

CS/CS/SB 112 by TR, MS, Hays; (Similar to CS/CS/H 0329) Special License Plates

CS/SB 338 by RI, Altman; (Similar to CS/CS/H 0217) Engineers

154518	A	S	RCS	FP, Bradley	Delete L.38 - 256:	04/09 12:49 PM
932050	A	S	RCS	FP, Bradley	Delete L.303 - 309:	04/09 12:49 PM

SB 558 by Stargel; (Identical to CS/H 0401) Public Lodging and Public Food Service Establishments

CS/SB 568 by BI, Richter; (Similar to CS/H 0825) Family Trust Companies

CS/CS/SB 596 by CM, RI, Hays; (Similar to CS/CS/H 0263) Craft Distilleries

CS/SB 640 by HP, Detert; (Similar to CS/H 0243) Vital Statistics

589854	A	S	RCS	FP, Bradley	Delete L.75:	04/09 12:49 PM
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CS/CS/SB 668 by FT, CA, Latvala; (Similar to CS/CS/H 0209) Emergency Fire Rescue Services and Facilities Surtax

SB 684 by Grimsley; (Similar to H 0755) Convenience Businesses

CS/SB 738 by HP, Grimsley; (Similar to CS/CS/H 0655) Clinical Laboratories

CS/SB 746 by CJ, Lee (CO-INTRODUCERS) Thompson, Soto, Latvala; (Similar to CS/H 0201) Diabetes Awareness Training for Law Enforcement Officers

CS/SB 760 by HP, Bradley (CO-INTRODUCERS) Sobel; (Compare to CS/CS/H 1055) Child Protection

364762	D	S	RCS	FP, Bradley	Delete everything after	04/09 12:49 PM
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CS/SB 904 by HP, Bean; (Similar to CS/CS/H 1039) Home Health Services

SB 954 by Garcia; (Similar to H 0291) Involuntary Examinations of Minors

540404	A	S	RCS	FP, Hukill	Delete L.204 - 223.	04/09 12:49 PM
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SB 996 by Richter; (Identical to H 1305) Home Medical Equipment

CS/SB 1024 by TR, Simmons; (Similar to CS/H 1101) Central Florida Expressway Authority

616102	A	S	RCS	FP, Hays	btw L.75 - 76:	04/09 06:32 PM
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CS/SB 1208 by HP, Bean; (Similar to CS/H 0951) Dietetics and Nutrition

CS/SB 1216 by CA, Simpson; (Compare to CS/CS/H 0933) Connected-city Corridors

496958	A	S	RCS	FP, Stargel	btw L.19 - 20:	04/09 12:49 PM
837202	AA	S	RCS	FP, Stargel	Delete L.858 - 860:	04/09 12:49 PM

SB 1430 by **Abruzzo**; (Similar to CS/H 0721) Discounts on Public Park Entrance Fees and Transportation Fares

517374 D S RCS FP, Abruzzo Delete everything after 04/09 12:49 PM

CS/SB 7052 by **FT, MS**; (Compare to H 7141) Ad Valorem Tax Exemption for Deployed Servicemembers

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

FISCAL POLICY
Senator Flores, Chair
Senator Bradley, Vice Chair

MEETING DATE: Thursday, April 9, 2015
TIME: 9:00 —11:00 a.m.
PLACE: *Pat Thomas Committee Room, 412 Knott Building*

MEMBERS: Senator Flores, Chair; Senator Bradley, Vice Chair; Senators Abruzzo, Bean, Clemens, Hays, Hukill, Legg, Margolis, Sachs, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/CS/SB 112 Transportation / Military and Veterans Affairs, Space, and Domestic Security / Hays (Similar CS/CS/H 329)	Special License Plates; Authorizing the department to issue Woman Veteran, World War II Veteran, Navy Submariner, Combat Action Ribbon, Air Force Combat Action Medal, and Distinguished Flying Cross license plates; specifying qualifications and requirements for the plates; requiring that any revenue generated from the sale of Woman Veteran license plates be deposited into the Operations and Maintenance Trust Fund to be used for certain purposes, etc. MS 01/21/2015 Fav/CS TR 03/19/2015 Fav/CS ATD 04/02/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 8 Nays 0
With subcommittee recommendation - Transportation, Tourism, and Economic Development Appropriations			
2	CS/SB 338 Regulated Industries / Altman (Similar CS/CS/H 217)	Engineers; Prohibiting a person who is not licensed as an engineer or a structural engineer from using specified names and titles or practicing engineering or structural engineering; exempting certain persons from the licensing requirements; providing licensure and application requirements for a structural engineer license; providing various acts which constitute grounds for disciplinary action against a structural engineer, to which penalties apply, etc. RI 03/11/2015 Fav/CS AGG 04/02/2015 Favorable FP 04/09/2015 Fav/CS	Fav/CS Yeas 7 Nays 0
With subcommittee recommendation - General Government Appropriations			

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 9, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 558 Stargel (Identical CS/H 401)	Public Lodging and Public Food Service Establishments; Revising the frequency at which the Division of Hotels and Restaurants of the Department of Business and Professional Regulation must reassess the inspection frequency of public food service establishments; authorizing the division to deliver lodging inspection reports and food service inspection reports by electronic means; requiring an operator of a public food service establishment to make available a copy of the latest food service inspection report at the time of a division inspection, etc. RI 03/04/2015 Favorable AGG 03/17/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 7 Nays 0
With subcommittee recommendation - General Government Appropriations			
4	CS/SB 568 Banking and Insurance / Richter (Similar CS/H 825)	Family Trust Companies; Revising the purposes of the Family Trust Company Act; specifying the applicability of other chapters of the financial institutions codes to family trust companies; revising the requirements for investigations of license applicants by the Office of Financial Regulation; deleting a provision that authorizes the office to immediately revoke the license of a licensed family trust company under certain circumstances; authorizing a family trust company to have its terminated registration or revoked license reinstated under certain circumstances, etc. BI 03/04/2015 Fav/CS JU 03/31/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 8 Nays 0
5	CS/CS/SB 596 Commerce and Tourism / Regulated Industries / Hays (Similar CS/CS/H 263)	Craft Distilleries; Defining the term "branded product"; revising the current limitation on the number of containers that may be sold to consumers by craft distilleries; applying such limitation to individual containers for each branded product; prohibiting a craft distillery from shipping or arranging to ship any of its distilled spirits to consumers; requiring the Department of Transportation to install directional signs at specified locations in accordance with Florida's Highway Guide Sign Program upon the request of a craft distillery licensed in this state, etc. RI 03/11/2015 Fav/CS CM 03/30/2015 Fav/CS FP 04/09/2015 Favorable	Favorable Yeas 6 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 9, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
6	CS/SB 640 Health Policy / Detert (Similar CS/H 243)	Vital Statistics; Authorizing the Department of Health to produce and maintain paper death certificates and fetal death certificates and issue burial-transit permits; requiring electronic filing of death and fetal death certificates with the department or local registrar on a prescribed form; authorizing the department, rather than the local registrar, to grant an extension of time for providing certain information regarding a death or a fetal death; requiring the department to electronically notify the United States Social Security Administration of deaths in the state, etc. HP 03/10/2015 Fav/CS AHS 04/02/2015 Favorable FP 04/09/2015 Fav/CS	Fav/CS Yeas 8 Nays 0
With subcommittee recommendation - Health and Human Services Appropriations			
7	CS/CS/SB 668 Finance and Tax / Community Affairs / Latvala (Similar CS/CS/H 209)	Emergency Fire Rescue Services and Facilities Surtax; Deleting a provision requiring the county governing authority to develop and execute interlocal agreements with local government entities providing emergency fire and rescue services; requiring a local government entity requesting and receiving certain personnel or equipment from another service provider to pay for such personnel or equipment from its share of surtax proceeds; deleting a provision requiring local government entities to enter into an interlocal agreement in order to receive surtax proceeds, etc. CA 03/04/2015 Fav/CS FT 03/30/2015 Fav/CS FP 04/09/2015 Favorable	Favorable Yeas 7 Nays 0
8	SB 684 Grimsley (Similar H 755)	Convenience Businesses; Revising the term "convenience business"; removing the requirement that a curriculum be submitted for reapproval biennially with a specified administrative fee; removing a requirement that specified curriculum be subject to reapproval 2 years from initial approval and biennially thereafter, etc. CM 03/10/2015 Favorable ACJ 04/02/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 7 Nays 0
With subcommittee recommendation - Criminal and Civil Justice Appropriations			

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 9, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 738 Health Policy / Grimsley (Similar CS/CS/H 655)	Clinical Laboratories; Adding a consultant pharmacist or doctor of pharmacy licensed under chapter 465, F.S., to the definition of licensed practitioner; requiring clinical laboratories to make their services available to specified licensed practitioners; prohibiting such a clinical laboratory from charging different prices for its services based upon the chapter under which a practitioner is licensed, etc. HP 03/23/2015 Fav/CS FP 04/09/2015 Favorable RC	Favorable Yeas 7 Nays 0
10	CS/SB 746 Criminal Justice / Lee (Similar CS/H 201)	Diabetes Awareness Training for Law Enforcement Officers; Citing this act as the "Arthur Green, Jr., Act"; requiring the Department of Law Enforcement to establish an online continued employment training component relating to diabetic emergencies, etc. CJ 03/16/2015 Fav/CS ACJ 04/02/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 7 Nays 0
With subcommittee recommendation - Criminal and Civil Justice Appropriations			
11	CS/SB 760 Health Policy / Bradley (Compare CS/CS/H 1055)	Child Protection; Requiring the Statewide Medical Director for Child Protection and the district medical directors to hold certain qualifications; authorizing a physician with an expert witness certificate to provide expert testimony in a criminal child abuse case, etc. CF 03/05/2015 Favorable HP 03/23/2015 Fav/CS FP 04/09/2015 Fav/CS	Fav/CS Yeas 9 Nays 0
12	CS/SB 904 Health Policy / Bean (Similar CS/CS/H 1039)	Home Health Services; Allowing home health agencies to operate related offices inside of the main office's geographic service area without an additional license; providing for the licensure of more than one nurse registry operational site within the same geographic service area; authorizing a licensed nurse registry to operate a satellite office; requiring a nurse registry operational site to keep all original records; requiring a nurse registry to provide notice and certain evidence before it relocates an operational site or opens a satellite office, etc. HP 03/17/2015 Fav/CS AHS 04/02/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 7 Nays 0
With subcommittee recommendation - Health and Human Services Appropriations			

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 9, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	SB 954 Garcia (Similar H 291)	Involuntary Examinations of Minors; Requiring school health services plans to include notification requirements when a student is removed from school, school transportation, or a school-sponsored activity for involuntary examination; requiring a receiving facility to provide notice of the whereabouts of an adult or emancipated minor patient held for involuntary examination; providing conditions for delay in notification, etc. ED 03/11/2015 Favorable AED 04/02/2015 Favorable FP 04/09/2015 Fav/CS	Fav/CS Yeas 7 Nays 0
With subcommittee recommendation - Education Appropriations			
14	SB 996 Richter (Identical H 1305)	Home Medical Equipment; Exempting allopathic, osteopathic, and chiropractic physicians who sell or rent electrostimulation medical equipment and supplies to their patients in the course of their practice from licensure as home medical equipment providers, etc. HP 03/10/2015 Favorable AHS 04/02/2015 Favorable FP 04/09/2015 Favorable	Favorable Yeas 9 Nays 0
With subcommittee recommendation - Health and Human Services Appropriations			
15	CS/SB 1024 Transportation / Simmons (Similar CS/H 1101, Compare CS/CS/H 7075)	Central Florida Expressway Authority; Requiring the chairs of the boards of specified county commissions each to appoint one member from their respective counties who is a commission member or chair or a county mayor to serve on the governing body of the authority; specifying that the terms of members appointed by the Governor end on a specified date; removing the requirement that title in fee simple absolute to the former Orlando-Orange County Expressway System be transferred to the state upon the completion of the faithful performance and termination of a specified lease-purchase agreement, etc. TR 03/12/2015 Fav/CS ATD 04/02/2015 Favorable FP 04/09/2015 Fav/CS	Fav/CS Yeas 7 Nays 0
With subcommittee recommendation - Transportation, Tourism, and Economic Development Appropriations			

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 9, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	CS/SB 1208 Health Policy / Bean (Similar CS/H 951)	Dietetics and Nutrition; Authorizing certain registered or certified individuals to use specified titles and designations; requiring the Board of Medicine to waive the examination requirement for specified applicants; providing that a licensed dietitian/nutritionist treating a patient who is under the active care of a licensed physician or licensed chiropractor is not precluded from ordering a therapeutic diet if otherwise authorized to order such a diet, etc. HP 03/17/2015 Fav/CS FP 04/09/2015 Favorable	Favorable Yeas 7 Nays 0
17	CS/SB 1216 Community Affairs / Simpson (Compare CS/CS/H 933, H 1159)	Connected-city Corridors; Requiring plan amendments that qualify as connected-city corridor amendments to be reviewed by the local government; providing legislative intent; authorizing local governments to adopt connected-city corridor plan amendments; requiring community development districts located within a connected-city corridor plan amendment to be established pursuant to a county ordinance; providing a statutory exemption from the development of regional impact review process for any development within the geographic boundaries of a connected-city corridor plan, etc. CA 03/17/2015 Fav/CS ATD 04/02/2015 Favorable FP 04/09/2015 Fav/CS	Fav/CS Yeas 7 Nays 0
With subcommittee recommendation - Transportation, Tourism, and Economic Development Appropriations			
18	SB 1430 Abruzzo (Similar CS/H 721, CS/H 1095)	Discounts on Public Park Entrance Fees and Transportation Fares; Requiring counties to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, and firefighters; requiring regional transportation authorities to provide a partial or a full discount on fares and on other charges for certain disabled veterans; requiring municipalities to provide a partial or a full discount on park entrance fees to military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, and firefighters, etc. MS 03/23/2015 Favorable CA 03/31/2015 Favorable FP 04/09/2015 Fav/CS	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Fiscal Policy

Thursday, April 9, 2015, 9:00 —11:00 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
19	CS/SB 7052 Finance and Tax / Military and Veterans Affairs, Space, and Domestic Security (Compare H 7141)	Ad Valorem Tax Exemption for Deployed Servicemembers; Expanding the military operations that qualify a servicemember deployed in support of such an operation in the previous calendar year for an additional ad valorem tax exemption; providing an extended deadline and specifying procedures for filing an application for such tax exemption for a qualifying deployment during the 2014 calendar year, etc. FT 03/30/2015 Fav/CS FP 04/09/2015 Favorable	Favorable Yeas 8 Nays 0

Other Related Meeting Documents

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 112

INTRODUCER: Transportation Committee; Military and Veterans Affairs, Space, and Domestic Security Committee; and Senator Hays

SUBJECT: Special License Plates

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
3.	<u>Wells</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommend: Favorable</u>
4.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 112 creates six special use military license plates. Special use license plates are created for recipients of the Combat Action Ribbon, Air Force Combat Action Medal, and the Distinguished Flying Cross medal. Special plates are also created for women veterans, WWII veterans, and Navy Submariners.

Revenue generated from the sale of these special license plates, with the exception of the "Woman Veteran" plate, will be deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund. Revenue generated from the "Woman Veteran" special license plate will be deposited into the Operations and Maintenance Trust Fund administered by the Department of Veterans' Affairs for the purpose of creating and implementing programs benefitting women veterans.

According to the Department of Highway Safety and Motor Vehicles, the cost of initial startup and programming revisions for the creation and manufacture of these six new special use license plates will be \$44,050 from state trust funds.

II. Present Situation:

Special Use License Plates

Current law provides for several types of license plates. In addition to plates issued for governmental or business purposes, the Department of Highway Safety and Motor Vehicles offers four basic types of plates to the general public:

- Standard plates;
- Specialty license plates;
- Personalized prestige license plates; and
- Special use license plates.

Certain members of the general public may be eligible to apply for special use license plates if they are able to document their eligibility pursuant to various sections of ch. 320, F.S. Special use license plates primarily include special use military license plates as well as plates for the handicapped.

Currently, there are 15 special use license plates authorized in s. 320.089, F.S., available to military service members or veterans for the following types of service:¹

- Veteran of the United States Armed Forces;
- Active or retired member of the Florida National Guard;
- Survivor of the attack on Pearl Harbor;
- Recipient of the Purple Heart Medal;
- Active or retired member of any branch of the United States Armed Forces Reserve;
- Recipient of the Combat Infantry Badge;
- Recipient of the Combat Medical Badge;
- Recipient of the Combat Action Badge;
- Former Prisoner of War;
- Veteran of the Korean War;
- Veteran of the Vietnam War;
- Service member or veteran of Operation Desert Shield;
- Service member or veteran of Operation Desert Storm;
- Service member or veteran of Operation Enduring Freedom; and
- Service member or veteran of Operation Iraqi Freedom.

There are currently no special use military plates recognizing the unique contributions of women veterans, WWII veterans, and Navy Submariners.

Special use license plates authorized under s. 320.089, F.S., are stamped with words consistent with the type of special use plate issued. For example, a special use plate issued to a current or former member of the Florida National Guard is stamped with the words “National Guard.” Additionally, a likeness of the related campaign medal or badge appears on the plate.²

¹ Section 320.089, F.S.

² For plate samples, see Department of Highway Safety and Motor Vehicles, *FAQs on Personalized and Military License Plates – How do I purchase a military license plate?*, available at <http://www.flhsmv.gov/specialtytags/pmlpfaq.html#9> (last visited 4/5/2015).

Applicants for special use license plates in s. 320.089, F.S., are required to pay the annual license tax in s. 320.08, F.S., with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.³ The first \$100,000 of the general revenue generated annually from the issuance of special use plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act, as described in s. 296.38(2), F.S. Any additional general revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.⁴ For Fiscal Year 2013-2014 the total revenue from these plates was \$2,087,743.⁵

Three special use license plates are established in the Florida Statutes to recognize combat service for current or former Army personnel.⁶ However, no special use license plates exist to recognize the awards for service in combat for current or former members of the Air Force, Navy, Marine Corps, or Coast Guard.

Distinguished Flying Cross

America's oldest military aviation award, the Distinguished Flying Cross, was created in the Air Corps Act by the United States Congress on July 2, 1926.⁷ It is a U.S. military decoration awarded to an individual recipient, an aviator, who distinguishes himself or herself by heroism or extraordinary achievement while participating in aerial flight. Eligibility is dependent on service after April 6, 1917, in an Air Corps of either the United States Armed Forces or Armed Forces Reserves. The medal is not limited to combat operations and may be awarded for achievement during times of peace. The Air Force, Navy, and Marine Corps are authorized to use the "V" device, or "Combat V," which denotes that the medal was awarded for heroism.⁸

Combat Action Ribbon

The Combat Action Ribbon recognizes members of the Navy and Marine Corps who rendered satisfactory performance under enemy fire while actively participating in a ground or surface engagement on or after December 7, 1941. Members of the Coast Guard who served while under the control of the Navy are also eligible for this award. The Combat Action Ribbon may also be awarded to individuals who faced direct exposure to the detonation of an improvised explosive device and personnel who serve in clandestine or special operations. The Secretary of the Navy determines which operations meet the criteria for this award. However, an individual may only be awarded one award per operation.⁹

³ Section 320.089(1)(c) and (2)(a), F.S.

⁴ Section 320.089(1)(b), F.S.

⁵ Florida Department of Veterans' Affairs, Agency Legislative Bill Analysis: SB 112 (December 18, 2014).

⁶ Special use license plates issued to current or former Army personnel to recognize combat service include the Combat Infantry Badge plate, Combat Medical Badge plate, and the Combat Action Badge plate.

⁷ Pub. L. No. 446 (1926).

⁸ See U.S. Department of Defense, *Manual of Military Decorations and Awards: DoD-Wide Performance and Valor Awards*, No. 1348.33, vol. 3, November 23, 2010, incorporating Change 2, March 13, 2015.

⁹ Department of the Navy, *Navy and Marine Corps Awards Manual*, SECNAVINST 1650.1H (August 22, 2006). United States Marine Corps, *Revised Eligibility Criteria for Award of the Combat Action Ribbon (Car) and Updated Coordinating Instructions*, MARADMINS Active Number 038/13 (January 17, 2013).

Air Force Combat Action Medal

Created on March 15, 2007, the Air Force Combat Action Medal recognizes members of the Air Force who actively participated in ground or air combat on or after September 11, 2001.

Nomination for the award is restricted to military members who:

- Deliberately go into the enemy's domain to conduct official duties, either on the ground or in the air, and have come under enemy fire by lethal weapons and are at risk of grave danger; or
- While defending the base, have come under fire and engage the enemy with direct and lethal fire and are at the risk of grave danger.

Members from other branches of the United States Armed Forces are also eligible for the award provided they served with a U.S. Air Force unit and meet the award criteria. Subsequent operations that qualify for the award are recognized on the medal through the use of a gold star device rather than issuing a second medal.¹⁰

III. Effect of Proposed Changes:

The bill amends s. 320.089, F.S., to create six special use military license plates for:

- Recipients of the Combat Action Ribbon;
- Recipients of the Air Force Combat Action Medal;
- Recipients of the Distinguished Flying Cross;
- Women veterans;
- WWII veterans; and
- Navy Submariners.

The plates will be stamped with the words "Combat Action Ribbon," "Air Force Combat Action Medal," "Distinguished Flying Cross," "Woman Veteran," "WWII Veteran," or "Navy Submariner," as appropriate, with an image of the related campaign medal or badge.

Applicants for the new special use license plates are required to pay the annual license tax in s. 320.08, F.S. Revenue generated from the sale of these license plates, with the exception of the "Woman Veteran" plate, will be administered in the same manner as the existing special use license plates in s. 320.089, F.S., and deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund. Revenue generated from the "Woman Veteran" special license plate will be deposited into the Operations and Maintenance Trust Fund administered by the Department of Veterans' Affairs for the purpose of creating and implementing programs benefitting women veterans.

The bill takes effect July 1, 2015.

¹⁰ Department of the Air Force, *Air Force Guidance Memorandum for Air Force Instruction (AFI) 36-2803, The Air Force Military Awards and Decorations Program*, 5.3.1, AFI36-2803_AFGM2015-02 (February 26, 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:

None.

B. Private Sector Impact:

The bill creates special use license plates that are available for a new group of registrants. The cost for an eligible individual to purchase a plate generally ranges from \$45-\$75.¹¹

C. Government Sector Impact:

According to the Department of Highway Safety and Motor Vehicles, the initial startup cost for the creation and manufacture of these six new special use license plates will be \$12,690. The bill will also require programming revisions for the department's Florida Real Time Vehicle Information System that will cost \$31,360.¹² The department has indicated that these costs can be absorbed within existing resources.¹³

Additionally, the bill could have a positive impact on the Grants and Donations Trust Fund, the State Homes for Veteran's Trust Fund, and the Operations and Maintenance Trust Fund with the sale of the six new special use license plates.

VI. Technical Deficiencies:

None.

¹¹ E-mail correspondence with the Department of Highway Safety and Motor Vehicles on January 16, 2015 (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

¹² Department of Highway Safety and Motor Vehicles, *2015 Agency Legislative Bill Analysis: CS/CS/SB 112* (March 25, 2015).

¹³ Conversation between staff of the Department of Highway Safety and Motor Vehicles and the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development on April 6, 2015.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 320.089 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Transportation on March 19, 2015:

The CS adds three additional military special license plates for:

- Women veterans;
- WWII veterans; and
- Navy Submariners

CS by Military and Veterans Affairs, Space, and Domestic Security on January 21, 2015:

The committee substitute creates two new special use license plates to recognize recipients of the Combat Action Ribbon and the Air Force Combat Action Badge.

- B. **Amendments:**

None.

By the Committees on Transportation; and Military and Veterans Affairs, Space, and Domestic Security; and Senator Hays

596-02568-15

2015112c2

1 A bill to be entitled
 2 An act relating to special license plates; amending s.
 3 320.089, F.S.; authorizing the department to issue
 4 Woman Veteran, World War II Veteran, Navy Submariner,
 5 Combat Action Ribbon, Air Force Combat Action Medal,
 6 and Distinguished Flying Cross license plates;
 7 specifying qualifications and requirements for the
 8 plates; requiring that any revenue generated from the
 9 sale of Woman Veteran license plates be deposited into
 10 the Operations and Maintenance Trust Fund to be used
 11 for certain purposes; providing an effective date.
 12
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Section 320.089, Florida Statutes, is amended to
 17 read:
 18 320.089 Veterans of the United States Armed Forces; members
 19 of National Guard; survivors of Pearl Harbor; Purple Heart medal
 20 recipients; active or retired United States Armed Forces
 21 reservists; Combat Infantry Badge, Combat Medical Badge, or
 22 Combat Action Badge recipients; Combat Action Ribbon recipients;
 23 Air Force Combat Action Medal recipients; Distinguished Flying
 24 Cross recipients; former prisoners of war; Korean War Veterans;
 25 Vietnam War Veterans; Operation Desert Shield Veterans;
 26 Operation Desert Storm Veterans; Operation Enduring Freedom
 27 Veterans; ~~and~~ Operation Iraqi Freedom Veterans; Women Veterans;
 28 World War II Veterans; and Navy Submariners; special license
 29 plates; fee.-

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

596-02568-15

2015112c2

30 (1) (a) Each owner or lessee of an automobile or truck for
 31 private use or recreational vehicle as specified in s.
 32 320.08(9) (c) or (d), which is not used for hire or commercial
 33 use, who is a resident of the state and a veteran of the United
 34 States Armed Forces, a Woman Veteran, a World War II Veteran, a
 35 Navy Submariner, an active or retired member of the Florida
 36 National Guard, a survivor of the attack on Pearl Harbor, a
 37 recipient of the Purple Heart medal, an active or retired member
 38 of any branch of the United States Armed Forces Reserve, or a
 39 recipient of the Combat Infantry Badge, Combat Medical Badge, ~~or~~
 40 Combat Action Badge, Combat Action Ribbon, Air Force Combat
 41 Action Medal, or Distinguished Flying Cross ~~shall~~, upon
 42 application to the department, accompanied by proof of release
 43 or discharge from any branch of the United States Armed Forces,
 44 proof of active membership or retired status in the Florida
 45 National Guard, proof of membership in the Pearl Harbor
 46 Survivors Association or proof of active military duty in Pearl
 47 Harbor on December 7, 1941, proof of being a Purple Heart medal
 48 recipient, proof of active or retired membership in any branch
 49 of the United States Armed Forces Reserve, or proof of
 50 membership in the Combat Infantrymen's Association, Inc., ~~or~~
 51 ~~either~~ proof of being a recipient of the Combat Infantry Badge,
 52 Combat Medical Badge, ~~or~~ Combat Action Badge, Combat Action
 53 Ribbon, Air Force Combat Action Medal, or Distinguished Flying
 54 Cross, and upon payment of the license tax for the vehicle as
 55 provided in s. 320.08, shall be issued a license plate as
 56 provided by s. 320.06, ~~upon~~ which, in lieu of the serial numbers
 57 prescribed by s. 320.06, ~~is shall be~~ stamped with the words
 58 "Veteran," "Woman Veteran," "WWII Veteran," "Navy Submariner,"

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59 "National Guard," "Pearl Harbor Survivor," "Combat-wounded
60 veteran," "U.S. Reserve," "Combat Infantry Badge," "Combat
61 Medical Badge," ~~or~~ "Combat Action Badge," "Combat Action
62 Ribbon," "Air Force Combat Action Medal," or "Distinguished
63 Flying Cross," as appropriate, and a likeness of the related
64 campaign medal or badge, followed by the serial number of the
65 license plate. Additionally, the Purple Heart plate may have the
66 words "Purple Heart" stamped on the plate and the likeness of
67 the Purple Heart medal appearing on the plate.

68 (b) Notwithstanding any other provision of law to the
69 contrary, beginning with fiscal year 2002-2003 and annually
70 thereafter, the first \$100,000 in general revenue generated from
71 the sale of license plates issued under this section shall be
72 deposited into the Grants and Donations Trust Fund, as described
73 in s. 296.38(2), to be used for the purposes established by law
74 for that trust fund. Any additional general revenue generated
75 from the sale of such plates shall be deposited into the State
76 Homes for Veterans Trust Fund and used solely to construct,
77 operate, and maintain domiciliary and nursing homes for
78 veterans, subject to the requirements of chapter 216.

79 (c) Any revenue generated from the sale of Woman Veteran
80 license plates must be deposited into the Operations and
81 Maintenance Trust Fund administered by the Department of
82 Veterans' Affairs pursuant to s. 20.375(3) and must be used
83 solely for the purpose of creating and implementing programs to
84 benefit women veterans. Notwithstanding any provisions of law to
85 the contrary, an applicant for a Pearl Harbor Survivor license
86 plate or a Purple Heart license plate who also qualifies for a
87 disabled veteran's license plate under s. 320.084 shall be

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88 issued the appropriate special license plate without payment of
89 the license tax imposed by s. 320.08.

90 (2) Each owner or lessee of an automobile or truck for
91 private use, a truck weighing not more than 7,999 pounds, or a
92 recreational vehicle as specified in s. 320.08(9)(c) or (d),
93 which is not used for hire or commercial use, ~~who~~ who is a resident
94 of this the state and who is a former prisoner of war, or his or
95 her their unremarried surviving spouse, ~~shall~~, upon application
96 ~~therefor~~ to the department, shall be issued a license plate as
97 provided in s. 320.06, ~~on which license plate are stamped with~~
98 the words "Ex-POW" followed by the serial number. Each
99 application shall be accompanied by proof that the applicant
100 meets the qualifications specified in paragraph (a) or paragraph
101 (b).

102 (a) A citizen of the United States who served as a member
103 of the Armed Forces of the United States or the armed forces of
104 a nation allied with the United States who was held as a
105 prisoner of war at such time as the Armed Forces of the United
106 States were engaged in combat, or his or her their unremarried
107 surviving spouse, may be issued the special license plate
108 provided for in this subsection without payment of the license
109 tax imposed by s. 320.08.

110 (b) A person who was serving as a civilian with the consent
111 of the United States Government, or a person who was a member of
112 the Armed Forces of the United States while he or she who was
113 not a United States citizen and was held as a prisoner of war
114 when the Armed Forces of the United States were engaged in
115 combat, or his or her their unremarried surviving spouse, may be
116 issued the special license plate provided for in this subsection

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117 upon payment of the license tax imposed by s. 320.08.

118 (3) Each owner or lessee of an automobile or truck for
 119 private use, a truck weighing not more than 7,999 pounds, or a
 120 recreational vehicle as specified in s. 320.08(9)(c) or (d),
 121 which is not used for hire or commercial use, who is a resident
 122 of this state and who is the unremarried surviving spouse of a
 123 recipient of the Purple Heart medal ~~shall~~, upon application
 124 ~~therefor~~ to the department accompanied by, ~~with~~ the payment of
 125 the required fees, shall be issued a license plate as provided
 126 in s. 320.06, ~~on~~ which is ~~license plate~~ are stamped with the
 127 words "Purple Heart" and the likeness of the Purple Heart medal
 128 followed by the serial number. Each application shall be
 129 accompanied by proof that the applicant is the unremarried
 130 surviving spouse of a recipient of the Purple Heart medal.

131 (4) The owner or lessee of an automobile or truck for
 132 private use, a truck weighing not more than 7,999 pounds, or a
 133 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 134 which ~~automobile, truck, or recreational vehicle~~ is not used for
 135 hire or commercial use, who is a resident of this ~~the~~ state and
 136 a current or former member of the United States Armed Forces,
 137 ~~and~~ who was deployed and served in Korea during the Korean War
 138 as defined in s. 1.01(14), ~~shall~~, upon application to the
 139 department, accompanied by proof of active membership or former
 140 active duty status during the Korean War, and ~~upon~~ payment of
 141 the license tax for the vehicle as provided in s. 320.08, shall
 142 be issued a license plate as provided by s. 320.06 ~~upon~~ which,
 143 in lieu of the registration license number prescribed by s.
 144 320.06, is ~~shall be~~ stamped with the words "Korean War Veteran,"
 145 and a likeness of the Korean Service Medal, followed by the

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146 registration license number of the plate. Proof that the
 147 applicant was awarded the Korean Service Medal is sufficient to
 148 establish eligibility for the license plate.

149 (5) The owner or lessee of an automobile or truck for
 150 private use, a truck weighing not more than 7,999 pounds, or a
 151 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 152 which ~~automobile, truck, or recreational vehicle~~ is not used for
 153 hire or commercial use, who is a resident of this ~~the~~ state and
 154 a current or former member of the United States military, ~~and~~
 155 who was deployed and served in Vietnam during United States
 156 military deployment in Indochina ~~shall~~, upon application to the
 157 department, accompanied by proof of active membership or former
 158 active duty status during these operations, and, ~~upon~~ payment of
 159 the license tax for the vehicle as provided in s. 320.08, shall
 160 be issued a license plate as provided by s. 320.06 ~~upon~~ which,
 161 in lieu of the registration license number prescribed by s.
 162 320.06, is ~~shall be~~ stamped with the words "Vietnam War
 163 Veteran," and a likeness of the Vietnam Service Medal, followed
 164 by the registration license number of the plate. Proof that the
 165 applicant was awarded the Vietnam Service Medal is sufficient to
 166 establish eligibility for the license plate.

167 (6) The owner or lessee of an automobile or truck for
 168 private use, a truck weighing not more than 7,999 pounds, or a
 169 recreational vehicle as specified in s. 320.08(9)(c) or (d)
 170 which ~~automobile, truck, or recreational vehicle~~ is not used for
 171 hire or commercial use who is a resident of this ~~the~~ state and a
 172 current or former member of the United States military who was
 173 deployed and served in Saudi Arabia, Kuwait, or another area of
 174 the Persian Gulf during Operation Desert Shield or Operation

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175 Desert Storm; in Afghanistan during Operation Enduring Freedom;
176 or in Iraq during Operation Iraqi Freedom ~~shall~~, upon
177 application to the department, accompanied by proof of active
178 membership or former active duty status during one of these
179 operations, and ~~upon~~ payment of the license tax for the vehicle
180 as provided in s. 320.08, shall be issued a license plate as
181 provided by s. 320.06 ~~upon~~ which, in lieu of the registration
182 license number prescribed by s. 320.06, is shall be stamped with
183 the words "Operation Desert Shield," "Operation Desert Storm,"
184 "Operation Enduring Freedom," or "Operation Iraqi Freedom," as
185 appropriate, and a likeness of the related campaign medal
186 followed by the registration license number of the plate. Proof
187 that the applicant was awarded the Southwest Asia Service Medal,
188 Iraq Campaign Medal, Afghanistan Campaign Medal, or Global War
189 on Terrorism Expeditionary Medal is sufficient to establish
190 eligibility for the appropriate license plate.

191 Section 2. This act shall take effect July 1, 2015.

192



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS

11th District

MEMORANDUM

To: Senator Anitere Flores, Chair
Fiscal Policy Committee
CC: Jennifer Hrdlicka, Staff Director
Tamra Lyon, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 112 – Special License Plates

Date: April 2, 2015

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

4/9/2015

Meeting Date

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

SB 112

Bill Number (if applicable)

Topic Special License Plates

Amendment Barcode (if applicable)

Name COLLEEN KREPSTEKIES (crep-steck-keys)

Job Title Legislative & Cabinet Affairs Director

Address Suite 2105, The Capitol

Phone (850) 497-1533

Street

Tallahassee

FL

32399

City

State

Zip

Email krepstekiesc@fdva.state.fl.us

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing The Florida Dept. of Veterans' Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 338

INTRODUCER: Fiscal Policy Committee; Regulated Industries Committee; and Senator Altman

SUBJECT: Engineers

DATE: April 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Kraemer</u>	<u>Imhof</u>	<u>RI</u>	<u>Fav/CS</u>
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Recommend: Favorable</u>
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Fav/CS</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 338 amends existing law regulating engineers to specifically address the practice of structural engineering. The bill modifies current law to include the licensure of structural engineers similar to professional engineers by the Board of Professional Engineers within the Department of Business and Professional Regulation. Beginning March 1, 2017, the bill prohibits anyone, other than a duly licensed structural engineer, from practicing structural engineering. The bill provides for “grandfathering” for applicants prior to September 1, 2016.

The bill has a minimal fiscal impact on state funds (see Section V.).

II. Present Situation:

The Legislature deems it necessary in the interest of public health and safety to regulate the practice of engineering in Florida.¹ Professional engineers are regulated by the Board of Professional Engineers (FBPE) within the Department of Business and Professional Regulation (department) which enforces and administers the provisions of ch. 471, F.S. The Florida Engineers Management Corporation (FEMC) provides administrative, investigative, and prosecutorial services to the FBPE pursuant to chs. 455 and 471, F.S.² The contract between the

¹ Section 471.001, F.S.

² Section 471.038, F.S.

department and the FEMC for July 1, 2013, through June 30, 2017, provides that the FEMC's services apply to all licensees under the jurisdiction of the FBPE.³

An applicant must have certain qualifications in order to become licensed as an engineer, including passing a fundamentals examination and a principles and practice examination; having good moral character; obtaining a degree from a 4-year engineering curriculum at a school, college, or university approved by the FBPE; having 4 years of engineering experience; or having 10 years engineering experience in lieu of the degree.⁴

Structural engineering is the analysis and design of threshold buildings and other structures of a certain height, size, or occupancy. According to the department, any person licensed as a professional engineer may use the title "structural engineer" as long as the title truthfully reflects the services provided by the professional engineer.⁵

In addition, the Florida Structural Engineers Association (Association) maintains that to ensure the safety, health, and welfare of the public there is a need to specifically license the practice of structural engineering as a separate component of engineering. The Association maintains that the additional licensure is due to the following:

- Increasing size and complexity of current building codes and standards;
- Decreasing redundancies and safety factors arising from well-intended efforts to reduce construction costs;
- Reduction in engineering curriculum requirements in a field that has become more specialized; and
- Significant potential for injuries and loss of human life should a structure fail.⁶

III. Effect of Proposed Changes:

Section 2 defines "structural engineering" as service or creative work that includes analysis and design of threshold structures.⁷ The term includes services and work defined as "engineering" that requires significant structural engineering education, training, experience, and examination, as determined by the FBPE.⁸

Section 1 amends s. 471.003, F.S., to provide that beginning March 1, 2017, no person other than a licensed structural engineer may practice structural engineering or use the title of structural engineer, variations prefaced by the terms "licensed," "professional," "registered," or any other term indicating that a person is actively licensed as a structural engineer.

