 189.062 ~~189.4044~~ may be dissolved by special act without a referendum. If an inactive independent special district was created by a county or municipality through a referendum, the county or municipality that created the district may dissolve the district after publishing notice as described in s. 189.062 ~~189.4044~~.

(4) ~~(d)~~ *Debts and assets.*—Financial allocations of the assets and indebtedness of a dissolved independent special district shall be pursuant to s. 189.076 ~~189.4045~~.

Section 20. Subsection (4) of section 189.4042, Florida Statutes, is transferred, renumbered as section 189.073, Florida Statutes, and amended to read:

189.073 ~~189.4042~~ Legislative merger of independent special districts ~~Merger and dissolution procedures~~.—

~~(4) LEGISLATIVE MERGER OF INDEPENDENT SPECIAL DISTRICTS.—~~ The Legislature, by special act, may merge independent special districts created and operating pursuant to special act.

Section 21. Subsection (5) of section 189.4042, Florida Statutes, is transferred, renumbered as section 189.074, Florida Statutes, and amended to read:

189.074 ~~189.4042~~ Voluntary merger of independent special districts ~~Merger and dissolution procedures~~.—

~~(5) VOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—~~Two or more contiguous independent special districts created by special act which have similar functions and elected governing bodies may elect to merge into a single independent district through the act of merging the component independent special districts.

(1) ~~(a)~~ *Initiation.*—Merger proceedings may commence by:

(a)~~1.~~ A joint resolution of the governing bodies of each independent special district which endorses a proposed joint merger plan; or

(b)~~2.~~ A qualified elector initiative.

(2)~~(b)~~ *Joint merger plan by resolution.*—The governing bodies of two or more contiguous independent special districts may, by joint resolution, endorse a proposed joint merger plan to commence proceedings to merge the districts pursuant to this section ~~subsection~~.

(a)~~1.~~ The proposed joint merger plan must specify:

1.~~a.~~ The name of each component independent special district to be merged;

2.~~b.~~ The name of the proposed merged independent district;

3.~~c.~~ The rights, duties, and obligations of the proposed merged independent district;

4.~~d.~~ The territorial boundaries of the proposed merged independent district;

5.~~e.~~ The governmental organization of the proposed merged independent district insofar as it concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;

6.~~f.~~ A fiscal estimate of the potential cost or savings as a result of the merger;

7.~~g.~~ Each component independent special district's assets, including, but not limited to, real and personal property, and the current value thereof;

8.~~h.~~ Each component independent special district's liabilities and indebtedness, bonded and otherwise, and the

current value thereof;

9.~~i.~~ Terms for the assumption and disposition of existing assets, liabilities, and indebtedness of each component independent special district jointly, separately, or in defined proportions;

10.~~j.~~ Terms for the common administration and uniform enforcement of existing laws within the proposed merged independent district;

11.~~k.~~ The times and places for public hearings on the proposed joint merger plan;

12.~~l.~~ The times and places for a referendum in each component independent special district on the proposed joint merger plan, along with the referendum language to be presented for approval; and

13.~~m.~~ The effective date of the proposed merger.

(b)~~2.~~ The resolution endorsing the proposed joint merger plan must be approved by a majority vote of the governing bodies of each component independent special district and adopted at least 60 business days before any general or special election on the proposed joint merger plan.

(c)~~3.~~ Within 5 business days after the governing bodies approve the resolution endorsing the proposed joint merger plan, the governing bodies must:

1.~~a.~~ Cause a copy of the proposed joint merger plan, along with a descriptive summary of the plan, to be displayed and be readily accessible to the public for inspection in at least three public places within the territorial limits of each component independent special district, unless a component independent special district has fewer than three public places,

in which case the plan must be accessible for inspection in all public places within the component independent special district;

2.~~b.~~ If applicable, cause the proposed joint merger plan, along with a descriptive summary of the plan and a reference to the public places within each component independent special district where a copy of the merger plan may be examined, to be displayed on a website maintained by each district or on a website maintained by the county or municipality in which the districts are located; and

3.~~c.~~ Arrange for a descriptive summary of the proposed joint merger plan, and a reference to the public places within the district where a copy may be examined, to be published in a newspaper of general circulation within the component independent special districts at least once each week for 4 successive weeks.

(d)~~4.~~ The governing body of each component independent special district shall set a time and place for one or more public hearings on the proposed joint merger plan. Each public hearing shall be held on a weekday at least 7 business days after the day the first advertisement is published on the proposed joint merger plan. The hearing or hearings may be held jointly or separately by the governing bodies of the component independent special districts. Any interested person residing in the respective district shall be given a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.

1.~~a.~~ Notice of the public hearing addressing the resolution for the proposed joint merger plan must be published pursuant to the notice requirements in s. 189.015 ~~189.417~~ and must provide a

descriptive summary of the proposed joint merger plan and a reference to the public places within the component independent special districts where a copy of the plan may be examined.

2.~~b.~~ After the final public hearing, the governing bodies of each component independent special district may amend the proposed joint merger plan if the amended version complies with the notice and public hearing requirements provided in this section ~~subsection~~. Thereafter, the governing bodies may approve a final version of the joint merger plan or decline to proceed further with the merger. Approval by the governing bodies of the final version of the joint merger plan must occur within 60 business days after the final hearing.

(e)~~5.~~ After the final public hearing, the governing bodies shall notify the supervisors of elections of the applicable counties in which district lands are located of the adoption of the resolution by each governing body. The supervisors of elections shall schedule a separate referendum for each component independent special district. The referenda may be held in each district on the same day, or on different days, but no more than 20 days apart.

1.~~a.~~ Notice of a referendum on the merger of independent special districts must be provided pursuant to the notice requirements in s. 100.342. At a minimum, the notice must include:

a.~~(I)~~ A brief summary of the resolution and joint merger plan;

b.~~(II)~~ A statement as to where a copy of the resolution and joint merger plan may be examined;

c.~~(III)~~ The names of the component independent special

districts to be merged and a description of their territory;

d.~~(IV)~~ The times and places at which the referendum will be held; and

e.~~(V)~~ Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct thereof and the canvass of the returns.

2.~~b.~~ The referenda must be held in accordance with the Florida Election Code and may be held pursuant to ss. 101.6101-101.6107. All costs associated with the referenda shall be borne by the respective component independent special district.

3.~~c.~~ The ballot question in such referendum placed before the qualified electors of each component independent special district to be merged must be in substantially the following form:

"Shall ...(name of component independent special district)... and ...(name of component independent special district or districts)... be merged into ...(name of newly merged independent district)...?

....YES

....NO"

4.~~d.~~ If the component independent special districts proposing to merge have disparate millage rates, the ballot question in the referendum placed before the qualified electors of each component independent special district must be in substantially the following form:

"Shall ...(name of component independent special

district)... and ...(name of component independent special district or districts)... be merged into ...(name of newly merged independent district)... if the voter-approved maximum millage rate within each independent special district will not increase absent a subsequent referendum?

....YES

....NO”

5.~~c.~~ In any referendum held pursuant to this section ~~subsection~~, the ballots shall be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the component independent special districts.

6.~~f.~~ The merger may not take effect unless a majority of the votes cast in each component independent special district are in favor of the merger. If one of the component districts does not obtain a majority vote, the referendum fails, and merger does not take effect.

7.~~g.~~ If the merger is approved by a majority of the votes cast in each component independent special district, the merged independent district is created. Upon approval, the merged independent district shall notify the Special District Accountability ~~Information~~ Program pursuant to s. 189.016(2) ~~189.418(2)~~ and the local general-purpose governments in which any part of the component independent special districts is situated pursuant to s. 189.016(7) ~~189.418(7)~~.

8.~~h.~~ If the referendum fails, the merger process under this subsection ~~paragraph~~ may not be initiated for the same purpose

within 2 years after the date of the referendum.

(f)~~6.~~ Component independent special districts merged pursuant to a joint merger plan by resolution shall continue to be governed as before the merger until the effective date specified in the adopted joint merger plan.

(3)~~(c)~~ *Qualified elector-initiated merger plan.*—The qualified electors of two or more contiguous independent special districts may commence a merger proceeding by each filing a petition with the governing body of their respective independent special district proposing to be merged. The petition must contain the signatures of at least 40 percent of the qualified electors of each component independent special district and must be submitted to the appropriate component independent special district governing body no later than 1 year after the start of the qualified elector-initiated merger process.

(a)~~1.~~ The petition must comply with, and be circulated in, the following form:

PETITION FOR

INDEPENDENT SPECIAL DISTRICT MERGER

We, the undersigned electors and legal voters of ...(name of independent special district)..., qualified to vote at the next general or special election, respectfully petition that there be submitted to the electors and legal voters of ...(name of independent special district or districts proposed to be merged)..., for their approval or rejection at a referendum held for that purpose, a proposal to merge ...(name of component independent special district)... and ...(name of component

independent special district or districts)....

In witness thereof, we have signed our names on the date indicated next to our signatures.

Date Name Home Address
(print under signature)

.....

.....

(b) ~~2.~~ The petition must be validated by a signed statement by a witness who is a duly qualified elector of one of the component independent special districts, a notary public, or another person authorized to take acknowledgments.

1. ~~a.~~ A statement that is signed by a witness who is a duly qualified elector of the respective district shall be accepted for all purposes as the equivalent of an affidavit. Such statement must be in substantially the following form:

"I, ...(name of witness)..., state that I am a duly qualified voter of ...(name of independent special district).... Each of the ...(insert number)... persons who have signed this petition sheet has signed his or her name in my presence on the dates indicated above and identified himself or herself to be the same person who signed the sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a materially false statement, shall subject me to the penalties of perjury."

Date Signature of Witness

2.~~b.~~ A statement that is signed by a notary public or another person authorized to take acknowledgments must be in substantially the following form:

"On the date indicated above before me personally came each of the ...(insert number)... electors and legal voters whose signatures appear on this petition sheet, who signed the petition in my presence and who, being by me duly sworn, each for himself or herself, identified himself or herself as the same person who signed the petition, and I declare that the foregoing information they provided was true."

Date Signature of Witness

3.~~c.~~ An alteration or correction of information appearing on a petition's signature line, other than an uninitialed signature and date, does not invalidate such signature. In matters of form, this subsection ~~paragraph~~ shall be liberally construed, not inconsistent with substantial compliance thereto and the prevention of fraud.

4.~~d.~~ The appropriately signed petition must be filed with the governing body of each component independent special district. The petition must be submitted to the supervisors of elections of the counties in which the district lands are located. The supervisors shall, within 30 business days after receipt of the petitions, certify to the governing bodies the number of signatures of qualified electors contained on the petitions.

(c)~~3.~~ Upon verification by the supervisors of elections of the counties within which component independent special district lands are located that 40 percent of the qualified electors have

petitioned for merger and that all such petitions have been executed within 1 year after the date of the initiation of the qualified-elector merger process, the governing bodies of each component independent special district shall meet within 30 business days to prepare and approve by resolution a proposed elector-initiated merger plan. The proposed plan must include:

1.~~a.~~ The name of each component independent special district to be merged;

2.~~b.~~ The name of the proposed merged independent district;

3.~~c.~~ The rights, duties, and obligations of the merged independent district;

4.~~d.~~ The territorial boundaries of the proposed merged independent district;

5.~~e.~~ The governmental organization of the proposed merged independent district insofar as it concerns elected and appointed officials and public employees, along with a transitional plan and schedule for elections and appointments of officials;

6.~~f.~~ A fiscal estimate of the potential cost or savings as a result of the merger;

7.~~g.~~ Each component independent special district's assets, including, but not limited to, real and personal property, and the current value thereof;

8.~~h.~~ Each component independent special district's liabilities and indebtedness, bonded and otherwise, and the current value thereof;

9.~~i.~~ Terms for the assumption and disposition of existing assets, liabilities, and indebtedness of each component independent special district, jointly, separately, or in defined

proportions;

10.~~j.~~ Terms for the common administration and uniform enforcement of existing laws within the proposed merged independent district;

11.~~k.~~ The times and places for public hearings on the proposed joint merger plan; and

12.~~l.~~ The effective date of the proposed merger.

(d)~~4.~~ The resolution endorsing the proposed elector-initiated merger plan must be approved by a majority vote of the governing bodies of each component independent special district and must be adopted at least 60 business days before any general or special election on the proposed elector-initiated plan.

(e)~~5.~~ Within 5 business days after the governing bodies of each component independent special district approve the proposed elector-initiated merger plan, the governing bodies shall:

1.~~a.~~ Cause a copy of the proposed elector-initiated merger plan, along with a descriptive summary of the plan, to be displayed and be readily accessible to the public for inspection in at least three public places within the territorial limits of each component independent special district, unless a component independent special district has fewer than three public places, in which case the plan must be accessible for inspection in all public places within the component independent special district;

2.~~b.~~ If applicable, cause the proposed elector-initiated merger plan, along with a descriptive summary of the plan and a reference to the public places within each component independent special district where a copy of the merger plan may be examined, to be displayed on a website maintained by each district or otherwise on a website maintained by the county or

municipality in which the districts are located; and

3.~~c.~~ Arrange for a descriptive summary of the proposed elector-initiated merger plan, and a reference to the public places within the district where a copy may be examined, to be published in a newspaper of general circulation within the component independent special districts at least once each week for 4 successive weeks.

(f)~~6.~~ The governing body of each component independent special district shall set a time and place for one or more public hearings on the proposed elector-initiated merger plan. Each public hearing shall be held on a weekday at least 7 business days after the day the first advertisement is published on the proposed elector-initiated merger plan. The hearing or hearings may be held jointly or separately by the governing bodies of the component independent special districts. Any interested person residing in the respective district shall be given a reasonable opportunity to be heard on any aspect of the proposed merger at the public hearing.

