The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

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

MEETING DATE: Monday, April 13, 2015
TIME: 4:00 —6:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Office Building

MEMBERS: Senator Detert, Chair; Senator Thompson, Vice Chair; Senators Bean, Hutson, Latvala, Richter, and Ring

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
	Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.		
	Executive Director, Department of Economic Opportunity		
1	Panuccio, Jesse (Tallahassee)	Pleasure of Governor	Recommend Confirm Yeas 5 Nays 0
	Board of Directors, Enterprise Florida, Inc.		
2	Biter, Jesse (Sarasota)	09/30/2018	Recommend Confirm Yeas 5 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	**CS/SB 830** Banking and Insurance / Simmons (Similar CS/H 405)	Regulation of Corporation Not for Profit Self-insurance Funds; Revising the requirements to form a corporation not for profit self-insurance fund; limiting the authorization to form such fund to corporations not for profit located in and organized under the laws of this state before a specified date; authorizing certain publicly supported organizations to be a participating member of a corporation not for profit self-insurance fund; specifying requirements for such members; requiring the Office of Insurance Regulation to review and take specified action against funds that do not meet certain requirements, etc. BI 03/04/2015 Temporarily Postponed BI 03/10/2015 Temporarily Postponed BI 03/17/2015 Temporarily Postponed BI 03/23/2015 Fav/CS CM 04/13/2015 Temporarily Postponed FP	Temporarily Postponed

Other Related Meeting Documents

Amended

RICK SCOTT
GOVERNOR

RECEIVED

15 FEB 25 PM 1:17

DIVISION OF ELECTIONS
SECRETARY OF STATE

February 24, 2015

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

Dear Secretary Detzner:

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

Mr. Jesse M. Panuccio
2050 Gardenbrook Lane
Tallahassee, Florida 32301

As Executive Director of the Department of Economic Opportunity, subject to confirmation by the Senate. This appointment is effective January 6, 2015, for a term ending at the pleasure of the Governor.

Sincerely,

Rick Scott
Governor

RS/vh

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Leon

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Executive Director, Department of Economic Opportunity
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." ***See*** **§ 92.52, Fla. Stat.]**

Signature

Sworn to and subscribed before me this 18th *day of* February, 2015

Signature of Officer Administering Oath or of Notary Public

KATHY WHITTEN WILSON
MY COMMISSION # EE 870054
EXPIRES: January 30, 2017
Bonded Thru Notary Public Underwriters

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known ☒ ***OR*** *Produced Identification* ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☑ Office

107 E. Madison St / Coldwell Bldg.
Street or Post Office Box

Tallahassee, FL 32399
City, State, Zip Code

Jesse M. Panuccio
Print name as you desire commission issued

Signature

DS-DE 56 (Rev. 02/10)

Amended (11)

A black and white copy of this document is not official

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STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

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

Jesse Panuccio

is duly appointed

Executive Director,
Department of Economic Opportunity

for a term beginning on the
Sixth day of January, A.D., 2015,
to serve at the pleasure of the Governor
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Twenty-Sixth day of February, A.D., 2015.

Ken Detzner

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8½ x 11" document.

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

The Florida Senate

Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of

Jesse Panuccio

Executive Director, Department of Economic Opportunity

NOTICE OF HEARING

TO: Mr. Jesse Panuccio

YOU ARE HEREBY NOTIFIED that the Committee on Commerce and Tourism of the Florida Senate will conduct a hearing on your executive appointment on Monday, April 13, 2015, in the Toni Jennings Committee Room, 110 Senate Office Building, commencing at 4:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 8th day of April, 2015

Committee on Commerce and Tourism

Senator Nancy C. Detert
As Chair and by authority of the committee

cc: Members, Committee on Commerce and Tourism
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

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

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

WITNESS'S NAME: Jesse Panuccio

ANSWER: I do

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

COMMITTEE NAME: Commerce and Tourism

DATE: April 13, 2015

The Florida Senate

COMMITTEE RECOMMENDATION ON EXECUTIVE APPOINTMENT

COMMITTEE: Committee on Commerce and Tourism
MEETING DATE: Monday, April 13, 2015
TIME: 4:00 —6:00 p.m.
PLACE: Toni Jennings Committee Room, 110 Senate Office Building

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TO: The Honorable Andy Gardiner, President

FROM: Committee on Commerce and Tourism

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

Office: Board of Directors, Enterprise Florida, Inc.