³ See contract available at <http://www.fbpe.org/index.php/2014-12-08-17-12-31/corporate-contract/send/51-corporate-contracts/165-contract-2012-2013-dbpr-femc> (last visited April 4, 2015).

⁴ Sections 471.015 and 471.013, F.S.

⁵ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 338 (March 9, 2015).

⁶ See Florida Structural Engineers Association, SE Licensure Executive Summary, available at <http://www.flsea.com/Structural-Engineering-Licensure> (last visited April 4, 2015).

⁷ A threshold building is defined in s. 553.71(12), F.S., as one that is greater than three stories or 50 feet in height, or has occupancy measurements exceeding 5,000 square feet or 500 persons.

⁸ Section 471.005(7), F.S., defines "engineering."

Section 5 amends s. 471.015, F.S., to direct the Florida Engineers Management Corporation to issue a structural engineer license to an applicant certified by the FBPE, who must:

- Be licensed as an engineer or be qualified for licensure as an engineer in Florida;
- Submit an application with the required fee;
- Provide evidence of good moral character;
- Provides a record of four years of active structural engineering experience under the supervision of a licensed engineer; and
- Pass the structural examination offered by the National Council of Examiners for Engineering and Surveying.

The FBPE must adopt the application and define the fee and above requirements.⁹

To allow for licensure as a structural engineer, the bill provides a “grandfather” provision or an exception to the examination and supervision requirements to those applicants who, before September 1, 2016, meet the other requirements and:

- Submit a signed affidavit in the format prescribed by the FBPE. The affidavit must indicate that the applicant is a licensed engineer in the state and has been engaged in the practice of structural engineering with a record of at least 4 years of active structural engineering experience;
- Possess a current professional engineering license and have filed the necessary documentation as required by the board, or possess a current threshold inspector license; and
- Agree to meet with the FBPE or its representative, upon request, for the purpose of evaluating the applicant’s qualifications for licensure as a structural engineer.

The bill allows for simultaneous application for both an engineer license and a structural engineer license. An applicant who is qualified for licensure as an engineer under the chapter’s licensing and qualifications provisions may simultaneously apply for licensure as a structural engineer if all requirements of ss. 471.013 and 471.015(3), F.S., are met.

The bill also modifies the requirements for certification by endorsement for structural engineer applicants. The bill includes structural engineering in the provisions that provide for reciprocal licensure of applicants currently licensed as structural engineers in other states if licensure criteria in the other state is similar.

A structural engineer applicant can also qualify for licensure by endorsement if the applicant holds a valid license to practice structural engineering issued by another state and possesses evidence of successful completion of one of the following 16-hour examination combinations:

- The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering I examination and the 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination;
- The 8-hour National Council of Examiners for Engineering and Surveying Structural Engineering II examination and the 8-hour National Council of Examiners for Engineering

⁹ Section 471.005(1), F.S., provides that a reference to “board” means the Board of Professional Engineers, as contrasted with the term “board of directors,” which is defined in s. 471.005(2), F.S., as the board of directors of the Florida Engineers Management Corporation.

and Surveying Civil: Structural examination or the 8-hour National Council of Examiners for Engineering and Surveying Architectural Engineering examination;

- The 16-hour Western States Structural Engineering examination; or
- The 8-hour National Council of Examiners for Engineering Structural Engineering II examination and the 8-hour California Structural Engineering Seismic III examination or the 8-hour Washington Structural Engineering III examination.

Section 8 amends s. 471.031(1), F.S., to prohibit the practice of structural engineering by any person beginning March 1, 2019, unless the person is licensed as a structural engineer, or exempt from licensure. The bill provides additional terms that may not be used by persons legally exempt from licensure as an engineer in Florida. In addition to terms already prohibited to be used the terms “licensed engineer,” “licensed professional engineer,” “licensed structural engineer,” “professional structural engineer,” “registered structural engineer,” and “structural engineer” may not be used. These terms may not be used by employees of any defense, space, or aerospace company; those persons exempted from licensure who work for a manufacturer on a full-time basis on the design or fabrication of products; or are employees working in a company under the supervision of a licensed person.¹⁰

Similar to licensed engineers, structural engineers are required to pay fees, be of good moral character, and meet requirements for continuing education and the use of seals (Sections 3, 4, 6, and 7, amending ss. 471.011, 471.013, 471.019, and 471.025, F.S.). Licensed structural engineers are also subject to the same disciplinary proceedings and consequences that exist for engineers in current law (Section 9, amending s. 471.033, F.S.). The bill includes the services of structural engineers with those services subject to local building codes, zoning codes, or ordinances, which are more restrictive than the provisions of ch. 471, F.S. (Section 10, amending s. 471.03, F.S.).

Section 11 provides that the bill takes effect on July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ Section 471.003(2)(c), (e), and (j) F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

According to the FEMC the bill will restrict the performance of structural engineering to those licensed professional engineers who obtain licenses to perform structural engineering. In addition, the bill provides for a “grandfather” period through September 1, 2016, to allow licensed engineers to qualify for licensure as a structural engineer, if desired.

As provided in s. 471.011, F.S., the bill authorizes the FBPE to establish fees relating to the licensure of structural engineers for applications, licensing and renewals, temporary registrations, late renewals, licensure by endorsement, reactivation fees, and replacement of certificate.

C. Government Sector Impact:

The new structural engineer license classification and fee require minimal information system program changes to the department’s information technology system. The department and the FEMC indicate the additional programming costs can be handled within existing resources.¹¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill directs the FBPE to adopt rules to implement the new license.¹²

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 471.003, 471.005, 471.011, 471.013, 471.015, 471.019, 471.025, 471.031, 471.033, and 471.037.

¹¹ Department of Business and Professional Regulation, 2015 Agency Legislative Bill Analysis: SB 338 (March 9, 2015).

¹² The rules of the FBPE are in ch. 61G15, F.A.C.

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 Fiscal Policy on April 9, 2015:

The committee substitute:

- Clarifies which prohibited acts constitute ground for disciplinary action of structural engineers;
- Prohibits the unlicensed practice of structural engineering beginning March 1, 2017, instead of March 1, 2019;
- Requires currently licensed engineers to apply by September 1, 2016, instead of February 28, 2019, to avoid exam requirements and requires those applicants to also submit documentation of possession of a current engineer license or possess a current threshold inspector license; and
- Creates a new method for licensure by endorsement for applicants who hold a valid license to practice structural engineering in another state by requiring applicants to pass 16-hours of exams.

CS by Regulated Industries on March 11, 2015:

CS/SB 338 mandates that beginning March 1, 2019, no person other than a licensed structural engineer shall practice structural engineering or use the title of structural engineer, or variations prefaced by the terms “licensed,” “professional,” “registered,” or any other term indicating that a person is actively licensed as a structural engineer.

The committee substitute references “threshold buildings,” which are greater than three stories or 50 feet in height, or have occupancy measurements exceeding 5,000 square feet or 500 persons, for which structural analysis and design must be performed by a licensed structural engineer beginning March 1, 2019.

The committee substitute provides that structural engineering education, training, experience and examination will be defined by the Board of Professional Engineers. It provides for fees, licensure by endorsement, use of seals, licensure beginning March 1, 2019, discipline, and applicability of local ordinances to licensed structural engineers. The committee substitute allows certain applicants for licensure as structural engineers prior to February 28, 2019 to be licensed based on their prior experience and evaluation by the Board of Professional Engineers or its designee.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment

Delete lines 38 - 256

and insert:

Section 1. Subsections (1) and (2) of section 471.003, Florida Statutes, are amended to read:

471.003 Qualifications for practice; exemptions.—

(1) (a) No person other than a duly licensed engineer shall practice engineering or use the name or title of "licensed engineer," "professional engineer," "registered engineer," or



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11 any other title, designation, words, letters, abbreviations, or
12 device tending to indicate that such person holds an active
13 license as an engineer in this state.

14 (b) Beginning March 1, 2017, no person other than a duly
15 licensed structural engineer shall practice structural
16 engineering or use the name or title of "licensed structural
17 engineer," "professional structural engineer," "registered
18 structural engineer," "structural engineer," or any other title,
19 designation, words, letters, abbreviations, or device tending to
20 indicate that such person holds an active license as a
21 structural engineer in this state.

22 (2) The following persons are not required to be licensed
23 under the provisions of this chapter as a licensed engineer or
24 structural engineer:

25 (a) Any person practicing engineering for the improvement
26 of, or otherwise affecting, property legally owned by her or
27 him, unless such practice involves a public utility or the
28 public health, safety, or welfare or the safety or health of
29 employees. This paragraph shall not be construed as authorizing
30 the practice of engineering through an agent or employee who is
31 not duly licensed under the provisions of this chapter.

32 (b)1. A person acting as a public officer employed by any
33 state, county, municipal, or other governmental unit of this
34 state when working on any project the total estimated cost of
35 which is \$10,000 or less.

36 2. Persons who are employees of any state, county,
37 municipal, or other governmental unit of this state and who are
38 the subordinates of a person in responsible charge licensed
39 under this chapter, to the extent that the supervision meets



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40 standards adopted by rule of the board.

41 (c) Regular full-time employees of a corporation not
42 engaged in the practice of engineering as such, whose practice
43 of engineering for such corporation is limited to the design or
44 fabrication of manufactured products and servicing of such
45 products.

46 (d) Regular full-time employees of a public utility or
47 other entity subject to regulation by the Florida Public Service
48 Commission, Federal Energy Regulatory Commission, or Federal
49 Communications Commission.

50 (e) Employees of a firm, corporation, or partnership who
51 are the subordinates of a person in responsible charge, licensed
52 under this chapter.

53 (f) Any person as contractor in the execution of work
54 designed by a professional engineer or structural engineer or in
55 the supervision of the construction of work as a foreman or
56 superintendent.

57 (g) A licensed surveyor and mapper who takes, or contracts
58 for, professional engineering services incidental to her or his
59 practice of surveying and mapping and who delegates such
60 engineering services to a licensed professional engineer
61 qualified within her or his firm or contracts for such
62 professional engineering services to be performed by others who
63 are licensed professional engineers under the provisions of this
64 chapter.

65 (h) Any electrical, plumbing, air-conditioning, or
66 mechanical contractor whose practice includes the design and
67 fabrication of electrical, plumbing, air-conditioning, or
68 mechanical systems, respectively, which she or he installs by



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69 virtue of a license issued under chapter 489, under part I of
70 chapter 553, or under any special act or ordinance when working
71 on any construction project which:

72 1. Requires an electrical or plumbing or air-conditioning
73 and refrigeration system with a value of \$125,000 or less; and

74 2.a. Requires an aggregate service capacity of 600 amperes
75 (240 volts) or less on a residential electrical system or 800
76 amperes (240 volts) or less on a commercial or industrial
77 electrical system;

78 b. Requires a plumbing system with fewer than 250 fixture
79 units; or

80 c. Requires a heating, ventilation, and air-conditioning
81 system not to exceed a 15-ton-per-system capacity, or if the
82 project is designed to accommodate 100 or fewer persons.

83 (i) Any general contractor, certified or registered
84 pursuant to the provisions of chapter 489, when negotiating or
85 performing services under a design-build contract as long as the
86 engineering services offered or rendered in connection with the
87 contract are offered and rendered by an engineer or structural
88 engineer licensed in accordance with this chapter.

89 (j) Any defense, space, or aerospace company, whether a
90 sole proprietorship, firm, limited liability company,
91 partnership, joint venture, joint stock association,
92 corporation, or other business entity, subsidiary, or affiliate,
93 or any employee, contract worker, subcontractor, or independent
94 contractor of the defense, space, or aerospace company who
95 provides engineering for aircraft, space launch vehicles, launch
96 services, satellites, satellite services, or other defense,
97 space, or aerospace-related product or services, or components



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98 thereof.

99 Section 2. Subsections (14) and (15) are added to section
100 471.005, Florida Statutes, to read:

101 471.005 Definitions.—As used in this chapter, the term:

102 (14) "Licensed structural engineer," "professional
103 structural engineer," "registered structural engineer," or
104 "structural engineer" means a person who is licensed to engage
105 in the practice of structural engineering under this chapter.

106 (15) "Structural engineering" means an engineering service
107 or creative work that includes the structural analysis and
108 design of structural components or systems for threshold
109 buildings as defined in s. 553.71. The term includes
110 engineering, as defined in subsection (7), which requires
111 significant structural engineering education, training,
112 experience, and examination, as determined by the board.

113 Section 3. Subsections (1) and (6) of section 471.011,
114 Florida Statutes, are amended to read:

115 471.011 Fees.—

116 (1) The board by rule may establish fees to be paid for
117 applications, examination, reexamination, licensing and renewal,
118 inactive status application and reactivation of inactive
119 licenses, and recordmaking and recordkeeping. The board may also
120 establish by rule a delinquency fee. The board shall establish
121 fees that are adequate to ensure the continued operation of the
122 board. Fees shall be based on department estimates of the
123 revenue required to implement this chapter and the provisions of
124 law with respect to the regulation of engineers and structural
125 engineers.

126 (6) The fee for a temporary registration or certificate to



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127 practice engineering or structural engineering shall not exceed
128 \$25 for an individual or \$50 for a business firm.

129 Section 4. Paragraph (a) of subsection (2) of section
130 471.013, Florida Statutes, is amended to read:

131 471.013 Examinations; prerequisites.-

132 (2) (a) The board may refuse to certify an applicant for
133 failure to satisfy the requirement of good moral character only
134 if:

135 1. There is a substantial connection between the lack of
136 good moral character of the applicant and the professional
137 responsibilities of a licensed engineer or structural engineer;
138 and

139 2. The finding by the board of lack of good moral character
140 is supported by clear and convincing evidence.

141 Section 5. Present subsections (3) through (7) of section
142 471.015, Florida Statutes, are redesignated as subsections (4)
143 through (8), respectively, present subsection (3) is amended,
144 and a new subsection (3) is added to that section, to read:

145 471.015 Licensure.-

146 (3) (a) The management corporation shall issue a structural
147 engineer license to any applicant who the board certifies as
148 qualified to practice structural engineering and who:

149 1. Is licensed under this chapter as an engineer or is
150 qualified for licensure as an engineer.

151 2. Submits an application in the format prescribed by the
152 board.

153 3. Pays a fee established by the board under s. 471.011.

154 4. Provides satisfactory evidence of good moral character,
155 as defined by the board.



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156 5. Provides a record of 4 years of active structural
157 engineering experience, as defined by the board, under the
158 supervision of a licensed professional engineer.

159 6. Has successfully passed the National Council of
160 Examiners for Engineering and Surveying Structural Engineering
161 examination.

162 (b) Before September 1, 2016, an applicant who satisfies
163 subparagraphs (a)1.-4. may satisfy subparagraphs (a)5. and 6.
164 by:

165 1. Submitting a signed affidavit in the format prescribed
166 by the board which states that the applicant is currently a
167 licensed engineer in the state and has been engaged in the
168 practice of structural engineering with a record of at least 4
169 years of active structural engineering design experience;

170 2. Possessing a current professional engineering license
171 and filing the necessary documentation as required by the board,
172 or possessing a current threshold inspector license; and

173 3. Agreeing to meet with the board or a representative of
174 the board, upon the board's request, for the purpose of
175 evaluating the applicant's qualifications for licensure.

176 (c) An applicant who is qualified for licensure as an
177 engineer under s. 471.013 may simultaneously apply for licensure
178 as a structural engineer if all requirements of s. 471.013 and
179 this subsection are met.

180 (4)-(3) The board shall certify as qualified for a license
181 by endorsement an applicant who:

182 (a) In engineering, by endorsement, an applicant who
183 qualifies to take the fundamentals examination and the
184 principles and practice examination as set forth in s. 471.013,



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185 has passed a United States national, regional, state, or
186 territorial licensing examination that is substantially
187 equivalent to the fundamentals examination and principles and
188 practice examination required by s. 471.013, and has satisfied
189 the experience requirements set forth in s. 471.013; ~~or~~

190 (b) In engineering or structural engineering, by
191 endorsement, an applicant who holds a valid license to practice
192 engineering, or, for structural engineering, an applicant who
193 holds a valid license to practice structural engineering, issued
194 by another state or territory of the United States, if the
195 criteria for issuance of the license were substantially the same
196 as the licensure criteria that existed in this state at the time
197 the license was issued; or

198 (c) In structural engineering, by endorsement, an applicant
199 who holds a valid license to practice structural engineering
200 issued by another state or territory of the United States and
201 who has successfully passed one of the following 16-hour
202 examination combinations:

203 1. The 8-hour National Council of Examiners for Engineering
204 and Surveying Structural Engineering I examination and the 8-
205 hour National Council of Examiners for Engineering and Surveying
206 Structural Engineering II examination.

207 2. The 8-hour National Council of Examiners for Engineering
208 and Surveying Structural Engineering II examination and the 8-
209 hour National Council of Examiners for Engineering and Surveying
210 Civil: Structural examination or the 8-hour National Council of
211 Examiners for Engineering and Surveying Architectural
212 Engineering examination.

213 3. The 16-hour Western States Structural Engineering



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214 examination.

215 4. The 8-hour National Council of Examiners for Engineering
216 Structural Engineering II examination and the 8-hour California
217 Structural Engineering Seismic III examination or the 8-hour
218 Washington Structural Engineering III examination.

219 Section 6. Section 471.019, Florida Statutes, is amended to
220 read:

221 471.019 Reactivation.—The board shall prescribe by rule
222 continuing education requirements for reactivating a license.
223 The continuing education requirements for reactivating a license
224 for a licensed engineer or structural engineer may not exceed 12
225 classroom hours for each year the license was inactive.

226 Section 7. Subsection (2) of section 471.025, Florida
227 Statutes, is amended to read:

228 471.025 Seals.—

229 (2) It is unlawful for any person to seal or digitally sign
230 any document with a seal or digital signature after his or her
231 license has expired or been revoked or suspended, unless such
232 license is ~~has been~~ reinstated or reissued. When an engineer's
233 or structural engineer's license is ~~has been~~ revoked or
234 suspended by the board, the licensee shall, within a period of
235 30 days after the revocation or suspension has become effective,
236 surrender his or her seal to the executive director of the board
237 and confirm to the executive director the cancellation of the
238 licensee's digital signature in accordance with ss. 668.001-
239 668.006. In the event the engineer's license has been suspended
240 for a period of time, his or her seal shall be returned to him
241 or her upon expiration of the suspension period.

242 Section 8. Present paragraphs (b) through (g) of subsection



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243 (1) of section 471.031, Florida Statutes, are redesignated as
244 paragraphs (c) through (h), respectively, present paragraph (b)
245 of that subsection is amended, and a new paragraph (b) is added
246 to that subsection, to read:

247 471.031 Prohibitions; penalties.—

248 (1) A person may not:

249 (b) Beginning March 1, 2017, practice structural



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment (with directory amendment)

Delete lines 303 - 309

and insert:

(b) Attempting to procure a license to practice engineering or structural engineering by bribery or fraudulent misrepresentations.

(c) Having a license to practice engineering or structural engineering revoked, suspended, or otherwise acted against, including the denial of licensure, by the licensing authority of



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11 another state, territory, or country~~7~~ for any act that would
12 constitute a violation of this chapter or chapter 455.

13 (d) Being convicted or found guilty of, or entering a plea
14 of nolo contendere to, regardless of adjudication, a crime in
15 any jurisdiction which directly relates to the practice of
16 engineering, structural engineering, or the ability to practice
17 engineering or structural engineering.

18 (e) Making or filing a report or record that the licensee
19 knows to be false, willfully failing to file a report or record
20 required by state or federal law, willfully impeding or
21 obstructing such filing, or inducing another person to impede or
22 obstruct such filing. Such reports or records include only those
23 which ~~that~~ are signed in the capacity of a licensed engineer or
24 licensed structural engineer.

25 (g) Engaging in fraud or deceit, negligence, incompetence,
26 or misconduct~~7~~ in the practice of engineering or structural
27 engineering.

28
29 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

30 And the directory clause is amended as follows:

31 Delete line 298

32 and insert:

33 Section 9. Paragraphs (b) through (e) and (g) of subsection
34 (1) and subsection

By the Committee on Regulated Industries; and Senator Altman

580-02173-15

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1 A bill to be entitled
 2 An act relating to engineers; amending s. 471.003,
 3 F.S.; prohibiting a person who is not licensed as an
 4 engineer or a structural engineer from using specified
 5 names and titles or practicing engineering or
 6 structural engineering; exempting certain persons from
 7 the licensing requirements; amending s. 471.005, F.S.;
 8 providing definitions; amending s. 471.011, F.S.;
 9 establishing various fees for the examination and
 10 licensure of structural engineers; amending s.
 11 471.013, F.S.; revising provisions authorizing the
 12 Board of Professional Engineers to refuse to certify
 13 an applicant due to lack of good moral character to
 14 include structural engineer licensure applicants, to
 15 conform; amending s. 471.015, F.S.; providing
 16 licensure and application requirements for a
 17 structural engineer license; exempting under certain
 18 conditions a structural engineer who applies for
 19 licensure before a specified date from passage of a
 20 certain national examination; requiring the board to
 21 certify certain applicants for licensure by
 22 endorsement; amending ss. 471.019 and 471.025, F.S.;
 23 revising continuing education requirements for
 24 reactivation of a license and provisions requiring an
 25 engineer with a revoked or suspended license to
 26 surrender his or her seal, respectively, to include
 27 structural engineers, to conform; amending s. 471.031,
 28 F.S.; prohibiting specified persons from using
 29 specified names and titles; amending s. 471.033, F.S.;

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30 providing various acts which constitute grounds for
 31 disciplinary action against a structural engineer, to
 32 which penalties apply; amending s. 471.037, F.S.;
 33 revising applicability, to conform to changes made by
 34 the act; providing an effective date.
 35
 36 Be It Enacted by the Legislature of the State of Florida:
 37
 38 Section 1. Subsection (1) and paragraphs (f) and (i) of
 39 subsection (2) of section 471.003, Florida Statutes, are amended
 40 to read:
 41 471.003 Qualifications for practice; exemptions.-
 42 (1) (a) No person other than a duly licensed engineer shall
 43 practice engineering or use the name or title of "licensed
 44 engineer," "professional engineer," "registered engineer," or
 45 any other title, designation, words, letters, abbreviations, or
 46 device tending to indicate that such person holds an active
 47 license as an engineer in this state.
 48 (b) Beginning March 1, 2019, no person other than a duly
 49 licensed structural engineer shall practice structural
 50 engineering or use the name or title of "licensed structural
 51 engineer," "professional structural engineer," "registered
 52 structural engineer," "structural engineer," or any other title,
 53 designation, words, letters, abbreviations, or device tending to
 54 indicate that such person holds an active license as a
 55 structural engineer in this state.
 56 (2) The following persons are not required to be licensed
 57 under the provisions of this chapter as a licensed engineer or
 58 structural engineer:

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59 (a) Any person practicing engineering for the improvement
60 of, or otherwise affecting, property legally owned by her or
61 him, unless such practice involves a public utility or the
62 public health, safety, or welfare or the safety or health of
63 employees. This paragraph shall not be construed as authorizing
64 the practice of engineering through an agent or employee who is
65 not duly licensed under the provisions of this chapter.

66 (b)1. A person acting as a public officer employed by any
67 state, county, municipal, or other governmental unit of this
68 state when working on any project the total estimated cost of
69 which is \$10,000 or less.

70 2. Persons who are employees of any state, county,
71 municipal, or other governmental unit of this state and who are
72 the subordinates of a person in responsible charge licensed
73 under this chapter, to the extent that the supervision meets
74 standards adopted by rule of the board.

75 (c) Regular full-time employees of a corporation not
76 engaged in the practice of engineering as such, whose practice
77 of engineering for such corporation is limited to the design or
78 fabrication of manufactured products and servicing of such
79 products.

80 (d) Regular full-time employees of a public utility or
81 other entity subject to regulation by the Florida Public Service
82 Commission, Federal Energy Regulatory Commission, or Federal
83 Communications Commission.

84 (e) Employees of a firm, corporation, or partnership who
85 are the subordinates of a person in responsible charge, licensed
86 under this chapter.

87 (f) Any person as contractor in the execution of work

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88 designed by a professional engineer or structural engineer or in
89 the supervision of the construction of work as a foreman or
90 superintendent.

91 (g) A licensed surveyor and mapper who takes, or contracts
92 for, professional engineering services incidental to her or his
93 practice of surveying and mapping and who delegates such
94 engineering services to a licensed professional engineer
95 qualified within her or his firm or contracts for such
96 professional engineering services to be performed by others who
97 are licensed professional engineers under the provisions of this
98 chapter.

99 (h) Any electrical, plumbing, air-conditioning, or
100 mechanical contractor whose practice includes the design and
101 fabrication of electrical, plumbing, air-conditioning, or
102 mechanical systems, respectively, which she or he installs by
103 virtue of a license issued under chapter 489, under part I of
104 chapter 553, or under any special act or ordinance when working
105 on any construction project which:

106 1. Requires an electrical or plumbing or air-conditioning
107 and refrigeration system with a value of \$125,000 or less; and

108 2.a. Requires an aggregate service capacity of 600 amperes
109 (240 volts) or less on a residential electrical system or 800
110 amperes (240 volts) or less on a commercial or industrial
111 electrical system;

112 b. Requires a plumbing system with fewer than 250 fixture
113 units; or

114 c. Requires a heating, ventilation, and air-conditioning
115 system not to exceed a 15-ton-per-system capacity, or if the
116 project is designed to accommodate 100 or fewer persons.

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117 (i) Any general contractor, certified or registered
 118 pursuant to the provisions of chapter 489, when negotiating or
 119 performing services under a design-build contract as long as the
 120 engineering services offered or rendered in connection with the
 121 contract are offered and rendered by an engineer or structural
 122 engineer licensed in accordance with this chapter.

123 (j) Any defense, space, or aerospace company, whether a
 124 sole proprietorship, firm, limited liability company,
 125 partnership, joint venture, joint stock association,
 126 corporation, or other business entity, subsidiary, or affiliate,
 127 or any employee, contract worker, subcontractor, or independent
 128 contractor of the defense, space, or aerospace company who
 129 provides engineering for aircraft, space launch vehicles, launch
 130 services, satellites, satellite services, or other defense,
 131 space, or aerospace-related product or services, or components
 132 thereof.

133 Section 2. Subsections (14) and (15) are added to section
 134 471.005, Florida Statutes, to read:

135 471.005 Definitions.—As used in this chapter, the term:

136 (14) "Licensed structural engineer," "professional
 137 structural engineer," "registered structural engineer," or
 138 "structural engineer" means a person who is licensed to engage
 139 in the practice of structural engineering under this chapter.

140 (15) "Structural engineering" means an engineering service
 141 or creative work that includes the structural analysis and
 142 design of structural components or systems for threshold
 143 buildings as defined in s. 553.71. The term includes
 144 engineering, as defined in subsection (7), that requires
 145 significant structural engineering education, training,

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146 experience, and examination, as defined by the board.

147 Section 3. Subsections (1) and (6) of section 471.011,
 148 Florida Statutes, are amended to read:

149 471.011 Fees.—

150 (1) The board by rule may establish fees to be paid for
 151 applications, examination, reexamination, licensing and renewal,
 152 inactive status application and reactivation of inactive
 153 licenses, and recordmaking and recordkeeping. The board may also
 154 establish by rule a delinquency fee. The board shall establish
 155 fees that are adequate to ensure the continued operation of the
 156 board. Fees shall be based on department estimates of the
 157 revenue required to implement this chapter and the provisions of
 158 law with respect to the regulation of engineers and structural
 159 engineers.

160 (6) The fee for a temporary registration or certificate to
 161 practice engineering or structural engineering shall not exceed
 162 \$25 for an individual or \$50 for a business firm.

163 Section 4. Paragraph (a) of subsection (2) of section
 164 471.013, Florida Statutes, is amended to read:

165 471.013 Examinations; prerequisites.—

166 (2) (a) The board may refuse to certify an applicant for
 167 failure to satisfy the requirement of good moral character only
 168 if:

169 1. There is a substantial connection between the lack of
 170 good moral character of the applicant and the professional
 171 responsibilities of a licensed engineer or structural engineer;
 172 and

173 2. The finding by the board of lack of good moral character
 174 is supported by clear and convincing evidence.

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175 Section 5. Subsections (3) through (7) of section 471.015,
 176 Florida Statutes, are redesignated as subsections (4) through
 177 (8), respectively, present subsection (3) is amended, and a new
 178 subsection (3) is added to that section, to read:

179 471.015 Licensure.—

180 (3) (a) The management corporation shall issue a structural
 181 engineer license to any applicant who the board certifies as
 182 qualified to practice structural engineering and who:

183 1. Is licensed under this chapter as an engineer or is
 184 qualified for licensure as an engineer.

185 2. Submits an application in the format prescribed by the
 186 board.

187 3. Pays a fee established by the board under s. 471.011.

188 4. Provides satisfactory evidence of good moral character,
 189 as defined by the board.

190 5. Provides a record of 4 years of active structural
 191 engineering experience, as defined by the board, under the
 192 supervision of a licensed professional engineer.

193 6. Has successfully passed the National Council of
 194 Examiners for Engineering and Surveying structural engineering
 195 examination.

196 (b) Before February 28, 2019, an applicant who satisfies
 197 subparagraphs (a)1.-5. may satisfy subparagraph (a)6. by
 198 submitting a signed affidavit in the format prescribed by the
 199 board that states:

200 1. The applicant is currently a licensed engineer in this
 201 state and has been engaged in the practice of structural
 202 engineering with a record of at least 4 years of active
 203 structural engineering experience.

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204 2. The applicant is willing to meet with the board or a
 205 representative of the board, upon its request, for the purpose
 206 of evaluating the applicant's qualifications for licensure.

207 (c) An applicant who is qualified for licensure as an
 208 engineer under s. 471.013 may simultaneously apply for licensure
 209 as a structural engineer if all requirements of s. 471.013 and
 210 this subsection are met.

211 (4)(3) The board shall certify as qualified for a license
 212 by endorsement an applicant who:

213 (a) Qualifies to take the fundamentals examination and the
 214 principles and practice examination as set forth in s. 471.013,
 215 has passed a United States national, regional, state, or
 216 territorial licensing examination that is substantially
 217 equivalent to the fundamentals examination and principles and
 218 practice examination required by s. 471.013, and has satisfied
 219 the experience requirements set forth in s. 471.013; or

220 (b) Holds a valid license to practice engineering or, for
 221 structural engineer applicants, a license to practice structural
 222 engineering issued by another state or territory of the United
 223 States, if the criteria for issuance of the license were
 224 substantially the same as the licensure criteria that existed in
 225 this state at the time the license was issued.

226 Section 6. Section 471.019, Florida Statutes, is amended to
 227 read:

228 471.019 Reactivation.—The board shall prescribe by rule
 229 continuing education requirements for reactivating a license.
 230 The continuing education requirements for reactivating a license
 231 for a licensed engineer or structural engineer may not exceed 12
 232 classroom hours for each year the license was inactive.

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233 Section 7. Subsection (2) of section 471.025, Florida
234 Statutes, is amended to read:

235 471.025 Seals.—

236 (2) It is unlawful for any person to seal or digitally sign
237 any document with a seal or digital signature after his or her
238 license has expired or been revoked or suspended, unless such
239 license ~~is has been~~ reinstated or reissued. When an engineer's
240 ~~or structural engineer's~~ license ~~is has been~~ revoked or
241 suspended by the board, the licensee shall, within a period of
242 30 days after the revocation or suspension has become effective,
243 surrender his or her seal to the executive director of the board
244 and confirm to the executive director the cancellation of the
245 licensee's digital signature in accordance with ss. 668.001-
246 668.006. In the event the engineer's license has been suspended
247 for a period of time, his or her seal shall be returned to him
248 or her upon expiration of the suspension period.

249 Section 8. Paragraphs (b) through (g) of subsection (1) of
250 section 471.031, Florida Statutes, are redesignated as
251 paragraphs (c) through (h), respectively, present paragraph (b)
252 is amended, and a new paragraph (b) is added to that subsection,
253 to read:

254 471.031 Prohibitions; penalties.—

255 (1) A person may not:

256 (b) Beginning March 1, 2019, practice structural
257 engineering unless the person is licensed as a structural
258 engineer or exempt from licensure under this chapter.

259 ~~(c)~~1. Except as provided in subparagraph 2. or
260 subparagraph 3., use the name or title "professional engineer"
261 or any other title, designation, words, letters, abbreviations,

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262 or device tending to indicate that such person holds an active
263 license as an engineer when the person is not licensed under
264 this chapter, including, but not limited to, the following
265 titles: "agricultural engineer," "air-conditioning engineer,"
266 "architectural engineer," "building engineer," "chemical
267 engineer," "civil engineer," "control systems engineer,"
268 "electrical engineer," "environmental engineer," "fire
269 protection engineer," "industrial engineer," "manufacturing
270 engineer," "mechanical engineer," "metallurgical engineer,"
271 "mining engineer," "minerals engineer," "marine engineer,"
272 "nuclear engineer," "petroleum engineer," "plumbing engineer,"
273 "structural engineer," "transportation engineer," "software
274 engineer," "computer hardware engineer," or "systems engineer."

275 2. Any person who is exempt from licensure under s.
276 471.003(2)(j) may use the title or personnel classification of
277 "engineer" in the scope of his or her work under that exemption
278 if the title does not include or connote the term "licensed
279 engineer," "professional engineer," "registered engineer,"
280 "licensed professional engineer," ~~"licensed engineer~~,"
281 "registered professional engineer," "licensed structural
282 engineer," "professional structural engineer," "registered
283 structural engineer," or "structural engineer." ~~or "licensed~~
284 ~~professional engineer."~~

285 3. Any person who is exempt from licensure under s.
286 471.003(2)(c) or (e) may use the title or personnel
287 classification of "engineer" in the scope of his or her work
288 under that exemption if the title does not include or connote
289 the term "licensed engineer," "professional engineer,"
290 "registered engineer," "licensed professional engineer,"

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291 ~~"licensed engineer,"~~ "registered professional engineer,"
 292 "licensed structural engineer," "professional structural
 293 engineer," "registered structural engineer," or "structural
 294 engineer," or ~~"licensed professional engineer"~~ and if that
 295 person is a graduate from an approved engineering curriculum of
 296 4 years or more in a school, college, or university which has
 297 been approved by the board.

298 Section 9. Paragraph (e) of subsection (1) and subsection
 299 (4) of section 471.033, Florida Statutes, are amended to read:

300 471.033 Disciplinary proceedings.—

301 (1) The following acts constitute grounds for which the
 302 disciplinary actions in subsection (3) may be taken:

303 (e) Making or filing a report or record that the licensee
 304 knows to be false, willfully failing to file a report or record
 305 required by state or federal law, willfully impeding or
 306 obstructing such filing, or inducing another person to impede or
 307 obstruct such filing. Such reports or records include only those
 308 that are signed in the capacity of a licensed engineer or
 309 structural engineer.

310 (4) The management corporation shall reissue the license of
 311 a disciplined engineer, structural engineer, or business upon
 312 certification by the board that the disciplined person has
 313 complied with all of the terms and conditions set forth in the
 314 final order.

315 Section 10. Subsection (1) of section 471.037, Florida
 316 Statutes, is amended to read:

317 471.037 Effect of chapter locally.—

318 (1) Nothing contained in this chapter shall be construed to
 319 repeal, amend, limit, or otherwise affect any local building

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320 code or zoning law or ordinance, now or hereafter enacted, which
 321 is more restrictive with respect to the services of licensed
 322 engineers or structural engineers than the provisions of this
 323 chapter.

324 Section 11. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN

16th District

April 9, 2015

The Honorable Anitere Flores
Senate Committee on Fiscal Policy, Chair
225 Knott Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Madame Chair Flores,

Senate Bill 338, related to *Engineers* is on the Fiscal Policy Committee agenda today, April 9, 2015. Since I will be sitting on the Committee on Children, Families, and Elder Affairs, I will be unable to attend.

Please recognize my Legislative Assistant Devon West to present SB 338 on my behalf. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 225 Knott Building
Tamra Lyon, Committee Administrative Assistant

TA/dmw

REPLY TO:

- 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flisenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military and Veterans Affairs, Space, and Domestic Security, *Chair*
Children, Families, and Elder Affairs, *Vice-Chair*
Appropriations
Appropriations Subcommittee on General Government
Environmental Preservation and Conservation
Finance and Tax

SENATOR THAD ALTMAN
16th District

April 6, 2015

The Honorable Anitere Flores
Senate Committee on Fiscal Policy, Chair
201 The Capitol
404 South Monroe Street
Tallahassee, FL 32399

Dear Madame Chair Flores:

I respectfully request that SB 338, related to Engineers, be placed on the committee agenda at your earliest convenience.

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

Sincerely,



Thad Altman

CC: Jennifer Hrdlicka, Staff Director, 201 The Capitol
Tamra Lyon, Committee Administrative Assistant

TA/dmw

REPLY TO:

- 8710 Astronaut Blvd, Cape Canaveral, FL 32920 (321) 752-3138
- 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4. 9. 15

Meeting Date

338

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DOUG BARKLEY

Job Title PRESIDENT - BCE ENGINEERS

Address 3494 MARTIN HURST RD.

Phone 850-251-3476

Street

TALLAHASSEE FL 32312

City

State

Zip

Email DOUGLAS.BARKLEY@BCE.

US

Speaking: For Against Information

Waive Speaking: In Support Against

(The Chair will read this information into the record.)

Representing FLORIDA INSTITUTE OF CONSULTING ENGINEERS (FICE) +
FLORIDA ENGINEERING SOCIETY (FES)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.9.15

Meeting Date

338

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name THOMAS GROGAN

Job Title CHIEF STRUCTURAL ENGINEER

Address 1598 COUNTRY WALK DR

Phone 904.635.2699

Street

FLEMING ISLAND, FL 32003

Email THOMAS.GROGAN@HASKELL.COM

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA STRUCTURAL ENGINEERS ASSOCIATION
LICENSURE COMMITTEE CHAIR

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)

THE FLORIDA SENATE

APPEARANCE RECORD

4/9/15

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

338

Meeting Date

Bill Number (if applicable)

Topic Structural Engineering Licensure

Amendment Barcode (if applicable)

Name Brett Rylands

Job Title Vice President of Structural Engineering

Address 8637 Vista Pine Ct.