1.~~a.~~ Notice of the public hearing on the proposed elector-initiated merger plan must be published pursuant to the notice requirements in s. 189.015 ~~189.417~~ and must provide a descriptive summary of the elector-initiated merger plan and a reference to the public places within the component independent special districts where a copy of the plan may be examined.

2.~~b.~~ After the final public hearing, the governing bodies of each component independent special district may amend the proposed elector-initiated merger plan if the amended version complies with the notice and public hearing requirements provided in this section ~~subsection~~. The governing bodies must

approve a final version of the merger plan within 60 business days after the final hearing.

(g)~~7.~~ After the final public hearing, the governing bodies shall notify the supervisors of elections of the applicable counties in which district lands are located of the adoption of the resolution by each governing body. The supervisors of elections shall schedule a date for the separate referenda for each district. The referenda may be held in each district on the same day, or on different days, but no more than 20 days apart.

1.~~a.~~ Notice of a referendum on the merger of the component independent special districts must be provided pursuant to the notice requirements in s. 100.342. At a minimum, the notice must include:

a.~~(I)~~ A brief summary of the resolution and elector-initiated merger plan;

b.~~(II)~~ A statement as to where a copy of the resolution and petition for merger may be examined;

c.~~(III)~~ The names of the component independent special districts to be merged and a description of their territory;

d.~~(IV)~~ The times and places at which the referendum will be held; and

e.~~(V)~~ Such other matters as may be necessary to call, provide for, and give notice of the referendum and to provide for the conduct thereof and the canvass of the returns.

2.~~b.~~ The referenda must be held in accordance with the Florida Election Code and may be held pursuant to ss. 101.6101-101.6107. All costs associated with the referenda shall be borne by the respective component independent special district.

3.~~c.~~ The ballot question in such referendum placed before

the qualified electors of each component independent special district to be merged must be in substantially the following form:

"Shall ...(name of component independent special district)... and ...(name of component independent special district or districts)... be merged into ...(name of newly merged independent district)...?

....YES

....NO"

4.~~d.~~ If the component independent special districts proposing to merge have disparate millage rates, the ballot question in the referendum placed before the qualified electors of each component independent special district must be in substantially the following form:

"Shall ...(name of component independent special district)... and ...(name of component independent special district or districts)... be merged into ...(name of newly merged independent district)... if the voter-approved maximum millage rate within each independent special district will not increase absent a subsequent referendum?

....YES

....NO"

5.~~e.~~ In any referendum held pursuant to this section ~~subsection~~, the ballots shall be counted, returns made and canvassed, and results certified in the same manner as other elections or referenda for the component independent special districts.

6.~~f.~~ The merger may not take effect unless a majority of the votes cast in each component independent special district

are in favor of the merger. If one of the component independent special districts does not obtain a majority vote, the referendum fails, and merger does not take effect.

7.~~g.~~ If the merger is approved by a majority of the votes cast in each component independent special district, the merged district shall notify the Special District Accountability ~~Information~~ Program pursuant to s. 189.016(2) ~~189.418(2)~~ and the local general-purpose governments in which any part of the component independent special districts is situated pursuant to s. 189.016(7) ~~189.418(7)~~.

8.~~h.~~ If the referendum fails, the merger process under this subsection ~~paragraph~~ may not be initiated for the same purpose within 2 years after the date of the referendum.

(h)~~8.~~ Component independent special districts merged pursuant to an elector-initiated merger plan shall continue to be governed as before the merger until the effective date specified in the adopted elector-initiated merger plan.

(4)~~(d)~~ *Effective date.*—The effective date of the merger shall be as provided in the joint merger plan or elector-initiated merger plan, as appropriate, and is not contingent upon the future act of the Legislature.

(a)~~1.~~ However, as soon as practicable, the merged independent district shall, at its own expense, submit a unified charter for the merged district to the Legislature for approval. The unified charter must make the powers of the district consistent within the merged independent district and repeal the special acts of the districts which existed before the merger.

(b)~~2.~~ Within 30 business days after the effective date of the merger, the merged independent district's governing body, as

indicated in this section ~~subsection~~, shall hold an organizational meeting to implement the provisions of the joint merger plan or elector-initiated merger plan, as appropriate.

(5)~~(c)~~ *Restrictions during transition period.*—Until the Legislature formally approves the unified charter pursuant to a special act, each component independent special district is considered a subunit of the merged independent district subject to the following restrictions:

(a)~~1.~~ During the transition period, the merged independent district is limited in its powers and financing capabilities within each subunit to those powers that existed within the boundaries of each subunit which were previously granted to the component independent special district in its existing charter before the merger. The merged independent district may not, solely by reason of the merger, increase its powers or financing capability.

(b)~~2.~~ During the transition period, the merged independent district shall exercise only the legislative authority to levy and collect revenues within the boundaries of each subunit which was previously granted to the component independent special district by its existing charter before the merger, including the authority to levy ad valorem taxes, non-ad valorem assessments, impact fees, and charges.

1.~~a.~~ The merged independent district may not, solely by reason of the merger or the legislatively approved unified charter, increase ad valorem taxes on property within the original limits of a subunit beyond the maximum millage rate approved by the electors of the component independent special district unless the electors of such subunit approve an increase

at a subsequent referendum of the subunit's electors. Each subunit may be considered a separate taxing unit.

2.~~b.~~ The merged independent district may not, solely by reason of the merger, charge non-ad valorem assessments, impact fees, or other new fees within a subunit which were not otherwise previously authorized to be charged.

(c)~~3.~~ During the transition period, each component independent special district of the merged independent district must continue to file all information and reports required under this chapter as subunits until the Legislature formally approves the unified charter pursuant to a special act.

(d)~~4.~~ The intent of this part ~~section~~ is to preserve and transfer to the merged independent district all authority that exists within each subunit and was previously granted by the Legislature and, if applicable, by referendum.

(6)~~(f)~~ *Effect of merger, generally.*—On and after the effective date of the merger, the merged independent district shall be treated and considered for all purposes as one entity under the name and on the terms and conditions set forth in the joint merger plan or elector-initiated merger plan, as appropriate.

(a)~~1.~~ All rights, privileges, and franchises of each component independent special district and all assets, real and personal property, books, records, papers, seals, and equipment, as well as other things in action, belonging to each component independent special district before the merger shall be deemed as transferred to and vested in the merged independent district without further act or deed.

(b)~~2.~~ All property, rights-of-way, and other interests are

as effectually the property of the merged independent district as they were of the component independent special district before the merger. The title to real estate, by deed or otherwise, under the laws of this state vested in any component independent special district before the merger may not be deemed to revert or be in any way impaired by reason of the merger.

(c) ~~3.~~ The merged independent district is in all respects subject to all obligations and liabilities imposed and possesses all the rights, powers, and privileges vested by law in other similar entities.

(d) ~~4.~~ Upon the effective date of the merger, the joint merger plan or elector-initiated merger plan, as appropriate, is subordinate in all respects to the contract rights of all holders of any securities or obligations of the component independent special districts outstanding at the effective date of the merger.

(e) ~~5.~~ The new registration of electors is not necessary as a result of the merger, but all elector registrations of the component independent special districts shall be transferred to the proper registration books of the merged independent district, and new registrations shall be made as provided by law as if no merger had taken place.

(7) ~~(g)~~ *Governing body of merged independent district.*—

(a) ~~1.~~ From the effective date of the merger until the next general election, the governing body of the merged independent district shall be comprised of the governing body members of each component independent special district, with such members serving until the governing body members elected at the next general election take office.

(b)~~2.~~ Beginning with the next general election following the effective date of merger, the governing body of the merged independent district shall be comprised of five members. The office of each governing body member shall be designated by seat, which shall be distinguished from other body member seats by an assigned numeral: 1, 2, 3, 4, or 5. The governing body members that are elected in this initial election following the merger shall serve unequal terms of 2 and 4 years in order to create staggered membership of the governing body, with:

1.~~a.~~ Member seats 1, 3, and 5 being designated for 4-year terms; and

2.~~b.~~ Member seats 2 and 4 being designated for 2-year terms.

(c)~~3.~~ In general elections thereafter, all governing body members shall serve 4-year terms.

(8)~~(h)~~ *Effect on employees.*—Except as otherwise provided by law and except for those officials and employees protected by tenure of office, civil service provisions, or a collective bargaining agreement, upon the effective date of merger, all appointive offices and positions existing in all component independent special districts involved in the merger are subject to the terms of the joint merger plan or elector-initiated merger plan, as appropriate. Such plan may provide for instances in which there are duplications of positions and for other matters such as varying lengths of employee contracts, varying pay levels or benefits, different civil service regulations in the constituent entities, and differing ranks and position classifications for similar positions. For those employees who are members of a bargaining unit certified by the Public

Employees Relations Commission, the requirements of chapter 447 apply.

(9)~~(i)~~ *Effect on debts, liabilities, and obligations.*—

(a)~~1.~~ All valid and lawful debts and liabilities existing against a merged independent district, or which may arise or accrue against the merged independent district, which but for merger would be valid and lawful debts or liabilities against one or more of the component independent special districts, are debts against or liabilities of the merged independent district and accordingly shall be defrayed and answered to by the merged independent district to the same extent, and no further than, the component independent special districts would have been bound if a merger had not taken place.

(b)~~2.~~ The rights of creditors and all liens upon the property of any of the component independent special districts shall be preserved unimpaired. The respective component districts shall be deemed to continue in existence to preserve such rights and liens, and all debts, liabilities, and duties of any of the component districts attach to the merged independent district.

(c)~~3.~~ All bonds, contracts, and obligations of the component independent special districts which exist as legal obligations are obligations of the merged independent district, and all such obligations shall be issued or entered into by and in the name of the merged independent district.

(10)~~(j)~~ *Effect on actions and proceedings.*—In any action or proceeding pending on the effective date of merger to which a component independent special district is a party, the merged independent district may be substituted in its place, and the

action or proceeding may be prosecuted to judgment as if merger had not taken place. Suits may be brought and maintained against a merged independent district in any state court in the same manner as against any other independent special district.

(11) ~~(k)~~ *Effect on annexation.*—Chapter 171 continues to apply to all annexations by a city within the component independent special districts' boundaries after merger occurs. Any moneys owed to a component independent special district pursuant to s. 171.093, or any interlocal service boundary agreement as a result of annexation predating the merger, shall be paid to the merged independent district after merger.

(12) ~~(l)~~ *Effect on millage calculations.*—The merged independent special district is authorized to continue or conclude procedures under chapter 200 on behalf of the component independent special districts. The merged independent special district shall make the calculations required by chapter 200 for each component individual special district separately.

(13) ~~(m)~~ *Determination of rights.*—If any right, title, interest, or claim arises out of a merger or by reason thereof which is not determinable by reference to this subsection, the joint merger plan or elector-initiated merger plan, as appropriate, or otherwise under the laws of this state, the governing body of the merged independent district may provide therefor in a manner conforming to law.

(14) ~~(n)~~ *Exemption.*—This section ~~subsection~~ does not apply to independent special districts whose governing bodies are elected by district landowners voting the acreage owned within the district.

(15) ~~(o)~~ *Preemption.*—This section ~~subsection~~ preempts any

special act to the contrary.

Section 22. Subsection (6) of section 189.4042, Florida Statutes, is transferred, renumbered as section 189.075, Florida Statutes, and amended to read:

189.075 ~~189.4042~~ Involuntary merger of independent special districts ~~Merger and dissolution procedures~~.—

~~(6) INVOLUNTARY MERGER OF INDEPENDENT SPECIAL DISTRICTS.—~~

(1)~~(a)~~ *Independent special districts created by special act.*—In order for the Legislature to merge an active independent special district or districts created and operating pursuant to a special act, the special act merging the active independent special district or districts must be approved at separate referenda of the impacted local governments by a majority of the resident electors or, for districts in which a majority of governing body ~~board~~ members are elected by landowners, a majority of the landowners voting in the same manner by which each independent special district's governing body is elected. The special act merging the districts must include a plan of merger that addresses transition issues such as the effective date of the merger, governance, administration, powers, pensions, and assumption of all assets and liabilities. If a local general-purpose government passes an ordinance or resolution in support of the merger of an active independent special district, the local general-purpose government must pay any expenses associated with the referendum required under this subsection ~~paragraph~~.

(2)~~(b)~~ *Independent special districts created by a county or municipality.*—A county or municipality may merge an independent special district created by the county or municipality pursuant

to a referendum or any other procedure by which the independent special district was created. However, if the independent special district has ad valorem taxation powers, the same procedure required to grant the independent special district ad valorem taxation powers is required to merge the district. The political subdivisions proposing the involuntary merger of an active independent special district must pay any expenses associated with the referendum required under this subsection ~~paragraph~~.

(3) ~~(c)~~ *Inactive independent special districts.*—An independent special district that meets any criteria for being declared inactive, or that has already been declared inactive, pursuant to s. 189.062 ~~189.4044~~ may be merged by special act without a referendum.

Section 23. Subsection (7) of section 189.4042, Florida Statutes, is transferred and renumbered as section 189.0761, Florida Statutes, and amended to read:

189.0761 ~~189.4042 Merger and dissolution procedures.—~~

~~(7)~~ Exemptions.—This part ~~section~~ does not apply to community development districts implemented pursuant to chapter 190 or to water management districts created and operated pursuant to chapter 373.