Appointee: Biter, Jesse

Term: 12/22/2014-9/30/2018

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

REPORTING INSTRUCTION: With Chair's approval, file 1 copy with Secretary of the Senate (303 Capitol) and 2 copies with the Committee on Ethics and Elections

RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2014 DEC 31 AM 11:30
DIVISION OF ELECTIONS
TALLAHASSEE, FL

December 22, 2014

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

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 1001.71, Florida Statutes:

Mr. Jesse M. Biter
1233 North Gulfstream Ave
PH-1
Sarasota, Florida 34236

as a member of the Board of Directors, Enterprise Florida, Inc., succeeding Henry Rodriguez, subject to confirmation by the Senate. This appointment is effective December 22, 2014, for a term ending September 30, 2018.

Sincerely,

Rick Scott
Governor

RS/cw

THE CAPITOL
TALLAHASSEE, FLORIDA 32399 • (850) 488-2272

OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

RECEIVED
DEPARTMENT OF STATE
2015 FEB -3 AM 9:54
DIVISION OF ELECTIONS

STATE OF FLORIDA

County of SARASOTA

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

BOARD OF DIRECTORS, ENTERPRISE FLORIDA, IN
(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." *See* § 92.52, Fla. Stat.]

Signature

Sworn to and subscribed before me this 13 *day of* JANUARY, 2015.

Signature of Officer Administering Oath or of Notary Public

ALLISON OLINGER

Print, Type, or Stamp Commissioned Name of Notary Public

ALLISON M. OLINGER
MY COMMISSION EXPIRES JUN 20, 2015
#EE105064
Bonded through 1st State Insurance
NOTARY PUBLIC, STATE OF FLORIDA

Personally Known ☑ ***OR*** *Produced Identification* ☐

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☑ Office

1233 N. GULFSTREAM AVE, #1
Street or Post Office Box

Jesse Biter
Print name as you desire commission issued

SARASOTA FL 34236
City, State, Zip Code

Signature

DS-DE 56 (Rev. 02/10)

A black and white copy of this document is not official

720

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

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

Jesse Biter

is duly appointed a member of the

Board of Directors,
Enterprise Florida, Inc.

for a term beginning on the
Twenty-Second day of December, A.D., 2014,
until the Thirtieth day of September, A.D., 2018
and is subject to be confirmed by the Senate
during the next regular session of the Legislature.

Given under my hand and the Great Seal of the State of Florida, at Tallahassee, the Capital, this the Third day of February, A.D., 2015.

Ken Detzner

Secretary of State

DSDE 99 (3/03)

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8½ x 11" document.

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

The Florida Senate

COMMITTEE RECOMMENDATION ON EXECUTIVE APPOINTMENT

COMMITTEE: Committee on Commerce and Tourism
MEETING DATE: Monday, April 13, 2015
TIME: 4:00 —6:00 p.m.
PLACE: Toni Jennings Committee Room, 110 Senate Office Building

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TO: The Honorable Andy Gardiner, President

FROM: Committee on Commerce and Tourism

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

Office: Executive Director, Department of Economic Opportunity

Appointee: Panuccio, Jesse

Term: 1/6/2015-Pleasure of Governor

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

REPORTING INSTRUCTION: With Chair's approval, file 1 copy with Secretary of the Senate (303 Capitol) and 2 copies with the Committee on Ethics and Elections

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 830

INTRODUCER: Banking and Insurance Committee and Senator Simmons

SUBJECT: Regulation of Corporation Not for Profit Self-insurance Funds

DATE: April 10, 2015 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Harmsen	McKay	CM	**Pre-meeting**
3.			FP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 830 expands eligibility for membership in a corporation not for profit self-insurance fund (fund) to include organizations that receive 75 percent or more of their revenue from public sources, such as retail sales or donations from the public. Currently, the not for profit self-insurance fund is statutorily limited to members that receive at least 75 percent of their revenue from government funding.[1] The bill also establishes solvency requirements for the fund, including that the fund must obtain actuarial certification regarding the financial solvency of its members and must submit remedial plans, if applicable, to the Office of Insurance Regulation (OIR). The OIR is authorized to order remedial action if the fund is not operating on an actuarially sound basis.