Phone 407.497.6376

Street

Orlando

FL

32836

Email brett@c-p.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida structural Engineers Association (FSEA)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 558

INTRODUCER: Senator Stargel

SUBJECT: Public Lodging and Public Food Service Establishments

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Favorable
2.	<u>Davis</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 558 permits the Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation to reassess the inspection frequency of public food service establishments at least annually and deliver inspection reports to operators of public lodging and public food service establishments electronically.

The bill also repeals the:

- 3-day operating limitation for current public food service establishment licensees at temporary food service events;
- July 1, 2014, requirement date for the division to adopt a risked-based inspection frequency rule because the division adopted such a rule on July 4, 2013;
- Requirement a public food service establishment maintain a duplicate copy of the inspection report on the premises;
- Requirement that the division provide a food recovery brochure to public food service establishments and temporary food service event sponsors; and
- \$100 delinquent fee for public lodging and public food service establishments that file for renewal between 30 and 60 days after the expiration date of the license.

The bill is estimated to have a negative fiscal impact of \$461,420 on the Hotels and Restaurants Trust Fund. In addition, as a result of the estimated \$461,420 reduction in license fees, the department estimates a \$36,914 annual reduction in the service charge paid to the General Revenue Fund.

II. Present Situation:

The Division of Hotels and Restaurants (division) within the Department of Business and Professional Regulation (department) licenses public lodging and public food service establishments under part I of ch. 509, F.S. The division enforces all applicable laws relating to

the inspection and regulation of public lodging and public food service establishments with the purpose of protecting the public's health, safety, and welfare.¹

Public Lodging Establishments

A "public lodging establishment" is any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented out to guests. These establishments are either:

- Transient, meaning it is rented more than 3 times in a year for periods less than 30 days or 1 month; or
- Non-transient, meaning it is rented for periods more than 30 days or 1 month.²

Public lodging establishments are classified as a hotel, motel, vacation rental, non-transient apartment, transient apartment, bed and breakfast inn, and timeshare project.³

Dormitories, hospital and medical establishments, residential units, migrant labor camps, and establishments inspected by the Department of Health are exempt from the definition of "public lodging establishment."⁴

In FY 2013-14, there were 38,472 licensed public lodging establishments, including hotels, motels, non-transient and transient rooming houses, and resort condominiums and dwellings.⁵

Public Food Service Establishments

A "public food service establishment" is any place⁶ where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises, including food that was called for or taken out by customers or prepared prior to being delivered to another location.⁷

There are numerous locations exempt from the definition of a "public food service establishment" including any place maintained and operated by a public or private school, college or university and any eating place maintained and operated by a church or a religious, nonprofit fraternal, or nonprofit civic organization.⁸

In FY 2013-14, there were 87,083 licensed public food service establishments, including seating, permanent non-seating, hotdog carts, and mobile food dispensing vehicles.⁹

¹ Section 509.032(2)(a), F.S.

² Section 509.013(4)(a), F.S.

³ See s. 509.242, F.S.

⁴ *Id.* at (b).

⁵ *Annual Report, Fiscal Year 2013-2014*, Division of Hotels and Restaurants, Department of Business and Professional Regulation, available at http://www.myfloridalicense.com/dbpr/hr/reports/annualreports/hr_annual_reports.html (last visited April 1, 2015).

⁶ Including any building, vehicle, structure, room or the division of such. s. 509.013(5)(a), F.S.

⁷ See s. 509.013(5)(a), F.S.

⁸ See s. 509.013(5)(b), F.S.

⁹ *Supra* note 5.

Temporary Food Service Event Licenses

A “temporary food service event” is any event of 30 days or less where food is prepared, served, or sold to the general public.¹⁰ The division issues individual licenses for each temporary food service event. However, current public food service establishment licensees are able to operate at temporary food service events which are 3 days or less.¹¹

Temporary food service event licenses cost \$105 for a 4-30 day event and \$456 for an annual license.¹² In FY 2013-14 the division issued 7,718 licenses, of which 3,136 were for 4-30 day licenses.¹³ The division does not know how many of those licenses were issued to currently-licensed public food service establishments.¹⁴

Public Food Service Establishment Inspections

Public food service establishments are inspected on a risk-based inspection frequency. The division was required to adopt a risk-based inspection frequency rule by July 1, 2014.¹⁵

On July 4, 2013, the division adopted a risk-based inspection frequency rule which requires all public food service establishments to have one to four unannounced inspections each year. The number of inspections is based on risk presented by the establishment’s type of food and food preparation processes, type of service, and compliance history.¹⁶ In FY 2013-14 the division completed over 127,000 public food service inspections.¹⁷

Food Recovery Brochures

During inspections and at food service events the division is required to provide a public food service establishment or event sponsor with a copy of the food recovery¹⁸ brochure, developed under s. 595.420, F.S. The Florida Department of Agriculture and Consumer Services (DACCS) is required to develop a brochure that details the need and benefit of good recovery programs, the manner in which organizations may become involved, and the food recovery entities or food banks that exist in the state.¹⁹ The DACCS develops and prints the food recovery brochure, but prints a limited number of copies and does not provide printed brochures to the division for dissemination.²⁰

¹⁰ Section 509.013(8), F.S.

¹¹ Section 509.032(3)(c), F.S.

¹² Rule 61C-1008(4)(a), F.A.C. and *supra* note 5 at 7-8.

¹³ *Supra* note 5.

¹⁴ 2015 Department of Business and Professional Regulation, *Legislative Bill Analysis for SB 558*, Feb. 20, 2015.

¹⁵ Section 509.032(2), F.S.

¹⁶ Rule 61C-1.002(8)(d)2., F.A.C.

¹⁷ *Supra* note 5.

¹⁸ Food recovery programs provide surplus food to governmental agencies and local volunteer and nonprofit organizations for distribution to those in need, rather than destroying it. s. 595.420(1), F.S.

¹⁹ Section 595.420(7), F.S.

²⁰ The brochure is currently 27 pages long. 2015 Department of Business and Professional Regulation, *Legislative Bill Analysis for SB 558*, Feb. 20, 2015.

Inspection Reports

All notices, including inspection reports, served by the division must be in writing and personally delivered by an agent of the division or by registered letter to the operator of the public lodging or public food service establishment. If an operator refuses a notices or if the agent, after due diligence, is unable to serve the notice, the division may to post the notice in a conspicuous place at the establishment.²¹

A public food service establishment is required to have the latest inspection report or a duplicate copy on the premises and must make it available to the public upon request.²²

License Renewal

Public lodging and public food service establishments must renew their licenses annually and are assessed delinquent fees if a license is not renewed by the expiration date. Section 509.251, F.S., requires the division to adopt delinquent fees by rule and prescribes maximum delinquent fees of:

- \$50 for licenses not renewed within 30 days of the expiration date; and
- \$100 for a license not renewed within 30 but not more than 60 days of the expiration date.²³

From 2007 to 2012, the division collected an average of \$849,669 in delinquent fees annually from 10,378 delinquent licensees. The \$100 delinquent fee accounted for approximately three-quarters, or more than \$660,000, of the average delinquent fees collected. In FY 2013-2014, the division licensed 125,555 public lodging and public food service establishments and collected \$895,224 in delinquent fees.²⁴

III. Effect of Proposed Changes:

Temporary Food Service Event Licenses (Section 1)

The bill amends s. 509.032(3)(c)3.b., F.S., to repeal the 3-day operating limitation for current public food service establishment licensees at temporary food service. This change effectively permits currently-licensed public food service establishments to operate at a temporary food service event for the duration of the event without obtaining an additional temporary food service license even if the event exceeds three days.

The bill allows the department to notify temporary food service event sponsors of the availability of the food-recovery brochure, in lieu of providing a copy.

²¹ Section 509.091, F.S., and 2015 Department of Business and Professional Regulation, *Legislative Bill Analysis for SB 558*, Feb. 20, 2015.

²² Section 509.101(1), F.S.

²³ Section 509.251, F.S. The division adopted the maximum delinquent fees in rule 61C-1.008(5), F.A.C.

²⁴ *Supra* note 14.

Inspections (Section 1)

The bill repeals the July 1, 2014, requirement date for the division to adopt a rule for a risk-based inspection frequency because the division adopted a risk-based inspection frequency rule on July 4, 2013.²⁵

The bill requires the division to reassess a licensed public food service establishment's frequency of inspections at least annually. This permits the division to reclassify a public food service establishment's inspection frequency in real-time upon identifying a change in the risk level, instead of waiting until the next annual assessment.

The bill allows the department to notify public food service establishments of the availability of the food-recovery brochure, instead of having to provide a copy.

Inspection Reports (Sections 2 and 3)

The bill permits the division to deliver inspection reports to operators of public lodging or public food service establishments by electronic means.

The bill requires public food service establishments to maintain a copy of the latest inspection report and make it available to the division during inspections. The bill repeals the requirement that the establishment have a duplicate copy of the latest inspection report on premises. This allows establishments to maintain the inspection report in any format or electronic location as long as it can be retrieved and viewed as necessary.

License Renewal (Section 4)

The bill amends s. 509.251, F.S., to repeal the \$100 delinquent fee for public lodging and public food service establishments that renew licenses more than 30 but not more than 60 days after the expiration date of the license. A license renewal filed after the expiration date is subject to a delinquent fee not to exceed \$50.

Effective Date (Section 5)

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

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

²⁵ Rule 61C-1.002(8)(d), F.A.C.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill repeals the \$100 delinquent fee for public lodging and public food service establishments renew a license 30 but not more than 60 days after the expiration of the license. A license renewal filed after the expiration date is subject to a delinquent fee not to exceed \$50.

The bill permits current public food service establishment licensees to operate at a temporary food service event for the duration of the event, saving the establishment the expense of obtaining an additional temporary food service event license if the event exceeds three days. Per establishment savings depend upon the type of license obtained, ranging from \$105 per 4-30 day event to \$456 for an annual license.²⁶

C. Government Sector Impact:

The bill has negative fiscal impact of \$461,420 on the Hotels and Restaurants Trust Fund due to eliminating necessity of licenses for temporary food service events for licensed public food service establishments (\$130,620) and reducing the delinquent fee, from \$100 to \$50, for the renewal of a public lodging and public food service establishment licenses expired for 30-60 days (\$330,800). In addition, as a result of the estimated \$461,420 reduction in license and delinquent fees, there will be a \$36,914 annual reduction in the service charge paid to the General Revenue Fund.²⁷

Additionally, the division anticipates an indeterminate decrease in expenses by not having to provide a copy of food recovery brochure to public food service establishments and temporary food service event sponsors. The department also anticipates an indeterminate reduction in expenses due the department being able to electronically deliver inspection reports.²⁸

VI. Technical Deficiencies:

None.

²⁶ *Supra* note 14.

²⁷ *Id.*

²⁸ *Id.*

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.032, 509.091, 509.101, and 509.251.

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.

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

By Senator Stargel

15-00570A-15

2015558__

1 A bill to be entitled
 2 An act relating to public lodging and public food
 3 service establishments; amending s. 509.032, F.S.;
 4 removing an obsolete date; revising the frequency at
 5 which the Division of Hotels and Restaurants of the
 6 Department of Business and Professional Regulation
 7 must reassess the inspection frequency of public food
 8 service establishments; removing the requirement that
 9 the department provide the food-recovery brochure to
 10 each inspected public food service establishment or
 11 temporary food service event sponsor; requiring the
 12 department to notify an inspected establishment or
 13 event sponsor of the food-recovery brochure's
 14 availability; removing the limitation on the period
 15 that a licensed public food service establishment may
 16 operate at a temporary food service event; amending s.
 17 509.091, F.S.; authorizing the division to deliver
 18 lodging inspection reports and food service inspection
 19 reports by electronic means; amending s. 509.101,
 20 F.S.; requiring an operator of a public food service
 21 establishment to make available a copy of the latest
 22 food service inspection report at the time of a
 23 division inspection; amending s. 509.251, F.S.;
 24 revising the assessment of the delinquent fee for the
 25 license renewal of a public lodging establishment and
 26 public food service establishment; providing an
 27 effective date.
 28
 29 Be It Enacted by the Legislature of the State of Florida:

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30
 31 Section 1. Paragraphs (a) and (g) of subsection (2) and
 32 paragraph (c) of subsection (3) of section 509.032, Florida
 33 Statutes, are amended to read:
 34 509.032 Duties.—
 35 (2) INSPECTION OF PREMISES.—
 36 (a) The division has jurisdiction and is responsible for
 37 all inspections required by this chapter. The division is
 38 responsible for quality assurance. The division shall inspect
 39 each licensed public lodging establishment at least biannually,
 40 except for transient and nontransient apartments, which shall be
 41 inspected at least annually. Each establishment licensed by the
 42 division shall be inspected at such other times as the division
 43 determines is necessary to ensure the public's health, safety,
 44 and welfare. The division shall, ~~by no later than July 1, 2014,~~
 45 adopt by rule a risk-based inspection frequency for each
 46 licensed public food service establishment. The rule must
 47 require at least one, but not more than four, routine
 48 inspections that must be performed annually, and may include
 49 guidelines that consider the inspection and compliance history
 50 of a public food service establishment, the type of food and
 51 food preparation, and the type of service. The division shall
 52 ~~annually~~ reassess the inspection frequency of all licensed
 53 public food service establishments at least annually. Public
 54 lodging units classified as vacation rentals or timeshare
 55 projects are not subject to this requirement but shall be made
 56 available to the division upon request. If, during the
 57 inspection of a public lodging establishment classified for
 58 renting to transient or nontransient tenants, an inspector

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59 identifies vulnerable adults who appear to be victims of
 60 neglect, as defined in s. 415.102, or, in the case of a building
 61 that is not equipped with automatic sprinkler systems, tenants
 62 or clients who may be unable to self-preserve in an emergency,
 63 the division shall convene meetings with the following agencies
 64 as appropriate to the individual situation: the Department of
 65 Health, the Department of Elderly Affairs, the area agency on
 66 aging, the local fire marshal, the landlord and affected tenants
 67 and clients, and other relevant organizations, to develop a plan
 68 that improves the prospects for safety of affected residents
 69 and, if necessary, identifies alternative living arrangements
 70 such as facilities licensed under part II of chapter 400 or
 71 under chapter 429.

72 (g) In inspecting public food service establishments, the
 73 department shall notify ~~provide~~ each inspected establishment of
 74 the availability of ~~with~~ the food-recovery brochure developed
 75 under s. 595.420.

76 (3) SANITARY STANDARDS; EMERGENCIES; TEMPORARY FOOD SERVICE
 77 EVENTS.—The division shall:

78 (c) Administer a public notification process for temporary
 79 food service events and distribute educational materials that
 80 address safe food storage, preparation, and service procedures.

81 1. Sponsors of temporary food service events shall notify
 82 the division not less than 3 days before the scheduled event of
 83 the type of food service proposed, the time and location of the
 84 event, a complete list of food service vendors participating in
 85 the event, the number of individual food service facilities each
 86 vendor will operate at the event, and the identification number
 87 of each food service vendor's current license as a public food

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88 service establishment or temporary food service event licensee.
 89 Notification may be completed orally, by telephone, in person,
 90 or in writing. A public food service establishment or food
 91 service vendor may not use this notification process to
 92 circumvent the license requirements of this chapter.

93 2. The division shall keep a record of all notifications
 94 received for proposed temporary food service events and shall
 95 provide appropriate educational materials to the event sponsors
 96 and notify the event sponsors of the availability of, ~~including~~
 97 the food-recovery brochure developed under s. 595.420.

98 3.a. A public food service establishment or other food
 99 service vendor must obtain one of the following classes of
 100 license from the division: an individual license, for a fee of
 101 no more than \$105, for each temporary food service event in
 102 which it participates; or an annual license, for a fee of no
 103 more than \$1,000, that entitles the licensee to participate in
 104 an unlimited number of food service events during the license
 105 period. The division shall establish license fees, by rule, and
 106 may limit the number of food service facilities a licensee may
 107 operate at a particular temporary food service event under a
 108 single license.

109 b. Public food service establishments holding current
 110 licenses from the division may operate under the regulations of
 111 such a license at temporary food service events ~~of 3 days or~~
 112 ~~less in duration.~~

113 Section 2. Section 509.091, Florida Statutes, is amended to
 114 read:

115 509.091 Notices; form and service.—

116 (1) Each notice served by the division pursuant to this

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117 chapter must be in writing and must be delivered personally by
 118 an agent of the division or by registered letter to the operator
 119 of the public lodging establishment or public food service
 120 establishment. If the operator refuses to accept service or
 121 evades service or the agent is otherwise unable to effect
 122 service after due diligence, the division may post such notice
 123 in a conspicuous place at the establishment.

124 (2) Notwithstanding subsection (1), the division may
 125 deliver lodging inspection reports and food service inspection
 126 reports to the operator of the public lodging establishment or
 127 public food service establishment by electronic means.

128 Section 3. Subsection (1) of section 509.101, Florida
 129 Statutes, is amended to read:

130 509.101 Establishment rules; posting of notice; food
 131 service inspection report; maintenance of guest register; mobile
 132 food dispensing vehicle registry.—

133 (1) Any operator of a public lodging establishment or a
 134 public food service establishment may establish reasonable rules
 135 and regulations for the management of the establishment and its
 136 guests and employees; and each guest or employee staying,
 137 sojourning, eating, or employed in the establishment shall
 138 conform to and abide by such rules and regulations so long as
 139 the guest or employee remains in or at the establishment. Such
 140 rules and regulations shall be deemed to be a special contract
 141 between the operator and each guest or employee using the
 142 services or facilities of the operator. Such rules and
 143 regulations shall control the liabilities, responsibilities, and
 144 obligations of all parties. Any rules or regulations established
 145 pursuant to this section shall be printed in the English

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146 language and posted in a prominent place within such public
 147 lodging establishment or public food service establishment. In
 148 addition, any operator of a public food service establishment
 149 shall maintain a copy of the latest food service inspection
 150 report ~~or a duplicate copy on premises~~ and shall make it
 151 available to the division at the time of any division inspection
 152 of the establishment and to the public, upon request.

153 Section 4. Subsections (1) and (2) of section 509.251,
 154 Florida Statutes, are amended to read:

155 509.251 License fees.—

156 (1) The division shall adopt, by rule, a schedule of fees
 157 to be paid by each public lodging establishment as a
 158 prerequisite to issuance or renewal of a license. Such fees
 159 shall be based on the number of rental units in the
 160 establishment. The aggregate fee per establishment charged any
 161 public lodging establishment ~~may~~ shall not exceed \$1,000;
 162 however, the fees described in paragraphs (a) and (b) may not be
 163 included as part of the aggregate fee subject to this cap.
 164 Vacation rental units or timeshare projects within separate
 165 buildings or at separate locations but managed by one licensed
 166 agent may be combined in a single license application, and the
 167 division shall charge a license fee as if all units in the
 168 application are in a single licensed establishment. The fee
 169 schedule shall require an establishment which applies for an
 170 initial license to pay the full license fee if application is
 171 made during the annual renewal period or more than 6 months
 172 ~~before~~ before ~~prior to~~ the next such renewal period and one-half of the
 173 fee if application is made 6 months or less ~~before~~ before ~~prior to~~ such
 174 period. The fee schedule shall include fees collected for the

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175 purpose of funding the Hospitality Education Program, pursuant
 176 to s. 509.302, which are payable in full for each application
 177 regardless of when the application is submitted.

178 (a) Upon making initial application or an application for
 179 change of ownership, the applicant shall pay to the division a
 180 fee as prescribed by rule, not to exceed \$50, in addition to any
 181 other fees required by law, which shall cover all costs
 182 associated with initiating regulation of the establishment.

183 (b) A license renewal filed with the division ~~within 30~~
 184 ~~days~~ after the expiration date shall be accompanied by a
 185 delinquent fee as prescribed by rule, not to exceed \$50, in
 186 addition to the renewal fee and any other fees required by law.
 187 ~~A license renewal filed with the division more than 30 but not~~
 188 ~~more than 60 days after the expiration date shall be accompanied~~
 189 ~~by a delinquent fee as prescribed by rule, not to exceed \$100,~~
 190 ~~in addition to the renewal fee and any other fees required by~~
 191 ~~law.~~

192 (2) The division shall adopt, by rule, a schedule of fees
 193 to be paid by each public food service establishment as a
 194 prerequisite to issuance or renewal of a license. The fee
 195 schedule shall prescribe a basic fee and additional fees based
 196 on seating capacity and services offered. The aggregate fee per
 197 establishment charged any public food service establishment may
 198 not exceed \$400; however, the fees described in paragraphs (a)
 199 and (b) may not be included as part of the aggregate fee subject
 200 to this cap. The fee schedule shall require an establishment
 201 which applies for an initial license to pay the full license fee
 202 if application is made during the annual renewal period or more
 203 than 6 months before ~~prior to~~ the next such renewal period and

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204 one-half of the fee if application is made 6 months or less
 205 before ~~prior to~~ such period. The fee schedule shall include fees
 206 collected for the purpose of funding the Hospitality Education
 207 Program, pursuant to s. 509.302, which are payable in full for
 208 each application regardless of when the application is
 209 submitted.

210 (a) Upon making initial application or an application for
 211 change of ownership, the applicant shall pay to the division a
 212 fee as prescribed by rule, not to exceed \$50, in addition to any
 213 other fees required by law, which shall cover all costs
 214 associated with initiating regulation of the establishment.

215 (b) A license renewal filed with the division ~~within 30~~
 216 ~~days~~ after the expiration date shall be accompanied by a
 217 delinquent fee as prescribed by rule, not to exceed \$50, in
 218 addition to the renewal fee and any other fees required by law.
 219 ~~A license renewal filed with the division more than 30 but not~~
 220 ~~more than 60 days after the expiration date shall be accompanied~~
 221 ~~by a delinquent fee as prescribed by rule, not to exceed \$100,~~
 222 ~~in addition to the renewal fee and any other fees required by~~
 223 ~~law.~~

224 Section 5. This act shall take effect July 1, 2015.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Higher Education, *Chair*
Appropriations Subcommittee on Education
Fiscal Policy
Judiciary
Military and Veterans Affairs, Space, and Domestic
Security
Regulated Industries

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR KELLI STARGEL
15th District

March 18, 2015

The Honorable Anitere Flores
Senate Fiscal Policy Committee, Chair
413 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Flores:

I am respectfully requesting that SB 558, related to *Public Lodging and Public Food Service Establishments*, be placed on the committee agenda at your earliest convenience.

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

Sincerely,

A handwritten signature in cursive script that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 15

Cc: Jennifer Hrdlicka/ Staff Director
Tamra Lyon/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 324 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

558

Bill Number (if applicable)

Meeting Date

Topic Public Lodging

Amendment Barcode (if applicable)

Name DAVID MICA, Jr

Job Title Deputy Director Legislative Affairs

Address _____
Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Department of Business & Professional Regulation

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)

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 Fiscal Policy

BILL: CS/SB 568

INTRODUCER: Banking and Insurance Committee and Senator Richter

SUBJECT: Family Trust Companies

DATE: April 8, 2015 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	Fav/CS
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 568 amends the Florida Family Trust Company Act (act), which was created in 2014, but not effective until October 1, 2015, to allow families to form and operate a family trust company (FTC). The bill:

- Clarifies legislative findings.
- Provides designated relatives for licensed FTC may not have a common ancestor within three generations.
- Requires the initial licensure investigation by Office of Financial Regulation (OFR) to review the management structure of the FTC.
- Clarifies several provisions of the act, including when the financial institutions codes apply to FTCs, registration requirements for unlicensed and foreign licensed FTCs, use of the term “affiliate,” and references to “broker-dealers.”
- Increases the time for FTCs to renew licenses or registrations from within 30 days to 45 days of the end of the year.
- Creates a mechanism for the automatic reinstatement of lapsed licenses or registrations.
- Repeals the requirement for submission of proposed amendments to bylaws or articles of organization of an unlicensed or licensed FTC to the OFR and instead requires submission of amendments to a certificate of formation or a certificate of organization.
- Requires examinations of licensed FTCs occur every 36 months instead of every 18 months and no longer allows an audit to substitute for an examination.

- Clarifies that a licensed FTC is entitled to an administrative hearing pursuant to ch. 120, F.S., to contest a license revocation.
- Requires a court to determine a breach of fiduciary duty or trust before the issuance of a cease and desist order or order of suspension or revocation of a license.

The bill has no fiscal impact on state government.

II. Present Situation:

Florida Family Trust Company Act

In 2014, the Legislature created the Florida Family Trust Company Act (act), which is effective October 1, 2015.¹ The act allows families to form and operate a family trust company (FTC) and created three types of FTCs:

- **(Unlicensed) FTC** is a corporation or limited liability company (LLC) organized or qualified to do business in Florida, exclusively owned by one or more family members, and that acts as a fiduciary for one or more family members. A FTC may not act as a fiduciary for a non-family member, except it may serve as a fiduciary for up to 35 individuals who are not family members if the individuals are current or former employees of the FTC or trusts, companies, or other entities that are family members.
- **Licensed FTC** is a FTC that operates under a current license that has not been revoked or suspended by the OFR.
- **Foreign licensed FTC** is licensed, operated, and has its principal place of business in another state or the District of Columbia. A foreign licensed FTC is subject to statutory or regulatory mandated supervision by the jurisdiction where its principal place of business is located. It cannot be owned by or be a subsidiary of a company organized or licensed by a foreign country.²

The act's purpose is to:

- Establish requirements for licensing private trust companies;
- Provide regulation of those persons who provide fiduciary services to family members of no more than two families and their related interests as a private FTC; and
- Establish the degree of regulatory oversight required of the OFR over FTCs.³

Licensure and Registration of FTCs

The act does not require a FTC to become licensed, however to be licensed in Florida, a FTC must apply to the OFR.⁴ Also, to operate in Florida, unlicensed and foreign licensed FTCs are required to register with the OFR.⁵ Applications for licensure or registration require the FTCs to list a designated relative.⁶ A designated relative is a common ancestor of the family, who may be

¹ Chapter 2014-97, L.O.F.

² Section 662.111, F.S.

³ Section 662.102, F.S.

⁴ Sections 662.114 and 662.121, F.S.

⁵ See s. 662.122, F.S.

⁶ Sections 662.121(17) and 662.122(1)(a), F.S.

living or deceased.⁷ Unlicensed FTCs may not have more than one designated relative, whereas licensed FTCs may not have more than two designated, which cannot have a common ancestor within five generations.⁸

Once a FTC has applied for licensure the OFR conducts an investigation of the directors or officers, if the FTC is a corporation, or the managers or members, the FTC is a LLC, and confirms that the application conforms to ch. 662, F.S.⁹

The act requires FTCs to renew licenses or registrations within 30 days after the end of the year.¹⁰ If a FTC fails to renew or file any other report required by the act, the OFR may impose a \$100 fine for each day the renewal or report is overdue. Failure to renew within 60 days after the end of the year results in the automatic termination of the license or registration. The act does not provide for the automatic termination of a foreign licensed FTC's registration for failure to renew.¹¹

Regulation of FTCs

The act regulates FTCs in numerous ways. For example, the act provides the management structure for unlicensed and licensed FTCs. The management structure is identical for unlicensed and licensed FTCs and is dependent on whether it is a corporation or a LLC. If a corporation, exclusive management authority is vested in a board of directors comprised of at least three directors, one being a resident of Florida. If a LLC, exclusive management authority is vested in a board of directors or managers comprised of at least three directors or managers, one being a resident of Florida.¹²

The act also requires any proposed amendments to unlicensed or licensed FTCs' articles of incorporation, articles of organization, or bylaws be submitted to the OFR.¹³

The act allows the OFR to conduct an examination or investigation of a FTC at any time it deems necessary to determine whether a FTC has violated or is about to violate any provision of ch. 662, F.S., any applicable provision of the financial institution codes, or any relevant administrative rules. The OFR is required to conduct an examination of FTCs at least once every 18 months and in lieu of conducting an examination, may accept an audit of a FTC in certain circumstances.¹⁴

The OFR may issue and serve a FTC with a complaint stating charges that it believes the FTC is engaging or has engaged in conduct prohibited by the act. For example, the OFR can issue a complaint if it believes a FTC is engaging in or has engaged in an act of commission, omission or practice that is a breach of trust or of fiduciary duty. The complaint must contain a notice of

⁷ Section 662.111(9), F.S.

⁸ Section 662.120, F.S.

⁹ See s. 662.1215, F.S.

¹⁰ Section 662.128, F.S.

¹¹ Section 662.144, F.S.

¹² Section 662.125, F.S.

¹³ Section 662.123, F.S.

¹⁴ Section 662.141, F.S.

the FTC's opportunity for a hearing. If no hearing is requested, or if a hearing is held and the OFR finds the charges are true, the OFR may enter a cease and desist order.¹⁵

The act places restrictions on the purchases of bonds or other security instruments by an unlicensed or licensed FTC from affiliate of the FTC.¹⁶

According to a white paper from Real Property, Probate, and Trust Law Section (RPPTL) of the Florida Bar, "there is no public interest served by having the OFR regulate FTCs."¹⁷ A concern raised by the RPPTL of the Florida Bar is that the current regulatory scheme in ch. 662, F.S., does not allow licensed FTCs to qualify for the "bank exemption" with the federal Securities and Exchange Commission. If these companies do not qualify for the "bank exemption," they will be required to register as investment advisers with the federal regulator.¹⁸

III. Effect of Proposed Changes:

Section 1 amends the findings of the Family Trust Company Act to clarify that the OFR is responsible for the regulation, supervision, and examination of licensed FTCs, and that the OFR's role is limited to ensuring that services provided by unlicensed or foreign licensed FTCs are to family members and not to the general public. The OFR is not responsible for examining the safety or soundness of the operations of an unlicensed or foreign licensed FTC.

Licensure and Registration of FTCs

Section 4 provides that designated relatives for licensed FTC may not have a common ancestor within three generations instead of the current limitation of five generations.

Section 5 requires the OFR to include in its initial licensure investigation of an applicant, verification that the management structure of a licensed FTC complies with the act.

Section 6 provides that an unlicensed FTC's registration application must state that its operations will comply with s. 662.123(1), F.S., relating to requirements in organizational documents, s. 662.124, F.S., relating to minimum capital requirements, and s. 662.127, F.S., relating to the segregation of books, records, and assets. A foreign licensed FTC's registration application must prove that it is in compliance with the FTC laws and regulations of its principal jurisdiction of operations and state that it complies with s. 662.127, F.S., relating to the segregation of books, records and assets.

Section 7 requires FTCs in operation on October 1, 2015, to apply for licensure as a licensed FTC, register as an unlicensed or foreign licensed FTC, or cease business in Florida. The application or registration must be filed by December 30, 2015. This provision is transferred from s. 662.151(3), F.S. (Section 17). A foreign licensed FTC must be in compliance with the laws and regulations of its principal jurisdiction.

¹⁵ Section 662.143, F.S.

¹⁶ Section 662.132, F.S.

¹⁷ Real Property, Probate, and Trust Law Section of the Florida Bar, *White Paper on Proposed Changes to the Florida Family Trust Company Act, Florida Statutes Chapter 662* (2015) (on file with the Senate Committee on Judiciary).

¹⁸ *Id.*

Section 9 increases the time for FTCs to renew a license or registration to within 45 days after the end of each year from 30 days. All verified statements in renewal applications must be by an “authorized representative of the trust company.” An unlicensed FTC’s registration renewal application must state that its operations comply with s. 662.123(1), F.S., relating to requirements in organizational documents, s. 662.124, F.S., relating to minimum capital requirements, and s. 662.127, F.S., relating to the segregation of books, records and assets.

Section 14 provides that a foreign licensed FTC’s failure to renew its registration within 60 days of the end of the year will result in an automatic termination of the registration. A FTC’s license or registration terminated for failure to timely renew can be automatically reinstated by submitting to the OFR, on or before August 31 of the year in which the renewal application is due, the renewal application and fee required under s. 662.128, F.S., a \$500 late fee, and any fine imposed by the OFR.¹⁹ A FTC that fails to renew or reinstate its license or registration must wind up its affairs before November 30 in the year which the failure occurs.

Regulation of FTCs

Section 3 creates s. 662.113, F.S., to provide that the financial institutions codes do not apply to FTCs unless specifically made applicable by ch. 662, F.S.²⁰

Section 8 repeals the requirement that proposed amendments to the bylaws or articles of organization of an unlicensed or licensed FTC be submitted to the OFR and requires amendments to a certificate of formation or a certificate of organization to be submitted to the OFR at least 30 days before they are filed or effective.

Section 10 repeals references to the term “affiliate” and replaces it with “parent” or “subsidiary company” to prevent confusion with the term “family affiliate” defined in s. 662.111, F.S. The bill clarifies that an unlicensed or licensed FTC may purchase bonds and securities directly from broker-dealers when acting as a fiduciary.

Section 11 provides that the OFR *must* conduct an examination of a *licensed FTC* every 36 months (instead of the 18 months) and no longer allows an audit to substitute for an examination by the OFR. These changes are believed to allow licensed FTCs to qualify for the “bank exception” with the Securities and Exchange Commission.²¹ The OFR *may* a conduct examination or investigation of an *unlicensed or foreign licensed FTC* at any time necessary to determine if it has engaged in any act prohibited by ss. 662.131 or 662.134, F.S. If the unlicensed or foreign licensed FTC has engaged in a prohibited act, the OFR must determine if any provision of the financial codes have been violated.

Section 12 clarifies that a licensed FTC is entitled to an administrative hearing pursuant to ch. 120, F.S., to contest a license revocation.

¹⁹ Fees and fines collected pursuant to this section will be deposited into the Financial Institutions’ Regulatory Trust Fund.

²⁰ This does not limit the OFR’s power to investigate compliance with ch. 662, F.S.. or applicable provisions of the financial institutions codes.

²¹ *Supra* note 16.

Sections 12 and 13 require a court of competent jurisdiction determine if an act of commission or omission is a breach of trust or a fiduciary duty prior to the OFR issuing an order of suspension or revocation of a license or registration or a cease and desist order.

Technical Changes and Effective Date

Sections 2, 15, and 16 make technical changes to the act.

Section 10 moves a provision that the OFR may rely on certain documents from subsection (3) to (1), and consolidates rulemaking provisions to subsection (6).

Section 18 provides an effective date of October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

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:

As a result of this legislation, high net worth families who are not located in Florida may select Florida as the jurisdiction to establish FTCs, which may benefit the investment, accounting, legal, and advisory support service professions.²²

C. Government Sector Impact:

The OFR does not anticipate a fiscal impact on state government.²³

²² *Supra* note 16.

²³ Office of Financial Regulation, *Senate Bill 568 Fiscal Analysis* (Feb. 27, 2015) (on file with the Senate Committee on Judiciary).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The OFR will have to update its adopted rules to conform to the provisions of the bill, particularly the requirement that a foreign licensed FTC must submit satisfactory proof, as determined by the OFR, of compliance.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 662.102, 662.111, 662.120, 662.1215, 662.122, 662.1225, 662.123, 662.128, 662.132, 662.141, 662.142, 662.143, 662.144, 662.145, 662.150, and 662.151.

This bill creates section 662.113 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 on March 4, 2015:

The committee substitute clarifies that the OFR may investigate any entity to determine compliance with ch. 662, F.S. The CS provides that FTCs operating on October 1, 2015, must apply for licensure or registration by December 30, 2015. It allows an unlicensed or licensed FTC to make purchases as a fiduciary directly from broker-dealers. The CS also expands the scope of examinations of licensed FTCs and provides procedures for reinstatements of licenses or registrations.

- B. **Amendments:**

None.

By the Committee on Banking and Insurance; and Senator Richter

597-01933-15

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1 A bill to be entitled
 2 An act relating to family trust companies; amending s.
 3 662.102, F.S.; revising the purposes of the Family
 4 Trust Company Act; providing legislative findings;
 5 amending s. 662.111, F.S.; redefining the term
 6 "officer"; creating s. 662.113, F.S.; specifying the
 7 applicability of other chapters of the financial
 8 institutions codes to family trust companies;
 9 providing that the section does not limit the
 10 authority of the Office of Financial Regulation to
 11 investigate any entity to ensure that it is not in
 12 violation of ch. 662, F.S., or applicable provisions
 13 of the financial institutions codes; amending s.
 14 662.120, F.S.; revising the ancestry requirements for
 15 designated relatives of a licensed family trust
 16 company; amending s. 662.1215, F.S.; revising the
 17 requirements for investigations of license applicants
 18 by the Office of Financial Regulation; amending s.
 19 662.122, F.S.; revising the requirements for
 20 registration of a family trust company and a foreign
 21 licensed family trust company; amending s. 662.1225,
 22 F.S.; requiring a foreign licensed family trust
 23 company to be in compliance with the family trust laws
 24 and regulations in its jurisdiction; specifying the
 25 date upon which family trust companies must be
 26 registered or licensed or, if not registered or
 27 licensed, cease doing business in this state; amending
 28 s. 662.123, F.S.; revising the types of amendments to
 29 organizational documents which must have prior

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30 approval by the office; amending s. 662.128, F.S.;
 31 extending the deadline for the filing of, and revising
 32 the requirements for, specified license and
 33 registration renewal applications; amending s.
 34 662.132, F.S.; revising the authority of specified
 35 family trust companies while acting as fiduciaries to
 36 purchase certain bonds and securities; revising the
 37 prohibition against the purchase of certain bonds or
 38 securities by specified family trust companies;
 39 amending s. 662.141, F.S.; revising the purposes for
 40 which the office may examine or investigate a family
 41 trust company that is not licensed and a foreign
 42 licensed family trust company; deleting the
 43 requirement that the office examine a family trust
 44 company that is not licensed and a foreign licensed
 45 family trust company; providing that the office may
 46 rely upon specified documentation that identifies the
 47 qualifications of beneficiaries as permissible
 48 recipients of family trust company services; deleting
 49 a provision that authorizes the office to accept an
 50 audit by a certified public accountant in lieu of an
 51 examination by the office; authorizing the Financial
 52 Services Commission to adopt rules establishing
 53 specified requirements for family trust companies;
 54 amending s. 662.142, F.S.; deleting a provision that
 55 authorizes the office to immediately revoke the
 56 license of a licensed family trust company under
 57 certain circumstances; revising the circumstances
 58 under which the office may enter an order revoking the

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59 license of a licensed family trust company; amending
 60 s. 662.143, F.S.; revising the acts that may result in
 61 the entry of a cease and desist order against
 62 specified family trust companies and affiliated
 63 parties; amending s. 662.144, F.S.; authorizing a
 64 family trust company to have its terminated
 65 registration or revoked license reinstated under
 66 certain circumstances; revising the timeframe for a
 67 family trust company to wind up its affairs under
 68 certain circumstances; requiring the deposit of
 69 certain fees and fines in the Financial Institutions'
 70 Regulatory Trust Fund; amending s. 662.145, F.S.;
 71 revising the office's authority to suspend a family
 72 trust company-affiliated party who is charged with a
 73 specified felony or to restrict or prohibit the
 74 participation of such party in certain financial
 75 institutions; s. 662.150, F.S.; making a technical
 76 change; amending s. 662.151, F.S.; conforming a
 77 provision to changes made by the act; providing an
 78 effective date.