Section 24. Section 189.4044, Florida Statutes, is transferred and renumbered as section 189.062, Florida Statutes, subsections (1) and (3) of that section are amended, and subsections (5) and (6) are added to that section, to read:

189.062 ~~189.4044~~ Special procedures for inactive districts.—

(1) The department shall declare inactive any special

district in this state by documenting that:

(a) The special district meets one of the following criteria:

1. The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has taken no action for 2 or more years;

2. ~~Following an inquiry from the department,~~ The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government notifies the department in writing that the district has not had a governing body ~~board~~ or a sufficient number of governing body ~~board~~ members to constitute a quorum for 2 or more years;

3. ~~or~~ The registered agent of the district, the chair of the governing body of the district, or the governing body of the appropriate local general-purpose government fails to respond to an ~~the department's~~ inquiry by the department within 21 days;

4.~~3.~~ The department determines, pursuant to s. 189.067 ~~189.421~~, that the district has failed to file any of the reports listed in s. 189.066. ~~189.419~~;

5.~~4.~~ The district has not had a registered office and agent on file with the department for 1 or more years; ~~or~~

6.~~5.~~ The governing body of a special district provides documentation to the department that it has unanimously adopted a resolution declaring the special district inactive. The special district shall be responsible for payment of any expenses associated with its dissolution. A special district

declared inactive pursuant to this subparagraph may be dissolved without a referendum; or

7. The department independently determines that the district is no longer active.

(b) The department, special district, or local general-purpose government published a notice of proposed declaration of inactive status in a newspaper of general circulation in the county or municipality in which the territory of the special district is located and sent a copy of such notice by certified mail to the registered agent or chair of the governing body ~~board~~, if any. Such notice must include the name of the special district, the law under which it was organized and operating, a general description of the territory included in the special district, and a statement that any objections must be filed pursuant to chapter 120 within 21 days after the publication date; and

(c) Twenty-one days have elapsed from the publication date of the notice of proposed declaration of inactive status and no administrative appeals were filed.

(3) In the case of a district created by special act of the Legislature, the department shall send a notice of declaration of inactive status to the chair of the county legislative delegation and the Legislative Auditing Committee ~~Speaker of the House of Representatives and the President of the Senate~~. The notice of declaration of inactive status shall reference each known special act creating or amending the charter of any special district declared to be inactive under this section. The declaration of inactive status shall be sufficient notice as required by s. 10, Art. III of the State Constitution to

authorize the Legislature to repeal any special laws so reported. In the case of a district created by one or more local general-purpose governments, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government that created the district. In the case of a district created by interlocal agreement, the department shall send a notice of declaration of inactive status to the chair of the governing body of each local general-purpose government which entered into the interlocal agreement.

(5) A special district declared inactive under this section may not collect taxes, fees, or assessments unless the declaration is:

(a) Withdrawn or revoked by the department; or

(b) Invalidated in proceedings initiated by the special district within 30 days after the date notice of the declaration was provided to the special district governing body, either by an administrative law judge in proceedings under chapter 120 or by petition for writ of certiorari in the circuit court in the judicial circuit having jurisdiction over the geographical boundaries of the special district, or, if such boundaries extend beyond the boundaries of a single county, in a circuit court in and for any such county.

(6) If a special district that is declared inactive pursuant to this section does not initiate a timely challenge to such declaration, the department may enforce subsection (5) in the circuit court in and for Leon County, through injunctive or other relief.

Section 25. Section 189.4045, Florida Statutes, is

transferred and renumbered as section 189.076, Florida Statutes.

Section 26. Section 189.4047, Florida Statutes, is transferred and renumbered as section 189.021, Florida Statutes.

Section 27. Subsections (1), (2), (3), (4), (6), and (7) of section 189.405, Florida Statutes, are transferred and renumbered as subsections (1) through (6) of section 189.04, Florida Statutes, respectively, and present subsection (1), paragraph (c) of present subsection (2), and present subsections (3), (4), and (7) of that section are amended, to read:

189.04 ~~189.405~~ Elections; general requirements and procedures~~; education programs~~.—

(1) If a dependent special district has an elected governing body ~~board~~, elections shall be conducted by the supervisor of elections of the county wherein the district is located in accordance with the Florida Election Code, chapters 97-106.

(2)

(c) A candidate for a position on a governing body ~~board~~ of a single-county special district that has its elections conducted by the supervisor of elections shall qualify for the office with the county supervisor of elections in whose jurisdiction the district is located. Elections for governing body ~~board~~ members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates shall qualify as directed by chapter 99. The qualifying fee shall be remitted to the general revenue fund of the qualifying officer to help defray the cost of the election.

(3)(a) If a multicounty special district has a popularly

elected governing body ~~board~~, elections for the purpose of electing members to such governing body ~~board~~ shall conform to the Florida Election Code, chapters 97-106.

(b) With the exception of those districts conducting elections on a one-acre/one-vote basis, qualifying for multicounty special district governing body ~~board~~ positions shall be coordinated by the Department of State. Elections for governing body ~~board~~ members elected by registered electors shall be nonpartisan, except when partisan elections are specified by a district's charter. Candidates shall qualify as directed by chapter 99. The qualifying fee shall be remitted to the Department of State.

(4) With the exception of elections of special district governing body ~~board~~ members conducted on a one-acre/one-vote basis, in any election conducted in a special district the decision made by a majority of those voting shall prevail, except as otherwise specified by law.

(6)~~(7)~~ Nothing in this act requires that a special district governed by an appointed governing body ~~board~~ convert to an elected governing body ~~board~~.

Section 28. Subsection (5) of section 189.405, Florida Statutes, is transferred, renumbered as section 189.063, Florida Statutes, and amended to read:

189.063 ~~189.405~~ Education programs for new members of district governing bodies ~~Elections; general requirements and procedures; education programs~~.—

(1)~~(5)(a)~~ The department may provide, contract for, or assist in conducting education programs, as its budget permits, for all newly elected or appointed members of district governing

bodies ~~boards~~. The education programs shall include, but are not limited to, courses on the code of ethics for public officers and employees, public meetings and public records requirements, public finance, and parliamentary procedure. ~~Course content may be offered by means of the following: videotapes, live seminars, workshops, conferences, teleconferences, computer-based training, multimedia presentations, or other available instructional methods.~~

(2)~~(b)~~ An individual district governing body ~~board~~, at its discretion, may bear the costs associated with educating its members. Governing body ~~Board~~ members of districts which have qualified for a zero annual fee for the most recent invoicing period pursuant to s. 189.018 are ~~189.427 shall~~ not ~~be~~ required to pay a fee for any education program the department provides, contracts for, or assists in conducting.

Section 29. Section 189.4051, Florida Statutes, is transferred, renumbered as section 189.041, Florida Statutes, and amended to read:

189.041 ~~189.4051~~ Elections; special requirements and procedures for districts with governing bodies ~~boards~~ elected on a one-acre/one-vote basis.—

(1) DEFINITIONS.—As used in this section:

(a) "Qualified elector" means any person at least 18 years of age who is a citizen of the United States, a permanent resident of Florida, and a freeholder or freeholder's spouse and resident of the district who registers with the supervisor of elections of a county within which the district lands are located when the registration books are open.

(b) "Urban area" means a contiguous developed and inhabited

urban area within a district with a minimum average resident population density of at least 1.5 persons per acre as defined by the latest official census, special census, or population estimate or a minimum density of one single-family home per 2.5 acres with access to improved roads or a minimum density of one single-family home per 5 acres within a recorded plat subdivision. Urban areas shall be designated by the governing body ~~board~~ of the district with the assistance of all local general-purpose governments having jurisdiction over the area within the district.

(c) "Governing body ~~board~~ member" means any duly elected member of the governing body ~~board~~ of a special district elected pursuant to this section, provided that a ~~any board~~ member elected by popular vote shall be a qualified district elector and a ~~any board~~ member elected on a one-acre/one-vote basis shall meet the requirements of s. 298.11 for election to the governing body ~~board~~.

(d) "Contiguous developed urban area" means any reasonably compact urban area located entirely within a special district. The separation of urban areas by a publicly owned park, right-of-way, highway, road, railroad, canal, utility, body of water, watercourse, or other minor geographical division of a similar nature shall not prevent such areas from being defined as urban areas.

(2) POPULAR ELECTIONS; REFERENDUM; DESIGNATION OF URBAN AREAS.—

(a) *Referendum.*—

1. A referendum shall be called by the governing body ~~board~~ of a special district where the governing body ~~board~~ is elected

on a one-acre/one-vote basis on the question of whether certain members of a district governing body ~~board~~ should be elected by qualified electors, provided each of the following conditions has been satisfied at least 60 days before ~~prior to~~ the general or special election at which the referendum is to be held:

a. The district shall have a total population, according to the latest official state census, a special census, or a population estimate, of at least 500 qualified electors.

b. A petition signed by 10 percent of the qualified electors of the district shall have been filed with the governing body ~~board~~ of the district. The petition shall be submitted to the supervisor of elections of the county or counties in which the lands are located. The supervisor shall, within 30 days after the receipt of the petitions, certify to the governing body ~~board~~ the number of signatures of qualified electors contained on the petition.

2. Upon verification by the supervisor or supervisors of elections of the county or counties within which district lands are located that 10 percent of the qualified electors of the district have petitioned the governing body ~~board~~, a referendum election shall be called by the governing body ~~board~~ at the next regularly scheduled election of governing body ~~board~~ members occurring at least 30 days after verification of the petition or within 6 months of verification, whichever is earlier.

3. If the qualified electors approve the election procedure described in this subsection, the governing body ~~board~~ of the district shall be increased to five members and elections shall be held pursuant to the criteria described in this subsection beginning with the next regularly scheduled election of

governing body ~~board~~ members or at a special election called within 6 months following the referendum and final unappealed approval of district urban area maps as provided in paragraph (b), whichever is earlier.

4. If the qualified electors of the district disapprove the election procedure described in this subsection, elections of the members of the governing body ~~board~~ shall continue as described by s. 298.12 or the enabling legislation for the district. No further referendum on the question shall be held for a minimum period of 2 years following the referendum.

(b) *Designation of urban areas.*—

1. Within 30 days after approval of the election process described in this subsection by qualified electors of the district, the governing body ~~board~~ shall direct the district staff to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based upon the criteria contained within paragraph (1)(b).

2. Within 60 days after approval of the election process described in this subsection by qualified electors of the district, the maps describing urban areas within the district shall be presented to the governing body ~~board~~.

3. Any district landowner or elector may contest the accuracy of the urban area maps prepared by the district staff within 30 days after submission to the governing body ~~board~~. Upon notice of objection to the maps, the governing body ~~board~~ shall request the county engineer to prepare and present maps of the district describing the extent and location of all urban areas within the district. Such determination shall be based

upon the criteria contained within paragraph (1)(b). Within 30 days after the governing body ~~board~~ request, the county engineer shall present the maps to the governing body ~~board~~.

4. Upon presentation of the maps by the county engineer, the governing body ~~board~~ shall compare the maps submitted by both the district staff and the county engineer and make a determination as to which set of maps to adopt. Within 60 days after presentation of all such maps, the governing body ~~board~~ may amend and shall adopt the official maps at a regularly scheduled meeting of the governing body ~~board meeting~~.

5. Any district landowner or qualified elector may contest the accuracy of the urban area maps adopted by the governing body ~~board~~ within 30 days after adoption by petition to the circuit court with jurisdiction over the district. Accuracy shall be determined pursuant to paragraph (1)(b). Any petitions so filed shall be heard expeditiously, and the maps shall either be approved or approved with necessary amendments to render the maps accurate and shall be certified to the governing body ~~board~~.

6. Upon adoption by the governing body ~~board~~ or certification by the court, the district urban area maps shall serve as the official maps for determination of the extent of urban area within the district and the number of governing body ~~board~~ members to be elected by qualified electors and by the one-acre/one-vote principle at the next regularly scheduled election of governing body ~~board~~ members.

7. Upon a determination of the percentage of urban area within the district as compared with total area within the district, the governing body ~~board~~ shall order elections in

accordance with the percentages pursuant to paragraph (3)(a). The landowners' meeting date shall be designated by the governing body ~~board~~.

8. The maps shall be updated and readopted every 5 years or sooner in the discretion of the governing body ~~board~~.

(3) GOVERNING BODY ~~BOARD~~.—

(a) *Composition ~~of board~~.*—

1. Members of the governing body ~~board~~ of the district shall be elected in accordance with the following determinations of urban area:

a. If urban areas constitute 25 percent or less of the district, one governing body ~~board~~ member shall be elected by the qualified electors and four governing body ~~board~~ members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

b. If urban areas constitute 26 percent to 50 percent of the district, two governing body ~~board~~ members shall be elected by the qualified electors and three governing body ~~board~~ members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

c. If urban areas constitute 51 percent to 70 percent of the district, three governing body ~~board~~ members shall be elected by the qualified electors and two governing body ~~board~~ members shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

d. If urban areas constitute 71 percent to 90 percent of

the district, four governing body ~~board~~ members shall be elected by the qualified electors and one governing body ~~board~~ member shall be elected in accordance with the one-acre/one-vote principle contained within s. 298.11 or the district-enabling legislation.

e. If urban areas constitute 91 percent or more of the district, all governing body ~~board~~ members shall be elected by the qualified electors.

2. All governing body ~~board~~ members elected by qualified electors shall be elected at large.

(b) *Term of office.*—All governing body ~~board~~ members elected by qualified electors shall have a term of 4 years except for governing body ~~board~~ members elected at the first election and the first landowners' meeting following the referendum prescribed in paragraph (2)(a). Governing body ~~board~~ members elected at the first election and the first landowners' meeting following the referendum shall serve as follows:

1. If one governing body ~~board~~ member is elected by the qualified electors and four are elected on a one-acre/one-vote basis, the governing body ~~board~~ member elected by the qualified electors shall be elected for a period of 4 years. Governing body ~~board~~ members elected on a one-acre/one-vote basis shall be elected for periods of 1, 2, 3, and 4 years, respectively, as prescribed by ss. 298.11 and 298.12.

2. If two governing body ~~board~~ members are elected by the qualified electors and three are elected on a one-acre/one-vote basis, the governing body ~~board~~ members elected by the electors shall be elected for a period of 4 years. Governing body ~~board~~ members elected on a one-acre/one-vote basis shall be elected

for periods of 1, 2, and 3 years, respectively, as prescribed by ss. 298.11 and 298.12.