II. Present Situation:

Regulation of Self-Insurance Funds

The Office of Insurance Regulation (OIR) regulates the activities of insurers and other risk-bearing entities.[2] As an alternative to traditional insurance from a licensed insurance company, the Legislature created various self-insurance funds to cover specific liabilities for specific groups or purposes.[3] The self-insurance funds may be classified as a commercial self-insurance

[1] Section 14, ch. 2007-1, Laws of Florida.
[2] Section 20.121(3)(a)1., F.S.
[3] See, ss. 624.460-624.488, F.S.

fund, which may cover commercial property, casualty risk, or surety insurance liabilities;[4] a group self-insurance fund, which may cover worker's compensation liabilities;[5] or a specific purpose self-insurance fund that is created to address the needs of a specific group, e.g. local governments or not for profit corporations. While the types of insurance provided and membership eligibility requirements vary among the different types of self-insurance funds, all members of self-insurance funds share the common characteristic that they agree by virtue of their membership in a self-insurance fund to assume the risk of loss among themselves, rather than transferring the risk in its entirety to an insurance company.[6] Therefore, members generally see a lower annual cost for insurance in a self-insurance fund, but have a risk of higher assessment or cost in the case of a loss experienced either by themselves or a fellow member.

Not For Profit Self-Insurance Funds

Section 624.4625, F.S., governs not for profit self-insurance funds, and provides that two or more not for profit corporations[7] located in Florida and organized under Florida law may form a self-insurance fund with the purpose of pooling and spreading the property and casualty liabilities between its group members. The operating fund must:

- Have at least $5 million in annual normal premiums;
- Use a qualified actuary to determine an actuarially-sound rate, level of reserves, and loss adjustment expenses and submit annual certifications thereof to the OIR;
- Maintain excess insurance coverage and reserve evaluation;
- Submit to the OIR an annual audited fiscal year-end financial statement performed by an independent CPA;
- Have a governing body that consists of officers of its member not for profit corporations, which must submit an annual certification that the fund meets all statutory operating requirements;
- Be operated by Florida-licensed personnel who have at least 5 years' experience with commercial self-insurance funds or domestic insurers; and
- Use contracts that clearly delineate the fund's members' liabilities and obligations.

The members of a corporation not for profit self-insurance fund must receive at least 75 percent of their revenues from government funding.[8]

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[4] Section 624.462, F.S.
[5] Section 624.4621, F.S.
[6] The Commercial Self-Insurance Fund Act (ss. 624.460-624.488, F.S.), authorizes certain groups and associations to form a commercial self-insurance fund, subject to the approval of OIR. Under s. 624.4621, F.S., two or more employers may pool their workers' compensation liabilities and form a self-insurance fund for workers' compensation purposes, referred to as a group self-insurance fund. Such funds must comply with administrative rules adopted by the Financial Services Commission. Pursuant to s. 624.4622, F.S., any two local governments may enter into interlocal agreements to create a self-insurance fund for securing the payment of benefits under the workers' compensation law. Under s. 624.4623, F.S., any two or more independent non-profit colleges or universities may form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any property or casualty risk or surety insurance or securing the payment of benefits under the workers' compensation law.
[7] Section 617.01401, F.S., defines the term, "corporation not for profit" to mean a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under this chapter.
[8] Section 624.4625(1)(b), F.S.

A corporation not for profit self-insurance fund may not participate in or be covered by any guaranty association established under ch. 631, F.S. Additionally, these funds are neither subject to rules and regulations promulgated by the Financial Services Commission under s. 624.4621, F.S., nor required to file any report with the Department of Financial Services under s. 440.38(2)(b), F.S.