79
 80 Be It Enacted by the Legislature of the State of Florida:

81
 82 Section 1. Section 662.102, Florida Statutes, is amended to
 83 read:

84 662.102 Purposes; findings Purpose.—The purposes purpose of
 85 the Family Trust Company Act are is to establish requirements
 86 for licensing family trust companies, to regulate provide
 87 regulation of those persons who provide fiduciary services to

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88 family members of no more than two families and their related
 89 interests as a family trust company, and to establish the degree
 90 of regulatory oversight required of the Office of Financial
 91 Regulation over such companies. ~~The Unlike trust companies~~
 92 ~~formed under chapter 658, there is no public interest to be~~
 93 ~~served by this chapter is to ensure outside of ensuring~~ that
 94 fiduciary activities performed by a family trust company are
 95 restricted to family members and their related interests and as
 96 otherwise provided ~~for~~ in this chapter. Therefore, the
 97 Legislature finds that:

98 (1) A family trust company is ~~companies are not a financial~~
 99 institution ~~institutions~~ within the meaning of the financial
 100 institutions codes, ~~and~~ Licensure of such a company these
 101 ~~companies~~ pursuant to chapters 658 and 660 is should not be
 102 required as it would not promote the purposes of the codes
 103 specified as set forth in s. 655.001.

104 (2) A family trust company may elect to be a licensed
 105 family trust company under this chapter if the company desires
 106 to be subject to the regulatory oversight of the office, as
 107 provided in this chapter, notwithstanding that the company
 108 restricts its services to family members.

109 (3) With respect to: ~~Consequently, the office~~

110 (a) A licensed of Financial Regulation is not responsible
 111 ~~for regulating~~ family trust company, the office is responsible
 112 for regulating, supervising, and examining the company as
 113 provided under this chapter.

114 (b) A family trust company that does not elect to be
 115 licensed and a foreign licensed family trust company, companies
 116 ~~to ensure their safety and soundness, and the responsibility of~~

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117 the ~~office's role~~ ~~office~~ is limited to ensuring that fiduciary
 118 services provided by the company ~~such companies~~ are restricted
 119 to family members and authorized related interests and not to
 120 the general public. The office is not responsible for examining
 121 a family trust company or a foreign licensed family trust
 122 company regarding the safety or soundness of its operations.

123 Section 2. Subsection (19) of section 662.111, Florida
 124 Statutes, is amended to read:

125 662.111 Definitions.—As used in this chapter, the term:

126 (19) "Officer" of a family trust company means an
 127 individual, regardless of whether the individual has an official
 128 title or receives a salary or other compensation, who may
 129 participate in the major policymaking functions of a family
 130 trust company, other than as a director. The term does not
 131 include an individual who may have an official title and
 132 exercise discretion in the performance of duties and functions,
 133 but who does not participate in determining the major policies
 134 of the family trust company and whose decisions are limited by
 135 policy standards established by other officers, regardless of
 136 whether the policy standards have been adopted by the board of
 137 directors. The chair of the board of directors, the president,
 138 the chief officer, the chief financial officer, the senior trust
 139 officer, and all executive vice presidents of a family trust
 140 company, and all managers if organized as a limited liability
 141 company, are presumed to be ~~executive~~ officers unless such
 142 officer is excluded, by resolution of the board of directors or
 143 members or by the bylaws or operating agreement of the family
 144 trust company, other than in the capacity of a director, from
 145 participating in major policymaking functions of the family

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146 trust company, and such excluded officer does not actually
 147 participate therein.

148 Section 3. Section 662.113, Florida Statutes, is created to
 149 read:

150 662.113 Applicability of other chapters of the financial
 151 institutions codes.—If a family trust company, licensed family
 152 trust company, or foreign licensed family trust company limits
 153 its activities to the activities authorized under this chapter,
 154 the provisions of other chapters of the financial institutions
 155 codes do not apply to the trust company unless otherwise
 156 expressly provided in this chapter. This section does not limit
 157 the office's authority to investigate any entity to ensure that
 158 it is not in violation of this chapter or applicable provisions
 159 of the financial institutions codes.

160 Section 4. Subsection (2) of section 662.120, Florida
 161 Statutes, is amended to read:

162 662.120 Maximum number of designated relatives.—

163 (2) A licensed family trust company may ~~not~~ have up to more
 164 ~~than~~ two designated relatives, ~~and~~ The designated relatives may
 165 not have a common ancestor within three ~~five~~ generations.

166 Section 5. Paragraph (e) is added to subsection (2) of
 167 section 662.1215, Florida Statutes, to read:

168 662.1215 Investigation of license applicants.—

169 (2) Upon filing an application for a license to operate as
 170 a licensed family trust company, the office shall conduct an
 171 investigation to confirm:

172 (e) That the management structure of the proposed company
 173 complies with s. 662.125.

174 Section 6. Paragraph (b) of subsection (1) and paragraphs

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175 (a) and (c) of subsection (2) of section 662.122, Florida
176 Statutes, are amended to read:

177 662.122 Registration of a family trust company or a foreign
178 licensed family trust company.—

179 (1) A family trust company that is not applying under s.
180 662.121 to become a licensed family trust company must register
181 with the office before beginning operations in this state. The
182 registration application must:

183 (b) State that the family trust company is a family trust
184 company as defined under this chapter and that its operations
185 will comply with ss. 662.1225, 662.123(1), 662.124, 662.125,
186 662.127, 662.131, and 662.134.

187 (2) A foreign licensed family trust company must register
188 with the office before beginning operations in this state.

189 (a) The registration application must state that its
190 operations will comply with ss. 662.1225, 662.125, 662.127,
191 662.131, and 662.134 and that it is currently in compliance with
192 the family trust company laws and regulations of its principal
193 jurisdiction.

194 (c) The registration must include a certified copy of a
195 certificate of good standing, or an equivalent document,
196 authenticated by the official having custody of records in the
197 jurisdiction where the foreign licensed family trust company is
198 organized, along with satisfactory proof, as determined by the
199 office, that the company is organized in a manner similar to a
200 family trust company as defined under this chapter and is in
201 compliance with the family trust company laws and regulations of
202 its principal jurisdiction.

203 Section 7. Subsection (2) of section 662.1225, Florida

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204 Statutes, is amended, and subsection (3) is added to that
205 section, to read:

206 662.1225 Requirements for a family trust company, licensed
207 family trust company, and foreign licensed family trust
208 company.—

209 (2) In order to operate in this state, a foreign licensed
210 family trust company must be in good standing in its principal
211 jurisdiction, must be in compliance with the family trust
212 company laws and regulations of its principal jurisdiction, and
213 must maintain:

214 (a) An office physically located in this state where
215 original or true copies of all records and accounts of the
216 foreign licensed family trust company pertaining to its
217 operations in this state may be accessed and made readily
218 available for examination by the office in accordance with this
219 chapter.

220 (b) A registered agent who has an office in this state at
221 the street address of the registered agent.

222 (c) All applicable state and local business licenses,
223 charters, and permits.

224 (d) A deposit account with a state-chartered or national
225 financial institution that has a principal or branch office in
226 this state.

227 (3) A company in operation as of October 1, 2015, which
228 meets the definition of a family trust company, must, on or
229 before December 30, 2015, apply for licensure as a licensed
230 family trust company, register as a family trust company or
231 foreign licensed family trust company, or cease doing business
232 in this state.

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233 Section 8. Subsection (2) of section 662.123, Florida
234 Statutes, is amended to read:

235 662.123 Organizational documents; use of term "family
236 trust" in name.—

237 (2) A proposed amendment to the articles of incorporation,
238 articles of organization, certificate of formation, or
239 certificate of organization, bylaws, or articles of organization
240 of a ~~limited liability company,~~ family trust company, or
241 licensed family trust company must be submitted to the office
242 for review at least 30 days before it is filed or effective. An
243 amendment is not considered filed or effective if the office
244 issues a notice of disapproval with respect to the proposed
245 amendment.

246 Section 9. Subsections (1) through (4) of section 662.128,
247 Florida Statutes, are amended to read:

248 662.128 Annual renewal.—

249 (1) Within 45 ~~30~~ days after the end of each calendar year,
250 a family trust company ~~companies,~~ licensed family trust company
251 ~~companies, or and~~ foreign licensed family trust company
252 ~~companies~~ shall file its ~~their~~ annual renewal application with
253 the office.

254 (2) The license renewal application filed by a licensed
255 family trust company must include a verified statement by an
256 authorized representative of the trust company that:

257 (a) The licensed family trust company operated in full
258 compliance with this chapter, chapter 896, or similar state or
259 federal law, or any related rule or regulation. The application
260 must include proof acceptable to the office that the company is
261 a family trust company as defined under this chapter.

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262 (b) Describes any material changes to its operations,
263 principal place of business, directors, officers, managers,
264 members acting in a managerial capacity, and designated
265 relatives since the end of the preceding calendar year.

266 (3) The registration renewal application filed by a family
267 trust company must include:

268 (a) A verified statement by an authorized representative
269 ~~officer~~ of the trust company that it is a family trust company
270 as defined under this chapter and that its operations are in
271 compliance with ss. 662.1225, 662.123(1), 662.124, 662.125,
272 662.127, 662.131, and 662.134, ~~+~~ chapter 896, ~~+~~ or similar state
273 or federal law, ~~or any~~ related rule or regulation.

274 (b) ~~and include~~ The name of the company's ~~its~~ designated
275 relative or relatives, if applicable, and the street address for
276 its principal place of business.

277 (4) The registration renewal application filed by a foreign
278 licensed family trust company must include a verified statement
279 by an authorized representative of the trust company that its
280 operations are in compliance with ss. 662.1225, 662.125,
281 662.131, and 662.134 and in compliance with the family trust
282 company laws and regulations of its principal jurisdiction. It
283 must also provide:

284 (a) The current telephone number and street address of the
285 physical location of its principal place of business in its
286 principal jurisdiction.

287 (b) The current telephone number and street address of the
288 physical location in this state of its principal place of
289 operations where its books and records pertaining to its
290 operations in this state are maintained.

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291 (c) The current telephone number and address of the
292 physical location of any other offices located in this state.

293 (d) The name and current street address in this state of
294 its registered agent.

295 (e) Documentation satisfactory to the office that the
296 foreign licensed family trust company is in compliance with the
297 family trust company laws and regulations of its principal
298 jurisdiction.

299 Section 10. Subsections (4) and (7) of section 662.132,
300 Florida Statutes, are amended to read:

301 662.132 Investments.—

302 (4) Notwithstanding any other law, a family trust company
303 or licensed family trust company may, while acting as a
304 fiduciary, purchase directly from underwriters or broker-dealers
305 ~~distributors~~ or in the secondary market:

306 (a) Bonds or other securities underwritten or brokered
307 ~~distributed~~ by:

308 1. The family trust company or licensed family trust
309 company;

310 2. A family affiliate; or

311 3. A syndicate, including the family trust company,
312 licensed family trust company, or family affiliate.

313 (b) Securities of an investment company, including a mutual
314 fund, closed-end fund, or unit investment trust, as defined
315 under the federal Investment Company Act of 1940, for which the
316 family trust company or licensed family trust company acts as an
317 advisor, custodian, distributor, manager, registrar, shareholder
318 servicing agent, sponsor, or transfer agent.

319 (7) Notwithstanding subsections (1)-(6), a family trust

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320 company or licensed family trust company may not, while acting
321 as a fiduciary, purchase a bond or security issued by the
322 company or its parent, or a subsidiary company ~~an affiliate~~
323 thereof or its parent, unless:

324 (a) The family trust company or licensed family trust
325 company is expressly authorized to do so by:

326 1. The terms of the instrument creating the trust;

327 2. A court order;

328 3. The written consent of the settlor of the trust for
329 which the family trust company or licensed family trust company
330 is serving as trustee; or

331 4. The written consent of every adult qualified beneficiary
332 of the trust who, at the time of such purchase, is entitled to
333 receive income under the trust or who would be entitled to
334 receive a distribution of principal if the trust were
335 terminated; and

336 (b) The purchase of the security is at a fair price and
337 complies with:

338 1. The prudent investor rule in s. 518.11~~7~~, or other prudent
339 investor or similar rule under other applicable law, unless ~~such~~
340 compliance is waived in accordance with s. 518.11 or other
341 applicable law.

342 2. The terms of the instrument, judgment, decree, or order
343 establishing the fiduciary relationship.

344 Section 11. Section 662.141, Florida Statutes, is amended
345 to read:

346 662.141 Examination, investigations, and fees.—The office
347 may conduct an examination or investigation of a family trust
348 ~~company~~, licensed family trust company, ~~or foreign licensed~~

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349 ~~family trust company~~ at any time it deems necessary to determine
 350 whether ~~the a family trust company,~~ licensed family trust
 351 company, ~~foreign licensed family trust company,~~ or licensed
 352 family trust company-affiliated party thereof ~~person~~ has
 353 violated or is about to violate any provision of this chapter,
 354 ~~or rules adopted by the commission pursuant to this chapter, or~~
 355 any applicable provision of the financial institution codes, or
 356 any rule ~~rules~~ adopted by the commission pursuant to this
 357 chapter or the such codes. The office may conduct an examination
 358 or investigation of a family trust company or foreign licensed
 359 family trust company at any time it deems necessary to determine
 360 whether the family trust company or foreign licensed family
 361 trust company has engaged in any act prohibited under s. 662.131
 362 or s. 662.134 and, if a family trust company or a foreign
 363 licensed family trust company has engaged in such act, to
 364 determine whether any applicable provision of the financial
 365 institution codes has been violated.

366 (1) The office may rely upon a certificate of trust, trust
 367 summary, or written statement from the trust company which
 368 identifies the qualified beneficiaries of any trust or estate
 369 for which a family trust company, licensed family trust company,
 370 or foreign licensed family trust company serves as a fiduciary
 371 and the qualifications of such beneficiaries as permissible
 372 recipients of company services.

373 (2) The office shall conduct an examination of a licensed
 374 family trust company, ~~family trust company,~~ and foreign licensed
 375 family trust company at least once every 36 ~~18~~ months.

376 ~~(2) In lieu of an examination by the office, the office may~~
 377 ~~accept an audit of a family trust company, licensed family trust~~

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378 ~~company, or foreign licensed family trust company by a certified~~
 379 ~~public accountant licensed to practice in this state who is~~
 380 ~~independent of the company, or other person or entity acceptable~~
 381 ~~to the office. If the office accepts an audit pursuant to this~~
 382 ~~subsection, the office shall conduct the next required~~
 383 ~~examination.~~

384 ~~(3)~~ The office shall examine the books and records of a
 385 ~~family trust company or~~ licensed family trust company as
 386 necessary to determine whether it is a ~~family trust company or~~
 387 licensed family trust company as defined in this chapter, and is
 388 operating in compliance with this chapter ss. 662.1225, 662.125,
 389 662.126, 662.131, and 662.134, as applicable. The office may
 390 rely upon a certificate of trust, trust summary, or written
 391 statement from the trust company identifying the qualified
 392 beneficiaries of any trust or estate for which the family trust
 393 company serves as a fiduciary and the qualification of the
 394 qualified beneficiaries as permissible recipients of company
 395 services. The commission may establish by rule the records to be
 396 maintained or requirements necessary to demonstrate conformity
 397 with this chapter as a family trust company or licensed family
 398 trust company.

399 ~~(3)~~(4) The office shall examine the books and records of a
 400 foreign licensed family trust company as necessary to determine
 401 if it is a foreign licensed trust company as defined in this
 402 chapter and is in compliance with ss. 662.1225, 662.125,
 403 662.130(2), 662.131, and 662.134. In connection with an
 404 examination of the books and records of the company, the office
 405 may rely upon the most recent examination report or review or
 406 certification letters or similar documentation issued by the

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407 regulatory agency to which the foreign licensed family trust
 408 company is subject to supervision. ~~The commission may establish~~
 409 ~~by rule the records to be maintained or requirements necessary~~
 410 ~~to demonstrate conformity with this chapter as a foreign~~
 411 ~~licensed family trust company.~~ The office's examination of the
 412 books and records of a foreign licensed family trust company is,
 413 to the extent practicable, limited to books and records of the
 414 operations in this state.

415 ~~(4)(5)~~ For each examination of the books and records of a
 416 family trust company, licensed family trust company, or foreign
 417 licensed family trust company as authorized under this chapter,
 418 the trust company shall pay a fee for the costs of the
 419 examination by the office. As used in this section, the term
 420 "costs" means the salary and travel expenses of field staff
 421 which are directly attributable to the examination of the trust
 422 company and the travel expenses of any supervisory ~~and~~ ~~or~~
 423 support staff required as a result of examination findings. The
 424 mailing of payment for costs incurred must be postmarked within
 425 30 days after the receipt of a notice stating that ~~the such~~
 426 costs are due. The office may levy a late payment of up to \$100
 427 per day or part thereof that a payment is overdue, unless waived
 428 for good cause. However, if the late payment of costs is
 429 intentional, the office may levy an administrative fine of up to
 430 \$1,000 per day for each day the payment is overdue.

431 ~~(5)(6)~~ All fees collected under this section must be
 432 deposited into the Financial Institutions' Regulatory Trust Fund
 433 pursuant to s. 655.049 for the purpose of administering this
 434 chapter.

435 (6) The commission may establish by rule the records to be

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436 maintained or requirements necessary to demonstrate conformity
 437 with this chapter as a family trust company, licensed family
 438 trust company, or foreign licensed family trust company.

439 Section 12. Section 662.142, Florida Statutes, is amended
 440 to read:

441 662.142 Revocation of license.—

442 (1) Any of the following acts constitute ~~or conduct~~
 443 ~~constitutes~~ grounds for the revocation by the office of the
 444 license of a licensed family trust company:

445 (a) The company is not a family trust company as defined in
 446 this chapter. ~~†~~

447 (b) A violation of s. 662.1225, s. 662.123(1)(a), s.
 448 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, s.
 449 662.131, s. 662.134, or s. 662.144. ~~†~~

450 (c) A violation of chapter 896, relating to financial
 451 transactions offenses, or a ~~any~~ similar state or federal law or
 452 ~~any~~ related rule or regulation. ~~†~~

453 (d) A violation of any rule of the commission. ~~†~~

454 (e) A violation of any order of the office. ~~†~~

455 (f) A breach of any written agreement with the office. ~~†~~

456 (g) A prohibited act or practice under s. 662.131. ~~†~~

457 (h) A failure to provide information or documents to the
 458 office upon written request. ~~†~~ ~~or~~

459 (i) An act of commission or omission which ~~that~~ is
 460 judicially determined by a court of competent jurisdiction to be
 461 a breach of trust or ~~of~~ fiduciary duty ~~pursuant to a court of~~
 462 ~~competent jurisdiction.~~

463 (2) If the office finds ~~Upon a finding~~ that a licensed
 464 family trust company has committed any of the acts specified set

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465 ~~forth in subsection (1) paragraphs (1)(a)-(h)~~, the office may
 466 enter an order suspending the company's license and provide
 467 notice of its intention to revoke the license and of the
 468 opportunity for a hearing pursuant to ss. 120.569 and 120.57.

469 (3) If a hearing is not timely requested pursuant to ss.
 470 120.569 and 120.57 or if a hearing is held and it has been
 471 determined that the licensed family trust company has committed
 472 any of the acts specified in subsection (1) there has been a
 473 commission or omission under paragraph (1)(i), the office may
 474 immediately enter an order revoking the company's license. A The
 475 licensed family trust company has ~~shall have~~ 90 days to wind up
 476 its affairs after license revocation. If after 90 days the
 477 company is still in operation, the office may seek an order from
 478 the circuit court for the annulment or dissolution of the
 479 company.

480 Section 13. Subsection (1) of section 662.143, Florida
 481 Statutes, is amended to read:

482 662.143 Cease and desist authority.-

483 (1) The office may issue and serve upon a family trust
 484 company, licensed family trust company, ~~or~~ foreign licensed
 485 family trust company, or ~~upon a~~ family trust company-affiliated
 486 party, a complaint stating charges if the office has reason to
 487 believe that such company, family trust company-affiliated
 488 party, or individual named therein is engaging in or has engaged
 489 in any of the following acts ~~conduct that~~:

490 (a) ~~Indicates that~~ The company is not a family trust
 491 company or foreign licensed family trust company as defined in
 492 this chapter. ~~+~~

493 (b) ~~Is~~ A violation of s. 662.1225, s. 662.123(1)(a), s.

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494 662.125(2), s. 662.126, s. 662.127, s. 662.128, s. 662.130, or
 495 s. 662.134. ~~+~~

496 (c) ~~Is~~ A violation of any rule of the commission. ~~+~~
 497 (d) ~~Is~~ A violation of any order of the office. ~~+~~
 498 (e) ~~Is~~ A breach of any written agreement with the office. ~~+~~
 499 (f) ~~Is~~ A prohibited act or practice pursuant to s.

500 662.131. ~~+~~

501 (g) ~~Is~~ A willful failure to provide information or
 502 documents to the office upon written request. ~~+~~

503 (h) ~~Is~~ An act of commission or omission that is judicially
 504 determined by ~~or~~ a court of competent jurisdiction ~~practice that~~
 505 the office has reason to be believe is a breach of trust or ~~of~~
 506 fiduciary duty. ~~+~~ ~~or~~

507 (i) ~~Is~~ A violation of chapter 896 or similar state or
 508 federal law or any related rule or regulation.

509 Section 14. Section 662.144, Florida Statutes, is amended
 510 to read:

511 662.144 Failure to submit required report; fines.-If a
 512 family trust company, licensed family trust company, or foreign
 513 licensed family trust company fails to submit within the
 514 prescribed period its annual renewal or any other report
 515 required by this chapter or any rule, the office may impose a
 516 fine of up to \$100 for each day that the annual renewal or
 517 report is overdue. Failure to provide the annual renewal within
 518 60 days after the end of the calendar year shall automatically
 519 result in termination of the registration of a family trust
 520 company or foreign licensed family trust company or revocation
 521 of the license of a licensed family trust company. A family
 522 trust company may have its registration or license automatically

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 523 reinstated by submitting to the office, on or before August 31
 524 of the calendar year in which the renewal application is due,
 525 the company's annual renewal application and fee required under
 526 s. 662.128, a \$500 late fee, and the amount of any fine imposed
 527 by the office under this section. A family ~~the~~ trust company
 528 that fails to renew or reinstate its registration or license
 529 must ~~shall thereafter have 90 days to~~ wind up its affairs on or
 530 before November 30 of the calendar year in which such failure
 531 occurs. Fees and fines collected under this section shall be
 532 deposited into the Financial Institutions' Regulatory Trust Fund
 533 pursuant to s. 655.049 for the purpose of administering this
 534 chapter.

535 Section 15. Paragraph (a) of subsection (6) of section
 536 662.145, Florida Statutes, is amended to read:

537 662.145 Grounds for removal.—

538 (6) The chief executive officer, or the person holding the
 539 equivalent office, of a family trust company or licensed family
 540 trust company shall promptly notify the office if he or she has
 541 actual knowledge that a family trust company-affiliated party is
 542 charged with a felony in a state or federal court.

543 (a) If a family trust company-affiliated party is charged
 544 with a felony in a state or federal court, or is charged with an
 545 offense in a court ~~the courts~~ of a foreign country with which
 546 the United States maintains diplomatic relations which involves
 547 a violation of law relating to fraud, currency transaction
 548 reporting, money laundering, theft, or moral turpitude and the
 549 charge is equivalent to a felony charge under state or federal
 550 law, the office may enter an emergency order suspending the
 551 family trust company-affiliated party or restricting or

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 552 prohibiting participation by such ~~company-affiliated~~ party in
 553 the affairs of that particular family trust company or licensed
 554 family trust company or any state financial institution,
 555 subsidiary, or service corporation, upon service of the order
 556 upon the company and ~~the~~ family trust company-affiliated party
 557 ~~se~~ charged.

558 Section 16. Paragraph (b) of subsection (1) of section
 559 662.150, Florida Statutes, is amended to read:

560 662.150 Domestication of a foreign family trust company.—

561 (1) A foreign family trust company lawfully organized and
 562 currently in good standing with the state regulatory agency in
 563 the jurisdiction where it is organized may become domesticated
 564 in this state by:

565 (b) Filing an application for a license to begin operations
 566 as a licensed family trust company in accordance with s.
 567 662.121, which must first be approved by the office, or by
 568 filing the prescribed form with the office to register as a
 569 family trust company to begin operations in accordance with s.
 570 662.122.

571 Section 17. Subsection (3) of section 662.151, Florida
 572 Statutes, is amended to read:

573 662.151 Registration of a foreign licensed family trust
 574 company to operate in this state.—A foreign licensed family
 575 trust company lawfully organized and currently in good standing
 576 with the state regulatory agency in the jurisdiction under the
 577 law of which it is organized may qualify to begin operations in
 578 this state by:

579 ~~(3) A company in operation as of the effective date of this~~
 580 ~~act that meets the definition of a family trust company shall~~

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581 ~~have 90 days from the effective date of this act to apply for~~
582 ~~licensure as a licensed family trust company, register as a~~
583 ~~family trust company or foreign licensed family trust company,~~
584 ~~or cease doing business in this state.~~

585 Section 18. This act shall take effect October 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: April 1, 2015

Dear Chair Flores,

I would like to respectfully request that **Senate Bill #568**, relating to Family Trust Companies, be placed on the Fiscal Policy Committee Agenda at your earliest possible convenience. The committee on Fiscal Policy is the third and final committee of reference for Senate Bill #568.

Any questions regarding this legislation, please do not hesitate to contact me or my staff.

Thank you in advance for your consideration.

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

Senator Garrett Richter
Florida Senate, District 23

cc: Jennifer Hrdlicka, Staff Director
Tamra Lyon, Committee Administrative Assistant

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 Fiscal Policy

BILL: CS/CS/SB 596

INTRODUCER: Commerce and Tourism Committee; Regulated Industries Committee; and Senator Hays

SUBJECT: Craft Distilleries

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Oxamendi</u>	<u>Imhof</u>	<u>RI</u>	Fav/CS
2.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	Fav/CS
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 596 increases the number of factory-sealed containers of spirits a craft distillery may sell directly to consumers, allowing for the sale of no more than two of each branded product or up to four individual containers, whichever is greater. A branded product is defined as a distilled spirit product manufactured on site and in accordance with federal requirements.

The bill repeals a craft distillery's ability to ship its distilled spirits, providing that it may only sell and deliver distilled spirits to consumers within the state in a face-to-face transaction at the distillery property.

The bill allows a craft distillery's ownership to be affiliated with another distillery that produces 75,000 or fewer gallons on each of its premises in this state or in another state, territory, or country.

Upon request of a craft distillery, the Florida Department of Transportation must install directional signs for the craft distillery on the rights-of-way of interstate highways and primary and secondary roads. The craft distillery is responsible for all costs associated with the signs.

The Revenue Estimating Conference has not yet determined the impact of this bill. The Department of Business and Professional Regulation indicates that the bill will have a minimal negative impact on the department to update software.

II. Present Situation:

In Florida, alcoholic beverages are regulated by the Beverage Law,¹ which regulates the manufacture, distribution, and sale of wine, beer, and liquor by manufacturers, distributors, and vendors.² The Division of Alcoholic Beverages and Tobacco (division) within the Department of Business and Professional Regulation (department) administers and enforces the Beverage Law.³

Three Tier System

In the United States, the regulation of alcohol, since the repeal of Prohibition, has traditionally been through what is termed the “three-tier system.” The system requires separation of the manufacture, distribution, and sale of alcoholic beverages. The manufacturer creates the beverage; the distributor obtains the beverages from the manufacturer and delivers them to the vendor. The vendor (retailer) makes the ultimate sale to the consumer.⁴ Manufacturers cannot sell directly to retailers or directly to consumers.

Generally, in Florida, only licensed vendors are permitted to sell alcoholic beverages directly to consumers at retail.⁵ Licensed manufacturers, distributors, and registered exporters are prohibited from also being licensed as vendors.⁶ Manufacturers are also generally prohibited from having an interest in a vendor and from distributing directly to a vendor.⁷

Craft Distilleries and Licensed Distilleries

Section 565.01, F.S., defines the terms “liquor,” “distilled spirits,” “spirituous liquors,” “spirituous beverages,” or “distilled spirituous liquors” to mean “that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced.”

A “distillery” is a manufacturer of distilled spirits and a “craft distillery” is a licensed distillery that produces 75,000 or fewer gallons of distilled spirits per year on its premises. A craft distillery must notify the division in writing of its decision to qualify as a craft distillery.⁸

Distilleries licensed to distill, rectify,⁹ or blend distilled spirits pay a state license tax of \$4,000 for each plant or branch operating in Florida and may also rectify and blend spirituous liquors in addition to distilling liquors without paying an additional license tax.¹⁰ The Federal Alcohol

¹ Section 561.01(6), F.S., provides that the “The Beverage Law” means chs. 561, 562, 563, 564, 565, 567, and 568, F.S.

² See s. 561.14, F.S.

³ Section 561.02, F.S.

⁴ Section 561.14, F.S.

⁵ Section 561.14(3), F.S. However, see the exceptions provided in s. 561.221, F.S.

⁶ Section 561.22, F.S.

⁷ Sections 563.022(14) and 561.14(1), F.S.

⁸ Section 565.03(1), F.S.

⁹ Merriam-Webster defines rectify as the purification (of alcohol) especially by repeated or fractional distillation, *available at* <http://www.merriam-webster.com/dictionary/rectify> (last visited April 4, 2015).

¹⁰ Section 565.03(2), F.S. The distillery must submit any beverage excise taxes under the Beverage Law in its monthly report to the division with any tax payments due to the state. s. 565.03(5), F.S.

Administration Act requires the labels of distilled spirits containers be approved by the Alcohol and Tobacco Tax and Trade Bureau within the U.S. Department of Treasury.¹¹

A craft distillery must report to the division within 5 business days after it has reached the 75,000 gallon production limitation and cease making sales to consumers on the day after it reaches the production limit.¹²

A craft distillery may have its ownership affiliated with another distiller if the other distiller produces 75,000 gallons or fewer of distilled spirits on its licensed premises per calendar year. However, a craft distillery license or any ownership interest therein cannot be transferred to any individual or entity with a direct or indirect interest in another distillery.¹³

According to the Florida Craft Distillers Guild, there are 15 distilleries located in Florida that are members of the guild.¹⁴

Vendor Licenses

Section 561.20, F.S., limits the number of alcoholic beverage licenses that permit the sale of liquor, beer, and wine that may be issued per county. The number of licenses is limited to one license per 7,500 residents within the county. These limited alcoholic beverage licenses are known as “quota” licenses. New quota licenses are created and issued when there is an increase in the population of a county. The licenses can also be issued when a county initially changes from a county which does not permit the sale of intoxicating liquors to one that does permit their sale. The quota license is the only type of alcoholic beverage license that is limited in number.¹⁵

Exception for Vendor-Licensed Distilleries.

Craft distilleries and all other licensed distilleries are allowed to sell the distilled spirits produced on premises to consumers for off premises consumption. The sales must occur at the distillery’s souvenir gift shop that is located on private property contiguous to the licensed distillery premises, and included on the sketch submitted with the license application.¹⁶ The division must approve any subsequent revisions to a craft distillery’s sketch to verify that the retail location operated by the craft distillery is “owned or leased by the craft distillery and on property contiguous to the craft distillery’s production building.”¹⁷

Craft distilleries and licensed distilleries are only allowed to sell factory-sealed individual containers of distilled spirits in face-to-face transactions with consumers who are making a

¹¹ 27 U.S.C. 201 et seq. and 27 C.F.R. pt. 5 for the labeling and advertising regulations for distilled spirits.

¹² Section 565.03(2)(c), F.S.

¹³ *Id.*

¹⁴ Florida Craft Distillers Guild, *Members of the Florida Distillers Guild*, available at <http://floridadistillers.org/members> (last visited April 4, 2015).

¹⁵ Section 561.20, F.S.

¹⁶ See s. 561.01(11), F.S., which defines the term “licensed premises” to include the area embraced within the sketch that appears on, or is attached to, the application for the license.

¹⁷ Section 565.03, F.S.

purchase of two or fewer individual containers.¹⁸ A craft distillery may also ship, arrange to ship, or deliver these distilled spirits to consumers within the state in face-to-face transactions on the distillery property.¹⁹

Florida's Highway Guide Sign Program

Florida Department of Transportation (FDOT) is responsible for maintaining a uniform system of traffic control devices²⁰ on the state's roadways.²¹ The FDOT has several programs where a business may be eligible for a guide sign, including destination guide signs, such as those for wineries, regional shopping centers, hospitals, and government agencies.²² For example, Florida's Highway Guide Sign Program is a system of guide signs that inform and guide motorists, improve traffic flow, and establish criteria for guide signs.²³

III. Effect of Proposed Changes:

The bill creates s. 565.03(1)(a), F.S., to define the term "branded product" to mean any distilled spirit product manufactured on site that requires a federal certificate and label approval by the Federal Alcohol Administrative Act or regulations.

The bill increases the number of factory-sealed containers of distilled spirits a craft distillery may sell directly to consumers, allowing for the sale of no more than two of each branded product or up to four individual containers, whichever is greater. For example, if a craft distillery has five different branded products that are distilled on the premises, the craft distillery could sell a maximum of ten factory-sealed containers (two containers for each branded product) to each customer per calendar year. If the craft distillery has one branded product, the craft distillery could only sell up to four containers to each customer per calendar year. If the craft distillery has two different branded products, the craft distillery could sell any of the following combinations: three containers of one branded product and one container of the other branded product, or two containers of each branded product, or four containers of one branded product.

The bill repeals a craft distillery's ability to ship its distilled spirits, providing that it may only sell and deliver distilled spirits to consumers within the state in a face-to-face transaction at the distillery property.

The bill expands a craft distillery's ability to have its ownership affiliated with another distillery by allowing affiliation with another distillery that produces 75,000 gallons or fewer on each of its premises in this state or in another state, territory, or country.

¹⁸ The containers must comply with the container limits in s. 565.10, F.S., which prohibits the sale and distribution of distilled spirits in any size container in excess of 1.75 liters or 59.18 ounces.

¹⁹ Section 565.03(2)(c), F.S.

²⁰ Pursuant to s. 316.003(23), F.S., an official traffic control device is a sign, signal, marking, or device placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding traffic.

²¹ Section 316.0745, F.S.

²² Florida Department of Transportation Traffic Engineering and Operations Office, *Highway Signing Program*, available at <http://www.dot.state.fl.us/trafficoperations/Operations/Signing.shtm> (last visited April 4, 2015).

²³ See Chapter 14-51, F.A.C.

Upon request of a craft distillery, the Florida Department of Transportation must to install directional signs for the craft distillery on the rights-of-way of interstate highways and primary and secondary roads, in accordance with Florida's Highway Guide Sign Program. The requesting craft distillery is responsible for paying all costs associated with the signs. The bill provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

There may be a minimal, but indeterminate increase in tax revenue generated through the increased sales of distilled spirits products at the craft distilleries. The Revenue Estimating Conference has not yet determined the impact of this bill.

B. Private Sector Impact:

A craft distillery may experience an increase in revenue generated by the ability to sell two factory-sealed containers of each branded product or up to four individual containers, whichever is greater.

A craft distillery opting to participate in the Florida's Highway Guide Sign Program will incur costs associated with the placement of signs.

C. Government Sector Impact:

The department indicates that it will have to update Versa: Regulation and inspection applicant software to implement the changes in the bill, but can do so with existing resources.²⁴

²⁴ 2015 Department of Business and Professional Regulation, *Bill Analysis for SB 596*, (Feb. 18, 2015) (on file with the Senate Fiscal Policy Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 565.03 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Commerce and Tourism on March 30, 2015:

The committee substitute:

- Authorizes the Department of Transportation to install directional signs for a licensed craft distillery on the rights-of-way of interstate highways and primary and secondary roads, upon request, and in accordance with the Florida's Highway Guide Sign Program; and
- Requires the licensed craft distillery requesting the signs to pay all associated costs.

CS by Regulated Industries on March 11, 2015:

The committee substitute (CS) amends s. 565.03(2)(c), F.S., to permit craft distilleries to sell no more than two of each branded product or up to four individual containers, whichever is greater, in face-to-face transactions with a consumer per calendar year. The CS amends s. 565.03(2)(c)2., F.S., to provide that craft distilleries may only sell and deliver distilled spirits to consumers within the state in a face-to-face transaction at the distillery property.

The CS amends s. 565.03(2)(c)4., F.S., to provide that a craft distillery may be affiliated with another distillery that produces 75,000 gallons or fewer on each of its premises in this state or in another state, territory, or country.

- B. **Amendments:**

None.