3. If three governing body ~~board~~ members are elected by the qualified electors and two are elected on a one-acre/one-vote basis, two of the governing body ~~board~~ members elected by the electors shall be elected for a term of 4 years and the other governing body ~~board~~ member elected by the electors shall be elected for a term of 2 years. Governing body ~~board~~ members elected on a one-acre/one-vote basis shall be elected for terms of 1 and 2 years, respectively, as prescribed by ss. 298.11 and 298.12.

4. If four governing body ~~board~~ members are elected by the qualified electors and one is elected on a one-acre/one-vote basis, two of the governing body ~~board~~ members elected by the electors shall be elected for a term of 2 years and the other two for a term of 4 years. The governing body ~~board~~ member elected on a one-acre/one-vote basis shall be elected for a term of 1 year as prescribed by ss. 298.11 and 298.12.

5. If five governing body ~~board~~ members are elected by the qualified electors, three shall be elected for a term of 4 years and two for a term of 2 years.

6. If any vacancy occurs in a seat occupied by a governing body ~~board~~ member elected by the qualified electors, the remaining members of the governing body ~~board~~ shall, within 45 days after the vacancy occurs, appoint a person who would be eligible to hold the office to the unexpired term.

(c) *Landowners' meetings.*—

1. An annual landowners' meeting shall be held pursuant to s. 298.11 and at least one governing body ~~board~~ member shall be

elected on a one-acre/one-vote basis pursuant to s. 298.12 for so long as 10 percent or more of the district is not contained in an urban area. In the event all district governing body ~~board~~ members are elected by qualified electors, there shall be no further landowners' meetings.

2. At any landowners' meeting called pursuant to this section, 50 percent of the district acreage shall not be required to constitute a quorum and each governing body ~~board~~ member shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

3. All landowners' meetings of districts operating pursuant to this section shall be set by the governing body ~~board~~ within the month preceding the month of the election of the governing body ~~board~~ members by the electors.

4. Vacancies on the governing body ~~board~~ shall be filled pursuant to s. 298.12 except as otherwise provided in subparagraph (b)6.

(4) QUALIFICATIONS.—Elections for governing body ~~board~~ members elected by qualified electors shall be nonpartisan. Qualifications shall be pursuant to the Florida Election Code and shall occur during the qualifying period established by s. 99.061. Qualification requirements shall only apply to those governing body ~~board~~ member candidates elected by qualified electors. Following the first election pursuant to this section, elections to the governing body ~~board~~ by qualified electors shall occur at the next regularly scheduled election closest in time to the expiration date of the term of the elected governing body ~~board~~ member. If the next regularly scheduled election is beyond the normal expiration time for the term of an elected

governing body ~~board~~ member, the governing body ~~board~~ member shall hold office until the election of a successor.

(5) Those districts established as single-purpose water control districts, and which continue to act as single-purpose water control districts, pursuant to chapter 298, pursuant to a special act, pursuant to a local government ordinance, or pursuant to a judicial decree, shall be exempt from the provisions of this section. All other independent special districts with governing bodies ~~boards~~ elected on a one-acre/one-vote basis shall be subject to the provisions of this section.

(6) The provisions of this section shall not apply to community development districts established pursuant to chapter 190.

Section 30. Section 189.4065, Florida Statutes, is transferred and renumbered as section 189.05, Florida Statutes.

Section 31. Section 189.408, Florida Statutes, is transferred and renumbered as section 189.042, Florida Statutes.

Section 32. Section 189.4085, Florida Statutes, is transferred and renumbered as section 189.051, Florida Statutes.

Section 33. Section 189.412, Florida Statutes, is transferred and renumbered as section 189.064, Florida Statutes, and amended to read:

189.064 ~~189.412~~ Special District Accountability ~~Information~~ Program; duties and responsibilities.—The Special District Accountability ~~Information~~ Program of the department ~~of Economic Opportunity is created and~~ has the following ~~special~~ duties:

(1) Electronically publishing ~~The collection and maintenance of~~ special district noncompliance status reports

from the department ~~of Management Services~~, the Department of Financial Services, the Division of Bond Finance of the State Board of Administration, the Auditor General, and the Legislative Auditing Committee, for the reporting required in ss. 112.63, 218.32, 218.38, and 218.39. The noncompliance reports must list those special districts that did not comply with the statutory reporting requirements and be made available to the public electronically.

(2) Maintaining the official list of special districts ~~The maintenance of a master list of independent and dependent special districts which shall be available on the department's website~~.

(3) ~~The~~ Publishing and updating of a "Florida Special District Handbook" that contains, at a minimum:

(a) A section that specifies definitions of special districts and status distinctions in the statutes.

(b) A section or sections that specify current statutory provisions for special district creation, implementation, modification, dissolution, and operating procedures.

(c) A section that summarizes the reporting requirements applicable to all types of special districts as provided in ss. 189.015 and 189.016 ~~189.417 and 189.418~~.

~~(4) When feasible, securing and maintaining access to special district information collected by all state agencies in existing or newly created state computer systems~~.

(4)~~(5)~~ Coordinating and communicating ~~The facilitation of coordination and communication~~ among state agencies regarding special districts ~~district information~~.

~~(6) The conduct of studies relevant to special districts.~~

(5)~~(7)~~ Providing technical advisory ~~The provision of~~ assistance ~~related~~ to special districts regarding the ~~and appropriate in the performance of~~ requirements specified in this chapter~~, including assisting with an annual conference sponsored by the Florida Association of Special Districts or its successor~~.

(6)~~(8)~~ Providing assistance to local general-purpose governments and ~~certain~~ state agencies in collecting delinquent reports or information.~~,~~

(7) Helping special districts comply with reporting requirements.~~,~~

(8) Declaring special districts inactive when ~~appropriate, and, when~~ directed by the Legislative Auditing Committee or required by this chapter.~~,~~

(9) Initiating enforcement proceedings ~~provisions~~ as provided in ss. 189.062, 189.066, and 189.067 ~~189.4044, 189.419, and 189.421~~.

Section 34. Section 189.413, Florida Statutes, is transferred and renumbered as section 189.065, Florida Statutes, and amended to read:

189.065 ~~189.413~~ Special districts; oversight of state funds use.—Any state agency administering funding programs for which special districts are eligible shall be responsible for oversight of the use of such funds by special districts. The oversight responsibilities shall include, but not be limited to:

(1) Reporting the existence of the program to the Special District Accountability ~~Information~~ Program of the department.

(2) Submitting annually a list of special districts participating in a state funding program to the Special District

Accountability ~~Information~~ Program of the department. This list must indicate the special districts, if any, that are not in compliance with state funding program requirements.

Section 35. Section 189.415, Florida Statutes, is transferred and renumbered as section 189.08, Florida Statutes.

Section 36. Section 189.4155, Florida Statutes, is transferred and renumbered as section 189.081, Florida Statutes.

Section 37. Section 189.4156, Florida Statutes, is transferred and renumbered as section 189.082, Florida Statutes.

Section 38. Section 189.416, Florida Statutes, is transferred and renumbered as section 189.014, Florida Statutes, and subsection (1) of that section is amended, to read:

189.014 ~~189.416~~ Designation of registered office and agent.—

(1) Within 30 days after the first meeting of its governing body ~~board~~, each special district in the state shall designate a registered office and a registered agent and file such information with the local governing authority or authorities and with the department. The registered agent shall be an agent of the district upon whom any process, notice, or demand required or permitted by law to be served upon the district may be served. A registered agent shall be an individual resident of this state whose business address is identical with the registered office of the district. The registered office may be, but need not be, the same as the place of business of the special district.

Section 39. Section 189.417, Florida Statutes, is transferred and renumbered as section 189.015, Florida Statutes, and subsection (1) of that section is amended, to read:

189.015 ~~189.417~~ Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually in a newspaper of general paid circulation in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days before ~~prior to~~ such meeting, in a newspaper of general paid circulation in the county or counties in which the special district is located, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the governing body ~~board~~. No approval of the annual budget shall be granted at an emergency meeting. The advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear in a newspaper that is published at least 5 days a week, unless the only newspaper in the county is published fewer than 5 days a week. The newspaper selected must be one of general interest and readership in the community and not one of limited subject matter, pursuant to chapter 50. Any other provision of law to the contrary notwithstanding, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate

responses to solicitations issued by the water management district, by publication in a newspaper of general paid circulation in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

Section 40. Section 189.418, Florida Statutes, is transferred and renumbered as section 189.016, Florida Statutes, and subsections (2) and (10) of that section are amended, to read:

189.016 ~~189.418~~ Reports; budgets; audits.—

(2) Any amendment, modification, or update of the document by which the district was created, including changes in boundaries, must be filed with the department within 30 days after adoption. The department may initiate proceedings against special districts as provided in s. 189.067 ~~189.421~~ for failure to file the information required by this subsection. However, for the purposes of this section and s. 175.101(1), the boundaries of a district shall be deemed to include an area that has been annexed until the completion of the 4-year period specified in s. 171.093(4) or other mutually agreed upon extension, or when a district is providing services pursuant to an interlocal agreement entered into pursuant to s. 171.093(3).

(10) All reports or information required to be filed with a local general-purpose government or governing authority under ss. 189.08, 189.014, and 189.015 ~~189.415, 189.416, and 189.417~~ and subsection (8) must:

(a) If the local general-purpose government or governing authority is a county, be filed with the clerk of the board of

county commissioners.

(b) If the district is a multicounty district, be filed with the clerk of the county commission in each county.

(c) If the local general-purpose government or governing authority is a municipality, be filed at the place designated by the municipal governing body.

Section 41. Section 189.419, Florida Statutes, is transferred, renumbered as section 189.066, Florida Statutes, and amended to read:

189.066 ~~189.419~~ Effect of failure to file certain reports or information.—

(1) If an independent special district fails to file the reports or information required under s. 189.08, s. 189.014, s. 189.015, or s. 189.016(9) ~~189.415, s. 189.416, s. 189.417, or s. 189.418(9)~~ with the local general-purpose government or governments in which it is located, the person authorized to receive and read the reports or information or the local general-purpose government shall notify the district's registered agent. If requested by the district, the local general-purpose government shall grant an extension of up to 30 days for filing the required reports or information. If the governing body of the local general-purpose government or governments determines that there has been an unjustified failure to file these reports or information, it may notify the department, and the department may proceed pursuant to s. 189.067(1) ~~189.421(1)~~.

(2) If a dependent special district fails to file the reports or information required under s. 189.014, s. 189.015, or s. 189.016(9) ~~189.416, s. 189.417, or s. 189.418(9)~~ with the

local governing authority to which it is dependent, the local governing authority shall take whatever steps it deems necessary to enforce the special district's accountability. Such steps may include, as authorized, withholding funds, removing governing body ~~board~~ members at will, vetoing the special district's budget, conducting the oversight review process set forth in s. 189.068 ~~189.428~~, or amending, merging, or dissolving the special district in accordance with the provisions contained in the ordinance that created the dependent special district.

(3) If a special district fails to file the reports or information required under s. 218.38 with the appropriate state agency, the agency shall notify the department, and the department shall send a certified technical assistance letter to the special district which summarizes the requirements and compels ~~encourages~~ the special district to take steps to prevent the noncompliance from reoccurring.

(4) If a special district fails to file the reports or information required under s. 112.63 with the appropriate state agency, the agency shall notify the department and the department shall proceed pursuant to s. 189.067(1) ~~189.421(1)~~.

(5) If a special district fails to file the reports or information required under s. 218.32 or s. 218.39 with the appropriate state agency or office, the state agency or office shall notify~~, and~~ the Legislative Auditing Committee ~~may, notify the department and the department shall proceed pursuant to s. 189.421~~.

(6) If a special district created by special act of the Legislature fails to file the reports or information required under s. 218.32 or s. 218.39 with the appropriate state agency

or office, the Legislative Auditing Committee shall notify the department and the chair of the county legislative delegation in writing, pursuant to s. 189.034.

(7) If a special district created by ordinance fails to file the reports or information required under s. 218.32 or 218.39 with the appropriate state agency or office, the Legislative Auditing Committee shall notify the department and the chair or equivalent of the local general-purpose government that created the district, in writing, pursuant to s. 189.035.

Section 42. Section 189.420, Florida Statutes, is transferred and renumbered as section 189.052, Florida Statutes.

Section 43. Section 189.421, Florida Statutes, is transferred, renumbered as section 189.067, Florida Statutes, and amended to read:

189.067 ~~189.421~~ Failure of district to disclose financial reports.—

(1)(a) If notified pursuant to s. 189.066(1) ~~189.419(1)~~, (4), or (5), the department shall attempt to assist a special district in complying with its financial reporting requirements by sending a certified letter to the special district, and, if the special district is dependent, sending a copy of that letter to the chair of the local governing authority. The letter must include a description of the required report, including statutory submission deadlines, a contact telephone number for technical assistance to help the special district comply, a 60-day deadline for filing the required report with the appropriate entity, the address where the report must be filed, and an explanation of the penalties for noncompliance.

(b) A special district that is unable to meet the 60-day

reporting deadline must provide written notice to the department before the expiration of the deadline stating the reason the special district is unable to comply with the deadline, the steps the special district is taking to prevent the noncompliance from reoccurring, and the estimated date that the special district will file the report with the appropriate agency. The district's written response does not constitute an extension by the department; however, the department shall forward the written response as follows ~~to~~:

1. If the written response refers to the reports required under s. 218.32 or s. 218.39, to the Legislative Auditing Committee for its consideration in determining whether the special district should be subject to further state action in accordance with s. 11.40(2)(b).