Florida Insurance Trust

The Florida Insurance Trust (FIT) is the only corporation not for profit self-insurance fund operating in Florida.[9] Created in 2007, the FIT provides property, general liability, professional liability, employment practice liability, workers compensation, health insurance, and commercial automobile coverage to its members. According to representatives of the FIT, 9,000 not for profit social service entities are eligible for FIT membership under current law, but only 175 are currently members.[10]

The FIT must ensure that all members are eligible pursuant to s. 624.4625, F.S. Potential members are required to submit a notarized certification, signed by the members' corporate officer, which states that at least 75 percent of its funding comes from governmental sources as required under s. 624.4625, F.S. Each member must submit a Form 990 for review and, if necessary, audited financial statements to confirm compliance with eligibility requirements.[11] Recently, the FIT noted during an OIR inquiry into eligibility of the FIT's members that four entities did not meet statutory eligibility requirements because they received less than 75 percent of their funding from government sources.[12] The FIT represents that these accounts have been nonrenewed. Based on the results of its inquiry, the OIR does not object to the FIT's eligibility review process.

In the event premiums fail to cover a loss, the trustees of the FIT, or an agency or court of competent jurisdiction, may assess members of the FIT for payment of the obligations of the FIT as necessary based proportionately on premiums earned from each member. If one or more members fail to pay the assessment, the other members are proportionately liable for an additional assessment.

Section 501(c)(3) Tax Exempt and Publicly Supported Organizations

Corporations not for profit, defined in s. 617.01401, F.S., as corporations that do not distribute any part of their income or profit to members, directors, or officers, are distinct from tax exempt organizations, and more specifically, publicly supported organizations.

To be tax-exempt under section 501(c)(3) of the Internal Revenue Code, an organization must be

[9] Florida Insurance Trust, *SB 830: Regulation of Not For Profit Self-Insurance Funds* (March 30, 2015) (on file with the Senate Commerce and Tourism Committee).
[10] Florida Insurance Trust, *Florida Insurance Trust Current Membership Overview* (February 27, 2015) (on file with the Senate Commerce and Tourism Committee).
[11] Office of Insurance Regulation letter to the Florida Insurance Trust (July 25, 2014) (on file with the Senate Banking and Insurance Committee).
[12] *Id*.

organized and operated exclusively for exempt purposes[13] set forth in section 501(c)(3), and none of its earnings may inure to any private shareholder or individual.[14] Only limited exceptions to this requirement for section 501(c)(3) organizations exist. Generally, exempt organizations described in section 501(c)(3) must file their annual information returns on Form 990 or 990-EZ, unless excepted from filing and must also complete Schedule A. Schedule A is used to report and substantiate information about an organization's public charity status and public support.

A publicly supported organization is a tax exempt organization that meets one of the following requirements:

- The organization receives a substantial part of its support in the form of contributions from publicly supported organizations, governmental units, or the general public; or
- The organization receives one-third or less of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions.[15]

III. Effect of Proposed Changes:

The bill expands the eligibility for membership in a corporation not for profit self-insurance fund authorized under s. 624.4625, F.S. Currently, two or more not for profit corporations may create a self-insurance fund for purposes of pooling property or casualty insurance, if each member of the fund receives at least 75 percent of its revenue from governmental sources.[16] The bill also allows an organization that receives at least 75 percent of its support from the public to be a member of the fund. An applicant must prove its revenue source by submission of its most recent IRS Form 990 or Form 990EZ and Schedule A.

However, funds must become a publicly supported organization under s. 501(c)(3) of the Internal Revenue Code and meet specific solvency requirements (discussed below) prior to admitting publicly supported organizations. Additionally, the fund must place this expanded class of members in an account separate from its governmentally-funded not for profit members. The eligibility of the publicly supported organizations would be evidenced on the most recent Internal Revenue Service Form 990 or Form 990EZ and Schedule A.

Only corporation not for profit self-insurance funds created prior to July 1, 2015, may expand their membership in accordance with this bill.

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[13] The exempt purposes set forth in section 501(c)(3) are charitable, religious, educational, scientific, literary, testing for public safety, fostering national or international amateur sports competition, and preventing cruelty to children or animals. The term *charitable* is used in its generally accepted legal sense and includes relief of the poor, the distressed, or the underprivileged; advancement of religion; advancement of education or science; erecting or maintaining public buildings, monuments, or works; lessening the burdens of government; lessening neighborhood tensions; eliminating prejudice and discrimination; defending human and civil rights secured by law; and combating community deterioration and juvenile delinquency. *See* http://www.irs.gov/Charities-&-Non-Profits/Charitable-Organizations/Exempt-Purposes-Internal-Revenue-Code-Section-501(c)(3) (last accessed April 9, 2015).