By the Committees on Commerce and Tourism; and Regulated Industries; and Senator Hays

577-03103-15

2015596c2

1 A bill to be entitled
 2 An act relating to craft distilleries; amending s.
 3 565.03, F.S.; defining the term "branded product";
 4 revising the current limitation on the number of
 5 containers that may be sold to consumers by craft
 6 distilleries; applying such limitation to individual
 7 containers for each branded product; prohibiting a
 8 craft distillery from shipping or arranging to ship
 9 any of its distilled spirits to consumers; providing
 10 an exception; requiring the Department of
 11 Transportation to install directional signs at
 12 specified locations in accordance with Florida's
 13 Highway Guide Sign Program upon the request of a craft
 14 distillery licensed in this state; requiring the craft
 15 distillery licensed in this state to pay specified
 16 costs; providing an effective date.
 17
 18 Be It Enacted by the Legislature of the State of Florida:
 19
 20 Section 1. Paragraphs (a) and (b) of subsection (1) of
 21 section 565.03, Florida Statutes, are redesignated as paragraphs
 22 (b) and (c), respectively, a new paragraph (a) is added to that
 23 subsection, subsection (6) of that section is redesignated as
 24 subsection (7), a new subsection (6) is added to that section,
 25 and paragraph (c) of subsection (2) of that section is amended,
 26 to read:
 27 565.03 License fees; manufacturers, distributors, brokers,
 28 sales agents, and importers of alcoholic beverages; vendor
 29 licenses and fees; craft distilleries.-

Page 1 of 4

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

577-03103-15

2015596c2

30 (1) As used in this section, the term:
 31 (a) "Branded product" means any distilled spirits product
 32 manufactured on site, which requires a federal certificate and
 33 label approval by the Federal Alcohol Administration Act or
 34 regulations.
 35 (2)
 36 (c) A craft distillery licensed under this section may sell
 37 to consumers, at its souvenir gift shop, branded products
 38 ~~spirits~~ distilled on its premises in this state in factory-
 39 sealed containers that are filled at the distillery for off-
 40 premises consumption. Such sales are authorized only on private
 41 property contiguous to the licensed distillery premises in this
 42 state and included on the sketch or diagram defining the
 43 licensed premises submitted with the distillery's license
 44 application. All sketch or diagram revisions by the distillery
 45 shall require the division's approval verifying that the
 46 souvenir gift shop location operated by the licensed distillery
 47 is owned or leased by the distillery and on property contiguous
 48 to the distillery's production building in this state. A craft
 49 distillery ~~or licensed distillery~~ may not sell any factory-
 50 sealed individual containers of spirits except in face-to-face
 51 sales transactions with consumers who are making a purchase of
 52 two or fewer individual containers of each branded product, or
 53 up to four individual containers, whichever is greater, that
 54 comply with the container limits in s. 565.10, per calendar year
 55 for the consumer's personal use and not for resale and who are
 56 present at the distillery's licensed premises in this state.
 57 1. A craft distillery must report to the division within 5
 58 days after it reaches the production limitations provided in

Page 2 of 4

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

577-03103-15

2015596c2

59 paragraph (1) (b) ~~(1) (a)~~. Any retail sales to consumers at the
60 craft distillery's licensed premises are prohibited beginning
61 the day after it reaches the production limitation.

62 2. A craft distillery may not only ship or, arrange to
63 ship, or deliver any of its distilled spirits to consumers and
64 may only sell and deliver to consumers within the state in a
65 face-to-face transaction at the distillery property. However, a
66 craft distiller licensed under this section may ship, arrange to
67 ship, or deliver such spirits to manufacturers of distilled
68 spirits, wholesale distributors of distilled spirits, state or
69 federal bonded warehouses, and exporters.

70 3. Except as provided in subparagraph 4., it is unlawful to
71 transfer a distillery license for a distillery that produces
72 75,000 or fewer gallons per calendar year of distilled spirits
73 on its premises or any ownership interest in such license to an
74 individual or entity that has a direct or indirect ownership
75 interest in any distillery licensed in this state; another
76 state, territory, or country; or by the United States government
77 to manufacture, blend, or rectify distilled spirits for beverage
78 purposes.

79 4. A craft distillery shall not have its ownership
80 affiliated with another distillery, unless such distillery
81 produces 75,000 or fewer gallons per calendar year of distilled
82 spirits on each of its premises in this state or in another
83 state, territory, or country.

84 (6) Upon the request of a craft distillery licensed in this
85 state, the Department of Transportation shall install
86 directional signs for the craft distillery on the rights-of-way
87 of interstate highways and primary and secondary roads in

Page 3 of 4

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

577-03103-15

2015596c2

88 accordance with Florida's Highway Guide Sign Program, Rule 14-
89 51, Florida Administrative Code. A craft distillery licensed in
90 this state which requests placement of a directional sign
91 through the department's permit process shall pay all associated
92 costs.

93 Section 2. This act shall take effect July 1, 2015.

Page 4 of 4

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on General Government, *Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Environmental Preservation and Conservation
Ethics and Elections
Fiscal Policy

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining, *Alternating Chair*

SENATOR ALAN HAYS

11th District

MEMORANDUM

To: Senator Anitere Flores, Chair
Fiscal Policy Committee
CC: Jennifer Hrdlicka, Staff Director
Tamra Lyon, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 596 – Craft Distilleries

Date: March 30, 2015

I respectfully request that you agenda the above referenced bill at your earliest convenience. If you have any questions regarding this legislation, I welcome the opportunity to meet with you one-on-one to discuss it in further detail. Thank you so much for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "D. Alan Hays, DMD".

D. Alan Hays, DMD
State Senator, District 11

REPLY TO:

- 871 South Central Avenue, Umatilla, Florida 32784-9290 (352) 742-6441
- 320 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5011
- 1104 Main Street, The Villages, Florida 32159 (352) 360-6739 FAX: (352) 360-6748
- 685 West Montrose Street, Suite 210, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15

596

Meeting Date

Bill Number (if applicable)

Topic Craft Distilleries

Amendment Barcode (if applicable)

Name Robert Stuart

Job Title Government Consultant

Address 301 E Pine Street, Suite 1400

Phone 407-843-8880

Street

Orlando

FL

32804

Email robert.stuart@gray-robinson.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Craft Distillers Guild

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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 Fiscal Policy

BILL: CS/CS/SB 640

INTRODUCER: Fiscal Policy Committee; Health Policy Committee; and Senator Detert

SUBJECT: Vital Statistics

DATE: April 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/CS/SB 640 amends several sections of ch. 382, F.S., to allow for the electronic generation and filing of burial-transit permits and death certificates with the Department of Health through the electronic death registration system.

The bill could have a positive fiscal impact on county health departments.

II. Present Situation:

Vital Statistics in Florida

The Bureau of Vital Statistics, housed within the Department of Health (DOH) and under the direction of a state registrar, is responsible for the registration, completion, storage, and preservation of all vital records in the state.¹ The registration of birth, death, and fetal death records is both a state and local function. Each local registration district is coextensive with the district for that county health department. The county health department's director or administrator traditionally serves as the local registrar and is required to see that a complete record is registered for each vital event in his or her county.² A certificate of death is a document provided by the DOH that is filed with a local registrar to officially register the death. A funeral

¹ Section 382.003, F.S.

² Bureau of Vital Statistics, Florida Health, *Vital Records Registration Handbook*, p. 8 (February 2015 Revision) available at <http://www.floridahealth.gov/certificates/documents/HB2015.pdf> (last visited on April 6, 2015).

director or direct disposer,³ whoever first assumes custody of the decedent, is required to register the death certificate.⁴

Subregistrars

In addition to the local registrar, the state registrar may also appoint one or more subregistrars for each licensed funeral home or registered direct disposal establishment. A subregistrar can issue burial-transit permits, receive death certificates, and should review all death records to prevent errors. In order to be appointed as a subregistrar, a licensed funeral director or registered direct disposer must be a notary public commissioned in Florida, attend a subregistrar training class, and sign an acceptance form.⁵

Burial-Transit Permits

A burial-transit permit is a permit that is required before the disposition of a dead body or fetus can be completed. The funeral director or direct disposer who first assumes custody of a decedent must obtain a burial-transit permit within 5 days after death occurred or was discovered.⁶ To obtain a permit the funeral director or direct disposer must complete and sign an application and present it to either the local registrar where the death occurred or to a subregistrar.⁷ A funeral director or direct disposer cannot issue a burial-transit permit to him or herself. A copy of the permit must be filed with the local registrar within 10 days of final disposition.⁸ Burial-transit permits are retained by the local registrar for 3 years after they are filed.⁹

The Electronic Death Registration System

For most deaths, death records are filed with the Electronic Death Registration System (EDRS) which is an online, electronic filing and storage system for death records including death certificates, burial-transit permits, and medical information related to the death. The EDRS allows the Florida funeral directors to electronically enter the demographic information on a decedent and send that record to the certifying physician who completes the record and sends it to the EDRS for recording.¹⁰

However, fetal death certificates are not filed through the EDRS and a few funeral establishments still file hard copy death records with the local registrar in the district where the death occurred. Such paper records are sent to the DOH by the local registrar, reviewed for errors and omissions, keyed into the EDRS, and scanned for archival storage.¹¹

³ A direct disposer is someone who is in charge of the final disposition of a body without funeral services, burial services, memorial services, visitation services, or viewings. *See* s. 497.601(1)(b), F.S.

⁴ *Supra* note 2, at p. 53.

⁵ *Id.* at 57 and s. 382.003(9), F.S.

⁶ Section 382.006(1), F.S.

⁷ *Supra* note 2, at p. 58.

⁸ *Id.* at 56.

⁹ Section 382.006(6), F.S.

¹⁰ *Supra* note 2, at p. 53-54.

¹¹ *Id.* at 8.

III. Effect of Proposed Changes:

The bill amends several sections of ch. 382, F.S., to allow for the electronic generation and filing of burial-transit permits and death certificates with the DOH through the EDRS.

The bill authorizes the DOH to assume responsibility for death certificates and burial-transit permits in order to use the EDRS. The bill:

- Defines “burial-transit permit,” as a permit issued by the DOH that authorizes the final disposition of a dead body;
- Allows certificates of death or fetal death to be filed electronically with the EDRS;
- Requires funeral director to file death certificates with the DOH, not the local registrar;
- Requires a DOH-appointed subregistrar, rather than the local registrar, to be responsible for producing and maintaining paper death certificates and burial-transit permits;
- Requires the funeral director who first assumes custody of a dead body or fetus to provide the manually produced burial-transit permit or the electronic burial-transit permit from the EDRS to the person in charge of the place of final disposition;
- Allows the DOH, rather than the local registrar, to grant a funeral director an extension of time, if he or she is unable to provide the medical certification of cause of death within 72 hours; and
- Repeals language requiring the local registrar to keep burial-transit permits for 3 years.

The bill amends several provisions in order to facilitate the transition from paper death records to electronic records. The bill:

- Repeals the requirement, that the funeral director’s signature, license number, and attestation that he or she has contacted the medical examiner’s office to ensure that the medical examiner will be providing medical certification of the cause of death is included a burial-transit permit application;
- Repeals the provision allowing aliases to be written on the backs of paper death certificates;
- Repeals the requirement of a funeral director to file a burial-transit permit within 10 days after the burial with the local registrar;
- Requires that the Social Security Administration be notified electronically of deaths through the EDRS;
- Allows a person in charge of a premises where final dispositions are made to use the burial-transit permit on file to satisfy record keeping requirements for all deceased persons disposed of under his or her charge; and
- Requires a funeral director, when disposing of a dead body in a cemetery with no person in charge, to enter the date of final disposition, mark the burial-transit permit with “no person in charge,” and keep it on file for at least 3 years after final disposition.

The bill replaces “next of kin” with “legally authorized person,” as defined in the Funeral, Cemetery, and Consumer Services Act. This allows person completing a death certificate to acquire personal data from any of the following persons:

- The decedent, if directions are provided on a will;
- The person designated by the decedent on the United States Department of Defense Record of Emergency Data, if the decedent died while in military service;

- The surviving spouse, unless the spouse has been arrested for committing an act of violence against the decedent;
- A son or daughter who is 18 years of age or older;
- A parent;
- A brother or sister who is 18 years of age or older;
- A grandparent; or
- Any person in the next degree of kinship.¹²

The bill also makes numerous clarifying and technical changes such as: using the term “disposition,” or “final disposition,” in place of more specific types of disposition; adding “entombment” to the definition of “final disposition;” and correcting cross references and conforming other provisions as necessary due to changes made in the bill.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not affect counties and municipalities.

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:

Under the bill, county health departments may see a positive fiscal impact by not having to print and store paper burial-transit permits.¹³

¹² Section 497.005(39), F.S.

¹³ Department of Health Bill Analysis, *Senate Bill 640*, (Feb. 4, 2015) (on file with Senate Fiscal Policy Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

The DOH is granted rulemaking authority to implement the changes made by the bill that require DOH-appointed subregistrars, rather than the local registrar, to produce and maintain paper death certificates and burial-transit permits.

VIII. Statutes Affected:

This bill substantially amends sections 382.002, 382.003, 382.006, 382.007, 382.008, 382.0085, 382.011, and 382.0135 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 Fiscal Policy on April 9, 2015:

The CS clarifies that a funeral director can provide a manually produced *burial-transit* permit to the person in charge of the place of final disposition.

CS by Health Policy on March 10, 2015:

The CS allows funeral directors to provide manually produced, as well as electronic, burial-transit permits, to the person in charge of final disposition of a dead body or fetus.

B. Amendments:

None.



589854

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment

Delete line 75
and insert:
funeral director shall provide the manually produced burial-
transit permit or the

By the Committee on Health Policy; and Senator Detert

588-02131-15

2015640c1

1 A bill to be entitled
 2 An act relating to vital statistics; amending s.
 3 382.002, F.S.; providing and revising definitions;
 4 amending s. 382.003, F.S.; authorizing the Department
 5 of Health to produce and maintain paper death
 6 certificates and fetal death certificates and issue
 7 burial-transit permits; amending s. 382.006, F.S.;
 8 requiring a funeral director to provide burial-transit
 9 permits to certain persons; assigning responsibility
 10 for manually filed paper death records to the
 11 subregistrar; authorizing the department to adopt
 12 rules; amending s. 382.007, F.S.; revising provisions
 13 relating to records of final dispositions of dead
 14 bodies; requiring maintenance of records for a
 15 specified period; amending s. 382.008, F.S.; requiring
 16 electronic filing of death and fetal death
 17 certificates with the department or local registrar on
 18 a prescribed form; authorizing certain legally
 19 authorized persons to provide personal data about the
 20 deceased; authorizing the department, rather than the
 21 local registrar, to grant an extension of time for
 22 providing certain information regarding a death or a
 23 fetal death; amending s. 382.0085, F.S.; conforming a
 24 cross-reference; amending s. 382.011, F.S.; retaining
 25 a funeral director's responsibility to file a death or
 26 fetal death certificate with the department, rather
 27 than with the local registrar; amending s. 382.0135,
 28 F.S.; requiring the department to electronically
 29 notify the United States Social Security

Page 1 of 8

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

588-02131-15

2015640c1

30 Administration of deaths in the state; providing an
 31 effective date.
 32
 33 Be It Enacted by the Legislature of the State of Florida:
 34
 35 Section 1. Present subsections (1) through (17) of section
 36 382.002, Florida Statutes, are redesignated as subsections (2)
 37 through (18), respectively, present subsections (8) and (9) are
 38 amended, and a new subsection (1) is added to that section, to
 39 read:
 40 382.002 Definitions.—As used in this chapter, the term:
 41 (1) "Burial-transit permit" means a permit issued by the
 42 department that authorizes the final disposition of a dead body.
 43 (9)(8) "Final disposition" means the burial, interment,
 44 entombment, cremation, removal from the state, anatomical
 45 donation, or other authorized disposition of a dead body or a
 46 fetus as described in subsection (8) (7). In the case of
 47 cremation, dispersion of ashes or cremation residue is
 48 considered to occur after final disposition; the cremation
 49 itself is considered final disposition. In the case of
 50 anatomical donation of a dead body, the donation itself is
 51 considered final disposition.
 52 (10)(9) "Funeral director" means a licensed funeral
 53 director or direct disposer licensed pursuant to chapter 497 who
 54 first assumes custody of or effects the final disposition of a
 55 dead body or a fetus as described in subsection (8) (7).
 56 Section 2. Subsection (9) of section 382.003, Florida
 57 Statutes, is amended to read:
 58 382.003 Powers and duties of the department.—The department

Page 2 of 8

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

588-02131-15

2015640c1

59 shall:

60 (9) Appoint one or more suitable persons to act as
61 subregistrars, who shall be authorized to produce and maintain
62 paper ~~receive~~ death certificates and fetal death certificates
63 and to issue burial-transit ~~burial~~ permits in and for such
64 portions of one or more districts as may be designated. A
65 subregistrar may be removed from office by the department for
66 neglect of or failure to perform his or her duty in accordance
67 with this chapter.

68 Section 3. Subsections (1) and (6) of section 382.006,
69 Florida Statutes, are amended, and subsection (7) is added to
70 that section, to read:

71 382.006 Burial-transit permit.—

72 (1) The funeral director who first assumes custody of a
73 dead body or fetus must obtain a burial-transit permit before
74 ~~prior to~~ final disposition and within 5 days after death. The
75 funeral director shall provide the manually produced or
76 electronic burial-transit permit generated from the electronic
77 death registration system to the person in charge of the place
78 of final disposition. The application for a burial-transit
79 permit must be signed by the funeral director and include the
80 funeral director's license number. The funeral director must
81 attest on the application that he or she has contacted the
82 physician's or medical examiner's office and has received
83 assurance that the physician or medical examiner will provide
84 medical certification of the cause of death within 72 hours
85 after receipt of the death certificate from the funeral
86 director.

87 (6) For manually filed paper death records, the

Page 3 of 8

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

588-02131-15

2015640c1

88 subregistrar in the licensed funeral or direct disposal
89 establishment is responsible for producing and maintaining death
90 and fetal death certificates and burial-transit permits in
91 accordance with this chapter. Burial-transit permits filed with
92 the local registrar under the provisions of this chapter may be
93 destroyed after the expiration of 3 years from the date of
94 filing.

95 (7) The department may adopt rules to implement this
96 section.

97 Section 4. Section 382.007, Florida Statutes, is amended to
98 read:

99 382.007 Final dispositions prohibited without burial-
100 transit permit; records of dead bodies disposed.—A person in
101 charge of any premises on which final dispositions are made
102 shall not dispose inter or permit the interment or other
103 disposition of any dead body unless it is accompanied by a
104 burial-transit permit. ~~Any~~ Such person shall enter ~~endorse~~ upon
105 the permit the date of final interment, or other disposition,
106 ~~over his or her signature, and shall return all permits so~~
107 ~~endorsed to the local registrar of the district where the place~~
108 ~~of final disposition is located within 10 days from the date of~~
109 ~~interment or other disposition. He or she shall keep a record of~~
110 ~~all dead bodies interred or otherwise disposed of on the~~
111 ~~premises under his or her charge, in each case stating the name~~
112 ~~of each deceased person, place of death, date of final burial or~~
113 ~~other disposition, and name and address of the funeral director,~~
114 ~~which record shall at all times be open to official inspection.~~
115 The burial-transit permit on file may satisfy this requirement.
116 The funeral director, when disposing of ~~burying~~ a dead body in a

Page 4 of 8

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

588-02131-15

2015640c1

117 cemetery having no person in charge, shall enter the date of
 118 final disposition on sign the ~~burial-transit~~ permit, giving the
 119 ~~date of burial, and shall write across the face of the permit~~
 120 ~~the words "No person in charge," on the permit, and keep the~~
 121 permit on file for at least 3 years after the date of final
 122 disposition and file the permit within 10 days after burial with
 123 ~~the local registrar of the district in which the cemetery is~~
 124 ~~located.~~

125 Section 5. Subsection (1), paragraph (a) of subsection (2),
 126 and paragraph (a) of subsection (3) of section 382.008, Florida
 127 Statutes, are amended to read:

128 382.008 Death and fetal death registration.-

129 (1) A certificate for each death and fetal death which
 130 occurs in this state shall be filed electronically on the
 131 department electronic death registration system or on a form
 132 ~~prescribed by the department~~ with the department or local
 133 registrar of the district in which the death occurred on a form
 134 prescribed by the department. A certificate shall be filed
 135 within 5 days after such death and prior to final disposition,
 136 and shall be registered by the department such registrar if it
 137 has been completed and filed in accordance with this chapter ~~or~~
 138 ~~adopted rules.~~ The certificate shall include the decedent's
 139 social security number, if available. In addition, each
 140 certificate of death or fetal death:

141 (a) If requested by the informant, shall include aliases or
 142 "also known as" (AKA) names of a decedent in addition to the
 143 decedent's name of record. Aliases shall be entered on the face
 144 of the death certificate in the space provided for name if there
 145 is sufficient space. ~~If there is not sufficient space, aliases~~

588-02131-15

2015640c1

146 ~~may be recorded on the back of the certificate and shall be~~
 147 ~~considered part of the official record of death;~~

148 (b) If the place of death is unknown, shall be registered
 149 in the registration district in which the dead body or fetus was
 150 ~~is~~ found within 5 days after such occurrence; and

151 (c) If death occurs in a moving conveyance, shall be
 152 registered in the registration district in which the dead body
 153 was first removed from such conveyance.

154 (2) (a) The funeral director who first assumes custody of a
 155 dead body or fetus shall file the certificate of death or fetal
 156 death. In the absence of the funeral director, the physician or
 157 other person in attendance at or after the death or the district
 158 medical examiner of the county in which the death occurred or
 159 the body was found shall file the certificate of death or fetal
 160 death. The person who files the certificate shall obtain
 161 personal data from a legally authorized person as defined in s.
 162 497.005 the next of kin or the best qualified person or source
 163 available. The medical certification of cause of death shall be
 164 furnished to the funeral director, either in person or via
 165 certified mail or electronic transfer, by the physician or
 166 medical examiner responsible for furnishing such information.
 167 For fetal deaths, the physician, midwife, or hospital
 168 administrator shall provide any medical or health information to
 169 the funeral director within 72 hours after expulsion or
 170 extraction.

171 (3) Within 72 hours after receipt of a death or fetal death
 172 certificate from the funeral director, the medical certification
 173 of cause of death shall be completed and made available to the
 174 funeral director by the decedent's primary or attending

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175 physician or, if s. 382.011 applies, the district medical
 176 examiner of the county in which the death occurred or the body
 177 was found. The primary or attending physician or medical
 178 examiner shall certify over his or her signature the cause of
 179 death to the best of his or her knowledge and belief. As used in
 180 this section, the term "primary or attending physician" means a
 181 physician who treated the decedent through examination, medical
 182 advice, or medication during the 12 months preceding the date of
 183 death.

184 (a) The department ~~local registrar~~ may grant the funeral
 185 director an extension of time if upon a good and sufficient
 186 ~~showing of~~ any of the following conditions exist:

- 187 1. An autopsy is pending.
- 188 2. Toxicology, laboratory, or other diagnostic reports have
 189 not been completed.
- 190 3. The identity of the decedent is unknown and further
 191 investigation or identification is required.

192 Section 6. Subsection (9) of section 382.0085, Florida
 193 Statutes, is amended to read:

194 382.0085 Stillbirth registration.—

195 (9) This section or s. 382.002(16) ~~s. 382.002(15)~~ may not
 196 be used to establish, bring, or support a civil cause of action
 197 seeking damages against any person or entity for bodily injury,
 198 personal injury, or wrongful death for a stillbirth.

199 Section 7. Subsection (3) of section 382.011, Florida
 200 Statutes, is amended to read:

201 382.011 Medical examiner determination of cause of death.—

202 (3) The funeral director shall retain the responsibility
 203 for preparation of the death or fetal death certificate,

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204 obtaining the necessary signatures, filing with the department
 205 ~~local registrar~~ in a timely manner, and arranging for final
 206 disposition of the body when disposing of the remains when the
 207 ~~remains are~~ released by the medical examiner.

208 Section 8. Section 382.0135, Florida Statutes, is amended
 209 to read:

210 382.0135 Social security numbers; electronic notification
 211 of deaths; enumeration-at-birth program.—The department shall
 212 make arrangements with the United States Social Security
 213 Administration to provide electronic notification of deaths that
 214 occur in the state and to participate in the voluntary
 215 enumeration-at-birth program. The State Registrar is authorized
 216 to take any actions necessary to administer the program in this
 217 state, including modifying the procedures and forms used in the
 218 birth registration process.

219 Section 9. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: April 2, 2015

I respectfully request that **Senate Bill #640**, relating to Vital Statistics, be placed on the:

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

A handwritten signature in cursive script, reading "Nancy Detert".

Senator Nancy C. Detert
Florida Senate, District 28

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 Fiscal Policy

BILL: CS/CS/SB 668

INTRODUCER: Finance and Tax Committee; Community Affairs Committee; and Senator Latvala

SUBJECT: Emergency Fire Rescue Services and Facilities Surtax

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Fav/CS
2.	<u>Gross</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 668 amends the provisions of s. 212.055(8), F.S., which authorizes a county to adopt an Emergency Fire Rescue Services and Facilities Surtax of up to 1 percent. The bill repeals the requirement that a county governing authority must execute an interlocal agreement with the majority of local governments that provide fire rescue services as a prerequisite for holding a referendum on the surtax levy. Upon approval of the referendum, the proceeds are distributed to all local government entities in the county providing such services.

The bill amends the formula to be used by the county to distribute the surtax revenue. The new formula is based on each entity's average annual expenditures for fire control and emergency fire rescue services in the 5 fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the 5 fiscal years preceding the fiscal year in which the surtax takes effect. The county must revise the distribution proportions to reflect any changes in the service area of an entity receiving a distribution of the surtax proceeds.

Local government entities will still be required to reduce ad valorem taxes and non-ad valorem assessments for fire control and emergency rescue services by the estimated amount of surtax revenue.

The Revenue Estimating Conference estimates that the bill will have a zero or positive, indeterminate impact on local government revenue.

II. Present Situation:

Section 212.055, F.S., authorizes counties to impose various discretionary sales surtaxes.

In 2009, the Legislature authorized the “Emergency Fire Rescue Services and Facilities Surtax.”¹ Under s. 212.055(8), F.S., a county not imposing two discretionary sales surtaxes of indefinite duration may adopt an ordinance to levy a sales surtax of up to 1 percent for emergency fire rescue services and facilities.² The county must execute an interlocal agreement with a majority of local government entities that provide fire rescue services before scheduling a referendum to approve the imposition of the surtax. Upon completion of the interlocal agreement, the levy must be placed on the ballot and approved by a majority of the local electorate. After the voters approve the levy, the surtax collections begin January 1 of the following year.³

The surtax may be used to fund “emergency fire rescue services,” which include:

- Preventing and extinguishing fires;
- Protecting life and property from natural or intentionally-created fires;
- Enforcing municipal, county, or state fire protection codes and laws; and
- Providing emergency medical treatment.⁴

The distribution of surtax proceeds is based on actual collections within each jurisdiction participating in the interlocal agreement. Participating entities are also entitled to a share of the surtax proceeds when providing personnel and equipment on a long-term basis to another participating entity.⁵ If the county has special fire control or rescue districts, the proceeds are distributed based on the participating entities’ proportional spending on fire control and emergency rescue services from ad valorem and non-ad valorem assessments in the preceding 5 fiscal years.

When collections of the surtax begin, the county and participating local governments must reduce ad valorem taxes and non-ad valorem assessments used to pay for fire control and emergency rescue services by the estimated amount of revenue provided by the surtax. If surtax collections exceed projected collections in any fiscal year, any surplus distribution shall be used to further reduce ad valorem taxes in the next fiscal year. The statute requires such excess collections to be applied as a “rebate to the final millage.”⁶

The use of surtax proceeds does not relieve counties and participating local governments from the provisions of ch. 200, F.S., or any other provision of law establishing millage caps or limiting undesignated budget reserves.⁷

¹ Chapter 2009-182, L.O.F.

² Section 212.055(8)(a), F.S. Miami-Dade, Madison, and parts of Orange and Osceola are excluded from participating in this discretionary sales surtax. See, *infra* note 5.

³ Section 212.055(8)(b) and (i), F.S.

⁴ Section 212.055(8)(a), F.S.

⁵ Section 212.055(8)(d), F.S. This does not apply, however, if the county and one or more participating local governments have an interlocal agreement prohibiting one or more other jurisdictions from providing pre-hospital medical treatment inside the prohibited jurisdiction’s boundaries, or if the county has issued a certificate of public convenience and necessity or its equivalent to a county department or dependent special district of the county. See s. 212.055(8)(h), F.S.

⁶ Section 212.055(8)(e) and (f), F.S.

⁷ *Id.*

Since the passage of the statute, no county has levied the surtax.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 212.055(8), F.S., to repeal the requirement that the governing authority of the county execute an interlocal agreement with a majority of local government entities that provide fire rescue services before scheduling a referendum to approve the imposition of the surtax. Because an interlocal agreement will no longer be required for distribution of surtax revenues, the bill removes other references to such agreements.

If the surtax is approved, all local government entities providing fire control and emergency rescue services within the county will share in the surtax proceeds.

The bill amends the formula to be used by the county to distribute the surtax revenue. The new formula is based on each entity's average annual expenditures for fire control and emergency fire rescue services in the 5 fiscal years preceding the fiscal year in which the surtax takes effect in proportion to the average annual total of the expenditures for such entities in the 5 fiscal years preceding the fiscal year in which the surtax takes effect. The county must revise the distribution proportions to reflect any changes in the service area of an entity receiving a distribution of the surtax proceeds.

Local government entities will still be entitled to a share of the surtax proceeds when providing personnel and equipment on a long-term basis to another entity in the county.

Local government entities will still be required to reduce ad valorem taxes and non-ad valorem assessments for fire control and emergency rescue services by the estimated amount of surtax revenue received and further reduce such taxes or assessments if the surtax produces greater than expected proceeds. These provisions apply to each local government entity (including the county) providing fire rescue services in the county.⁹

Section 2 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

⁸ Office of Economic and Demographic Research, *2014 Local Government Financial Information Handbook*, at 156 and 193.

⁹ The repeal of the interlocal agreement requirement eliminates the distinction between participating and non-participating service providers.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill will have a zero or positive, indeterminate impact on local government revenue.¹⁰

B. Private Sector Impact:

Individuals and businesses in counties implementing the surtax will face higher sales taxes, but will receive a reduction in ad valorem taxes and non-ad valorem assessments.

C. Government Sector Impact:

Counties implementing the surtax will incur the cost of holding a referendum and other implementation expenses, offset in part by an administrative fee not to exceed 2 percent of the surtax collected.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 212.055 of the Florida Statutes.

IX. **Additional Information:**

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

CS/CS by Finance and Tax on March 30, 2015:

The bill amends the formula used by the county to distribute the surtax revenue.

CS by Community Affairs on March 4, 2015:

Reinstates a provision accidentally deleted that requires surtaxes collected in excess of projected collections to be applied as a rebate to the final millage after completion of the TRIM notice.

¹⁰ Revenue Estimating Conference, *Revenue Impact Results*, (Feb. 6, 2015) pp. 58-60, available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page58-61.pdf (last visited 4/7/2015).

B. Amendments:

None.

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

By the Committees on Finance and Tax; and Community Affairs; and
Senator Latvala

593-03128-15

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1 A bill to be entitled
2 An act relating to the emergency fire rescue services
3 and facilities surtax; amending s. 212.055, F.S.;
4 revising the distribution of surtax proceeds; deleting
5 a provision requiring the county governing authority
6 to develop and execute interlocal agreements with
7 local government entities providing emergency fire and
8 rescue services; requiring a local government entity
9 requesting and receiving certain personnel or
10 equipment from another service provider to pay for
11 such personnel or equipment from its share of surtax
12 proceeds; deleting a provision requiring local
13 government entities to enter into an interlocal
14 agreement in order to receive surtax proceeds;
15 providing an effective date.

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

18
19 Section 1. Paragraphs (b) through (j) of subsection (8) of
20 section 212.055, Florida Statutes, are amended to read:

21 212.055 Discretionary sales surtaxes; legislative intent;
22 authorization and use of proceeds.—It is the legislative intent
23 that any authorization for imposition of a discretionary sales
24 surtax shall be published in the Florida Statutes as a
25 subsection of this section, irrespective of the duration of the
26 levy. Each enactment shall specify the types of counties
27 authorized to levy; the rate or rates which may be imposed; the
28 maximum length of time the surtax may be imposed, if any; the
29 procedure which must be followed to secure voter approval, if

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

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30 required; the purpose for which the proceeds may be expended;
31 and such other requirements as the Legislature may provide.
32 Taxable transactions and administrative procedures shall be as
33 provided in s. 212.054.

34 (8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

35 (b) Upon the adoption of the ordinance, the levy of the
36 surtax must be placed on the ballot by the governing authority
37 of the county enacting the ordinance. The ordinance will take
38 effect if approved by a majority of the electors of the county
39 voting in a referendum held for such purpose. The referendum
40 shall be placed on the ballot of a regularly scheduled election.
41 The ballot for the referendum must conform to the requirements
42 of s. 101.161. ~~The interlocal agreement required under paragraph~~
43 ~~(d) is a condition precedent to holding the referendum.~~

44 (c) Pursuant to s. 212.054(4), the proceeds of the
45 discretionary sales surtax collected under this subsection, less
46 an administrative fee that may be retained by the Department of
47 Revenue, shall be distributed by the department to the county.
48 The county shall distribute the proceeds it receives from the
49 department to each local government entity providing emergency
50 fire rescue services in the county. The surtax proceeds, less an
51 administrative fee not to exceed 2 percent of the surtax
52 collected, shall be distributed by the county based on each
53 entity's average annual expenditures for fire control and
54 emergency fire rescue services in the 5 fiscal years preceding
55 the fiscal year in which the surtax takes effect in proportion
56 to the average annual total of the expenditures for such
57 entities in the 5 fiscal years preceding the fiscal year in
58 which the surtax takes effect. The county shall revise the

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59 distribution proportions to reflect a change in the service area
 60 of an entity receiving a distribution of the surtax proceeds the
 61 participating jurisdictions that have entered into an interlocal
 62 agreement with the county under this subsection. The county may
 63 also charge an administrative fee for receiving and distributing
 64 the surtax in the amount of the actual costs incurred, not to
 65 exceed 2 percent of the surtax collected.

66 (d) If a local government entity requests ~~The county~~
 67 ~~governing authority must develop and execute an interlocal~~
 68 ~~agreement with participating jurisdictions, which are the~~
 69 ~~governing bodies of municipalities, dependent special districts,~~
 70 ~~independent special districts, or municipal service taxing units~~
 71 ~~that provide emergency fire and rescue services within the~~
 72 ~~county. The interlocal agreement must include a majority of the~~
 73 ~~service providers in the county.~~

74 1. The interlocal agreement shall only specify that:

75 a. The amount of the surtax proceeds to be distributed by
 76 the county to each participating jurisdiction is based on the
 77 actual amounts collected within each participating jurisdiction
 78 as determined by the Department of Revenue's population
 79 allocations in accordance with s. 218.62; or

80 b. If a county has special fire control districts and
 81 rescue districts within its boundary, the county shall
 82 distribute the surtax proceeds among the county and the
 83 participating municipalities or special fire control and rescue
 84 districts based on the proportion of each entity's expenditures
 85 of ad valorem taxes and non ad valorem assessments for fire
 86 control and emergency rescue services in each of the immediately
 87 preceding 5 fiscal years to the total of the expenditures for

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88 ~~all participating entities.~~

89 2. ~~Each participating jurisdiction shall agree that if a~~
 90 ~~participating jurisdiction is requested to provide personnel or~~
 91 ~~equipment from to any other service provider, on a long-term~~
 92 ~~basis and the personnel or equipment is provided pursuant to an~~
 93 ~~interlocal agreement, the local government entity jurisdiction~~
 94 ~~providing the service is entitled to payment from the requesting~~
 95 ~~service provider from that provider's share of the surtax~~
 96 ~~proceeds for all costs of the equipment or personnel.~~

97 (e) Upon the surtax taking effect and initiation of
 98 collections, each local government entity receiving a share of
 99 surtax proceeds a county and any participating jurisdiction
 100 entering into the interlocal agreement shall reduce the ad
 101 valorem tax levy or any non-ad valorem assessment for fire
 102 control and emergency rescue services in its next and subsequent
 103 budgets by the estimated amount of revenue provided by the
 104 surtax.

105 (f) Use of surtax proceeds authorized under this subsection
 106 does not relieve a local government from complying with ~~the~~
 107 ~~provisions of~~ chapter 200 and any related provision of law that
 108 establishes millage caps or limits undesignated budget reserves
 109 and procedures for establishing rollback rates for ad valorem
 110 taxes and budget adoption. If surtax collections exceed
 111 projected collections in any fiscal year, any surplus
 112 distribution shall be used to further reduce ad valorem taxes in
 113 the next fiscal year. These proceeds shall be applied as a
 114 rebate to the final millage, after the TRIM notice is completed
 115 in accordance with this provision.

116 ~~(g) Municipalities, special fire control and rescue~~

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117 ~~districts, and contract service providers that do not enter into~~
118 ~~an interlocal agreement are not entitled to receive a portion of~~
119 ~~the proceeds of the surtax collected under this subsection and~~
120 ~~are not required to reduce ad valorem taxes or non-ad valorem~~
121 ~~assessments pursuant to paragraph (c).~~

122 ~~(h) The provisions of sub-subparagraph (d)1.a. and~~
123 ~~subparagraph (d)2. do not apply if:~~

124 ~~1. There is an interlocal agreement with the county and one~~
125 ~~or more participating jurisdictions which prohibits one or more~~
126 ~~jurisdictions from providing the same level of service for~~
127 ~~prehospital emergency medical treatment within the prohibited~~
128 ~~participating jurisdictions' boundaries; or~~

129 ~~2. The county has issued a certificate of public~~
130 ~~convenience and necessity or its equivalent to a county~~
131 ~~department or a dependent special district of the county.~~

132 ~~(g)(i)~~ Surtax collections shall be initiated on January 1
133 of the year following a successful referendum in order to
134 coincide with s. 212.054(5).

135 ~~(h)(j)~~ Notwithstanding s. 212.054, if a multicounty
136 independent special district created pursuant to chapter 67-764,
137 Laws of Florida, levies ad valorem taxes on district property to
138 fund emergency fire rescue services within the district and is
139 required by s. 2, Art. VII of the State Constitution to maintain
140 a uniform ad valorem tax rate throughout the district, the
141 county may not levy the discretionary sales surtax authorized by
142 this subsection within the boundaries of the district.

143 Section 2. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

April 9, 2015

The Honorable Anitere Flores, Chair
Senate Fiscal Policy Committee
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Flores:

My legislative aide Brenda Johnson will be presenting my bill SB668/Emergency Fire Rescue Services and Facilities Surtax in Fiscal Policy Committee on Thursday, April 9 while I am presenting a bill in the Rules Committee at the same time.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jack Latvala".