2. If the written response refers to the reports or information requirements listed in s. 189.066(1) ~~189.419(1)~~, to the local general-purpose government or governments for their consideration in determining whether the oversight review process set forth in s. 189.068 ~~189.428~~ should be undertaken.

3. If the written response refers to the reports or information required under s. 112.63, to the Department of Management Services for its consideration in determining whether the special district should be subject to further state action in accordance with s. 112.63(4)(d)2.

(2) Failure of a special district to comply with the actuarial and financial reporting requirements under s. 112.63, s. 218.32, or s. 218.39 after the procedures of subsection (1) are exhausted shall be deemed final action of the special district. The actuarial and financial reporting requirements are

declared to be essential requirements of law. Remedy for noncompliance shall be as provided in s. 189.034 or s. 189.035 ~~by writ of certiorari as set forth in subsection (4)~~.

~~(3) Pursuant to s. 11.40(2)(b), the Legislative Auditing Committee shall notify the department of those districts that fail to file the required reports. If the procedures described in subsection (1) have not yet been initiated, the department shall initiate such procedures upon receiving the notice from the Legislative Auditing Committee. Otherwise, within 60 days after receiving such notice, or within 60 days after the expiration of the 60-day deadline provided in subsection (1), whichever occurs later, the department, notwithstanding the provisions of chapter 120, shall file a petition for writ of certiorari with the circuit court. Venue for all actions pursuant to this subsection is in Leon County. The court shall award the prevailing party attorney's fees and costs unless affirmatively waived by all parties. A writ of certiorari shall be issued unless a respondent establishes that the notification of the Legislative Auditing Committee was issued as a result of material error. Proceedings under this subsection are otherwise governed by the Rules of Appellate Procedure.~~

~~(4) Pursuant to s. 112.63(4)(d)2., the Department of Management Services may notify the department of those special districts that have failed to file the required adjustments, additional information, or report or statement after the procedures of subsection (1) have been exhausted. Within 60 days after receiving such notice or within 60 days after the 60-day deadline provided in subsection (1), whichever occurs later, the department, notwithstanding chapter 120, shall file a petition~~

~~for writ of certiorari with the circuit court. Venue for all actions pursuant to this subsection is in Leon County. The court shall award the prevailing party attorney's fees and costs unless affirmatively waived by all parties. A writ of certiorari shall be issued unless a respondent establishes that the notification of the Department of Management Services was issued as a result of material error. Proceedings under this subsection are otherwise governed by the Rules of Appellate Procedure.~~

Section 44. Section 189.4221, Florida Statutes, is transferred and renumbered as section 189.053, Florida Statutes.

Section 45. Section 189.423, Florida Statutes, is transferred and renumbered as section 189.054, Florida Statutes.

Section 46. Section 189.425, Florida Statutes, is transferred and renumbered as section 189.017, Florida Statutes.

Section 47. Section 189.427, Florida Statutes, is transferred and renumbered as section 189.018, Florida Statutes, and amended to read:

189.018 ~~189.427~~ Fee schedule; Operating ~~Grants and Donations~~ Trust Fund.—The department ~~of Economic Opportunity~~, by rule, shall establish a schedule of fees to pay one-half of the costs incurred by the department in administering this act, except that the fee may not exceed $175 per district per year. The fees collected under this section shall be deposited in the Operating ~~Grants and Donations~~ Trust Fund~~, which shall be~~ administered by the department ~~of Economic Opportunity~~. Any fee rule must consider factors such as the dependent and independent status of the district and district revenues for the most recent fiscal year as reported to the Department of Financial Services. The department may assess fines of not more than $25, with an

aggregate total not to exceed $50, as penalties against special districts that fail to remit required fees to the department. It is the intent of the Legislature that general revenue funds will be made available to the department to pay one-half of the cost of administering this act.

Section 48. Section 189.428, Florida Statutes, is transferred and renumbered as section 189.068, Florida Statutes, and amended, to read:

189.068 ~~189.428~~ Special districts; oversight review process.—

(1) The Legislature finds it to be in the public interest to establish an oversight review process for special districts wherein each special district in the state may be reviewed by the local general-purpose government in which the district exists. The Legislature further finds and determines that such law fulfills an important state interest. It is the intent of the Legislature that the oversight review process shall contribute to informed decisionmaking. These decisions may involve the continuing existence or dissolution of a district, the appropriate future role and focus of a district, improvements in the functioning or delivery of services by a district, and the need for any transition, adjustment, or special implementation periods or provisions. Any final recommendations from the oversight review process that are adopted and implemented by the appropriate level of government shall not be implemented in a manner that would impair the obligation of contracts.

~~(2) It is the intent of the Legislature that any oversight review process be conducted in conjunction with special district~~

~~public facilities reporting and the local government evaluation and appraisal report process described in s. 189.415(2).~~

(2)~~(3) The order in which~~ Special districts are ~~may be~~ subject to oversight review ~~shall be determined by the reviewer and shall occur~~ as follows:

(a) All independent special districts created by special act of the Legislature may be reviewed by any legislative delegation of a county in which the geographical jurisdiction of the special district exists.

(b)~~(a)~~ All dependent special districts may be reviewed by the general-purpose local government to which they are dependent.

~~(b) All single-county independent special districts may be reviewed by a county or municipality in which they are located or the government that created the district. Any single-county independent district that serves an area greater than the boundaries of one general-purpose local government may only be reviewed by the county on the county's own initiative or upon receipt of a request from any municipality served by the special district.~~

~~(c) All multicounty independent special districts may be reviewed by the government that created the district. Any general-purpose local governments within the boundaries of a multicounty district may prepare a preliminary review of a multicounty special district for possible reference or inclusion in the full review report.~~

~~(d) Upon request by the reviewer, any special district within all or a portion of the same county as the special district being reviewed may prepare a preliminary review of the~~

~~district for possible reference or inclusion in the full oversight review report.~~

(3)~~(4)~~ All special districts, governmental entities, and state agencies shall cooperate with the Legislature and with any general-purpose local government seeking information or assistance with the oversight review process and with the preparation of an oversight review report.

(4)~~(5)~~ Those conducting the oversight review process shall, at a minimum, consider the listed criteria for evaluating the special district, but may also consider any additional factors relating to the district and its performance. If any of the listed criteria does not apply to the special district being reviewed, it need not be considered. The criteria to be considered by the reviewer include:

(a) The degree to which the service or services offered by the special district are essential or contribute to the well-being of the community.

(b) The extent of continuing need for the service or services currently provided by the special district.

(c) The extent of municipal annexation or incorporation activity occurring or likely to occur within the boundaries of the special district and its impact on the delivery of services by the special district.

(d) Whether there is a less costly alternative method of delivering the service or services that would adequately provide the district residents with the services provided by the district.

(e) Whether transfer of the responsibility for delivery of the service or services to an entity other than the special

district being reviewed could be accomplished without jeopardizing the district's existing contracts, bonds, or outstanding indebtedness.

(f) Whether the Auditor General has notified the Legislative Auditing Committee that the special district's audit report, reviewed pursuant to s. 11.45(7), indicates that the district has met any of the conditions specified in s. 218.503(1) or that a deteriorating financial condition exists that may cause a condition described in s. 218.503(1) to occur if actions are not taken to address such condition.

(g) Whether the district is inactive according to the official list of special districts, and whether the district is meeting and discharging its responsibilities as required by its charter, as well as projected increases or decreases in district activity.

(h) Whether the special district has failed to comply with any of the reporting requirements in this chapter, including preparation of the public facilities report.

(i) Whether the special district has designated a registered office and agent as required by s. 189.014 ~~189.416~~, and has complied with all open public records and meeting requirements.

~~(6) Any special district may at any time provide the Legislature and the general-purpose local government conducting the review or making decisions based upon the final oversight review report with written responses to any questions, concerns, preliminary reports, draft reports, or final reports relating to the district.~~

~~(7) The final report of a reviewing government shall be~~

~~filed with the government that created the district and shall serve as the basis for any modification to the district charter or dissolution or merger of the district.~~

~~(8) If legislative dissolution or merger of a district is proposed in the final report, the reviewing government shall also propose a plan for the merger or dissolution, and the plan shall address the following factors in evaluating the proposed merger or dissolution:~~

~~(a) Whether, in light of independent fiscal analysis, level-of-service implications, and other public policy considerations, the proposed merger or dissolution is the best alternative for delivering services and facilities to the affected area.~~

~~(b) Whether the services and facilities to be provided pursuant to the merger or dissolution will be compatible with the capacity and uses of existing local services and facilities.~~

~~(c) Whether the merger or dissolution is consistent with applicable provisions of the state comprehensive plan, the strategic regional policy plan, and the local government comprehensive plans of the affected area.~~

~~(d) Whether the proposed merger adequately provides for the assumption of all indebtedness.~~

~~The reviewing government shall consider the report in a public hearing held within the jurisdiction of the district. If adopted by the governing board of the reviewing government, the request for legislative merger or dissolution of the district may proceed. The adopted plan shall be filed as an attachment to the economic impact statement regarding the proposed special act or~~

~~general act of local application dissolving a district.~~

~~(9) This section does not apply to a deepwater port listed in s. 311.09(1) which is in compliance with a port master plan adopted pursuant to s. 163.3178(2)(k), or to an airport authority operating in compliance with an airport master plan approved by the Federal Aviation Administration, or to any special district organized to operate health systems and facilities licensed under chapter 395, chapter 400, or chapter 429.~~

Section 49. Section 189.429, Florida Statutes, is transferred and renumbered as section 189.019, Florida Statutes, and subsection (1) of that section is amended, to read:

189.019 ~~189.429~~ Codification.—

(1) Each district, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the department pursuant to s. 189.016(2) ~~189.418(2)~~.

Section 50. Sections 189.430, 189.431, 189.432, 189.433, 189.434, 189.435, 189.436, 189.437, 189.438, 189.439, 189.440, 189.441, 189.442, 189.443, and 189.444, Florida Statutes, are repealed.

Section 51. Section 189.034, Florida Statutes, is created

to read:

189.034 Oversight of special districts created by special act of the Legislature.—

(1) If a special district created by special act of the Legislature fails to file reports required under ss. 218.32 and 218.39 with the appropriate state agency, the Legislative Auditing Committee or its designee shall provide written notice of the district's noncompliance to the chair of the county legislative delegation in which the geographical boundaries of the jurisdiction of the special district are located or, if the jurisdiction of the special district extends beyond the boundaries of a single county, to the chairs of the county legislative delegation for each county in which the district has jurisdiction.

(2) The chair of the county legislative delegation shall convene a public hearing on the issue of noncompliance within 6 months after receipt of notice of noncompliance from the Legislative Auditing Committee.

(3) Before the public hearing regarding the special district's noncompliance, the county legislative delegation may request the following information from the special district:

(a) The district's annual financial report for the previous fiscal year.

(b) The district's audit report for the previous fiscal year.

(c) An annual report for the previous fiscal year providing a detailed review of the performance of the special district, which must include the following information:

1. The mission of the special district.

2. The sources of funding for the special district.

3. A description of the major activities, programs, and initiatives the special district undertook in the most recently completed fiscal year and the benchmarks or criteria under which the success or failure of the district was determined by its governing body.

4. Any challenges or obstacles faced by the special district in fulfilling its mission and related responsibilities.

5. Ways the special district believes it could better fulfill its mission and related responsibilities and a description of the actions that it intends to take during the ensuing fiscal year.

6. Proposed changes to the special act that established the special district and justification for such changes.

7. Any other information reasonably required to provide the legislative delegation with an accurate understanding of the purpose for which the special district exists and how it is fulfilling its responsibilities to accomplish that purpose.

8. Any reasons for the district's noncompliance.

9. Whether the district is currently in compliance.

10. Plans to correct any recurring issues of noncompliance.

11. Efforts to promote transparency, including maintenance of the district's website in accordance with s. 189.069.

Section 52. Section 189.035, Florida Statutes, is created to read:

189.035 Oversight of special districts created by local ordinance.—

(1) If a special district created by local ordinance fails to file reports required under ss. 218.32 and 218.39 with the

appropriate state agency, the Legislative Auditing Committee or its designee shall provide written notice of the district's noncompliance to the chair or equivalent of the local general-purpose government.

(2) The chair or equivalent of the local general-purpose government shall convene a public hearing on the issue of noncompliance within 6 months after receipt of notice of noncompliance from the Legislative Auditing Committee.

(3) Before the public hearing regarding the special district's noncompliance, the local general-purpose government may request the following information from the special district:

(a) The district's annual financial report for the previous fiscal year.

(b) The district's audit report for the previous fiscal year.

(c) An annual report for the previous fiscal year, which must provide a detailed review of the performance of the special district and include the following information:

1. The mission of the special district.

2. The sources of funding for the special district.

3. A description of the major activities, programs, and initiatives the special district undertook in the most recently completed fiscal year and the benchmarks or criteria under which the success or failure of the district was determined by its governing body.

4. Any challenges or obstacles faced by the special district in fulfilling its mission and related responsibilities.

5. Ways the special district believes it could better fulfill its mission and related responsibilities and a

description of the actions that it intends to take during the ensuing fiscal year.

6. Proposed changes to the special act that established the special district and justification for such changes.

7. Any other information reasonably required to provide the legislative delegations with an accurate understanding of the purpose for which the special district exists and how it is fulfilling its responsibilities to accomplish that purpose.

8. Any reasons for the district's noncompliance.

9. Whether the district is currently in compliance.

10. Plans to correct any recurring issues of noncompliance.

11. Efforts to promote transparency, including maintenance of the district's website in accordance with s. 189.069.

Section 53. Section 189.055, Florida Statutes, is created to read:

189.055 Treatment of special districts.—For the purpose of s. 196.199(1), special districts shall be treated as municipalities.