[14] *See* Internal Revenue Service, *Frequently Asked Questions about Applying for Tax Exemption* accessible at*:* http://www.irs.gov/Charities-&-Non-Profits/Frequently-Asked-Questions-About-Applying-for-Tax-Exemption (last accessed April 9, 2015).

[15] Internal Revenue Service, *Publicly Supported Charities*, (March 31, 2015) *available at* http://www.irs.gov/Charities-%26-Non-Profits/Charitable-Organizations/Publicly-Supported-Charities, (last accessed April 9, 2015).

[16] Section 14, ch. 2007-1, Laws of Florida.

The bill requires corporation not for profit self-insurance funds that wish to take on publicly supported organizations to meet the following solvency requirements:

- A qualified actuary must certify that the fund is able to establish and maintain total assets solely for the publicly supported organizations in an amount equal to or greater than the loss and loss adjustment expense reserves for such assets at the 80 percent confidence level for the fund;
- The fund must submit an actuarial certification to the OIR; and
- The fund may not include publicly supported organizations in the new account until it is compliant with the solvency requirements.

A fund with participating members comprised of the existing not for profit members that does not maintain a loss or loss adjustment expense reserves at least equal to or greater than 80 percent confidence level, as certified by a qualified actuary, is required to file a remedial plan with the OIR. Once the remedial plan is filed, the fund has 5 years to submit a remedial filing with the OIR, certified by a qualified actuary indicating that the fund has a loss or loss adjustment expense reserves at the 80 percent confidence level. This remedial filing is subject to an OIR determination that the fund is operating at an actuarially sound basis and does not pose a significant risk of insolvency. The OIR may issue a cease and desist order to a fund that maintains total assets of less than the loss and loss adjustment expense reserves at the 70 percent confidence level as of the end of the fiscal year.

Further, the OIR may order remedial action and issue a cease and desist order to a fund if the OIR finds that the fund is not operating on an actuarially-sound basis and poses a significant risk of insolvency.

The bill has an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The tax and fee impact is indeterminate. Premiums, contributions, and assessments received by a corporation not for profit self-insurance fund are subject to the premium

tax, like insurers, except that the tax rate is 1.6 percent (instead of 1.75 percent) of the gross amount of such premiums, contribution, and assessments.

B. Private Sector Impact:

The bill allows public support organizations that are 501(c)(3) entities and that receive 75 percent of their support from public sources to become members of a corporation not for profit self-insurance fund. Such corporations may realize a savings on insurance premiums from membership in a not for profit self-insurance fund versus traditional insurance, assuming the fund has lower expenses than private insurers or more favorable loss experience than insured plans.

According to representatives of the Florida Insurance Trust (FIT), the bill allows additional classes of business including Goodwill Industries, Boys & Girls Clubs, food banks, rescue missions (homeless shelters), Salvation Army, Big Brothers Big Sisters, and YMCAs to become members. FIT estimates that the bill would increase the number of additional eligible entities by 125 to 150 entities. The FIT asserts that a finite number of entities for each of these classes in Florida (9 Goodwill Industries, 41 Boys & Girls Clubs, and 24 YMCAs) would become members.[17]

The bill places additional solvency requirements on the fund and requires separate accounts for existing members and new members authorized under the bill, and thereby provides protections for existing and future members of the fund. Currently, the fund must submit annual actuarial certifications on the rates and reserves and audited financial statements.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

Paragraph 1(b)2. of the bill requires submission of a "Form 990-EX." No Form 990 EX for submission to the IRS exists; this should be amended to require a "Form 990-EZ."

Additionally, the same paragraph (1(b)2.) requires that the organizing trust fund be classified as a publicly supported organization under s. 501(c)(3) of the Internal Revenue Code. However, it appears that the bill actually intends that the member organization rather than the organizing fund be a publicly supported organization.

VII. Related Issues:

None.

[17] Florida Insurance Trust, *Florida Insurance Trust Current Membership Overview* (March 30, 2015) (on file with the Senate Commerce and Tourism Committee).

VIII. Statutes Affected:

This bill substantially amends section 624.4625 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 Banking and Insurance Committee on March 23, 2015:
The CS requires a corporation not for profit self-insurance fund to meet solvency criteria before adding publicly supported organizations under 501(c)(3) of the Internal Revenue Code as members. The bill also requires such funds to meet additional solvency requirements for their existing nonprofit members within 5 years.