Jack Latvala
Senator, District 20

Cc: Jennifer Hrdlicka, Staff Director; Tamra Lyona, 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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development, *Chair*
Appropriations
Commerce and Tourism
Governmental Oversight and Accountability
Regulated Industries
Rules

SENATOR JACK LATVALA
20th District

March 31, 2015

The Honorable Anitere Flores, Chair
Senate Committee on Fiscal Policy
225 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Flores:

I respectfully request consideration of Senate Bill 668/Emergency Fire Rescue Services and Facilities Tax by the Senate Committee on Fiscal Policy at your earliest convenience. The bill was referred favorably by the Committee on Finance and Tax on March 31.

This bill deletes a provision requiring the county governing authority to develop and execute interlocal agreements with local government entities providing emergency fire and rescue services and requires a local government entity requesting and receiving certain personnel or equipment from another service provider to pay for such personnel or equipment from its share of surtax proceeds.

If you have any questions regarding this legislation, please contact me. Thank you in advance for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Jack Latvala".

Jack Latvala
State Senator
District 20

Cc: Jennifer Hrdlicka, Staff Director; Tamra Lyon, 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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/15

Meeting Date

0668

Bill Number (if applicable)

Topic Fire Rescue Surtay Bill

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title Presion + Florida Professional Fire fighters

Address 345 W Madison St

Phone

Street

Tallahassee FL

Email

City

State

Zip

Speaking: For Against Information

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

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Fiscal Policy

BILL: SB 684

INTRODUCER: Senator Grimsley

SUBJECT: Convenience Businesses

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>McKay</u>	<u>CM</u>	Favorable
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 684 revises the Convenience Business Security Act. With one exception, the bill repeals the current exemption of certain family-owned and operated convenience businesses from enhanced security provisions required under the law. The bill repeals administrative fees associated with the approval of a mandated safety training curriculum, and repeals the requirement that the safety-training curriculum be submitted biennially for re-approval. The bill also deletes obsolete language.

The fiscal impact of this bill is indeterminate, but likely minimal (see Section V.).

II. Present Situation:

Convenience Business Security Act¹

In 1990, the Legislature passed the Convenience Business Security Act (the act) to deter violent crime and provide uniform, statewide protection for employees and patrons at late night convenience businesses. The provisions of the act are enforced by the Department of Legal Affairs (Office of the Attorney General).

¹ Sections 812.1701-812.175, F.S. A “convenience business” is defined as any place of business that is primarily engaged in the retail sale of groceries, or both groceries and gasoline, that is open for business at any time between the hours of 11 p.m. and 5 a.m. The term does not include a business that is primarily a restaurant, that has at least 5 employees on the premises between 11 p.m. and 5 a.m., that has at least 10,000 square feet of retail space, or in which the owner or a member of the owner’s family work between the hours of 11 p.m. and 5 a.m.

Family Business Exception

The definition of “convenience business” in the act expressly states that it does not include businesses at which the owner or a member of the owner’s family works during the hours between 11 p.m. and 5 a.m.² Thus, the act currently does not apply to “family businesses.”

Minimum Security Standards

The act requires a convenience business to utilize the following minimum standards:³

- A security camera system that is capable of recording and retrieving an image to assist in offender identification and apprehension;
- A drop safe or management device for restricted access to cash receipts;
- A lighted parking lot;
- A conspicuous notice at the entrance that states that the cash register contains \$50 or less;
- Window signage that allows a clear and unobstructed view from outside the building and in a normal line of sight of the cash register and sales transaction area;
- Height markers at the business entrance that display height measures;
- A cash management policy that limits cash on hand between 11 p.m. and 5 a.m.;
- Window tinting that allows for identification of all persons in the sales transaction area from outside the business; and
- A silent alarm.⁴

Enhanced Security Standards⁵

The act requires any convenience business at which a murder, robbery, sexual battery, aggravated assault, aggravated battery, kidnapping, or false imprisonment has occurred to comply with at least one additional security measure. These security measures must be provided at all times between 11 p.m. and 5 a.m., and include:

- Providing at least two employees on the premises;
- Installing a transparent security enclosure for use by employees;
- Providing a security guard on the premises; or
- Locking the premises and transacting business through an indirect pass-through window.

After complying with these provisions for 24 months with no additional occurrence of the type of crimes indicated above, a business may file a notice of exemption from the enhanced security measures with the Office of Attorney General.

² Section 812.171, F.S.

³ See Office of the Attorney General, *Convenience Business Security Act – Helping to Create Safer Florida Convenience Businesses* (rev. Aug. 2010), available at [http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/\\$file/2011_Revised_Convenience_Store_Br_o.pdf](http://www.fcpti.com/fcpti.nsf/pics/01029BCED8A92DD0852578BD0062499E/$file/2011_Revised_Convenience_Store_Br_o.pdf) (last visited 4/3/2015). See also s. 812.173(1)-(3), F.S.

⁴ Pursuant to s. 812.173(3), F.S., a business may apply for an exemption to the silent alarm requirement with the Office of the Attorney General. The application for exemption must be in writing and include a \$25 administrative fee for each store for which the exemption is requested.

⁵ Section 812.173(4) and (5), F.S.

Training Requirements⁶

The act requires all employees of a convenience business to receive robbery deterrence and safety training within 60 days of employment. The convenience business must submit a proposed training curriculum to the Office of Attorney General for review and approval. The training curriculum must be submitted biennially for re-approval. The statute provides for submission of an administrative fee of no more than \$100 for the original and renewal approvals, but no fee is currently charged.

Enforcement⁷

The Office of the Attorney General enforces the provisions of the act.⁸ Upon finding a violation, the convenience business is provided with a notice and has 30 days to cure the violation. If the convenience business fails to correct the violation within 30 days, it may be subject to a civil fine of up to \$5,000. If the violation is determined to be a threat to health, safety, and public welfare, the Office of the Attorney General is authorized to pursue an injunction against the convenience business.

III. Effect of Proposed Changes:

Section 1 amends s. 812.171, F.S., to repeal the “family business exception” that specifically excludes a business in which the owner or members of the owner’s family work during the hours between 11 p.m. and 5 a.m., from the definition of “convenience business” that applies throughout the Convenience Business Security Act. This has the effect of requiring those convenience businesses to meet all of the minimum security standards of the act, unless otherwise exempted.

Section 2 amends s. 812.173(5), F.S., relating to the requirement for convenience businesses to maintain specified enhanced security measures required in s. 812.173(4), F.S., if certain violent crimes have occurred at the business. The bill exempts convenience businesses at which the owner or members of the owner’s family work during the hours between 11 p.m. and 5 a.m. from this requirement. This retains the current exemption from the requirement for enhanced security measures that would otherwise be lost because of the change in Section 1 to the definition of “convenience business.”

This section of the bill also repeals an obsolete provision that required the Office of the Attorney General to provide notice to any business that required the additional security measures as of the date the act became law in 1992.

Section 3 amends s. 812.174, F.S., to repeal:

- The requirement for a convenience business to resubmit a safety training curriculum to the Office of the Attorney General biennially;

⁶ Section 812.174, F.S.

⁷ Section 812.175, F.S.

⁸ Section 812.175(4), F.S., authorizes the Office of Attorney General to enter into agreements with local governments to assist in the enforcement of the act.

- Authorization for the Office of the Attorney General to charge administrative fees associated with original submission and review of the safety training curriculum (\$100 for each); and
- Obsolete language related to the enactment of the act in 1992.

The repeal of the family business exception from the definition of “convenience business” in Section 1 of the bill has the effect to require new employees of convenience businesses at which the owner or a member of the owner’s family works during the hours between 11 p.m. and 5 a.m. to receive robbery deterrence and safety training. Such businesses are currently exempt from this training requirement.

Section 4 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shared with counties and municipalities.

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 bill will affect convenience businesses at which the owner or a member of the owner’s family works during the hours between 11 p.m. and 5 a.m. to the extent that the business must make modifications to comply with security measures required by the act.

C. Government Sector Impact:

The fiscal impact of this bill is indeterminate but likely minimal. The Office of the Attorney General does not currently collect the administrative fees for original and biennial review of training curriculum that are repealed by the bill. However, the bill’s repeal of the requirement for biennial submission of training curriculum re-approval may

have a positive fiscal impact due to the reduction of costs incurred by the Office of the Attorney General that may be attributed to that process.⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 812.171, 812.173, 812.174.

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.

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

⁹ The Department of Legal Affairs has not yet provided an analysis of the bill.

By Senator Grimsley

21-01093-15

2015684__

1 A bill to be entitled
 2 An act relating to convenience businesses; amending s.
 3 812.171, F.S.; revising the term "convenience
 4 business"; amending s. 812.173, F.S.; conforming a
 5 provision to a change made by the act; amending s.
 6 812.174, F.S.; deleting an obsolete provision;
 7 removing the requirement that a curriculum be
 8 submitted for reapproval biennially with a specified
 9 administrative fee; removing a requirement that
 10 specified curriculum be subject to reapproval 2 years
 11 from initial approval and biennially thereafter;
 12 making technical changes; providing an effective date.
 13
 14 Be It Enacted by the Legislature of the State of Florida:
 15
 16 Section 1. Section 812.171, Florida Statutes, is amended to
 17 read:
 18 812.171 Definition.—As used in this act, the term
 19 "convenience business" means any place of business that is
 20 primarily engaged in the retail sale of groceries, or both
 21 groceries and gasoline, and that is open for business at any
 22 time between the hours of 11 p.m. and 5 a.m. The term
 23 "convenience business" does not include:
 24 (1) A business that is solely or primarily a restaurant.
 25 (2) A business that always has at least five employees on
 26 the premises after 11 p.m. and before 5 a.m.
 27 (3) A business that has at least 10,000 square feet of
 28 retail floor space.
 29

Page 1 of 3

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

21-01093-15

2015684__

30 ~~The term "convenience business" does not include any business in~~
 31 ~~which the owner or members of his or her family work between the~~
 32 ~~hours of 11 p.m. and 5 a.m.~~
 33 Section 2. Subsection (5) of section 812.173, Florida
 34 Statutes, is amended to read:
 35 812.173 Convenience business security.—
 36 (5) For purposes of this section, subsection (4) does not
 37 apply to a convenience business in which the owner or the
 38 members of the owner's family work between the hours of 11 p.m.
 39 and 5 a.m. A Any convenience business that was required by law
 40 to implement ~~implemented~~ any of the security measures specified
 41 ~~set forth~~ in paragraphs (4)(a)-(e) and has maintained those said
 42 measures as required by the Department of Legal Affairs without
 43 any occurrence ~~or incidence~~ of the crimes specified in
 44 identified by subsection (4) for a period of at least no less
 45 ~~than~~ 24 months immediately preceding the filing of a notice of
 46 exemption, may file with the department a notice of exemption
 47 from these enhanced security measures. ~~In no event shall~~ This
 48 exemption may not be interpreted as precluding to preclude full
 49 compliance with the security measures specified set forth in
 50 subsection (4) should any occurrence ~~or incidence~~ of the crimes
 51 specified in that subsection identified by subsection (4) cause
 52 that subsection (4) to be statutorily applicable. ~~As of the date~~
 53 ~~this act becomes law, the Department of Legal Affairs will~~
 54 ~~provide notice to any convenience business to which a subsection~~
 55 ~~(4) incident has previously occurred. In no event shall~~ The
 56 state or the Department of Legal Affairs does not incur any
 57 liability for the regulation and enforcement of this act.
 58 Section 3. Section 812.174, Florida Statutes, is amended to

Page 2 of 3

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

21-01093-15

2015684__

59 read:

60 812.174 Training of employees.-

61 (1) The owner or principal operator of a convenience
62 business ~~or convenience businesses~~ shall provide proper robbery
63 deterrence and safety training by an approved curriculum to its
64 retail employees within 60 days after ~~of~~ employment. ~~Existing~~
65 ~~retail employees shall receive training within 6 months of April~~
66 ~~8, 1992.~~

67 (2) A proposed curriculum shall be submitted in writing to
68 the Attorney General, who ~~with an administrative fee not to~~
69 ~~exceed \$100. The Attorney General~~ shall review and approve or
70 disapprove the curriculum in writing within 60 days after
71 receipt. The state does not incur liability ~~shall have no~~
72 ~~liability~~ for approving or disapproving a training curriculum
73 under this section. Approval shall be given to a curriculum that
74 ~~which~~ trains and familiarizes retail employees with the security
75 principles, devices, and measures required by s. 812.173.
76 Disapproval of a curriculum is ~~shall be~~ subject to the
77 ~~provisions of~~ chapter 120.

78 (3) ~~A~~ ~~No~~ person is not ~~shall be~~ liable for ordinary
79 negligence if he or she implements ~~due to implementing~~ an
80 approved curriculum and if the training is ~~is~~ was actually
81 provided. ~~A curriculum shall be submitted for reapproval~~
82 ~~biennially with an administrative fee not to exceed \$100. Any~~
83 ~~curriculum approved by the Attorney General since September 1990~~
84 ~~shall be subject to reapproval 2 years from the anniversary of~~
85 ~~initial approval and biennially thereafter.~~

86 Section 4. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEES:
Joint Administrative Procedures Committee
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

April 8th, 2015

The Honorable Anitere Flores, Chair
Senate Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Flores:

I have a two bills on your agenda tomorrow, Senate Bill 684, relating to Convenience Businesses and SB 738 relating to Clinical Laboratories. I've asked a member of my staff to present these bills as I will be presenting in another committee at the same time. Staff presenting will be Anne Bell.

Thank you for allowing Ms. Bell to present my bills on my behalf.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley
Senator, District 21

DG/ab

REPLY TO:

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15
Meeting Date

SB 684
Bill Number (if applicable)

Topic CONVENIENCE BUSINESSES

Amendment Barcode (if applicable)

Name RANDY MILLER

Job Title EX. VICE PRESIDENT

Address 227 S. ADAMS ST
Street

Phone _____

TALLAHASSEE, FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA RETAIL FEDERATION / FLORIDA PETROLEUM MARKETERS ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/15
Meeting Date

664
Bill Number (if applicable)

Topic Convenience Stores

Amendment Barcode (if applicable)

Name David Mica

Job Title Director

Address 215 S. Monroe St

Phone 561-6300

Tallahassee FL 32301
City State Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA Petroleum Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 738

INTRODUCER: Health Policy Committee and Senator Grimsley

SUBJECT: Clinical Laboratories

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	<u>Fav/CS</u>
2.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 738 requires clinical laboratories to make their services available to specified licensed practitioners and prohibits such clinical laboratory from charging different prices for its services based upon the chapter under which a practitioner is licensed. The bill adds a consultant pharmacist or doctor of pharmacy licensed under chapter 465, F.S. to the list of licensed practitioners that a clinical laboratory must serve. The bill repeals limitations on the conditions under which a clinical laboratory may refuse a specimen.

The bill does not have a fiscal impact on state funds.

II. Present Situation:

A clinical laboratory is a location in which body fluids or tissues are analyzed for purposes of the diagnosis, assessment, or prevention of a medical condition.¹ Clinical laboratories are licensed and regulated by the Agency for Health Care Administration (AHCA), pursuant to part I of ch. 483, F.S., and Rule Chapter 59A-7 of the Florida Administrative Code. A clinical laboratory license may only be issued to a laboratory to perform procedures and tests that are within the specialties or subspecialties in which the laboratory personnel are qualified to perform.² There

¹ Section 483.041(2), F.S.

² Section 483.111, F.S.

are over 3,600 licensed clinical laboratories in Florida.³ Certain clinical laboratories are exempt from licensure, including clinical laboratories:

- Operated by the federal government;
- Operated and maintained exclusively for research and teaching purposes that do not involve patient or public health services; and
- Performing only “waived tests.”⁴

An application for licensure or re-licensure as a clinical laboratory may be denied or revoked by AHCA for any violation of part I of ch. 483, F.S.⁵

A clinical laboratory is subject to a fine, not to exceed \$1,000, to be imposed by the AHCA, for each violation of any provision of part I of ch. 483, F.S.⁶ The AHCA must consider certain factors in determining the penalty for a violation, including:

- The severity of the violation, including the probability that death or serious harm to the health or safety of any person could occur as a result of the violation;
- Actions taken by the licensee to correct the violation or to remedy complaints; and
- The financial benefit to the licensee of committing or continuing the violation.⁷

In addition to the imposition of fines, an individual may be subject to criminal penalties for a violation of any provision of part I of ch. 483, F.S.⁸

Acceptance, Collection, Identification, and Examination of Specimens

A clinical laboratory may only examine human specimens at the request of a licensed practitioner or other person licensed to use the findings of clinical laboratory examinations.⁹ Section 483.181(5), F.S., requires clinical laboratories to accept and examine human specimens submitted by certain practitioners if the specimen and test are typically performed by the laboratory. Specifically, clinical laboratories must accept and examine specimens submitted by a:

- Physician;
- Chiropractor;
- Podiatrist;
- Naturopath;
- Optometrist;
- Dentist; or an
- Advanced registered nurse practitioner (ARNP)¹⁰.

³ AHCA, Florida Health Finder.gov, *Facility/Provider Locator*, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (search conducted April 6, 2015).

⁴ Section 483.031, F.S. Examples of waived tests include dip stick urinalysis or tablet reagent urinalysis, fecal occult blood, urine pregnancy tests, erythrocyte sedimentation rate, and blood glucose tests.

⁵ Section 408.815(1)(c), F.S.

⁶ Section 483.221(1), F.S.

⁷ Id.

⁸ Section 483.23(1)(a)4. and (b), F.S. A violation constitutes a second degree misdemeanor.

⁹ Section 483.181(1), F.S.

¹⁰ Section 483.181(5), F.S.

Currently, a clinical laboratory may only refuse a specimen based upon a history of nonpayment for services by a practitioner.¹¹ Clinical laboratories are prohibited from charging different prices for tests based upon the chapter under which a practitioner is licensed.¹²

Current law authorizes physicians, chiropractors, podiatrists, naturopaths, optometrists, and dentists to operate their own clinical laboratories, called “exclusive use” laboratories, to exclusively diagnose and treat their own patients.¹³ This, however, does not preclude them from also being required to accept and examine all specimens submitted by certain practitioners pursuant to s. 483.181(5), F.S.

III. Effect of Proposed Changes:

The bill amends s. 483.041, F.S., to add consultant pharmacists and doctors of pharmacy to the definition of “licensed practitioner.” A clinical laboratory will be able to examine human specimen at the request of a licensed consultant pharmacist or doctor of pharmacy.

The bill requires a clinical laboratory to offer its services to licensed allopathic and osteopathic physicians, chiropractors, podiatrists, naturopaths, optometrists, ARNPs, dentists, dental hygienists, consultant pharmacists, and doctors of pharmacy without charging different prices for services based on the license of the practitioner.

The bill repeals the limitation on the requirement of a clinical laboratory to offer services if the specimen and the test are typically performed by the laboratory. The bill also repeals the limitation on a clinical laboratory to only refuse a specimen based on a history of nonpayment for services by the practitioner submitting a specimen. As a result, a clinical laboratory may refuse a specimen for reasons such as having inadequate equipment or resources for a particular test or because a particular test is not reimbursable under the applicable insurance policy and the practitioner has not made other arrangements for payment.

This bill is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

¹¹ Section 438.181(5), F.S.

¹² Id.

¹³ Section 483.035(1), F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on clinical laboratories if such laboratories are able to refuse service which would not be paid for under the provisions of the bill.

Additionally, a consultant pharmacist or doctor of pharmacy may be able to request services from a clinical laboratory.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 483.041 and 483.181.

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 Health Policy on March 23, 2015.

The CS amends SB 768 to add consultant pharmacists and doctors of pharmacy to the definition of “licensed practitioner” under s. 483.041, F.S., to add consultant pharmacists and doctors of pharmacy to the list of practitioners to whom a clinical laboratory must make its services available, and to remove language specifying when a clinical laboratory may refuse to provide its services.

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 Health Policy; and Senator Grimsley

588-02727-15

2015738c1

1 A bill to be entitled
 2 An act relating to clinical laboratories; amending s.
 3 483.041, F.S.; adding a consultant pharmacist or
 4 doctor of pharmacy licensed under chapter 465, F.S.,
 5 to the definition of licensed practitioner; amending
 6 s. 483.181, F.S.; requiring clinical laboratories to
 7 make their services available to specified licensed
 8 practitioners; prohibiting such a clinical laboratory
 9 from charging different prices for its services based
 10 upon the chapter under which a practitioner is
 11 licensed; providing an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (7) of section 483.041, Florida
 16 Statutes, is amended to read:
 17 483.041 Definitions.—As used in this part, the term:
 18 (7) "Licensed practitioner" means a physician licensed
 19 under chapter 458, chapter 459, chapter 460, or chapter 461; a
 20 certified optometrist licensed under chapter 463; a dentist
 21 licensed under chapter 466; a person licensed under chapter 462;
 22 a consultant pharmacist or doctor of pharmacy licensed under
 23 chapter 465; or an advanced registered nurse practitioner
 24 licensed under part I of chapter 464; or a duly licensed
 25 practitioner from another state licensed under similar statutes
 26 who orders examinations on materials or specimens for
 27 nonresidents of the State of Florida, but who reside in the same
 28 state as the requesting licensed practitioner.
 29 Section 2. Subsection (5) of section 483.181, Florida

Page 1 of 2

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

588-02727-15

2015738c1

30 Statutes, is amended to read:
 31 483.181 Acceptance, collection, identification, and
 32 examination of specimens.—
 33 (5) A clinical laboratory licensed under this part must
 34 ~~make its services available to accept a human specimen submitted~~
 35 ~~for examination by~~ a practitioner licensed under chapter 458,
 36 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,
 37 s. 464.012, ~~or~~ chapter 466, or a consultant pharmacist or doctor
 38 of pharmacy licensed under chapter 465 if the specimen and test
 39 ~~are the type performed by the clinical laboratory. A clinical~~
 40 ~~laboratory may only refuse a specimen based upon a history of~~
 41 ~~nonpayment for services by the practitioner. A clinical~~
 42 laboratory shall not charge different prices for its services
 43 ~~tests~~ based upon the chapter under which a practitioner
 44 ~~submitting a specimen for testing~~ is licensed.
 45 Section 3. This act shall take effect upon becoming a law.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

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

JOINT COMMITTEES:
Joint Administrative Procedures Committee
Joint Legislative Budget Commission

SENATOR DENISE GRIMSLEY

Deputy Majority Leader
21st District

April 8th, 2015

The Honorable Anitere Flores, Chair
Senate Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Flores:

I have a two bills on your agenda tomorrow, Senate Bill 684, relating to Convenience Businesses and SB 738 relating to Clinical Laboratories. I've asked a member of my staff to present these bills as I will be presenting in another committee at the same time. Staff presenting will be Anne Bell.

Thank you for allowing Ms. Bell to present my bills on my behalf.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley
Senator, District 21

DG/ab

REPLY TO:

- 205 South Commerce Avenue, Suite A, Sebring, Florida 33870 (863) 386-6016
- 212 East Stuart Avenue, Lake Wales, Florida 33853 (863) 679-4847
- 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

APPEARANCE RECORD

412-K
9:00

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

4-9-2015

Meeting Date

SB 738

Bill Number (if applicable)

Topic CLINICAL LABORATORIES

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

FL

32301

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking

In Support Against
(The Chair will read this information into the record.)

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15
Meeting Date

SB 738
Bill Number (if applicable)

Topic Clinical Labs

Amendment Barcode (if applicable)

Name Larry Gozalez

Job Title General Counsel

Address 223 S. Gadsden ST
Street

Phone 850-222-0465

Tallahassee FL 32301
City State Zip

Email lawgoz@earthlink.net

Speaking: For Against Information

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

Representing Florida Society of Health-System Pharmacists

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/9/15

Meeting Date

CS/SB 738

Bill Number (if applicable)

Topic CLINICAL LABS

Amendment Barcode (if applicable)

Name MIKE HNEY

Job Title

Address 301 S. BRONWGH

Phone 577-9090

Street

City TLH

FL

State

32301

Zip

Email

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

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

Representing LABORATORY CORPORATION OF AMERICA

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.

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 Fiscal Policy

BILL: CS/SB 746

INTRODUCER: Criminal Justice Committee and Senator Lee and others

SUBJECT: Diabetes Awareness Training for Law Enforcement Officers

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
2.	<u>Clodfelter</u>	<u>Sadberry</u>	<u>ACJ</u>	Recommend: Favorable
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 746 requires the Florida Department of Law Enforcement (FDLE) to establish an online continued employment training component relating to diabetic emergencies. This component must include, at a minimum, recognition of symptoms of such an emergency, distinguishing such an emergency from alcohol intoxication or drug overdose, and appropriate first aid for such an emergency. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer.

The FDLE indicates that the bill has no fiscal impact.

II. Present Situation:

The Criminal Justice Standards and Training Commission (CJSTC) within the Florida Department of Law Enforcement (FDLE) establishes uniform minimum standards for the employment and training of full-time, part-time, and auxiliary law enforcement officers.¹ Every prospective officer must meet the minimum qualifications outlined in s. 943.13, F.S., successfully complete a CJSTC-developed basic recruit training program, and pass a statewide certification examination in order to receive their certification.

¹ Section 943.12(4) and (5), F.S.

The CJSTC establishes basic skills training on a number of specific topics (e.g., domestic violence, interpersonal skills relating to diverse populations, and victim's assistance and rights).² Currently, Florida law does not require basic skills training on diabetic emergencies. However, the FDLE states that such topics are taught in the basic recruit training program.³

In order to maintain their certification and employment, law enforcement officers must satisfy the continuing training and education requirements of s. 943.135, F.S. Law enforcement officers receive periodic CJSTC-approved training or education at the rate of 40 hours every 4 years. The CJSTC establishes continued employment training relating to specific topics such as community policing, sexual offender and victim investigations, and interpersonal skills relating to diverse populations.⁴ This training counts toward the 40 hours of required instruction for continued employment. Currently, Florida law does not require continued employment training relating to diabetic emergencies.

III. Effect of Proposed Changes:

The bill creates s. 943.1726, F.S., which requires the FDLE to establish an online continued employment training component relating to diabetic emergencies. This component must include, at a minimum, recognition of symptoms of such an emergency, distinguishing such an emergency from alcohol intoxication or drug overdose, and appropriate first aid for such an emergency. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer as required under s. 943.135, F.S.

The act may be cited as the "Arthur Green, Jr., Act."

The bill takes effect on October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

² Sections 943.171, 943.1715, and 943.172, F.S.

³ Florida Department of Law Enforcement SB 746 Analysis (February 9, 2015) (on file with the Senate Committee on Criminal Justice). The instruction includes learning modules on identifying signs and symptoms of a diabetic emergency, identifying treatment for a patient with a diabetic emergency, and identifying medical conditions with clues that may mimic alcohol or drug impairment to determine if a DUI investigation is warranted. Such topics have been taught since 2004.

⁴ Sections 943.1729, 943.17295, and 943.1758, F.S.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.1726 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 Criminal Justice on March 16, 2015:

- Requires the Florida Department of Law Enforcement to establish an online continued employment training component relating to diabetic emergencies.
- Requires that this component include, at a minimum, recognition of symptoms of such an emergency, distinguishing such an emergency from alcohol intoxication or drug overdose, and appropriate first aid for such an emergency.
- Provides that completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer.
- Provides that the bill takes effect on October 1, 2015.

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 Criminal Justice; and Senators Lee,
Thompson, Soto, and Latvala

591-02335-15

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A bill to be entitled

An act relating to diabetes awareness training for law enforcement officers; providing a short title; creating s. 943.1726, F.S.; requiring the Department of Law Enforcement to establish an online continued employment training component relating to diabetic emergencies; specifying topics to be included in the instruction; providing that completion of the training may count towards continued employment instruction requirements; providing an effective date.

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

Section 1. This act may be cited as the "Arthur Green, Jr., Act."

Section 2. Section 943.1726, Florida Statutes, is created to read:

943.1726 Continued employment training relating to diabetic emergencies.—The department shall establish an online continued employment training component relating to diabetic emergencies. Instruction shall include, but need not be limited to, recognition of symptoms of such an emergency, distinguishing such an emergency from alcohol intoxication or drug overdose, and appropriate first aid for such an emergency. Completion of the training component may count toward the 40 hours of instruction for continued employment or appointment as a law enforcement officer as required under s. 943.135.

Section 3. This act shall take effect October 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
24th District

April 9, 2015

The Honorable Anitere Flores
Senate Committee on Fiscal Policy, Chair
413 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chairman Flores,

I respectfully request that my aide, Doug Roberts, present SB 746, related to the *Diabetes Awareness Training for Law Enforcement Officers*, at the Senate Fiscal Policy committee meeting due to a scheduling conflict with the Rules committee.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15

Meeting Date

SB 746

Bill Number (if applicable)

Topic Diabetes Training For Law Enforcement

Amendment Barcode (if applicable)

Name GARY BRADFORD

Job Title Legislative Services

Address 300 E Breward St
Street

Phone 800-733-3722

Tallahassee FL 34639
City State Zip

Email GARY@FLPBA.COM

Speaking: For Against Information

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

Representing FLORIDA POLICE Benevolent ASSC.

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

04.09.15
Meeting Date

SB 746
Bill Number (if applicable)

Topic DIABETIC AWARENESS TRNG.

Amendment Barcode (if applicable)

Name JUSTIN SAWICKI

Job Title SERGEANT

Address PO BOX 569

Phone 386-736-5961

DeLand FL 32721
City State Zip

Email jsawicki@vcco-us

Speaking: For Against Information

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

Representing Florida Sheriff's Assoc. / Volusia County Sheriff's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
24th District

April 6, 2015

The Honorable Anitere Flores
Senate Committee on Fiscal Policy, Chair
413 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chair Flores,

I respectfully request that SB 746 related to *Diabetes Awareness Training for Law Enforcement Officers*, be placed on the Senate Committee on Fiscal Policy agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee".

Tom Lee
Senator, District 24

Cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

ANDY GARDINER
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 Fiscal Policy

BILL: CS/CS/SB 760

INTRODUCER: Fiscal Policy Committee; Health Policy Committee; and Senators Bradley and Sobel

SUBJECT: Child Protection

DATE: April 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Harper</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 760 requires the Statewide Medical Director for Child Protection be a physician licensed under chs. 458 or 459, F.S., who is board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics.

The bill requires each medical director to be a physician licensed under chs. 458 or 459, F.S. The bill also requires a medical director to be either board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics or hold a credential from a third-party entity within 4 years from the date of employment or, if currently employed, within 4 years of July 1, 2015. All medical personnel participating on a child protection team must successfully complete the required CPT training curriculum. The bill also provides that the critical incident rapid response team must include a child protection team medical director.

The bill allows physicians with expert witness certificates under ss. 458.3175(2) and 459.0066, F.S., to provide expert testimony in criminal child abuse and neglect cases

Subject to a specific appropriation, the Department of Health (DOH) must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors. The department estimated this would cost \$70,000 the first year, and \$25,000 annually.

II. Present Situation:

Child Protection Teams

A child protection team (CPT) is a medically directed, multidisciplinary team that works with local Sheriff's offices and the Department of Children and Families (DCF) in cases of child abuse and neglect to supplement investigation activities.¹ Section 39.303, F.S., governs CPTs, and requires the Children's Medical Services Program (CMS) in the Department of Health (DOH) to develop, maintain, and coordinate the services of the CPTs in each of the service districts of the DCF. CPT medical directors are responsible for oversight of the teams.²

CPTs are independent, community-based programs that provide expertise in evaluating alleged child abuse and neglect. Specifically, CPTs help assess risk and protective factors, and provide recommendations for interventions that protect children.³

Child abuse, abandonment, and neglect reports that must be referred to CPTs include cases involving:

- Injuries to the head, bruises to the neck or head, burns, or fractures in a child of any age.
- Bruises anywhere on a child 5 years of age or younger.
- Any report alleging sexual abuse of a child.
- Any sexually transmitted disease in a prepubescent child.
- Reported malnutrition or failure of a child to thrive.
- Reported medical neglect of a child.
- A sibling or other child remaining in a home where one or more children have been pronounced dead on arrival or have been injured and later died as a result of suspected abuse, abandonment, or neglect.
- Symptoms of serious emotional problems in a child when emotional or other abuse, abandonment, or neglect is suspected.⁴

Child Protection Team Medical Director(s)

There is currently no statutory related qualifications of either the Statewide Medical Director for Child Protection or the team medical directors. However, the Florida Administrative Code provides that each CPT function under the oversight of a CMS approved provider pediatrician whose title is Child Protection Team Medical Director.⁵ According to the rule, the minimum qualifications for this position are:

- Graduation from an accredited school of medicine with board certification in pediatrics and licensed to practice in Florida.

¹ Children's Medical Services, *Child Protection Teams*, (Aug. 30, 2012) available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/child_protection_teams.html (last visited Mar. 31, 2015).

² Section 39.303, F.S.

³ Children's Medical Services, *Child Protection Team Brochure*, available at http://www.floridahealth.gov/AlternateSites/CMS-Kids/families/child_protection_safety/documents/child_protection_brochure.pdf (last visited Mar. 31, 2015).

⁴ *Supra* note 2 at (2).

⁵ Chapter 64C-8.002, F.A.C.

- An approved CMS physician provider.
- Demonstrated interest in the field of child abuse and neglect and satisfactory completion of training deemed necessary by the DOH for evaluating alleged abuse and neglect.
- Availability to provide oversight of team and client assessments.⁶

The State Surgeon General and the Deputy Secretary for the CMS, in consultation with the Secretary of Children and Families, have the responsibility for the screening, employment, and any necessary termination of child protection team medical directors, both at the state and district level.⁷

As of February 24, 2015, there are 24 local CPT medical directors in the state of Florida. One of the 24 medical director positions is vacant; two districts also have an associate medical director; and one district also has a clinical director.⁸

Specialty Certification for Child Abuse Pediatrics

The American Board of Medical Specialties approved the child abuse pediatrics specialty in 2006.⁹ The Child Abuse Pediatric certification exam requires a person to be certified in General Pediatrics and to have completed a 3-year child abuse pediatrics fellowship at an accredited program.¹⁰ The American Board of Pediatrics administered the first certification exams in late 2009.¹¹

Child abuse pediatricians diagnose and treat children and adolescents who are suspected child abuse victims. The types of abuse a child abuse pediatrician can treat includes physical abuse, sexual abuse, factitious illness (medical child abuse), neglect, and psychological/emotional abuse. Child abuse pediatricians can give expert testimony in court proceedings involving child abuse.¹²

As of December 31, 2013, Florida has 12 physicians certified in Child Abuse Pediatrics and 9 of those 12 are currently CPT medical directors.¹³

Critical Incident Rapid Response Team

Critical Incident Rapid Response Teams (CIRRT) are established by the DCF to conduct investigations of child death or other serious incidents reported to the central abuse hotline if the child or another child in his or her home was the subject of a verified report of abuse or neglect

⁶ Chapter 64C-8.002(1), F.A.C.

⁷ *Supra* note 2.

⁸ Children's Medical Services, *Child Protection Teams: CPT Statewide Directory*, (Feb. 24, 2015) available at <http://www.floridahealth.gov/alternatesites/cms-kids/home/contact/cpt.pdf> (last visited Mar. 31, 2015).

⁹ HealthLeaders Media, *New Specialty Certification for Child Abuse Pediatrics*, (Nov. 6, 2009) available at <http://www.healthleadersmedia.com/content/PHY-241751/New-Specialty-Certification-for-Child-Abuse-Pediatrics.html> (last visited Mar. 31, 2015).

¹⁰ Council of Pediatric Subspecialties, *Pediatric Child Abuse*, (Nov. 5, 2013) available at <http://pedsubs.org/SubDes/ChildAbuse.cfm> (last visited Mar. 31, 2015).

¹¹ *Supra* note 9.

¹² *Supra* note 10.

¹³ Department of Health, *Senate Bill 760 Analysis*, (Feb. 17, 2015) (on file with the Senate Committee on Health Policy).

within the previous 12 months.¹⁴ The CIRRT is a multiagency team comprised of at least five professionals with expertise in child protection, child welfare, and organizational management. A CPT member is not required to be appointed to the CIRRT.¹⁵

Expert Testimony

Section 458.3175, F.S., authorizes the DOH to issue expert witness certificates to physicians who have an active and valid license to practice medicine in another state or in Canada. A physician must submit a registration application and a \$50 registration fee to the DOH, which has 10 business days to approve a complete application. An expert witness certificate is valid for 2 years and allows a physician to provide:

- A verified written medical opinion; and
- Expert testimony in a medical negligence case against a licensed Florida physician about the prevailing professional standard of care.¹⁶

Section 459.0066, F.S., provides the DOH the same authority to issue expert witness certificates to physicians who have an active license to practice osteopathic medicine in another state or in Canada.

Section 827.03, F.S., allows expert testimony in criminal child abuse cases be provided by physicians licensed under chs. 458 or 459, F.S., who have either an expert witness certificate pursuant to s. 458.3175, F.S., or a residency in psychiatry.¹⁷

However, s. 458.3175, F.S., does not allow for physicians to provide such testimony.¹⁸

III. Effect of Proposed Changes:

Section 1 amends s. 39.2015, F.S., to require a CIRRT to include a CPT medical director.

Section 2 amends s. 39.303, F.S., to require the Statewide Medical Director for Child Protection to be a physician licensed under chs. 458 or 459, F.S., and board certified in pediatrics with a subspecialty certification in child abuse from the American Board of Pediatrics. This will ensure that the statewide medical director who is responsible for supervising other pediatricians on child protection teams will hold the same or similar credentials.

The bill also requires each medical director to be a physician licensed under chs. 458 or 459, F.S., and board certified in pediatrics. In addition, within 4 years after the date of employment as medical director, he or she must obtain a subspecialty certification in child abuse from the American Board of Pediatrics or meet the minimum requirements established by a third-party credentialing entity recognizing a demonstrated specialized competence in child abuse pediatrics. Additionally, **Section 3** provides that each CPT medical director employed on July 1, 2015,

¹⁴ Section 39.2015(2), F.S.

¹⁵ Section 39.2015(3), F.S.

¹⁶ Section 458.3175, F.S.

¹⁷ Section 827.03(3), F.S.

¹⁸ Section 458.3175, F.S.

must, within 4 years, meet the same certification or credential requirements. This will ensure that all medical directors have a recognized degree of competence.

The bill requires all medical personnel participating on a CPT to successfully complete the required CPT training curriculum as determined by the Deputy Secretary for CMS and the Statewide Medical Director for Child Protection.