Section 54. Section 189.069, Florida Statutes, is created to read:

189.069 Special districts; required reporting of information; web-based public access.—

(1) Beginning on July 1, 2015, for each fiscal year, all special districts shall annually update and maintain on their respective official Internet websites the information required by this section in accordance with s. 189.016. All special districts shall submit their official Internet website addresses to the department.

(a) A special district shall post the following

information, at a minimum, on the district's official website:

1. The full legal name of the special district.

2. The public purpose of the special district.

3. The name, address, e-mail address, and, if applicable, the term and appointing authority for each member of the governing body of the special district.

4. The fiscal year of the special district.

5. The full text of the special district's charter, the date the special district was established, the entity that established the special district, and the statute or statutes under which the special district operates, if different from the statute or statutes under which the special district was established.

6. The mailing address, e-mail address, telephone number, and Internet website uniform resource locator of the special district.

7. A description of the boundaries or service area of, and the services provided by, the special district.

8. A listing of all taxes, fees, or charges imposed and collected by the special district, including the rates or amounts charged for the fiscal year and the statutory authority for the levy of the tax, fee, or charge.

9. The primary contact information for the special district for purposes of communication from the department.

10. The code of ethics that applies to the special district, and whether the special district has adopted additional ethics provisions.

11. A listing of all federal, state, and local entities that have oversight authority over the special district or to

which the special district submits reports, data, or information.

12. The most recent adopted budget of the special district.

13. After the end of each fiscal year, a comparison of the budget to actual revenues and expenditures for each fiscal year.

14. Any completed audit reports for the most recent completed fiscal year, and audit reports required by law or authorized by the governing body of the special district.

15. Any other financial and administrative information required by the department.

(b) The department's Internet website list of special districts in the state required under s. 189.061 must include a link to the website of each special district that provides web-based access to the public to the information and documents required under paragraph (a).

Section 55. Section 189.0691, Florida Statutes, is created to read:

189.0691 Suspension of special district governing body members.—If a special district violates the requirements of this chapter, the department shall report such violations, and provide all appropriate proof of the violations, to the Governor, who may take action against the governing body members of the special district as authorized in s. 112.511; however, the Governor and appointing authority shall ensure that the governing body maintains a sufficient number of members to constitute a quorum.

Section 56. Paragraph (e) of subsection (1) and paragraph (c) of subsection (7) of section 11.45, Florida Statutes, are amended to read:

11.45 Definitions; duties; authorities; reports; rules.—

(1) DEFINITIONS.—As used in ss. 11.40-11.51, the term:

(e) "Local governmental entity" means a county agency, municipality, or special district as defined in s. 189.012 ~~189.403~~, but does not include any housing authority established under chapter 421.

(7) AUDITOR GENERAL REPORTING REQUIREMENTS.—

(c) The Auditor General shall provide annually a list of those special districts which are not in compliance with s. 218.39 to the Special District Accountability ~~Information~~ Program of the Department of Economic Opportunity.

Section 57. Paragraph (c) of subsection (4) of section 100.011, Florida Statutes, is amended to read:

100.011 Opening and closing of polls, all elections; expenses.—

(4)

(c) The provisions of any special law to the contrary notwithstanding, all independent and dependent special district elections, with the exception of community development district elections, shall be conducted in accordance with the requirements of ss. 189.04 and 189.041 ~~189.405 and 189.4051~~.

Section 58. Paragraph (f) of subsection (1) of section 101.657, Florida Statutes, is amended to read:

101.657 Early voting.—

(1)

(f) Notwithstanding the requirements of s. 189.04 ~~189.405~~, special districts may provide early voting in any district election not held in conjunction with county or state elections. If a special district provides early voting, it may designate as

many sites as necessary and shall conduct its activities in accordance with the provisions of paragraphs (a)-(c). The supervisor is not required to conduct early voting if it is provided pursuant to this subsection.

Section 59. Paragraph (a) of subsection (14) of section 112.061, Florida Statutes, is amended to read:

112.061 Per diem and travel expenses of public officers, employees, and authorized persons.—

(14) APPLICABILITY TO COUNTIES, COUNTY OFFICERS, DISTRICT SCHOOL BOARDS, SPECIAL DISTRICTS, AND METROPOLITAN PLANNING ORGANIZATIONS.—

(a) The following entities may establish rates that vary from the per diem rate provided in paragraph (6)(a), the subsistence rates provided in paragraph (6)(b), or the mileage rate provided in paragraph (7)(d) if those rates are not less than the statutorily established rates that are in effect for the 2005-2006 fiscal year:

1. The governing body of a county by the enactment of an ordinance or resolution;

2. A county constitutional officer, pursuant to s. 1(d), Art. VIII of the State Constitution, by the establishment of written policy;

3. The governing body of a district school board by the adoption of rules;

4. The governing body of a special district, as defined in s. 189.012 ~~189.403(1)~~, except those special districts that are subject to s. 166.021(9), by the enactment of a resolution; or

5. Any metropolitan planning organization created pursuant to s. 339.175 or any other separate legal or administrative

entity created pursuant to s. 339.175 of which a metropolitan planning organization is a member, by the enactment of a resolution.

Section 60. Paragraph (d) of subsection (4) of section 112.63, Florida Statutes, is amended to read:

112.63 Actuarial reports and statements of actuarial impact; review.—

(4) Upon receipt, pursuant to subsection (2), of an actuarial report, or, pursuant to subsection (3), of a statement of actuarial impact, the Department of Management Services shall acknowledge such receipt, but shall only review and comment on each retirement system's or plan's actuarial valuations at least on a triennial basis.

(d) In the case of an affected special district, the Department of Management Services shall also notify the Department of Economic Opportunity. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067 ~~189.421~~.

1. Failure of a special district to provide a required report or statement, to make appropriate adjustments, or to provide additional material information after the procedures specified in s. 189.067(1) ~~189.421(1)~~ are exhausted shall be deemed final action by the special district.

2. The Department of Management Services may notify the Department of Economic Opportunity of those special districts that failed to come into compliance. Upon receipt of notification, the Department of Economic Opportunity shall proceed pursuant to s. 189.067(4) ~~189.421(4)~~.

Section 61. Subsection (1) of section 112.665, Florida

Statutes, is amended to read:

112.665 Duties of Department of Management Services.—

(1) The Department of Management Services shall:

(a) Gather, catalog, and maintain complete, computerized data information on all public employee retirement systems or plans in the state based upon a review of audits, reports, and other data pertaining to the systems or plans;

(b) Receive and comment upon all actuarial reviews of retirement systems or plans maintained by units of local government;

(c) Cooperate with local retirement systems or plans on matters of mutual concern and provide technical assistance to units of local government in the assessment and revision of retirement systems or plans;

(d) Annually issue, by January 1, a report to the President of the Senate and the Speaker of the House of Representatives, which details division activities, findings, and recommendations concerning all governmental retirement systems. The report may include legislation proposed to carry out such recommendations;

(e) Provide a fact sheet for each participating local government defined benefit pension plan which summarizes the plan’s actuarial status. The fact sheet should provide a summary of the plan’s most current actuarial data, minimum funding requirements as a percentage of pay, and a 5-year history of funded ratios. The fact sheet must include a brief explanation of each element in order to maximize the transparency of the local government plans. The fact sheet must also contain the information specified in s. 112.664(1). These documents shall be posted on the department’s website. Plan sponsors that have

websites must provide a link to the department's website;

(f) Annually issue, by January 1, a report to the Special District Accountability ~~Information~~ Program of the Department of Economic Opportunity which includes the participation in and compliance of special districts with the local government retirement system provisions in s. 112.63 and the state-administered retirement system provisions specified in part I of chapter 121; and

(g) Adopt reasonable rules to administer this part.

Section 62. Subsection (9) of section 121.021, Florida Statutes, is amended to read:

121.021 Definitions.—The following words and phrases as used in this chapter have the respective meanings set forth unless a different meaning is plainly required by the context:

(9) "Special district" means an independent special district as defined in s. 189.012 ~~189.403(3)~~.

Section 63. Paragraph (b) of subsection (2) of section 121.051, Florida Statutes, is amended to read:

121.051 Participation in the system.—

(2) OPTIONAL PARTICIPATION.—

(b)1. The governing body of any municipality, metropolitan planning organization, or special district in the state may elect to participate in the Florida Retirement System upon proper application to the administrator and may cover all of its units as approved by the Secretary of Health and Human Services and the administrator. The department shall adopt rules establishing procedures for the submission of documents necessary for such application. Before being approved for participation in the system, the governing body of a

municipality, metropolitan planning organization, or special district that has a local retirement system must submit to the administrator a certified financial statement showing the condition of the local retirement system within 3 months before the proposed effective date of membership in the Florida Retirement System. The statement must be certified by a recognized accounting firm that is independent of the local retirement system. All required documents necessary for extending Florida Retirement System coverage must be received by the department for consideration at least 15 days before the proposed effective date of coverage. If the municipality, metropolitan planning organization, or special district does not comply with this requirement, the department may require that the effective date of coverage be changed.

2. A municipality, metropolitan planning organization, or special district that has an existing retirement system covering the employees in the units that are to be brought under the Florida Retirement System may participate only after holding a referendum in which all employees in the affected units have the right to participate. Only those employees electing coverage under the Florida Retirement System by affirmative vote in the referendum are eligible for coverage under this chapter, and those not participating or electing not to be covered by the Florida Retirement System shall remain in their present systems and are not eligible for coverage under this chapter. After the referendum is held, all future employees are compulsory members of the Florida Retirement System.

3. At the time of joining the Florida Retirement System, the governing body of a municipality, metropolitan planning

organization, or special district complying with subparagraph 1. may elect to provide, or not provide, benefits based on past service of officers and employees as described in s. 121.081(1). However, if such employer elects to provide past service benefits, such benefits must be provided for all officers and employees of its covered group.

4. Once this election is made and approved it may not be revoked, except pursuant to subparagraphs 5. and 6., and all present officers and employees electing coverage and all future officers and employees are compulsory members of the Florida Retirement System.

5. Subject to subparagraph 6., the governing body of a hospital licensed under chapter 395 which is governed by the governing body ~~board~~ of a special district as defined in s. 189.012 ~~189.403~~ or by the board of trustees of a public health trust created under s. 154.07, hereinafter referred to as "hospital district," and which participates in the Florida Retirement System, may elect to cease participation in the system with regard to future employees in accordance with the following:

a. No more than 30 days and at least 7 days before adopting a resolution to partially withdraw from the system and establish an alternative retirement plan for future employees, a public hearing must be held on the proposed withdrawal and proposed alternative plan.

b. From 7 to 15 days before such hearing, notice of intent to withdraw, specifying the time and place of the hearing, must be provided in writing to employees of the hospital district proposing partial withdrawal and must be published in a

newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031. Proof of publication must be submitted to the Department of Management Services.

c. The governing body of a hospital district seeking to partially withdraw from the system must, before such hearing, have an actuarial report prepared and certified by an enrolled actuary, as defined in s. 112.625, illustrating the cost to the hospital district of providing, through the retirement plan that the hospital district is to adopt, benefits for new employees comparable to those provided under the system.

d. Upon meeting all applicable requirements of this subparagraph, and subject to subparagraph 6., partial withdrawal from the system and adoption of the alternative retirement plan may be accomplished by resolution duly adopted by the hospital district board. The hospital district board must provide written notice of such withdrawal to the division by mailing a copy of the resolution to the division, postmarked by December 15, 1995. The withdrawal shall take effect January 1, 1996.

6. Following the adoption of a resolution under sub-subparagraph 5.d., all employees of the withdrawing hospital district who were members of the system before January 1, 1996, shall remain as members of the system for as long as they are employees of the hospital district, and all rights, duties, and obligations between the hospital district, the system, and the employees remain in full force and effect. Any employee who is hired or appointed on or after January 1, 1996, may not participate in the system, and the withdrawing hospital district has no obligation to the system with respect to such employees.

Section 64. Subsections (1), (4), and (6) of section

125.901, Florida Statutes, are amended to read:

125.901 Children's services; independent special district; council; powers, duties, and functions; public records exemption.—

(1) Each county may by ordinance create an independent special district, as defined in ss. 189.012 ~~189.403(3)~~ and 200.001(8)(e), to provide funding for children's services throughout the county in accordance with this section. The boundaries of such district shall be coterminous with the boundaries of the county. The county governing body shall obtain approval, by a majority vote of those electors voting on the question, to annually levy ad valorem taxes which shall not exceed the maximum millage rate authorized by this section. Any district created pursuant to the provisions of this subsection shall be required to levy and fix millage subject to the provisions of s. 200.065. Once such millage is approved by the electorate, the district shall not be required to seek approval of the electorate in future years to levy the previously approved millage.

(a) The governing body ~~board~~ of the district shall be a council on children's services, which may also be known as a juvenile welfare board or similar name as established in the ordinance by the county governing body. Such council shall consist of 10 members, including: the superintendent of schools; a local school board member; the district administrator from the appropriate district of the Department of Children and Family Services, or his or her designee who is a member of the Senior Management Service or of the Selected Exempt Service; one member of the county governing body; and the judge assigned to juvenile

cases who shall sit as a voting member of the board, except that said judge shall not vote or participate in the setting of ad valorem taxes under this section. If there is more than one judge assigned to juvenile cases in a county, the chief judge shall designate one of said juvenile judges to serve on the board. The remaining five members shall be appointed by the Governor, and shall, to the extent possible, represent the demographic diversity of the population of the county. After soliciting recommendations from the public, the county governing body shall submit to the Governor the names of at least three persons for each vacancy occurring among the five members appointed by the Governor, and the Governor shall appoint members to the council from the candidates nominated by the county governing body. The Governor shall make a selection within a 45-day period or request a new list of candidates. All members appointed by the Governor shall have been residents of the county for the previous 24-month period. Such members shall be appointed for 4-year terms, except that the length of the terms of the initial appointees shall be adjusted to stagger the terms. The Governor may remove a member for cause or upon the written petition of the county governing body. If any of the members of the council required to be appointed by the Governor under the provisions of this subsection shall resign, die, or be removed from office, the vacancy thereby created shall, as soon as practicable, be filled by appointment by the Governor, using the same method as the original appointment, and such appointment to fill a vacancy shall be for the unexpired term of the person who resigns, dies, or is removed from office.