B. Amendments:

None.

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

By the Committee on Banking and Insurance; and Senator Simmons

A bill to be entitled

An act relating to the regulation of corporation not for profit self-insurance funds; amending s. 624.4625, F.S.; revising the requirements to form a corporation not for profit self-insurance fund; limiting the authorization to form such fund to corporations not for profit located in and organized under the laws of this state before a specified date; authorizing certain publicly supported organizations to be a participating member of a corporation not for profit self-insurance fund; specifying requirements for such members; requiring the Office of Insurance Regulation to review and take specified action against funds that do not meet certain requirements; requiring funds to purchase excess insurance from specified entities that have at least a certain rating; providing an effective date.

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

Section 1. Subsection (1) of section 624.4625, Florida Statutes, is amended to read:

624.4625 Corporation not for profit self-insurance funds.—

(1) Notwithstanding any other provision of law, any two or more corporations not for profit located in and organized under the laws of this state before July 1, 2015, are authorized to ~~may~~ form a self-insurance fund for the purpose of pooling and spreading liabilities of its group members in any one or combination of property or casualty risk, provided the

corporation not for profit self-insurance fund that is created:

(a) Has annual normal premiums in excess of $5 million.

(b) Requires for qualification that each participating member receive at least 75 percent of its revenues from:

1. Local, state, or federal governmental sources or a combination of such sources; or~~.~~

2. The public as evidenced on the organization's most recent Internal Revenue Service Form 990 or Form 990-EX and Schedule A. The fund must be a publicly supported organization under s. 501(c)(3) of the Internal Revenue Code.

(c) Uses a qualified actuary to determine rates using accepted actuarial principles and annually submits to the office a certification by the actuary that the rates are actuarially sound and are not inadequate, as defined in s. 627.062.

(d) Uses a qualified actuary to establish reserves for loss and loss adjustment expenses and annually submits to the office a certification by the actuary that the loss and loss adjustment expense reserves are adequate. If the actuary determines that reserves are not adequate, the fund shall file with the office a remedial plan for increasing the reserves or otherwise addressing the financial condition of the fund, subject to a determination by the office that the fund will operate on an actuarially sound basis and the fund does not pose a significant risk of insolvency.

(e)1.a. A fund with participating members permitted under subparagraph (b)2. may only be authorized if the qualified actuary required under paragraph (d) has first certified that the fund is able to establish and maintain total assets solely for the account authorized in subparagraph (b)2., in an amount

59 at least equal to or greater than the loss and loss adjustment
60 expense reserves for such assets at the 80 percent confidence
61 level for the fund authorized in subparagraph (b)2. A fund may
62 not operate in accordance with subparagraph (b)2. until the
63 actuarial certification required under this paragraph is
64 submitted to the office.
65 b. A fund with participating members under subparagraph
66 (b)1. which does not maintain loss or loss adjustment expense
67 reserves at the 80 percent confidence level, as certified by a
68 qualified actuary, must file with the office a remedial plan for
69 increasing the fund's reserves or otherwise addressing the
70 financial condition of the fund. Beginning on the date the
71 remedial plan is received by the office, the fund shall, within
72 5 years, submit a filing with the office which is certified by a
73 qualified actuary under paragraph (d) indicating that the fund
74 has loss or loss adjustment expense reserves at the 80 percent
75 confidence level. The remedial filing required by paragraph (b)
76 shall be subject to a determination by the office that the fund
77 is operating on an actuarially sound basis and does not pose a
78 significant risk of insolvency. The office may issue a cease and
79 desist order to a fund that maintains total assets in an amount
80 less than the loss and loss adjustment expense reserves at the
81 70 percent confidence level as of the end of the fiscal year as
82 determined by the qualified actuary required under paragraph
83 (d).
84 2. A fund must prohibit the inclusion of participating
85 members under subparagraph (b)2. until it is in compliance with
86 this paragraph.
87 3. Notwithstanding subparagraph (e)1., the office may at