Subject to a specific appropriation, the DOH must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors. Within 90 days from receiving documentation from a third-party credentialing entity, the DOH must approve a third-party entity that meets the following minimum standards:

- Establishment of child abuse pediatrics core competencies, certification standards, testing instruments, and recertification standards according to national psychometric standards.
- Establishment of a process to administer the certification application, award, and maintenance processes according to national psychometric standards.
- Demonstrated ability to administer a professional code of ethics and disciplinary process that applies to all certified persons
- Establishment of, and ability to maintain, a publicly accessible Internet-based database that contains information on each person who applies for and is awarded certification, such as the person's first and last name, certification status, and ethical or disciplinary history.
- Demonstrated ability to administer biennial continuing education and certification renewal requirements.
- Demonstrated ability to administer an education provider program to approve qualified training entities and to provide precertification training to applicants and continuing education opportunities to certified professionals.

Section 6 amends s. 39.301, F.S., to correct the renumbering caused by the amendment to s. 39.303, F.S.

Sections 8 – 9 reenact ss. 39.3031 and 391.026, F.S., to incorporate the amendment to s. 39.303, F.S.

Sections 4 – 5 authorize a physician who obtains an expert witness certificate under ss. 458.3175 or 459.006, F.S., to provide expert testimony in criminal child abuse and neglect cases. **Section 7** amends s. 827.03(3)(a) and (b), F.S., to authorize a physician with an expert witness certificate issued under s. 459.0066, F.S., to provide expert testimony in criminal child abuse and neglect cases.

Section 10 provides 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:**

None.

B. Private Sector Impact:

CPT medical directors may incur costs to obtain the required subspecialty certification. The exam fee for the subspecialty certification in child abuse is \$2,900 and the certification period is 10 years. To maintain the subspecialty certification in Child Abuse, the physician must enroll in maintenance of certification requirements every 5 years at a cost of \$1,230.¹⁹ There are 24 CPT medical directors, 9 of which are currently certified in Child Abuse Pediatrics.

C. Government Sector Impact:

The DOH must approve one or more third-party credentialing entities for the purpose of developing and administering a professional credentialing program for medical directors, subject to an appropriation. The department estimated to accomplish this would cost \$70,000 the first year, and \$25,000 annually, which would have to come from General Revenue.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 39.2015, 39.301, 39.303, 458.3175, 459.0066, and 827.03.

This bill reenacts the following sections of the Florida Statutes: 39.3031, and 391.026(2).

¹⁹ *Supra* note 13.

²⁰ *Id.*

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 Fiscal Policy on April 9, 2015:

The committee substitute:

- Requires a CIRRT to include a CPT medical director.
- Provides each medical director an additional 2 years to meet the requirements to obtain a certain certification or credential, and requires currently employed medical directors to obtain a certain certification or credential within 4 years of July 1, 2015.
- Requires the Department of Health to approve third-party credentialing entities to develop and administer a credentialing program for medical directors, which is subject to an appropriation.
- Authorizes physicians who obtain an expert witness certificate under ss. 458.3175 or 459.006, F.S., to provide expert testimony in criminal child abuse and neglect cases.

CS by Health Policy on March 23, 2015:

The CS conforms provisions relating to activities an expert witness certificate issued by the DOH authorizes under ch. 458, F.S., with existing law. The CS reenacts the following sections of the Florida Statutes: 766.102(12), 827.03(3)(a) and (b), and 960.03(3)(a).

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Bradley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 39.2015, Florida
Statutes, is amended to read:

39.2015 Critical incident rapid response team.—

(3) Each investigation shall be conducted by a multiagency
team of at least five professionals with expertise in child
protection, child welfare, and organizational management. The



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11 team may consist of employees of the department, community-based
12 care lead agencies, Children's Medical Services, and community-
13 based care provider organizations; faculty from the institute
14 consisting of public and private universities offering degrees
15 in social work established pursuant to s. 1004.615; or any other
16 person with the required expertise. The team shall include, at a
17 minimum, a child protection team medical director. The majority
18 of the team must reside in judicial circuits outside the
19 location of the incident. The secretary shall appoint a team
20 leader for each group assigned to an investigation.

21 Section 2. Section 39.303, Florida Statutes, is amended to
22 read:

23 39.303 Child protection teams; services; eligible cases.—

24 (1) The Children's Medical Services Program in the
25 Department of Health shall develop, maintain, and coordinate the
26 services of one or more multidisciplinary child protection teams
27 in each of the service districts of the Department of Children
28 and Families. Such teams may be composed of appropriate
29 representatives of school districts and appropriate health,
30 mental health, social service, legal service, and law
31 enforcement agencies. The Department of Health and the
32 Department of Children and Families shall maintain an
33 interagency agreement that establishes protocols for oversight
34 and operations of child protection teams and sexual abuse
35 treatment programs. The State Surgeon General and the Deputy
36 Secretary for Children's Medical Services, in consultation with
37 the Secretary of Children and Families, shall maintain the
38 responsibility for the screening, employment, and, if necessary,
39 the termination of child protection team medical directors, at



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40 headquarters and in the 15 districts.

41 (2) (a) The Statewide Medical Director for Child Protection
42 at all times must be a physician licensed under chapter 458 or
43 chapter 459 who is a board-certified pediatrician with a
44 subspecialty certification in child abuse from the American
45 Board of Pediatrics.

46 (b) Each medical director must be a physician licensed
47 under chapter 458 or chapter 459 who is a board-certified
48 pedsiatrician and, within 4 years after the date of his or her
49 employment as a medical director, either obtain a subspecialty
50 certification in child abuse from the American Board of
51 Pediatrics or meets the minimum requirements established by a
52 third-party credentialing entity recognizing a demonstrated
53 specialized competence in child abuse pedsiatrics pursuant to
54 paragraph (d). Child protection team medical directors shall be
55 responsible for oversight of the teams in the districts.

56 (c) All medical personnel participating on a child
57 protection team must successfully complete the required child
58 protection team training curriculum as set forth in protocols
59 determined by the Deputy Secretary for Children's Medical
60 Services and the Statewide Medical Director for Child
61 Protection.

62 (d) Subject to specific appropriation, the Department of
63 Health shall approve one or more third-party credentialing
64 entities for the purpose of developing and administering a
65 professional credentialing program for medical directors. Within
66 90 days after receiving documentation from a third-party
67 credentialing entity, the department shall approve a third-party
68 credentialing entity that demonstrates compliance with the



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69 following minimum standards:

70 1. Establishment of child abuse pediatrics core
71 competencies, certification standards, testing instruments, and
72 recertification standards according to national psychometric
73 standards.

74 2. Establishment of a process to administer the
75 certification application, award, and maintenance processes
76 according to national psychometric standards.

77 3. Demonstrated ability to administer a professional code
78 of ethics and disciplinary process that applies to all certified
79 persons.

80 4. Establishment of, and ability to maintain, a publicly
81 accessible Internet-based database that contains information on
82 each person who applies for and is awarded certification, such
83 as the person's first and last name, certification status, and
84 ethical or disciplinary history.

85 5. Demonstrated ability to administer biennial continuing
86 education and certification renewal requirements.

87 6. Demonstrated ability to administer an education provider
88 program to approve qualified training entities and to provide
89 precertification training to applicants and continuing education
90 opportunities to certified professionals.

91 (3)~~(1)~~ The Department of Health shall use and convene the
92 teams to supplement the assessment and protective supervision
93 activities of the family safety and preservation program of the
94 Department of Children and Families. This section does not
95 remove or reduce the duty and responsibility of any person to
96 report pursuant to this chapter all suspected or actual cases of
97 child abuse, abandonment, or neglect or sexual abuse of a child.



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98 The role of the teams shall be to support activities of the
99 program and to provide services deemed by the teams to be
100 necessary and appropriate to abused, abandoned, and neglected
101 children upon referral. The specialized diagnostic assessment,
102 evaluation, coordination, consultation, and other supportive
103 services that a child protection team shall be capable of
104 providing include, but are not limited to, the following:

105 (a) Medical diagnosis and evaluation services, including
106 provision or interpretation of X rays and laboratory tests, and
107 related services, as needed, and documentation of related
108 findings.

109 (b) Telephone consultation services in emergencies and in
110 other situations.

111 (c) Medical evaluation related to abuse, abandonment, or
112 neglect, as defined by policy or rule of the Department of
113 Health.

114 (d) Such psychological and psychiatric diagnosis and
115 evaluation services for the child or the child's parent or
116 parents, legal custodian or custodians, or other caregivers, or
117 any other individual involved in a child abuse, abandonment, or
118 neglect case, as the team may determine to be needed.

119 (e) Expert medical, psychological, and related professional
120 testimony in court cases.

121 (f) Case staffings to develop treatment plans for children
122 whose cases have been referred to the team. A child protection
123 team may provide consultation with respect to a child who is
124 alleged or is shown to be abused, abandoned, or neglected, which
125 consultation shall be provided at the request of a
126 representative of the family safety and preservation program or



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127 at the request of any other professional involved with a child
128 or the child's parent or parents, legal custodian or custodians,
129 or other caregivers. In every such child protection team case
130 staffing, consultation, or staff activity involving a child, a
131 family safety and preservation program representative shall
132 attend and participate.

133 (g) Case service coordination and assistance, including the
134 location of services available from other public and private
135 agencies in the community.

136 (h) Such training services for program and other employees
137 of the Department of Children and Families, employees of the
138 Department of Health, and other medical professionals as is
139 deemed appropriate to enable them to develop and maintain their
140 professional skills and abilities in handling child abuse,
141 abandonment, and neglect cases.

142 (i) Educational and community awareness campaigns on child
143 abuse, abandonment, and neglect in an effort to enable citizens
144 more successfully to prevent, identify, and treat child abuse,
145 abandonment, and neglect in the community.

146 (j) Child protection team assessments that include, as
147 appropriate, medical evaluations, medical consultations, family
148 psychosocial interviews, specialized clinical interviews, or
149 forensic interviews.

150

151 ~~All medical personnel participating on a child protection team~~
152 ~~must successfully complete the required child protection team~~
153 ~~training curriculum as set forth in protocols determined by the~~
154 ~~Deputy Secretary for Children's Medical Services and the~~
155 ~~Statewide Medical Director for Child Protection. A child~~



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156 protection team that is evaluating a report of medical neglect
157 and assessing the health care needs of a medically complex child
158 shall consult with a physician who has experience in treating
159 children with the same condition.

160 (4)~~(2)~~ The child abuse, abandonment, and neglect reports
161 that must be referred by the department to child protection
162 teams of the Department of Health for an assessment and other
163 appropriate available support services as set forth in
164 subsection (3) ~~(1)~~ must include cases involving:

165 (a) Injuries to the head, bruises to the neck or head,
166 burns, or fractures in a child of any age.

167 (b) Bruises anywhere on a child 5 years of age or under.

168 (c) Any report alleging sexual abuse of a child.

169 (d) Any sexually transmitted disease in a prepubescent
170 child.

171 (e) Reported malnutrition of a child and failure of a child
172 to thrive.

173 (f) Reported medical neglect of a child.

174 (g) Any family in which one or more children have been
175 pronounced dead on arrival at a hospital or other health care
176 facility, or have been injured and later died, as a result of
177 suspected abuse, abandonment, or neglect, when any sibling or
178 other child remains in the home.

179 (h) Symptoms of serious emotional problems in a child when
180 emotional or other abuse, abandonment, or neglect is suspected.

181 (5)~~(3)~~ All abuse and neglect cases transmitted for
182 investigation to a district by the hotline must be
183 simultaneously transmitted to the Department of Health child
184 protection team for review. For the purpose of determining



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185 whether face-to-face medical evaluation by a child protection
186 team is necessary, all cases transmitted to the child protection
187 team which meet the criteria in subsection (4) ~~(2)~~ must be
188 timely reviewed by:

189 (a) A physician licensed under chapter 458 or chapter 459
190 who holds board certification in pediatrics and is a member of a
191 child protection team;

192 (b) A physician licensed under chapter 458 or chapter 459
193 who holds board certification in a specialty other than
194 pediatrics, who may complete the review only when working under
195 the direction of a physician licensed under chapter 458 or
196 chapter 459 who holds board certification in pediatrics and is a
197 member of a child protection team;

198 (c) An advanced registered nurse practitioner licensed
199 under chapter 464 who has a specialty in pediatrics or family
200 medicine and is a member of a child protection team;

201 (d) A physician assistant licensed under chapter 458 or
202 chapter 459, who may complete the review only when working under
203 the supervision of a physician licensed under chapter 458 or
204 chapter 459 who holds board certification in pediatrics and is a
205 member of a child protection team; or

206 (e) A registered nurse licensed under chapter 464, who may
207 complete the review only when working under the direct
208 supervision of a physician licensed under chapter 458 or chapter
209 459 who holds certification in pediatrics and is a member of a
210 child protection team.

211 (6)~~(4)~~ A face-to-face medical evaluation by a child
212 protection team is not necessary when:

213 (a) The child was examined for the alleged abuse or neglect



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214 by a physician who is not a member of the child protection team,
215 and a consultation between the child protection team board-
216 certified pediatrician, advanced registered nurse practitioner,
217 physician assistant working under the supervision of a child
218 protection team board-certified pediatrician, or registered
219 nurse working under the direct supervision of a child protection
220 team board-certified pediatrician, and the examining physician
221 concludes that a further medical evaluation is unnecessary;

222 (b) The child protective investigator, with supervisory
223 approval, has determined, after conducting a child safety
224 assessment, that there are no indications of injuries as
225 described in paragraphs (4) (a)-(h) ~~(2) (a)-(h)~~ as reported; or

226 (c) The child protection team board-certified pediatrician,
227 as authorized in subsection (5) ~~(3)~~, determines that a medical
228 evaluation is not required.

229
230 Notwithstanding paragraphs (a), (b), and (c), a child protection
231 team pediatrician, as authorized in subsection (5) ~~(3)~~, may
232 determine that a face-to-face medical evaluation is necessary.

233 (7) ~~(5)~~ In all instances in which a child protection team is
234 providing certain services to abused, abandoned, or neglected
235 children, other offices and units of the Department of Health,
236 and offices and units of the Department of Children and
237 Families, shall avoid duplicating the provision of those
238 services.

239 (8) ~~(6)~~ The Department of Health child protection team
240 quality assurance program and the Family Safety Program Office
241 of the Department of Children and Families shall collaborate to
242 ensure referrals and responses to child abuse, abandonment, and



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243 neglect reports are appropriate. Each quality assurance program
244 shall include a review of records in which there are no findings
245 of abuse, abandonment, or neglect, and the findings of these
246 reviews shall be included in each department's quality assurance
247 reports.

248 Section 3. Each child protection team medical director
249 employed on July 1, 2015, must, within 4 years, either obtain a
250 subspecialty certification in child abuse from the American
251 Board of Pediatrics or meet the minimum requirements established
252 by a third-party credentialing entity recognizing a demonstrated
253 specialized competence in child abuse pediatrics pursuant to s.
254 39.2015(2)(d).

255 Section 4. Paragraph (c) is added to subsection (2) of
256 section 458.3175, Florida Statutes, to read:

257 458.3175 Expert witness certificate.—

258 (2) An expert witness certificate authorizes the physician
259 to whom the certificate is issued to do only the following:

260 (c) Provide expert testimony in criminal child abuse and
261 neglect cases in this state.

262 Section 5. Paragraph (c) is added to subsection (2) of
263 section 459.0066, Florida Statutes, to read:

264 459.0066 Expert witness certificate.—

265 (2) An expert witness certificate authorizes the physician
266 to whom the certificate is issued to do only the following:

267 (c) Provide expert testimony in criminal child abuse and
268 neglect cases in this state.

269 Section 6. Paragraph (c) of subsection (14) of section
270 39.301, Florida Statutes, is amended to read:

271 39.301 Initiation of protective investigations.—



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272 (14)

273 (c) The department, in consultation with the judiciary,
274 shall adopt by rule:

275 1. Criteria that are factors requiring that the department
276 take the child into custody, petition the court as provided in
277 this chapter, or, if the child is not taken into custody or a
278 petition is not filed with the court, conduct an administrative
279 review. Such factors must include, but are not limited to,
280 noncompliance with a safety plan or the case plan developed by
281 the department, and the family under this chapter, and prior
282 abuse reports with findings that involve the child, the child's
283 sibling, or the child's caregiver.

284 2. Requirements that if after an administrative review the
285 department determines not to take the child into custody or
286 petition the court, the department shall document the reason for
287 its decision in writing and include it in the investigative
288 file. For all cases that were accepted by the local law
289 enforcement agency for criminal investigation pursuant to
290 subsection (2), the department must include in the file written
291 documentation that the administrative review included input from
292 law enforcement. In addition, for all cases that must be
293 referred to child protection teams pursuant to s. 39.303(4) and
294 (5) ~~39.303(2) and (3)~~, the file must include written
295 documentation that the administrative review included the
296 results of the team's evaluation.

297 Section 7. Paragraphs (a) and (b) of subsection (3) of
298 section 827.03, Florida Statutes, are amended to read:

299 827.03 Abuse, aggravated abuse, and neglect of a child;
300 penalties.—



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301 (3) EXPERT TESTIMONY.—

302 (a) Except as provided in paragraph (b), a physician may
303 not provide expert testimony in a criminal child abuse case
304 unless the physician is a physician licensed under chapter 458
305 or chapter 459 or has obtained certification as an expert
306 witness pursuant to s. 458.3175 or s. 459.0066.

307 (b) A physician may not provide expert testimony in a
308 criminal child abuse case regarding mental injury unless the
309 physician is a physician licensed under chapter 458 or chapter
310 459 who has completed an accredited residency in psychiatry or
311 has obtained certification as an expert witness pursuant to s.
312 458.3175 or s. 459.0066.

313 Section 8. For the purpose of incorporating the amendments
314 made by this act to section 39.303, Florida Statutes, in a
315 reference thereto, section 39.3031, Florida Statutes, is
316 reenacted to read:

317 39.3031 Rules for implementation of s. 39.303.—The
318 Department of Health, in consultation with the Department of
319 Children and Families, shall adopt rules governing the child
320 protection teams pursuant to s. 39.303, including definitions,
321 organization, roles and responsibilities, eligibility, services
322 and their availability, qualifications of staff, and a waiver-
323 request process.

324 Section 9. For the purpose of incorporating the amendments
325 made by this act to section 39.303, Florida Statutes, in a
326 reference thereto, subsection (2) of section 391.026, Florida
327 Statutes, is reenacted to read:

328 391.026 Powers and duties of the department.—The department
329 shall have the following powers, duties, and responsibilities:



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330 (2) To provide services to abused and neglected children
331 through child protection teams pursuant to s. 39.303.

332 Section 10. This act shall take effect July 1, 2015.

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

334 And the title is amended as follows:

335 Delete everything before the enacting clause
336 and insert:

337 A bill to be entitled
338 An act relating to child protection; amending s.
339 39.2015, F.S.; providing requirements for the
340 representation of Children's Medical Services on
341 multiagency teams investigating certain child deaths
342 or other serious incidents; amending s. 39.303, F.S.;
343 requiring the Statewide Medical Director for Child
344 Protection and the medical directors to hold certain
345 qualifications; requiring the Department of Health to
346 approve a third-party credentialing entity to
347 administer a credentialing program for medical
348 directors; specifying minimum standards that the
349 third-party credentialing entity must meet; deleting a
350 provision requiring all medical personnel on a child
351 protection team to complete specified training
352 curriculum; requiring each child protection team
353 medical director employed after a certain date to meet
354 specified requirements; amending s. 458.3175, F.S.;
355 providing that a physician who holds an expert witness
356 certificate may provide expert testimony in criminal
357 child abuse and neglect cases; amending s. 459.0066,
358 F.S.; providing that an osteopathic physician who



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359 holds an expert witness certificate may provide expert
360 testimony in criminal child abuse and neglect cases;
361 amending ss. 39.301 and 827.03, F.S.; conforming
362 cross-references; conforming provisions to changes
363 made by the act; reenacting ss. 39.3031 and
364 391.026(2), F.S., relating to child protection teams,
365 to incorporate the amendments made by the act to s.
366 39.303, F.S., in references thereto; providing an
367 effective date.

By the Committee on Health Policy; and Senators Bradley and Sobel

588-02738-15

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1 A bill to be entitled
 2 An act relating to child protection; amending s.
 3 39.303, F.S.; requiring the Statewide Medical Director
 4 for Child Protection and the district medical
 5 directors to hold certain qualifications; amending s.
 6 458.3175, F.S.; authorizing a physician with an expert
 7 witness certificate to provide expert testimony in a
 8 criminal child abuse case; reenacting ss. 39.3031 and
 9 391.026(2), F.S., relating to rules of implementation
 10 of s. 39.303, F.S., and powers and duties of the
 11 Department of Health, respectively, to incorporate the
 12 amendment made to s. 39.303, F.S., in references
 13 thereto; reenacting ss. 776.102(12), 827.03(3) (a) and
 14 (b), and 960.03(3) (a), F.S., relating to expert
 15 witnesses, expert testimony, and the definition of the
 16 term "crime," respectively, to incorporate the
 17 amendment made to s. 458.3175, F.S., in references
 18 thereto; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 39.303, Florida Statutes, is amended to
 23 read:

24 39.303 Child protection teams; services; eligible cases.—
 25 The Children's Medical Services Program in the Department of
 26 Health shall develop, maintain, and coordinate the services of
 27 one or more multidisciplinary child protection teams in each of
 28 the service districts of the Department of Children and
 29 Families. Such teams may be composed of appropriate

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30 representatives of school districts and appropriate health,
 31 mental health, social service, legal service, and law
 32 enforcement agencies. The Department of Health and the
 33 Department of Children and Families shall maintain an
 34 interagency agreement that establishes protocols for oversight
 35 and operations of child protection teams and sexual abuse
 36 treatment programs. The State Surgeon General and the Deputy
 37 Secretary for Children's Medical Services, in consultation with
 38 the Secretary of Children and Families, shall maintain the
 39 responsibility for the screening, employment, and, if necessary,
 40 the termination of child protection team medical directors, at
 41 headquarters and in the 15 districts. The Statewide Medical
 42 Director for Child Protection at all times must be a physician
 43 licensed under chapter 458 or chapter 459 who is board certified
 44 in pediatrics with a subspecialty certification in child abuse
 45 from the American Board of Pediatrics. Each district medical
 46 director must be a physician licensed under chapter 458 or
 47 chapter 459 who is board certified in pediatrics and, within 2
 48 years after the date of his or her employment as district
 49 medical director, must obtain a subspecialty certification in
 50 child abuse from the American Board of Pediatrics or a
 51 certificate issued by the Deputy Secretary for Children's
 52 Medical Services in recognition of demonstrated specialized
 53 competence in child abuse. Child protection team medical
 54 directors shall be responsible for oversight of the teams in the
 55 districts.

56 (1) The Department of Health shall use and convene the
 57 teams to supplement the assessment and protective supervision
 58 activities of the family safety and preservation program of the

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59 Department of Children and Families. This section does not
60 remove or reduce the duty and responsibility of any person to
61 report pursuant to this chapter all suspected or actual cases of
62 child abuse, abandonment, or neglect or sexual abuse of a child.

63 The role of the teams shall be to support activities of the
64 program and to provide services deemed by the teams to be
65 necessary and appropriate to abused, abandoned, and neglected
66 children upon referral. The specialized diagnostic assessment,
67 evaluation, coordination, consultation, and other supportive
68 services that a child protection team shall be capable of
69 providing include, but are not limited to, the following:

70 (a) Medical diagnosis and evaluation services, including
71 provision or interpretation of X rays and laboratory tests, and
72 related services, as needed, and documentation of related
73 findings.

74 (b) Telephone consultation services in emergencies and in
75 other situations.

76 (c) Medical evaluation related to abuse, abandonment, or
77 neglect, as defined by policy or rule of the Department of
78 Health.

79 (d) Such psychological and psychiatric diagnosis and
80 evaluation services for the child or the child's parent or
81 parents, legal custodian or custodians, or other caregivers, or
82 any other individual involved in a child abuse, abandonment, or
83 neglect case, as the team may determine to be needed.

84 (e) Expert medical, psychological, and related professional
85 testimony in court cases.

86 (f) Case staffings to develop treatment plans for children
87 whose cases have been referred to the team. A child protection

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88 team may provide consultation with respect to a child who is
89 alleged or is shown to be abused, abandoned, or neglected, which
90 consultation shall be provided at the request of a
91 representative of the family safety and preservation program or
92 at the request of any other professional involved with a child
93 or the child's parent or parents, legal custodian or custodians,
94 or other caregivers. In every such child protection team case
95 staffing, consultation, or staff activity involving a child, a
96 family safety and preservation program representative shall
97 attend and participate.

98 (g) Case service coordination and assistance, including the
99 location of services available from other public and private
100 agencies in the community.

101 (h) Such training services for program and other employees
102 of the Department of Children and Families, employees of the
103 Department of Health, and other medical professionals as is
104 deemed appropriate to enable them to develop and maintain their
105 professional skills and abilities in handling child abuse,
106 abandonment, and neglect cases.

107 (i) Educational and community awareness campaigns on child
108 abuse, abandonment, and neglect in an effort to enable citizens
109 more successfully to prevent, identify, and treat child abuse,
110 abandonment, and neglect in the community.

111 (j) Child protection team assessments that include, as
112 appropriate, medical evaluations, medical consultations, family
113 psychosocial interviews, specialized clinical interviews, or
114 forensic interviews.

115
116 All medical personnel participating on a child protection team

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117 must successfully complete the required child protection team
 118 training curriculum as set forth in protocols determined by the
 119 Deputy Secretary for Children's Medical Services and the
 120 Statewide Medical Director for Child Protection. A child
 121 protection team that is evaluating a report of medical neglect
 122 and assessing the health care needs of a medically complex child
 123 shall consult with a physician who has experience in treating
 124 children with the same condition.

125 (2) The child abuse, abandonment, and neglect reports that
 126 must be referred by the department to child protection teams of
 127 the Department of Health for an assessment and other appropriate
 128 available support services as set forth in subsection (1) must
 129 include cases involving:

- 130 (a) Injuries to the head, bruises to the neck or head,
 131 burns, or fractures in a child of any age.
 132 (b) Bruises anywhere on a child 5 years of age or under.
 133 (c) Any report alleging sexual abuse of a child.
 134 (d) Any sexually transmitted disease in a prepubescent
 135 child.
 136 (e) Reported malnutrition of a child and failure of a child
 137 to thrive.
 138 (f) Reported medical neglect of a child.
 139 (g) Any family in which one or more children have been
 140 pronounced dead on arrival at a hospital or other health care
 141 facility, or have been injured and later died, as a result of
 142 suspected abuse, abandonment, or neglect, when any sibling or
 143 other child remains in the home.
 144 (h) Symptoms of serious emotional problems in a child when
 145 emotional or other abuse, abandonment, or neglect is suspected.

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146 (3) All abuse and neglect cases transmitted for
 147 investigation to a district by the hotline must be
 148 simultaneously transmitted to the Department of Health child
 149 protection team for review. For the purpose of determining
 150 whether face-to-face medical evaluation by a child protection
 151 team is necessary, all cases transmitted to the child protection
 152 team which meet the criteria in subsection (2) must be timely
 153 reviewed by:

- 154 (a) A physician licensed under chapter 458 or chapter 459
 155 who holds board certification in pediatrics and is a member of a
 156 child protection team;
 157 (b) A physician licensed under chapter 458 or chapter 459
 158 who holds board certification in a specialty other than
 159 pediatrics, who may complete the review only when working under
 160 the direction of a physician licensed under chapter 458 or
 161 chapter 459 who holds board certification in pediatrics and is a
 162 member of a child protection team;
 163 (c) An advanced registered nurse practitioner licensed
 164 under chapter 464 who has a specialty in pediatrics or family
 165 medicine and is a member of a child protection team;
 166 (d) A physician assistant licensed under chapter 458 or
 167 chapter 459, who may complete the review only when working under
 168 the supervision of a physician licensed under chapter 458 or
 169 chapter 459 who holds board certification in pediatrics and is a
 170 member of a child protection team; or
 171 (e) A registered nurse licensed under chapter 464, who may
 172 complete the review only when working under the direct
 173 supervision of a physician licensed under chapter 458 or chapter
 174 459 who holds certification in pediatrics and is a member of a

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175 child protection team.

176 (4) A face-to-face medical evaluation by a child protection
177 team is not necessary when:

178 (a) The child was examined for the alleged abuse or neglect
179 by a physician who is not a member of the child protection team,
180 and a consultation between the child protection team board-
181 certified pediatrician, advanced registered nurse practitioner,
182 physician assistant working under the supervision of a child
183 protection team board-certified pediatrician, or registered
184 nurse working under the direct supervision of a child protection
185 team board-certified pediatrician, and the examining physician
186 concludes that a further medical evaluation is unnecessary;

187 (b) The child protective investigator, with supervisory
188 approval, has determined, after conducting a child safety
189 assessment, that there are no indications of injuries as
190 described in paragraphs (2) (a)-(h) as reported; or

191 (c) The child protection team board-certified pediatrician,
192 as authorized in subsection (3), determines that a medical
193 evaluation is not required.

194
195 Notwithstanding paragraphs (a), (b), and (c), a child protection
196 team pediatrician, as authorized in subsection (3), may
197 determine that a face-to-face medical evaluation is necessary.

198 (5) In all instances in which a child protection team is
199 providing certain services to abused, abandoned, or neglected
200 children, other offices and units of the Department of Health,
201 and offices and units of the Department of Children and
202 Families, shall avoid duplicating the provision of those
203 services.

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204 (6) The Department of Health child protection team quality
205 assurance program and the Family Safety Program Office of the
206 Department of Children and Families shall collaborate to ensure
207 referrals and responses to child abuse, abandonment, and neglect
208 reports are appropriate. Each quality assurance program shall
209 include a review of records in which there are no findings of
210 abuse, abandonment, or neglect, and the findings of these
211 reviews shall be included in each department's quality assurance
212 reports.

213 Section 2. Paragraph (c) is added to subsection (2) of
214 section 458.3175, Florida Statutes, to read:

215 458.3175 Expert witness certificate.—

216 (2) An expert witness certificate authorizes the physician
217 to whom the certificate is issued to do only the following:

218 (c) Provide expert testimony in a criminal child abuse case
219 in this state.

220 Section 3. For the purpose of incorporating the amendment
221 made by this act to section 39.303, Florida Statutes, in a
222 reference thereto, section 39.3031, Florida Statutes, is
223 reenacted to read:

224 39.3031 Rules for implementation of s. 39.303.—The
225 Department of Health, in consultation with the Department of
226 Children and Families, shall adopt rules governing the child
227 protection teams pursuant to s. 39.303, including definitions,
228 organization, roles and responsibilities, eligibility, services
229 and their availability, qualifications of staff, and a waiver-
230 request process.

231 Section 4. For the purpose of incorporating the amendment
232 made by this act to section 39.303, Florida Statutes, in a

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233 reference thereto, subsection (2) of section 391.026, Florida
234 Statutes, is reenacted to read:

235 391.026 Powers and duties of the department.—The department
236 shall have the following powers, duties, and responsibilities:

237 (2) To provide services to abused and neglected children
238 through child protection teams pursuant to s. 39.303.

239 Section 5. For the purpose of incorporating the amendment
240 made by this act to section 458.3175, Florida Statutes, in a
241 reference thereto, subsection (12) of section 766.102, Florida
242 Statutes, is reenacted to read:

243 766.102 Medical negligence; standards of recovery; expert
244 witness.—

245 (12) If a physician licensed under chapter 458 or chapter
246 459 or a dentist licensed under chapter 466 is the party against
247 whom, or on whose behalf, expert testimony about the prevailing
248 professional standard of care is offered, the expert witness
249 must be licensed under chapter 458, chapter 459, or chapter 466
250 or possess a valid expert witness certificate issued under s.
251 458.3175, s. 459.0066, or s. 466.005.

252 Section 6. For the purpose of incorporating the amendment
253 made by this act to section 458.3175, Florida Statutes, in a
254 reference thereto, paragraphs (a) and (b) of subsection (3) of
255 section 827.03, Florida Statutes, are reenacted to read:

256 827.03 Abuse, aggravated abuse, and neglect of a child;
257 penalties.—

258 (3) EXPERT TESTIMONY.—

259 (a) Except as provided in paragraph (b), a physician may
260 not provide expert testimony in a criminal child abuse case
261 unless the physician is a physician licensed under chapter 458

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262 or chapter 459 or has obtained certification as an expert
263 witness pursuant to s. 458.3175.

264 (b) A physician may not provide expert testimony in a
265 criminal child abuse case regarding mental injury unless the
266 physician is a physician licensed under chapter 458 or chapter
267 459 who has completed an accredited residency in psychiatry or
268 has obtained certification as an expert witness pursuant to s.
269 458.3175.

270 Section 7. For the purpose of incorporating the amendment
271 made by this act to section 458.3175, Florida Statutes, in a
272 reference thereto, paragraph (a) of subsection (3) of section
273 960.03, Florida Statutes, is reenacted to read:

274 960.03 Definitions; ss. 960.01-960.28.—As used in ss.

275 960.01-960.28, unless the context otherwise requires, the term:

276 (3) "Crime" means:

277 (a) A felony or misdemeanor offense committed by an adult
278 or a juvenile which results in physical injury or death, or a
279 felony or misdemeanor offense of child abuse committed by an
280 adult or a juvenile which results in a mental injury, as defined
281 in s. 827.03, to a person younger than 18 years of age who was
282 not physically injured by the criminal act. The mental injury to
283 the minor must be verified by a psychologist licensed under
284 chapter 490, by a physician licensed in this state under chapter
285 458 or chapter 459 who has completed an accredited residency in
286 psychiatry, or by a physician who has obtained certification as
287 an expert witness pursuant to s. 458.3175. The term also
288 includes a criminal act that is committed within this state but
289 that falls exclusively within federal jurisdiction.

290 Section 8. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 26, 2015

I respectfully request that **Senate Bill # 760**, relating to Child Protection, be placed on the:

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

A handwritten signature in black ink, appearing to read "Rob Bradley".

Senator Rob Bradley
Florida Senate, District 7

THE FLORIDA SENATE
APPEARANCE RECORD

412-K
9:00

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

4-9-2015

Meeting Date

SB 760

Bill Number (if applicable)

Topic CHILD PROTECTION

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BLAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

FL

32301

City

State

Zip

Email

Speaking: For Against Information

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

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Fiscal Policy

BILL: CS/SB 904

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Home Health Services

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Brown</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 904 amends ss. 400.462 and 400.506, F.S. relating to home health agencies and nurse registries. Specifically the bill:

- Allows home health agencies to operate related offices inside of the main office's geographic service area without an additional license;
- Allows for the licensure of more than one nurse registry operational site with the same geographic service area;
- Authorizes licensed nurse registries to operate a satellite office;
- Requires a nurse registry operational site to keep all original records; and
- Requires a nurse registry to provide notice and certain evidence to the Agency for Health Care Administration (AHCA) before it relocates an operational site or opens a satellite office.

The bill is expected to have a negative insignificant fiscal impact.

II. Present Situation:

Nurse Registries

A nurse registry is defined to mean "any person that procures, offers, promises, or attempts to secure health care-related contracts for registered nurses, licensed practical nurses, certified nursing assistants, home health aides, companions, or homemakers, who are compensated by fees as independent contractors, including but not limited to, contracts for the provision of

services to patients and contracts to provide private duty or staffing services to licensed health care facilities.¹ Nurse registries operate by referring qualified health care workers to patients, health care facilities, or other business entities who hire such health care workers. Workers referred by the nurse registry are independent contractors and the nurse registry receives a fee or commission for each contractor referred.²

Nurse registries are regulated under the Home Health Services Act in part III of ch. 400, F.S., and the general licensing provisions for health care facilities regulated by the AHCA in part II of ch. 408, F.S. A nurse registry is exempt from the licensing requirements of a home health agency, however, a license issued by AHCA is required to operate a nurse registry.³

Some of the responsibilities of a nurse registry as established in statute and rule include:

- Referring independent contractors capable of delivering services as defined in a specific medical plan of treatment for a patient or services requested by a client;⁴
- Keeping clinical records on patients and an independent contractor for five years following the termination of that contractor's service;⁵
- Managing independent contractors, including training, evaluating performance, confirming licensure or certification, and managing any complaints about a contractor; and⁶
- Complying with the background screening requirements in s. 400.512, F.S., which requires a level II background check for all employees and contractors.⁷

Operational Sites

Each nurse registry operational site must be licensed unless it is located in a county where the nurse registry has multiple operational sites.⁸ If the nurse registry has more than one operational site in a single county, only one license is necessary for all operational sites in that county and each site must be listed on the license.⁹ Rule 59A-18.004(4) of the Florida Administrative Code, allows nurse registries apply for licensure to serve a geographic service area that is equivalent to an AHCA district. There are 11 AHCA districts which range in size from a single county, such as District 10 which includes only Broward County, to numerous counties, such as District 3 which includes 16 counties. All districts except District 10 incorporate at least two counties.¹⁰ Each nurse registry operational site can service the entire AHCA district for which the license was granted.

As of January 8, 2015, 541 nurse registries are licensed with the AHCA with 367 different owners.¹¹ A total of 62 nurse registry companies own two or more nurse registry licenses and eight nurse registry companies own two or more nurse registry licenses within the same AHCA

¹ Section 400.462(21), F.S.

² AHCA, *Senate Bill 904 Analysis*, (Feb. 17, 2015) (on file with the Senate Committee on Health Policy).

³ Section 400.506(1), F.S.

⁴ Rule 59A-18.010(2), F.A.C.

⁵ Rule 59A-18.012(7), F.A.C.

⁶ See Rule 59A-18.012(7), 59A-18.013(1), 59A-18.005(3) and (4), and 59A-18.017, F.A.C.

⁷ Section 400.506(9), F.S.

⁸ Section 400.506(1), F.S.

⁹ *Id.*

¹⁰ Section 408.032(5), F.S., and *Supra* note 2.