(b) However, any county as defined in s. 125.011(1) may

instead have a governing body ~~board~~ consisting of 33 members, including: the superintendent of schools; two representatives of public postsecondary education institutions located in the county; the county manager or the equivalent county officer; the district administrator from the appropriate district of the Department of Children and Family Services, or the administrator's designee who is a member of the Senior Management Service or the Selected Exempt Service; the director of the county health department or the director's designee; the state attorney for the county or the state attorney's designee; the chief judge assigned to juvenile cases, or another juvenile judge who is the chief judge's designee and who shall sit as a voting member of the board, except that the judge may not vote or participate in setting ad valorem taxes under this section; an individual who is selected by the board of the local United Way or its equivalent; a member of a locally recognized faith-based coalition, selected by that coalition; a member of the local chamber of commerce, selected by that chamber or, if more than one chamber exists within the county, a person selected by a coalition of the local chambers; a member of the early learning coalition, selected by that coalition; a representative of a labor organization or union active in the county; a member of a local alliance or coalition engaged in cross-system planning for health and social service delivery in the county, selected by that alliance or coalition; a member of the local Parent-Teachers Association/Parent-Teacher-Student Association, selected by that association; a youth representative selected by the local school system's student government; a local school board member appointed by the chair of the school board; the

mayor of the county or the mayor's designee; one member of the county governing body, appointed by the chair of that body; a member of the state Legislature who represents residents of the county, selected by the chair of the local legislative delegation; an elected official representing the residents of a municipality in the county, selected by the county municipal league; and 4 members-at-large, appointed to the council by the majority of sitting council members. The remaining 7 members shall be appointed by the Governor in accordance with procedures set forth in paragraph (a), except that the Governor may remove a member for cause or upon the written petition of the council. Appointments by the Governor must, to the extent reasonably possible, represent the geographic and demographic diversity of the population of the county. Members who are appointed to the council by reason of their position are not subject to the length of terms and limits on consecutive terms as provided in this section. The remaining appointed members of the governing board shall be appointed to serve 2-year terms, except that those members appointed by the Governor shall be appointed to serve 4-year terms, and the youth representative and the legislative delegate shall be appointed to serve 1-year terms. A member may be reappointed; however, a member may not serve for more than three consecutive terms. A member is eligible to be appointed again after a 2-year hiatus from the council.

(c) This subsection does not prohibit a county from exercising such power as is provided by general or special law to provide children's services or to create a special district to provide such services.

(4)(a) Any district created pursuant to this section may be

dissolved by a special act of the Legislature, or the county governing body may by ordinance dissolve the district subject to the approval of the electorate.

(b)1.a. Notwithstanding paragraph (a), the governing body of the county shall submit the question of retention or dissolution of a district with voter-approved taxing authority to the electorate in the general election according to the following schedule:

(I) For a district in existence on July 1, 2010, and serving a county with a population of 400,000 or fewer persons as of that date.....2014.

(II) For a district in existence on July 1, 2010, and serving a county with a population of more than 400,000 but fewer than 2 million persons as of
that date.....2016.

(III) For a district in existence on July 1, 2010, and serving a county with a population of 2 million or more persons as of that date.....2020.

b. A referendum by the electorate on or after July 1, 2010, creating a new district with taxing authority may specify that the district is not subject to reauthorization or may specify the number of years for which the initial authorization shall remain effective. If the referendum does not prescribe terms of reauthorization, the governing body of the county shall submit the question of retention or dissolution of the district to the electorate in the general election 12 years after the initial authorization.

2. The governing body ~~board~~ of the district may specify, and submit to the governing body of the county no later than 9

months before the scheduled election, that the district is not subsequently subject to reauthorization or may specify the number of years for which a reauthorization under this paragraph shall remain effective. If the governing board of the district makes such specification and submission, the governing body of the county shall include that information in the question submitted to the electorate. If the governing board of the district does not specify and submit such information, the governing body of the county shall resubmit the question of reauthorization to the electorate every 12 years after the year prescribed in subparagraph 1. The governing board of the district may recommend to the governing body of the county language for the question submitted to the electorate.

3. Nothing in this paragraph limits the authority to dissolve a district as provided under paragraph (a).

4. Nothing in this paragraph precludes the governing board of a district from requesting that the governing body of the county submit the question of retention or dissolution of a district with voter-approved taxing authority to the electorate at a date earlier than the year prescribed in subparagraph 1. If the governing body of the county accepts the request and submits the question to the electorate, the governing body satisfies the requirement of that subparagraph.

If any district is dissolved pursuant to this subsection, each county must first obligate itself to assume the debts, liabilities, contracts, and outstanding obligations of the district within the total millage available to the county governing body for all county and municipal purposes as provided

for under s. 9, Art. VII of the State Constitution. Any district may also be dissolved pursuant to s. part VII of chapter 189 ~~189.4042~~.

(6) Any district created pursuant to the provisions of this section shall comply with all other statutory requirements of general application which relate to the filing of any financial reports or compliance reports required under part III of chapter 218, or any other report or documentation required by law, including the requirements of ss. 189.08, 189.015, and 189.016 ~~189.415, 189.417, and 189.418~~.

Section 65. Subsection (1) of section 153.94, Florida Statutes, is amended to read:

153.94 Applicability of other laws.—Except as expressly provided in this act:

(1) With respect to any wastewater facility privatization contract entered into under this act, a public entity is subject to s. 125.3401, s. 180.301, s. 189.054 ~~189.423~~, or s. 190.0125 but is not subject to the requirements of chapter 287.

Section 66. Paragraph (a) of subsection (2) of section 163.08, Florida Statutes, is amended to read:

163.08 Supplemental authority for improvements to real property.—

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

(a) "Local government" means a county, a municipality, a dependent special district as defined in s. 189.012 ~~189.403~~, or a separate legal entity created pursuant to s. 163.01(7).

Section 67. Subsection (7) of section 165.031, Florida Statutes, is amended to read:

165.031 Definitions.—The following terms and phrases, when

used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(7) "Special district" means a local unit of special government, as defined in s. 189.012 ~~189.403(1)~~. This term includes dependent special districts, as defined in s. 189.012 ~~189.403(2)~~, and independent special districts, as defined in s. 189.012 ~~189.403(3)~~. All provisions of s. 200.001(8)(d) and (e) shall be considered provisions of this chapter.

Section 68. Paragraph (b) of subsection (1) and subsections (8) and (16) of section 165.0615, Florida Statutes, are amended to read:

165.0615 Municipal conversion of independent special districts upon elector-initiated and approved referendum.—

(1) The qualified electors of an independent special district may commence a municipal conversion proceeding by filing a petition with the governing body of the independent special district proposed to be converted if the district meets all of the following criteria:

(b) It is designated as an improvement district and created pursuant to chapter 298 or is designated as a stewardship district and created pursuant to s. 189.031 ~~189.404~~.

(8) Notice of the final public hearing on the proposed elector-initiated combined municipal incorporation plan must be published pursuant to the notice requirements in s. 189.015 ~~189.417~~ and must provide a descriptive summary of the elector-initiated municipal incorporation plan and a reference to the public places within the independent special district where a copy of the plan may be examined.

(16) If the incorporation plan is approved by a majority of the votes cast in the independent special district, the district shall notify the special district accountability ~~information~~ program pursuant to s. 189.016(2) ~~189.418(2)~~ and the local general-purpose governments in which any part of the independent special district is situated pursuant to s. 189.016(7) ~~189.418(7)~~.

Section 69. Subsection (3) of section 171.202, Florida Statutes, is amended to read:

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

(3) "Independent special district" means an independent special district, as defined in s. 189.012 ~~189.403~~, which provides fire, emergency medical, water, wastewater, or stormwater services.

Section 70. Subsection (16) of section 175.032, Florida Statutes, is amended to read:

175.032 Definitions.—For any municipality, special fire control district, chapter plan, local law municipality, local law special fire control district, or local law plan under this chapter, the following words and phrases have the following meanings:

(16) "Special fire control district" means a special district, as defined in s. 189.012 ~~189.403(1)~~, established for the purposes of extinguishing fires, protecting life, and protecting property within the incorporated or unincorporated portions of any county or combination of counties, or within any combination of incorporated and unincorporated portions of any county or combination of counties. The term does not include any dependent or independent special district, as defined in s.

189.012 ~~189.403(2) and (3), respectively~~, the employees of which are members of the Florida Retirement System pursuant to s. 121.051(1) or (2).

Section 71. Subsection (6) of section 190.011, Florida Statutes, is amended to read:

190.011 General powers.—The district shall have, and the board may exercise, the following powers:

(6) To maintain an office at such place or places as it may designate within a county in which the district is located or within the boundaries of a development of regional impact or a Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, which includes the district, which office must be reasonably accessible to the landowners. Meetings pursuant to s. 189.015(3) ~~189.417(3)~~ of a district within the boundaries of a development of regional impact or Florida Quality Development, or a combination of a development of regional impact and a Florida Quality Development, may be held at such office.

Section 72. Subsection (8) of section 190.046, Florida Statutes, is amended to read:

190.046 Termination, contraction, or expansion of district.—

(8) In the event the district has become inactive pursuant to s. 189.062 ~~189.4044~~, the respective board of county commissioners or city commission shall be informed and it shall take appropriate action.

Section 73. Section 190.049, Florida Statutes, is amended to read:

190.049 Special acts prohibited.—Pursuant to s. 11(a)(21),

Art. III of the State Constitution, there shall be no special law or general law of local application creating an independent special district which has the powers enumerated in two or more of the paragraphs contained in s. 190.012, unless such district is created pursuant to the provisions of s. 189.031 ~~189.404~~.

Section 74. Subsection (5) of section 191.003, Florida Statutes, is amended to read:

191.003 Definitions.—As used in this act:

(5) "Independent special fire control district" means an independent special district as defined in s. 189.012 ~~189.403~~, created by special law or general law of local application, providing fire suppression and related activities within the jurisdictional boundaries of the district. The term does not include a municipality, a county, a dependent special district as defined in s. 189.012 ~~189.403~~, a district providing primarily emergency medical services, a community development district established under chapter 190, or any other multiple-power district performing fire suppression and related services in addition to other services.

Section 75. Paragraph (a) of subsection (1) and subsection (8) of section 191.005, Florida Statutes, are amended to read:

191.005 District boards of commissioners; membership, officers, meetings.—

(1)(a) With the exception of districts whose governing boards are appointed collectively by the Governor, the county commission, and any cooperating city within the county, the business affairs of each district shall be conducted and administered by a five-member board. All three-member boards existing on the effective date of this act shall be converted to

five-member boards, except those permitted to continue as a three-member board by special act adopted in 1997 or thereafter. The board shall be elected in nonpartisan elections by the electors of the district. Except as provided in this act, such elections shall be held at the time and in the manner prescribed by law for holding general elections in accordance with s. 189.04(2)(a) ~~189.405(2)(a)~~ and (3), and each member shall be elected for a term of 4 years and serve until the member's successor assumes office. Candidates for the board of a district shall qualify as directed by chapter 99.

(8) All meetings of the board shall be open to the public consistent with chapter 286, s. 189.015 ~~189.417~~, and other applicable general laws.

Section 76. Subsection (2) of section 191.013, Florida Statutes, is amended to read:

191.013 Intergovernmental coordination.—

(2) Each independent special fire control district shall adopt a 5-year plan to identify the facilities, equipment, personnel, and revenue needed by the district during that 5-year period. The plan shall be updated in accordance with s. 189.08 ~~189.415~~ and shall satisfy the requirement for a public facilities report required by s. 189.08(2) ~~189.415(2)~~.

Section 77. Subsection (1) of section 191.014, Florida Statutes, is amended to read:

191.014 District creation and expansion.—

(1) New districts may be created only by the Legislature under s. 189.031 ~~189.404~~.

Section 78. Section 191.015, Florida Statutes, is amended to read:

191.015 Codification.—Each fire control district existing on the effective date of this section, by December 1, 2004, shall submit to the Legislature a draft codified charter, at its expense, so that its special acts may be codified into a single act for reenactment by the Legislature, if there is more than one special act for the district. The Legislature may adopt a schedule for individual district codification. Any codified act relating to a district, which act is submitted to the Legislature for reenactment, shall provide for the repeal of all prior special acts of the Legislature relating to the district. The codified act shall be filed with the Department of Economic Opportunity pursuant to s. 189.016(2) ~~189.418(2)~~.

Section 79. Paragraphs (c), (d), and (e) of subsection (8) of section 200.001, Florida Statutes, are amended to read:

200.001 Millages; definitions and general provisions.—

(8)

(c) "Special district" means a special district as defined in s. 189.012 ~~189.403(1)~~.

(d) "Dependent special district" means a dependent special district as defined in s. 189.012 ~~189.403(2)~~. Dependent special district millage, when added to the millage of the governing body to which it is dependent, shall not exceed the maximum millage applicable to such governing body.

(e) "Independent special district" means an independent special district as defined in s. 189.012 ~~189.403(3)~~, with the exception of a downtown development authority established prior to the effective date of the 1968 State Constitution as an independent body, either appointed or elected, regardless of whether or not the budget is approved by the local governing

body, if the district levies a millage authorized as of the effective date of the 1968 State Constitution. Independent special district millage shall not be levied in excess of a millage amount authorized by general law and approved by vote of the electors pursuant to s. 9(b), Art. VII of the State Constitution, except for those independent special districts levying millage for water management purposes as provided in that section and municipal service taxing units as specified in s. 125.01(1)(q) and (r). However, independent special district millage authorized as of the date the 1968 State Constitution became effective need not be so approved, pursuant to s. 2, Art. XII of the State Constitution.