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

88 any time order remedial action and issue a cease and desist
89 order to a fund if the office finds that the fund is not
90 operating on an actuarially sound basis and poses a significant
91 risk of insolvency.
92 (f) Maintains a continuing program of excess insurance
93 coverage and reserve evaluation to protect the financial
94 stability of the fund in an amount and manner determined by a
95 qualified actuary. At a minimum, this program must:
96 1. Purchase excess insurance from an authorized insurance
97 carrier ~~carriers~~ or eligible surplus lines insurer ~~insurers~~ or
98 reinsurer that is rated A- or higher by a rating agency that is
99 approved by the office ~~reinsurers~~.
100 2. Retain a per-loss occurrence that does not exceed
101 $350,000.
102 (g) ~~(f)~~ Submit to the office annually an audited fiscal
103 year-end financial statement by an independent certified public
104 accountant within 6 months after the end of the fiscal year.
105 (h) ~~(g)~~ Have a governing body that is comprised entirely of
106 officials from corporations not for profit that are members of
107 the corporation not for profit self-insurance fund.
108 (i) ~~(h)~~ Use knowledgeable persons or business entities to
109 administer or service the fund in the areas of claims
110 administration, claims adjusting, underwriting, risk management,
111 loss control, policy administration, financial audit, and legal
112 areas. Such persons must meet all applicable requirements of law
113 for state licensure and must have at least 5 years' experience
114 with commercial self-insurance funds formed under s. 624.462,
115 self-insurance funds formed under s. 624.4622, or domestic
116 insurers.

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117 (j) ~~(i)~~ Submit to the office copies of contracts used for
118 its members that clearly establish the liability of each member
119 for the obligations of the fund.
120 (k) ~~(j)~~ Annually submit to the office a certification by the
121 governing body of the fund that, to the best of its knowledge,
122 the requirements of this section are met.
123 Section 2. This act shall take effect July 1, 2015.

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The Florida Senate

Committee Agenda Request

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

Subject: Committee Agenda Request

Date: March 23, 2015

I respectfully request that **Senate Bill 830**, relating to Regulation of Corporation Not for Profit Self-Insurance Funds, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator David Simmons
Florida Senate, District 10

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/2015
Meeting Date

Bill Number (if applicable)

Topic (TTIP) TRANSATLANTIC TRADE & INVESTMENT PARTNERSHIP

Amendment Barcode (if applicable)

Name DAVID PRODGER

Job Title BRITISH CONSUL GENERAL

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Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing For information

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 (10/14/14)

CourtSmart Tag Report

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

Started: 4/13/2015 4:01:09 PM
Ends: 4/13/2015 4:37:28 PM Length: 00:36:20

4:03:41 PM	Meeting Called to Order by Senator Detert
4:04:41 PM	Roll Call
4:05:04 PM	Announcement from Senator Detert
4:05:31 PM	Senate Bill 830 is Temporarily Postponed
4:05:52 PM	Tab 1
4:06:12 PM	Swearing in of Jesse Panuccio
4:06:34 PM	Mr. Pannuccio
4:11:22 PM	Question from Senator Ring
4:11:52 PM	Response from Mr. Panuccio
4:12:43 PM	Followup from Senator Ring
4:12:52 PM	Response from Mr. Panuccio
4:14:59 PM	Followup from Senator Ring
4:15:04 PM	Response from Mr. Panuccio
4:15:42 PM	Comments from Senator Detert
4:17:26 PM	Response from Mr. Panuccio
4:20:25 PM	Comments from Senator Detert
4:20:35 PM	Question from Senator Bean
4:21:22 PM	Response from Mr. Panuccio
4:23:26 PM	Followup from Senator Bean
4:24:27 PM	Question from Senator Thompson
4:26:25 PM	Senator Bean moves to recommend confirmation
4:26:36 PM	Roll Call
4:26:52 PM	Confirmation Reported Favorably
4:27:02 PM	Tab 2
4:27:07 PM	Confirmation Hearing for Jesse Biter
4:27:29 PM	Senator Bean moves to recommend confirmation for Mr. Biter
4:27:43 PM	Roll Call
4:27:47 PM	Confirmation is recommentded favorably
4:27:56 PM	Comment from Senator Detert
4:28:39 PM	David Prodger, British Consul General
4:36:09 PM	Comments from Senator Detert
4:36:55 PM	Meeting Adjourned