Section 80. Subsections (1), (5), (6), and (7) of section 218.31, Florida Statutes, are amended to read:

218.31 Definitions.—As used in this part, except where the context clearly indicates a different meaning:

(1) "Local governmental entity" means a county agency, a municipality, or a special district as defined in s. 189.012 ~~189.403~~. For purposes of s. 218.32, the term also includes a housing authority created under chapter 421.

(5) "Special district" means a special district as defined in s. 189.012 ~~189.403(1)~~.

(6) "Dependent special district" means a dependent special district as defined in s. 189.012 ~~189.403(2)~~.

(7) "Independent special district" means an independent special district as defined in s. 189.012 ~~189.403(3)~~.

Section 81. Paragraph (a) and (f) of subsection (1) and subsection (2) of section 218.32, Florida Statutes, are amended to read:

218.32 Annual financial reports; local governmental entities.—

(1)(a) Each local governmental entity that is determined to be a reporting entity, as defined by generally accepted accounting principles, and each independent special district as defined in s. 189.012 ~~189.403~~, shall submit to the department a copy of its annual financial report for the previous fiscal year in a format prescribed by the department. The annual financial report must include a list of each local governmental entity included in the report and each local governmental entity that failed to provide financial information as required by paragraph (b). The chair of the governing body and the chief financial officer of each local governmental entity shall sign the annual financial report submitted pursuant to this subsection attesting to the accuracy of the information included in the report. The county annual financial report must be a single document that covers each county agency.

(f) If the department does not receive a completed annual financial report from a local governmental entity within the required period, it shall notify the Legislative Auditing Committee and the Special District Accountability ~~Information~~ Program of the Department of Economic Opportunity of the entity's failure to comply with the reporting requirements.

(2) The department shall annually by December 1 file a verified report with the Governor, the Legislature, the Auditor General, and the Special District Accountability ~~Information~~ Program of the Department of Economic Opportunity showing the revenues, both locally derived and derived from intergovernmental transfers, and the expenditures of each local

governmental entity, regional planning council, local government finance commission, and municipal power corporation that is required to submit an annual financial report. The report must include, but is not limited to:

(a) The total revenues and expenditures of each local governmental entity that is a component unit included in the annual financial report of the reporting entity.

(b) The amount of outstanding long-term debt by each local governmental entity. For purposes of this paragraph, the term "long-term debt" means any agreement or series of agreements to pay money, which, at inception, contemplate terms of payment exceeding 1 year in duration.

Section 82. Paragraph (g) of subsection (1) of section 218.37, Florida Statutes, is amended to read:

218.37 Powers and duties of Division of Bond Finance; advisory council.—

(1) The Division of Bond Finance of the State Board of Administration, with respect to both general obligation bonds and revenue bonds, shall:

(g) By January 1 each year, provide the Special District Accountability ~~Information~~ Program of the Department of Economic Opportunity with a list of special districts that are not in compliance with the requirements in s. 218.38.

Section 83. Paragraph (j) of subsection (1) of section 255.20, Florida Statutes, is amended to read:

255.20 Local bids and contracts for public construction works; specification of state-produced lumber.—

(1) A county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking

to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $300,000. For electrical work, the local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than $75,000. As used in this section, the term "competitively award" means to award contracts based on the submission of sealed bids, proposals submitted in response to a request for proposal, proposals submitted in response to a request for qualifications, or proposals submitted for competitive negotiation. This subsection expressly allows contracts for construction management services, design/build contracts, continuation contracts based on unit prices, and any other contract arrangement with a private sector contractor permitted by any applicable municipal or county ordinance, by district resolution, or by state law. For purposes of this section, cost includes the cost of all labor, except inmate labor, and the cost of equipment and materials to be used in the construction of the project. Subject to the provisions of subsection (3), the county, municipality, special district, or other political subdivision may establish, by municipal or county ordinance or special district resolution, procedures for conducting the bidding process.

(j) A county, municipality, special district as defined in s. 189.012 ~~189.403~~, or any other political subdivision of the state that owns or operates a public-use airport as defined in

s. 332.004 is exempt from this section when performing repairs or maintenance on the airport's buildings, structures, or public construction works using the local government's own services, employees, and equipment.

Section 84. Subsection (4) of section 298.225, Florida Statutes, is amended to read:

298.225 Water control plan; plan development and amendment.—

(4) Information contained within a district's facilities plan prepared pursuant to s. 189.08 ~~189.415~~ which satisfies any of the provisions of subsection (3) may be used as part of the district water control plan.

Section 85. Subsection (7) of section 343.922, Florida Statutes, is amended to read:

343.922 Powers and duties.—

(7) The authority shall comply with all statutory requirements of general application which relate to the filing of any report or documentation required by law, including the requirements of ss. 189.015, 189.016, 189.051, and 189.08 ~~189.4085, 189.415, 189.417, and 189.418~~.

Section 86. Subsection (5) of section 348.0004, Florida Statutes, is amended to read:

348.0004 Purposes and powers.—

(5) Any authority formed pursuant to this act shall comply with all statutory requirements of general application which relate to the filing of any report or documentation required by law, including the requirements of ss. 189.015, 189.016, 189.051, and 189.08 ~~189.4085, 189.415, 189.417, and 189.418~~.

Section 87. Section 373.711, Florida Statutes, is amended

to read:

373.711 Technical assistance to local governments.—The water management districts shall assist local governments in the development and future revision of local government comprehensive plan elements or public facilities report as required by s. 189.08 ~~189.415~~, related to water resource issues.

Section 88. Paragraph (b) of subsection (3) of section 403.0891, Florida Statutes, is amended to read:

403.0891 State, regional, and local stormwater management plans and programs.—The department, the water management districts, and local governments shall have the responsibility for the development of mutually compatible stormwater management programs.

(3)

(b) Local governments are encouraged to consult with the water management districts, the Department of Transportation, and the department before adopting or updating their local government comprehensive plan or public facilities report as required by s. 189.08 ~~189.415~~, whichever is applicable.

Section 89. Subsection (1) of section 582.32, Florida Statutes, is amended to read:

582.32 Effect of dissolution.—

(1) Upon issuance of a certificate of dissolution, s. 189.076(2) ~~189.4045(2)~~ applies and all land use regulations in effect within such districts are void.

Section 90. Paragraph (a) of subsection (3) of section 1013.355, Florida Statutes, is amended to read:

1013.355 Educational facilities benefit districts.—

(3)(a) An educational facilities benefit district may be

created pursuant to this act and chapters 125, 163, 166, and 189. An educational facilities benefit district charter may be created by a county or municipality by entering into an interlocal agreement, as authorized by s. 163.01, with the district school board and any local general purpose government within whose jurisdiction a portion of the district is located and adoption of an ordinance that includes all provisions contained within s. 189.02 ~~189.4041~~. The creating entity shall be the local general purpose government within whose boundaries a majority of the educational facilities benefit district's lands are located.

Section 91. 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)

4/1/14
Meeting Date

Topic Special Districts

Bill Number 1632 *(if applicable)*

Name Chris Lyon

Amendment Barcode *(if applicable)*

Job Title Attorney

Address 315 S. Calhoun St., Ste. 830
Street

Phone 850/222-5702

Tallahassee FL 32301
City *State* *Zip*

E-mail clyon@llw-law.com

Speaking: ☑ For ☐ Against ☐ Information

Representing Florida Association of Special Districts

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)

4.1.14
Meeting Date

Topic Special Districts

Bill Number 1632 *(if applicable)*

Name Cheryl Stuart

Amendment Barcode *(if applicable)*

Job Title Attorney - Hopping Green & Sams

Address 119 S Monroe St Suite 300 *Street*

Phone 222 7500

Tallahassee FL 32301
City *State* *Zip*

E-mail Cheryls@hgslaw.com

Speaking: ☒ For ☐ Against ☐ Information

Representing Association of Florida Community Developers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-1-14
Meeting Date

Topic SD. District 1 Bill Number CS/SB 1632 *(if applicable)*

Name Doug Mann Amendment Barcode _____ *(if applicable)*

Job Title _____

Address 310 W. College Ave. Phone 222-7535
Street

Tallahassee FL 32301 E-mail _____
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Representing ATF

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

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

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S-001 (10/20/11)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Chair*
Appropriations Subcommittee on General Government
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Commerce and Tourism
Community Affairs
Education

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

March 18, 2014

The Honorable Wilton Simpson
Senate Community Affairs, Chair
315 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chairman Simpson:

I am respectfully requesting that SB 1632, related to *Special Districts*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

Kelli Stargel
Senator, District 15

Cc: Tom Yeatman/ Staff Director
Anne Whittaker/ AA

REPLY TO:
❒ 902 S. Florida Avenue, Suite 102, Lakeland, Florida 33803
❒ 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

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

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: SB 301 **Case:** **Type:**
Caption: Senate Community Affairs Committee **Judge:**

Started: 4/1/2014 3:01:46 PM
Ends: 4/1/2014 4:23:16 PM Length: 01:21:31

3:01:50 PM Call to order
3:02:54 PM Tab 1 SB 1342 Senator Dean
3:03:29 PM Senator Latvala
3:04:07 PM Speaker Amber Hughes representing Florida League of Cities
3:06:07 PM Roll call on SB 1342
3:06:19 PM Bill passes
3:06:34 PM Tab 7 SB 620 Senator Detert's legislative aide Charlie Anderson
3:07:35 PM Roll call on SB 620
3:07:51 PM Bill passes
3:07:59 PM Tab 9 SB 1382 Senator Hay's legislative aide Nanci Cornwell
3:09:00 PM Amendment 1 barcode 951478
3:09:57 PM Senator Soto
3:10:30 PM Roll call on SB 1382
3:10:45 PM Bill passes
3:10:56 PM Tab 5 SB 1052 Senator Ever's legislative aide Dave Murzin
3:11:59 PM Roll call on SB 1052
3:12:10 PM Bill passes
3:12:12 PM Tab 6 SB 978 Senator Ever's legislative aide Dave Murzin
3:12:42 PM Roll call on SB 978
3:13:01 PM Bill passes
3:13:09 PM Tab 12 SB 884 Senator Smith
3:13:31 PM Senator Soto
3:14:36 PM Speaker Mayor Jack Brady representing North Lauderdale
3:18:44 PM Senator Soto
3:19:18 PM Roll call on SB 884
3:19:55 PM Bill passes
3:20:26 PM Tab 14 SB 1048 Senator Latvala
3:22:42 PM Amendment 1 barcode 389806
3:23:22 PM Amendment 2 barcode 209692
3:24:07 PM Senator Bradley
3:25:17 PM Roll call on SB 1048
3:25:45 PM Tab 2 SJR 916 Senator Brandes
3:26:45 PM Speaker Stephen Smith representing Southern Alliance for Clean Energy
3:29:13 PM Speaker Patrick Altier representing FlaSEIA
3:30:33 PM Speaker John Porter representing Clean Footprint
3:32:24 PM Speaker Matthew Chentnik representing Independent Green Technologies
3:35:47 PM Speaker Justin Vandenbroeck representing himself
3:37:37 PM Speaker Dan Gardner representing Compass Solar Energy
3:40:35 PM Senator Latvala
3:42:14 PM Senator Soto
3:42:55 PM Roll call on SJR 916
3:43:08 PM Bill passes
3:43:10 PM Tab 3 SB 922 Senator Brandes
3:43:50 PM Roll call on SB 922
3:44:04 PM Bill passes
3:44:08 PM Tab 4 SB 1326 Senator Brandes
3:44:53 PM Speaker Eric Poole representing Florida Association of Counties
3:45:50 PM Roll call on SB 1326
3:45:57 PM Bill passes
3:46:03 PM Tab 8 SB 910 Senator Legg
3:46:50 PM Amendment 1 barcode 549218
3:47:04 PM Amendment 2 Substitute amendment barcode 389346

3:47:40 PM Senator Latvala
3:49:54 PM Senator Hukill
3:50:45 PM Senator Soto
3:51:35 PM Speaker Robert Sheets representing FGOA
3:52:59 PM Speaker Barry Moline representing Florida Municipal Electric Association
3:55:19 PM Senator Soto
3:57:14 PM Roll call on SB 910
3:57:29 PM Bill passes
3:57:36 PM Tab 11 SB 1474 Senator Abruzzo
3:58:09 PM Amendment 1 barcode 387892
3:58:54 PM Senator Latvala
4:01:49 PM Senator Soto
4:03:05 PM Speaker Brad Ashwell representing Common Cause Florida
4:04:56 PM Roll call on SB 1474
4:05:14 PM Bill passes
4:05:21 PM Tab 15 SB 550 Senator Hukill
4:06:54 PM Roll call on SB 550
4:07:13 PM Bill passes
4:07:18 PM Tab 16 SB 1532 Senator Bradley
4:10:13 PM Senator Soto
4:10:50 PM Amendment 1 barcode 192344
4:12:40 PM Amendment withdrawn
4:13:08 PM Speaker Lisa Hurley representing Florida Association of Counties
4:15:09 PM Speaker Bryan Desloge representing Florida Association of Counties
4:15:53 PM Senator Smith
4:16:42 PM Roll call on SB 1532
4:16:59 PM Bill passes
4:17:06 PM Tab 17 SB 1632 Senator Stargel
4:18:22 PM Amendment 1 barcode 666098
4:19:50 PM Amendment to the amendment barcode 861298
4:20:45 PM Speaker Doug Mann representing AIF
4:21:51 PM Roll call on SB 1632
4:22:09 PM Bill passes
4:23:12 PM Adjournment