¹¹ *Supra* note 2.

district.¹² Nurse registries must pay a biennial license fee of \$2,000 per license and are surveyed by the AHCA on a biennial basis.¹³

Home Health Agencies

An HHA is an organization that provides home health services and staffing services.¹⁴ Home health services are health and medical services and medical equipment provided to an individual in his or her home, such as nursing care, physical and occupational therapy, and home health aide services.¹⁵ Home health agencies are regulated by the AHCA pursuant to part III of ch. 400, F.S. An HHA must designate an AHCA district in which the HHA will operate and must reapply for licensure in order to relocate to a different AHCA district.¹⁶ Currently, an HHA may have a main office and related offices; however, all related offices outside of the county where the main office is located must be licensed separately and each such office must be specified on the main office's license.¹⁷ An HHA must pay a biennial license fee of \$2,000 per license.¹⁸

III. Effect of Proposed Changes:

The bill amends ss. 400.462 and 400.506, F.S., to allow for the licensure of more than one nurse registry operational site within the same geographic service area (AHCA district). This may reduce the number of licenses some nurse registries may need because a license is currently needed in each county in which the nurse registry operates. The bill defines a satellite office as a secondary office of a nurse registry established pursuant to s. 400.506(1), F.S., in the same geographic service area as a licensed nurse registry operational site.

The nurse registry satellite office may store supplies and records, register and process contractors, and conduct business by telephone at the satellite site, as well as advertise the location of the satellite site to the public. However, all original records must be kept at the nurse registry operational site.

The bill requires a nurse registry to notify the AHCA of proposed changes of address to its operational site and when opening a satellite office. Before relocating its operational site, the nurse registry must submit evidence of its legal right to use the proposed property and proof that the proposed property is in an area zoned for nurse registry use.

The bill also amends s. 400.464, F.S., to allow an HHA to operate a related office in the same geographic service area, rather than in the same county, as the agency's main office without requiring an additional license for the related office.

The bill reenacts ss. 400.49, 817.505(3)(h), and 400.506(3), F.S., for the purpose of incorporating amendments made by the bill.

¹² Id.

¹³ Id. and s. 400.506(3), F.S.

¹⁴ Section 400.462(12), F.S.

¹⁵ Section 400.462(14), F.S.

¹⁶ Section 400.471(9), F.S.

¹⁷ Section 400.464(2), F.S.

¹⁸ Section 400.471(5), F.S.

The bill is effective July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

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 bill may have a positive fiscal impact on nurse registries and HHAs that operate multiple licenses within the same AHCA district. If such HHAs or registries are able to replace one or more licensed sites with unlicensed satellite or related offices, they will no longer be required to hold multiple licenses and pay multiple license fees. Additionally, HHAs and nurse registries located in AHCA districts with multiple counties may see a positive fiscal impact if an additional office allows them to reduce travel and other expenses related to having a single office serving multiple counties.

C. Government Sector Impact:

The AHCA may see a slight decline in revenue due to the loss of some licensure fees and the potential requirement to conduct additional surveys. The AHCA anticipates that any costs can be absorbed within existing resources.¹⁹

VI. Technical Deficiencies:

None.

¹⁹ Supra note 2

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 400.462, 400.464, and 400.506 of the Florida Statutes.

The bill reenacts sections 400.497, 400.506(3), and 817.505(3)(h) 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 Health Policy on March 17, 2015:

The CS amends s. 400.464, F.S., to allow HHAs to operate a related office in the same geographic service area, rather than in the same county, as the agency's main office without requiring an additional license for the related office.

The CS also amends the title of bill to “an act related to home health services.”

- B. **Amendments:**

None.

By the Committee on Health Policy; and Senator Bean

588-02399-15

2015904c1

1 A bill to be entitled
 2 An act relating to home health services; amending s.
 3 400.462, F.S.; defining a term; amending s. 400.464,
 4 F.S.; allowing home health agencies to operate related
 5 offices inside of the main office's geographic service
 6 area without an additional license; amending s.
 7 400.506, F.S.; providing for the licensure of more
 8 than one nurse registry operational site within the
 9 same geographic service area; authorizing a licensed
 10 nurse registry to operate a satellite office;
 11 requiring a nurse registry operational site to keep
 12 all original records; requiring a nurse registry to
 13 provide notice and certain evidence before it
 14 relocates an operational site or opens a satellite
 15 office; reenacting ss. 400.497, 817.505(3) (h),
 16 400.506(3), F.S., to incorporate the amendment made to
 17 s. 400.506, F.S., in references thereto; providing an
 18 effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Present subsections (28) and (29) of section
 23 400.462, Florida Statutes, are redesignated as subsections (29)
 24 and (30), respectively, and a new subsection (28) is added to
 25 that section, to read:

26 400.462 Definitions.—As used in this part, the term:
 27 (28) "Satellite office" means a secondary office of a nurse
 28 registry established pursuant to s. 400.506(1) in the same
 29 geographic service area as a licensed nurse registry operational

Page 1 of 3

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

588-02399-15

2015904c1

30 site.
 31 Section 2. Subsection (2) of section 400.464, Florida
 32 Statutes, is amended to read:
 33 400.464 Home health agencies to be licensed; expiration of
 34 license; exemptions; unlawful acts; penalties.—
 35 (2) If the licensed home health agency operates related
 36 offices, each related office outside the geographic service area
 37 ~~county~~ where the main office is located must be separately
 38 licensed. The counties where the related offices are operating
 39 must be specified on the license in the main office.
 40 Section 3. Subsection (1) of section 400.506, Florida
 41 Statutes, is amended to read:
 42 400.506 Licensure of nurse registries; requirements;
 43 penalties.—
 44 (1) (a) A nurse registry is exempt from the licensing
 45 requirements of a home health agency but must be licensed as a
 46 nurse registry. The requirements of part II of chapter 408 apply
 47 to the provision of services that require licensure pursuant to
 48 ss. 400.506-400.518 and part II of chapter 408 and to entities
 49 licensed by or applying for such license from the Agency for
 50 Health Care Administration pursuant to ss. 400.506-400.518. A
 51 license issued by the agency is required for the operation of a
 52 nurse registry. Each operational site of the nurse registry must
 53 be licensed, unless there is more than one site within the
 54 geographic service area for which a license is issued. In such
 55 case, a county. If there is more than one site within a county,
 56 only one license per county is required. each operational site
 57 within the geographic service area must be listed on the
 58 license.

Page 2 of 3

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

588-02399-15

2015904c1

59 (b) A licensed nurse registry may operate a satellite
60 office as defined in s. 400.462. The nurse registry operational
61 site must administer all satellite offices. A satellite office
62 may store supplies and records, register and process
63 contractors, and conduct business by telephone as is done at
64 other operational sites. Nurse registries may use signs and
65 advertisements to notify the public of the location of a
66 satellite office. All original records must be kept at the
67 operational site.

68 (c) A nurse registry must provide notice, in writing, to
69 the agency at the state and area office levels, as required by
70 agency rule, of a proposed change of address for an operational
71 site or the opening of a satellite office. Before relocating an
72 operational site or opening a satellite office, the nurse
73 registry must submit evidence of its legal right to use the
74 proposed property, as well as a certificate of occupancy, a
75 certificate of use, or other evidence that the property is zoned
76 for nurse registry use.

77 Section 4. Section 400.497, paragraph (h) of subsection (3)
78 of s. 817.505, and subsection (3) of s. 400.506, Florida
79 Statutes, are reenacted for the purpose of incorporating the
80 amendment made by this act to s. 400.506, Florida Statutes, in
81 references thereto.

82 Section 5. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: April 2, 2015

I respectfully request that **Senate Bill # 904**, relating to Home Health Services, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15

Meeting Date

SB 904

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Leanne Norr

Job Title Government Affairs Director

Address 1363 e Lafayette St, Suite A

Phone 850-222-8967

Tallahassee FL 32303

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Home Care Association of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

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 Fiscal Policy

BILL: CS/SB 954

INTRODUCER: Fiscal Policy Committee and Senator Garcia

SUBJECT: Involuntary Examinations of Minors

DATE: April 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Scott</u>	<u>Klebacha</u>	<u>ED</u>	Favorable
2.	<u>Sikes</u>	<u>Elwell</u>	<u>AED</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 954 requires notification for involuntary examinations of minors. Specifically, the bill:

- Requires a public or charter school principle or the principle’s designee to immediately notify the parent of the student who is removed from school, school transportation, or a school-sponsored activity and transported to a receiving facility for involuntary examination.
- Requires each local school health services plan, district school board, and charter school governing board to develop policy and procedures for such notification.
- Expands the definition of “emergency health needs” to include onsite evaluation of a student for illness or injury and release of the student to a law enforcement officer.
- Provides the following notification requirements for receiving facilities that hold minor patients for involuntary examination:
 - Immediate notice to the patient’s parent, guardian, or guardian advocate in person or by telephone or other electronic communication.
 - Repeated and documented attempts of notification until receiving confirmation by the parent, guardian, or guardian advocate.
- Permits a school principal, or his or her designee, and the receiving facility to delay notification no more than 24 hours if it has been deemed to be in the student’s or minor patient’s best interest and after a report of known or suspected abuse, abandonment, or neglect is submitted to the Department of Children and Families’ (DCF) Central Abuse Hotline.

- Specifies a receiving facility's notification of a patient's whereabouts for adults or emancipated minors being held involuntarily for an examination can occur in person or by telephonic or other electronic communication.

The bill has no fiscal impact.

II. Present Situation:

Involuntary Examination

In 1971, the Legislature created part I, ch. 394, F.S., the "Florida Mental Health Act," also known as the Baker Act, to address mental health needs in the state.¹ The Baker Act is a civil commitment law providing for involuntary psychiatric examinations and subsequent involuntary placement (commitment) of a person for either inpatient or outpatient treatment of a mental, emotional, or behavioral disorder.² An involuntary examination may be initiated by a court order, a law enforcement officer, a mental health professional,³ or a physician.⁴

A person may be taken to a receiving facility for involuntary examination if the person is believed to be mentally ill and because of that mental illness the person:

- Has refused voluntary examination; or
- Cannot determine for himself or herself whether examination is necessary; and
- Without care or treatment, is either likely to suffer from self-neglect, cause substantial harm to himself or herself, or be a danger to himself or herself or others.⁵

A patient at a receiving facility must receive an initial examination by a physician or clinical psychologist without unnecessary delay, and may be given emergency treatment if ordered by a physician and necessary for the safety of the patient or others.⁶ A patient cannot be held at a receiving facility for more than 72 hours. Within 72 hours of arrival either the patient must be released or the facility must have filed a petition for involuntary placement with the circuit court.⁷ A patient cannot be released without the documented approval of a psychiatrist, clinical psychologist, or qualified hospital emergency department physician.⁸

Whenever a facility is required to give notice they must give it to the patient and the patient's guardian, guardian advocate, attorney, and representative. A receiving facility must to give prompt notice of the whereabouts of a patient who is being involuntarily held for examination,

¹ Section 394.451, F.S., and ch. 71-131, L.O.F.

² Department of Children and Families, *Florida's Baker Act: 2013 Fact Sheet* (2013), available at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/docs/Baker%20Act%20Overview%202013.pdf> (last visited April 6, 2015).

³ Including a clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker. s. 394.463(2)(a)3., F.S.

⁴ Section 394.463(2)(a), F.S.

⁵ Section 394.463(1), F.S. Receiving facilities are designated by the Department of Children and Families.

⁶ Section 394.463(2)(f), F.S.

⁷ Section 394.463(2)(i), F.S., and *Supra* note 2.

⁸ Section 394.463(2)(f), F.S.

by telephone or in person, within 24 hours after the patient's arrival unless the patient requests that no notification be made.⁹

In 2013, there were 171,744 involuntary examinations initiated in the state. Law enforcement initiated almost half of the involuntary examinations (49.65 percent), followed by mental health professionals (48.39 percent), and then orders by judges (1.96 percent).¹⁰ Overall, the number of involuntary examinations has been increasing annually in a number that exceeds Florida population growth. According to the DCF, of the approximately 150,000 involuntary examinations initiated in 2011, 18,000 were of children. Between 2002 and 2011, there was an overall increase of 50 percent in the number of involuntary examinations and a 35 percent increase in examinations of children.¹¹

School Health Services Program

The "School Health Services Act," sets forth requirements related to school health and requires the Department of Health, in cooperation with the Department of Education, to supervise the school health services program and conduct periodic program reviews.¹² Each county health department must develop, jointly with the local school board and the school health advisory committee, a school health services plan.

The plan must contain provisions addressing a wide range of services and health issues, including meeting emergency health needs in each school.¹³ The "emergency health needs" is the onsite management and aid for illness or injury pending the student's return to the classroom or release to a parent, guardian, designated friend, or designated health care provider.¹⁴ The plan is not required to specifically address parental notification of a student who is transported for involuntary examination.¹⁵

Student and Parental Rights and Educational Choices

Parents of public school students must receive accurate and timely information regarding their children's academic progress and the ways in which they can help their children succeed in school. These parents are also afforded numerous statutory rights including those relating to health issues.¹⁶ However, there is no requirement that a student's parent be notified when the student is transported to a receiving facility for purposes of an involuntary examination under the Baker Act.

⁹ Section 394.4599(2)(b), F.S.

¹⁰ University of South Florida, de la Parte Florida Mental Health Institute, *Annual Report of Baker Act Data, Summary of 2013 Data*, p. 3-4 (May 2014) available at http://bakeract.fmhi.usf.edu/document/BA_Annual_2013_Redacted%20Final.pdf (last visited April 6, 2015).

¹¹ *Supra* note 2.

¹² Section 381.0056, F.S.

¹³ The plan must be completed biennially and approved by the school district superintendent, chair of the school board, county health department medical director or administrator, and the Department of Health district administrator. Rule 64F-6.002(3), F.A.C.

¹⁴ Section 381.0056(2)(a), F.S.

¹⁵ The plan is required to contain provisions for consulting with a parent or guardian when a student's health may need a diagnosis or treatment by the family physician, dentist, or other specialist. s. 381.0056(4)(a)15., F.S.

¹⁶ Section 1002.20, F.S.

Child Protection

Each report of known or suspected child abuse, abandonment, or neglect by a parent, legal custodian, caregiver, or other person responsible for the child's welfare must be made immediately to the Center Abuse Hotline. A school teacher, or other school official or personnel, must provide his or her name when reporting known or suspected child abuse.¹⁷

III. Effect of Proposed Changes:

The bill requires a public or charter school principle or the principle's designee to immediately notify the parent of the student who was removed from school, school transportation, or a school-sponsored activity and transported to a receiving facility for involuntary examination. Notification may be delayed up to 24 hours after the student is removed from school if the principle or principle's designee deems the delay is in the student's best interest and the school has submitted a report to the DCF Central Abuse Hotline based on knowledge or suspicion of abuse, abandonment, or neglect. Each district school board and charter school governing board must develop policy and procedures for such notification and the school health services plan must also provide provisions for such a notification.

The bill amends the "emergency health needs" definition for a school health services plan to include an onsite evaluation for illness or injury and allow for a student's release to a law enforcement officer.

The bill specifies that a receiving facility's notification of an adult or emancipated minor patient's whereabouts that is being held involuntarily for an examination can occur in person or by telephonic or other electronic communication.

The bill requires a receiving facility give notice of the whereabouts of a minor who is being held involuntarily for examination to the patient's parent, guardian, or guardian advocate, in person or by telephonic or other form of electronic communication, immediately after the patient's arrival at the facility. However, the facility may delay notification for up to 24 hours after the patient's arrival if the facility has submitted a report to the DCF Central Abuse Hotline based on knowledge or suspicion of abuse, abandonment, or neglect, and the delay is in the minor's best interest.

The receiving facility must continue to attempt to notify the minor patient's parent, guardian, or guardian advocate until the receiving facility receives confirmation that notice has been received.¹⁸ The receiving facility must make repeated attempts of notification:

- Every hour during the first 12 hours after the patient's arrival; and
- Then once every 24 hours thereafter until:
 - Confirmation is received;
 - The patient is released at the end of the 72 hour examination period; or
 - A petition for involuntary placement is filed with the court.

¹⁷ Section 39.201(1)(c), F.S. Every person has a duty to report a suspicion of abuse, abandonment, or neglect.

¹⁸ Confirmation can be verbally, by telephonic or other electronic communication, or by recorded message.

The receiving facility may see assistance from law enforcement if notification is not made within 24 hours after the patient's arrival. The notification attempts must be documented in the patient's file.

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:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0056, 394.4599, 1002.20, and 1002.33.

IX. Additional Information:

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

CS by Fiscal Policy on April 9, 2015:

The CS removes the bill sections that were reenacting statutes.

- B. **Amendments:**

None.

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



540404

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hukill) recommended the following:

Senate Amendment (with title amendment)

Delete lines 204 - 223.

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

And the title is amended as follows:

Delete lines 22 - 32

and insert:

procedures; providing an effective date.

By Senator Garcia

38-00656-15

2015954__

1 A bill to be entitled
 2 An act relating to involuntary examinations of minors;
 3 amending s. 381.0056, F.S.; revising the definition of
 4 the term "emergency health needs"; requiring school
 5 health services plans to include notification
 6 requirements when a student is removed from school,
 7 school transportation, or a school-sponsored activity
 8 for involuntary examination; amending s. 394.4599,
 9 F.S.; requiring a receiving facility to provide notice
 10 of the whereabouts of an adult or emancipated minor
 11 patient held for involuntary examination; providing
 12 conditions for delay in notification; requiring
 13 documentation of contact attempts; amending ss.
 14 1002.20 and 1002.33, F.S.; requiring public school or
 15 charter school principals or their designees to
 16 provide notice of the whereabouts of a student removed
 17 from school, school transportation, or a school-
 18 sponsored activity for involuntary examination;
 19 providing conditions for delay in notification;
 20 requiring district school boards and charter school
 21 governing boards to develop notification policies and
 22 procedures; reenacting ss. 154.503(2)(e), 381.0057(6),
 23 381.0059(1)-(4), 381.00593(2), 409.91211(3)(z),
 24 409.9122(2)(a), and 1006.062(6), to incorporate the
 25 amendments made to s. 381.0056, F.S., in references
 26 thereto; reenacting ss. 394.4625(4), 394.4655(2)(a)
 27 and (7)(d), 394.467(2) and (7)(b), 394.4685(1)(a) and
 28 (b), and 394.469(2), F.S., to incorporate the
 29 amendments made to s. 394.4599, F.S., in references

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38-00656-15

2015954__

30 thereto; reenacting s. 1002.345(1)(a), F.S., to
 31 incorporate the amendments made to s. 1002.33, F.S.,
 32 in a reference thereto; providing an effective date.
 33

34 Be It Enacted by the Legislature of the State of Florida:
 35

36 Section 1. Subsection (2) and paragraph (a) of subsection
 37 (4) of section 381.0056, Florida Statutes, are amended to read:
 38 381.0056 School health services program.—

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

40 (a) "Emergency health needs" means onsite evaluation,
 41 management, and aid for illness or injury pending the student's
 42 return to the classroom or release to a parent, guardian,
 43 designated friend, law enforcement officer, or designated health
 44 care provider.

45 (b) "Entity" or "health care entity" means a unit of local
 46 government or a political subdivision of the state; a hospital
 47 licensed under chapter 395; a health maintenance organization
 48 certified under chapter 641; a health insurer authorized under
 49 the Florida Insurance Code; a community health center; a migrant
 50 health center; a federally qualified health center; an
 51 organization that meets the requirements for nonprofit status
 52 under s. 501(c)(3) of the Internal Revenue Code; a private
 53 industry or business; or a philanthropic foundation that agrees
 54 to participate in a public-private partnership with a county
 55 health department, local school district, or school in the
 56 delivery of school health services, and agrees to the terms and
 57 conditions for the delivery of such services as required by this
 58 section and as documented in the local school health services

Page 2 of 8

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38-00656-15

2015954__

59 plan.

60 (c) "Invasive screening" means any screening procedure in
61 which the skin or any body orifice is penetrated.

62 (d) "Physical examination" means a thorough evaluation of
63 the health status of an individual.

64 (e) "School health services plan" means the document that
65 describes the services to be provided, the responsibility for
66 provision of the services, the anticipated expenditures to
67 provide the services, and evidence of cooperative planning by
68 local school districts and county health departments.

69 (f) "Screening" means presumptive identification of unknown
70 or unrecognized diseases or defects by the application of tests
71 that can be given with ease and rapidity to apparently healthy
72 persons.

73 (4)(a) Each county health department shall develop, jointly
74 with the district school board and the local school health
75 advisory committee, a school health services plan. ~~and~~ The plan
76 must include, at a minimum, provisions for:

- 77 1. Health appraisal. ~~and~~
- 78 2. Records review. ~~and~~
- 79 3. Nurse assessment. ~~and~~
- 80 4. Nutrition assessment. ~~and~~
- 81 5. A preventive dental program. ~~and~~
- 82 6. Vision screening. ~~and~~
- 83 7. Hearing screening. ~~and~~
- 84 8. Scoliosis screening. ~~and~~
- 85 9. Growth and development screening. ~~and~~
- 86 10. Health counseling. ~~and~~
- 87 11. Referral and followup of suspected or confirmed health

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

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88 problems by the local county health department. ~~and~~

89 12. Meeting emergency health needs in each school. ~~and~~

90 13. County health department personnel to assist school
91 personnel in health education curriculum development. ~~and~~

92 14. Referral of students to appropriate health treatment,
93 in cooperation with the private health community whenever
94 possible. ~~and~~

95 15. Consultation with a student's parent or guardian
96 regarding the need for health attention by the family physician,
97 dentist, or other specialist when definitive diagnosis or
98 treatment is indicated. ~~and~~

99 16. Maintenance of records on incidents of health problems,
100 corrective measures taken, and such other information as may be
101 needed to plan and evaluate health programs; except, however,
102 that provisions in the plan for maintenance of health records of
103 individual students must be in accordance with s. 1002.22. ~~and~~

104 17. Health information which will be provided by the school
105 health nurses, when necessary, regarding the placement of
106 students in exceptional student programs and the reevaluation at
107 periodic intervals of students placed in such programs. ~~and~~

108 18. Notification to the local nonpublic schools of the
109 school health services program and the opportunity for
110 representatives of the local nonpublic schools to participate in
111 the development of the cooperative health services plan.

112 19. Immediate notification to a student's parent or
113 guardian if the student is removed from school, school
114 transportation, or a school-sponsored activity and taken to a
115 receiving facility for an involuntary examination pursuant to s.
116 394.463, including the requirements established under ss.

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117 1002.20(3) and 1002.33(9).

118 Section 2. Present paragraphs (c) through (e) of subsection
119 (2) of section 394.4599, Florida Statutes, are redesignated as
120 paragraphs (d) through (f), respectively, paragraph (b) of that
121 subsection is amended, and a new paragraph (c) is added to that
122 subsection, to read:

123 394.4599 Notice.—

124 (2) INVOLUNTARY PATIENTS.—

125 (b) A receiving facility shall give prompt notice of the
126 whereabouts of an adult or emancipated minor a patient who is
127 being held involuntarily held for examination, in person or by
128 telephonic or other form of electronic communication, by
129 telephone or in person within 24 hours after the patient's
130 arrival at the facility, unless the patient requests that no
131 notification be made. Contact attempts shall be documented in
132 the patient's clinical record and shall begin as soon as
133 reasonably possible after the patient's arrival. Notice that a
134 patient is being admitted as an involuntary patient shall be
135 given to the Florida local advocacy council no later than the
136 next working day after the patient is admitted.

137 (c)1. A receiving facility shall give notice of the
138 whereabouts of a minor patient who is being held involuntarily
139 for examination pursuant to s. 394.463 to the patient's parent,
140 guardian, or guardian advocate, in person or by telephonic or
141 other form of electronic communication, immediately after the
142 patient's arrival at the facility. The facility may delay
143 notification for no more than 24 hours after the patient's
144 arrival if the facility has submitted a report to the central
145 abuse hotline, pursuant to s. 39.201, based upon knowledge or

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146 suspicion of abuse, abandonment, or neglect and deems delay in
147 notification to be in the minor's best interest.

148 2. The receiving facility shall attempt to notify the minor
149 patient's parent, guardian, or guardian advocate until the
150 receiving facility receives confirmation from the parent,
151 guardian, or guardian advocate, either verbally, by telephonic
152 or other form of electronic communication, or by recorded
153 message, that notification has been received. Attempts to notify
154 the parent, guardian, or guardian advocate must be repeated at
155 least once every hour during the first 12 hours after the
156 patient's arrival and once every 24 hours thereafter and must
157 continue until such confirmation is received, until the patient
158 is released at the end of the 72-hour examination period, or
159 until a petition for involuntary placement is filed with the
160 court pursuant to s. 394.463(2)(i). A receiving facility may
161 seek assistance from law enforcement if notification is not made
162 within the first 24 hours after the patient's arrival. The
163 receiving facility must document notification attempts in the
164 patient's clinical record.

165 Section 3. Paragraph (1) is added to subsection (3) of
166 section 1002.20, Florida Statutes, to read:

167 1002.20 K-12 student and parent rights.—Parents of public
168 school students must receive accurate and timely information
169 regarding their child's academic progress and must be informed
170 of ways they can help their child to succeed in school. K-12
171 students and their parents are afforded numerous statutory
172 rights including, but not limited to, the following:

173 (3) HEALTH ISSUES.—

174 (1) Notification of involuntary examinations.—The public

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175 school principal or the principal's designee shall immediately
 176 notify the parent of a student who is removed from school,
 177 school transportation, or a school-sponsored activity and taken
 178 to a receiving facility for an involuntary examination pursuant
 179 to s. 394.463. The principal or the principal's designee may
 180 delay notification for no more than 24 hours after the student
 181 is removed from school if the principal or designee deems the
 182 delay to be in the student's best interest and if a report has
 183 been submitted to the central abuse hotline, pursuant to s.
 184 39.201, based upon knowledge or suspicion of abuse, abandonment,
 185 or neglect. Each district school board shall develop a policy
 186 and procedures for notification under this paragraph.

187 Section 4. Paragraph (q) is added to subsection (9) of
 188 section 1002.33, Florida Statutes, to read:

189 1002.33 Charter schools.—

190 (9) CHARTER SCHOOL REQUIREMENTS.—

191 (q) The charter school principal or the principal's
 192 designee shall immediately notify the parent of a student who is
 193 removed from school, school transportation, or a school-
 194 sponsored activity and taken to a receiving facility for an
 195 involuntary examination pursuant to s. 394.463. The principal or
 196 the principal's designee may delay notification for no more than
 197 24 hours after the student is removed from school if the
 198 principal or designee deems the delay to be in the student's
 199 best interest and if a report has been submitted to the central
 200 abuse hotline, pursuant to s. 39.201, based upon knowledge or
 201 suspicion of abuse, abandonment, or neglect. Each charter school
 202 governing board shall develop a policy and procedures for
 203 notification under this paragraph.

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204 Section 5. Paragraph (e) of subsection (2) of s. 154.503,
 205 subsection (6) of s. 381.0057, subsections (1) through (4) of s.
 206 381.0059, subsection (2) of s. 381.00593, paragraph (z) of
 207 subsection (3) of s. 409.91211, paragraph (a) of subsection (2)
 208 of s. 409.9122, and subsection (6) of s. 1006.062, Florida
 209 Statutes, are reenacted for the purpose of incorporating the
 210 amendments made by this act to s. 381.0056, Florida Statutes, in
 211 references thereto.

212 Section 6. Subsection (4) of s. 394.4625, paragraph (a) of
 213 subsection (2) and paragraph (d) of subsection (7) of s.
 214 394.4655, subsection (2) and paragraph (b) of subsection (7) of
 215 s. 394.467, paragraphs (a) and (b) of subsection (1) of s.
 216 394.4685, and subsection (2) of s. 394.469, Florida Statutes,
 217 are reenacted for the purpose of incorporating the amendments
 218 made by this act to s. 394.4599, Florida Statutes, in references
 219 thereto.

220 Section 7. Paragraph (a) of subsection (1) of s. 1002.345,
 221 Florida Statutes, is reenacted for the purpose of incorporating
 222 the amendments made by this act to s. 1002.33, Florida Statutes,
 223 in a reference thereto.

224 Section 8. This act shall take effect July 1, 2015.

The Florida Senate
State Senator René García
38th District

Please reply to:

District Office:

1490 West 68 Street
Suite # 201
Hialeah, FL 33014
Phone# (305) 364-3100

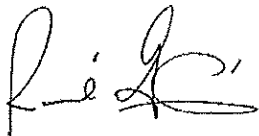
April 9th, 2015

The Honorable Senator Anitere Flores
Chair, Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Flores:

Unfortunately I cannot present my bill, SB: 954 Involuntary Examination of Minors, due to a scheduling conflict. Please allow my Legislative Aide, AJ D'Amico, to present the bill on my behalf.

Sincerely,



State Senator René García
District 38
RG:JT

CC: Jennifer Hrdlicka, Staff Director

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 Fiscal Policy

BILL: SB 996

INTRODUCER: Senator Richter

SUBJECT: Home Medical Equipment

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Looke</u>	<u>Stovall</u>	<u>HP</u>	Favorable
2.	<u>Browne</u>	<u>Pigott</u>	<u>AHS</u>	Recommend: Favorable
3.	<u>Goedert</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 996 amends s. 400.93, F.S., to exempt physicians licensed under chs. 458, 459, and 460, F.S., who sell or rent electrostimulation medical equipment to their patients in the course of their practice from the requirement that they be licensed as a home medical equipment provider.

The bill may have an insignificant fiscal impact on the Agency for Health Care Administration (AHCA).

II. Present Situation:

Home Medical Equipment Providers

Part VII of ch. 400, F.S., requires the AHCA to license and regulate any person or entity that holds itself out to the public as performing any of the following functions:¹

- Providing home medical equipment² and services;³
- Accepting physician orders for home medical equipment and services; or
- Providing home medical equipment that typically requires home medical services.

¹ Section 400.93(1) and (2), F.S.

² See also s. 400.925(6), F.S., defining “home medical equipment” as any product as defined by the Federal Drug Administration’s Drugs, Devices and Cosmetics Act, any products reimbursed under the Medicare Part B Durable Medical Equipment benefits, or any products reimbursed under the Florida Medicaid durable medical equipment program. Home medical equipment includes oxygen and related respiratory equipment; manual, motorized, or customized wheelchairs and related seating and positioning, but does not include prosthetics or orthotics or any splints, braces, or aids custom fabricated by a licensed health care practitioner; motorized scooters; personal transfer systems; and specialty beds, for use by a person with a medical need.

³ See also s. 400.925(9), F.S., defining “home medical equipment services” as equipment management and consumer instruction, including selection, delivery, setup, and maintenance of equipment, and other related services for the use of home medical equipment in the consumer’s regular or temporary place of residence.

The following are exempt from home medical equipment provider licensure:⁴

- Providers operated by the Department of Health (DOH) or the federal government;
- Nursing homes;
- Assisted living facilities;
- Home health agencies;
- Hospices;
- Intermediate care facilities;
- Homes for special services;
- Transitional living facilities;
- Hospitals;
- Ambulatory surgical centers;
- Manufacturers and wholesale distributors that do not sell directly to the consumer;
- Licensed health care practitioners who utilize home medical equipment in the course of their practice, but do not sell or rent home medical equipment to their patients; and
- Pharmacies.

Currently there are 1,006 licensed home medical equipment providers, including those providers that are located out of the state but hold a Florida license.⁵

Any person or entity applying for a license as a home medical equipment provider must provide the AHCA with certain information, including proof of liability insurance, a \$300 application fee, and a \$400 inspection fee, unless exempt from inspection.⁶

As a requirement of licensure, home medical equipment providers must comply with a number of minimum standards including: providing at least one category of equipment directly from their own inventory; answering any consumer questions or complaints; maintaining and repairing items rented to consumers; and maintaining a record for each patient.⁷ Providers also must comply with the AHCA rules on minimum qualifications for personnel, including ensuring that all personnel have the necessary training and background screening.⁸

Licensed home medical equipment providers are subject to periodic inspections, including biennial licensure inspections, inspections directed by the federal Centers for Medicare & Medicaid Services, and licensure complaint investigations.⁹

Electrostimulation Medical Equipment

Devices that provide electrical stimulation can be used to treat a number of symptoms and conditions. Electrical stimulators provide direct, alternating, pulsating, and/or pulsed waveform forms of energy to the human body through electrodes that may be indwelling, implanted in the

⁴ Section 400.93(5), F.S.

⁵ See AHCA, FloridaHealthFinder.gov, available at <http://www.floridahealthfinder.gov/facilitylocator/ListFacilities.aspx> (search conducted Apr. 6, 2015).

⁶ Section 400.931, F.S.

⁷ Sections 400.934 and 400.94, F.S.

⁸ Rule 59A-25.004, F.A.C. All home medical equipment provider personnel are also subject to a level 2 background screening per s. 400.953, F.S.

⁹ Section 400.933, F.S.

skin, or used on the surface of the skin.¹⁰ Such devices may be “used to exercise muscles, demonstrate a muscular response to stimulation of a nerve, relieve pain, relieve incontinence, and provide test measurements.”¹¹

Functional electrical stimulation (FES), also known as therapeutic electrical stimulation (TES), is used to prevent or reverse muscular atrophy and bone loss by stimulating paralyzed limbs. FES is “designed to be used as a part of a self-administered home-based rehabilitation program for the treatment of upper limb paralysis.”¹² An FES system consists of a custom-fitted device and control unit that allows the user to adjust the stimulation intensity and training mode.¹³

Other types of electrical stimulation include interferential therapy (IFT) and neuromuscular electrical stimulation (NMES). IFT uses two alternating currents simultaneously applied to the affected area through electrodes to relieve musculoskeletal pain and increase healing in soft tissue injuries and bone fractures.¹⁴ NMES involves the application of electrical currents to cause muscle contractions and is used to promote the restoration of nerve supply, prevent or slow atrophy, relax muscle spasms, and to promote voluntary control of muscles in patients who have lost muscle function.¹⁵

III. Effect of Proposed Changes:

The bill amends s. 400.93, F.S., to exempt physicians who sell or rent electrostimulation medical equipment to their patients in the course of their practice from the requirement to be licensed as a home medical equipment provider.

The bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁰ United Healthcare Medical Policy, *Electrical Stimulation for the Treatment of Pain and Muscle Rehabilitation*, p. 4, (December 1, 2014), https://www.unitedhealthcareonline.com/ccmcontent/ProviderII/UHC/en-US/Assets/ProviderStaticFiles/ProviderStaticFilesPdf/Tools%20and%20Resources/Policies%20and%20Protocols/Medical%20Policies/Medical%20Policies/Electrical_Stim_Tx_Pain_Muscle_Rehab.pdf (last visited Apr. 6, 2015).

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.* at p. 9.

¹⁵ *Id.* at p. 5.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Any exempted physicians may see a positive fiscal impact due to no longer having to pay licensure and inspection fees or meet the licensure requirements of part VII of ch. 400, F.S.

C. Government Sector Impact:

The AHCA may experience a negative, but likely insignificant, fiscal impact due to fewer licensed home medical equipment providers.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 400.93 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 Richter

23-01119-15

2015996__

1 A bill to be entitled
2 An act relating to home medical equipment; amending s.
3 400.93, F.S.; exempting allopathic, osteopathic, and
4 chiropractic physicians who sell or rent
5 electrostimulation medical equipment and supplies to
6 their patients in the course of their practice from
7 licensure as home medical equipment providers;
8 providing an effective date.

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

11
12 Section 1. Paragraph (k) is added to subsection (5) of
13 section 400.93, Florida Statutes, to read:

14 400.93 Licensure required; exemptions; unlawful acts;
15 penalties.-

16 (5) The following are exempt from home medical equipment
17 provider licensure, unless they have a separate company,
18 corporation, or division that is in the business of providing
19 home medical equipment and services for sale or rent to
20 consumers at their regular or temporary place of residence
21 pursuant to the provisions of this part:

22 (k) Physicians licensed pursuant to chapter 458, chapter
23 459, or chapter 460 for the sale or rental of electrostimulation
24 medical equipment and electrostimulation medical equipment
25 supplies to their patients in the course of their practice.

26 Section 2. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: April 3, 2015

Dear Chair Flores,

I would like to respectfully request that **Senate Bill #996**, relating to Home Medical Equipment, be placed on the Fiscal Policy Committee Agenda at your earliest possible convenience. The committee on Fiscal Policy is the third and final committee of reference for Senate Bill #996.

Any questions regarding this legislation, please do not hesitate to contact me or my staff.

Thank you in advance for your consideration.

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

Senator Garrett Richter
Florida Senate, District 23

cc: Jennifer Hrdlicka, Staff Director
Tamra Lyon, Committee Administrative Assistant

THE FLORIDA SENATE
APPEARANCE RECORD

412-K
9:00

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

4-9-2015

Meeting Date

SB 996

Bill Number (if applicable)

Topic HOME MEDICAL EQUIPMENT

Amendment Barcode (if applicable)

Name STEPHEN R. WINN

Job Title EXECUTIVE DIRECTOR

Address 2544 BAIRSTONE PINES DR

Phone 878-7364

Street

TALLAHASSEE

FL

32301

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking

In Support Against

(The Chair will read this information into the record.)

Representing FLORIDA OSTEOPATHIC MEDICAL ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Fiscal Policy

BILL: CS/CS/SB 1024

INTRODUCER: Fiscal Policy Committee; Transportation Committee; and Senator Simmons

SUBJECT: Central Florida Expressway Authority

DATE: April 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	Sneed	Miller	ATD	Recommend: Favorable
3.	Pace	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1024 addresses issues relating to the Central Florida Expressway Authority. The bill clarifies that members of Central Florida Expressway Authority's governing body from Seminole, Lake, and Osceola Counties must be a county commission member or chair, or a county mayor from the respective counties. The bill provides that the 4-year term of authority members appointed by the Governor ends on December 31 of the last year of service. The bill also repeals superseded language requiring that title to the former Orlando-Orange County Expressway System be transferred to the state under certain conditions.

The bill has no apparent fiscal impact on state or local governments.

II. Present Situation:

Historical Background of the Orlando-Orange County Expressway Authority

The Orlando-Orange County Expressway Authority (OOCEA) was created by the Legislature in 1963 for the purpose of construction and operation of an expressway road system in Central Florida.¹ The OOCEA was granted the power to construct, operate, and maintain roads, bridges, avenues of access, thoroughfares, and boulevards in Orange County, as well as in any consenting

¹ See ch. 348, part II, F.S. (2013).

county within whose jurisdiction the activities occurred. The OOCEA was also authorized to issue toll revenue bonds to help finance the project.²

Lease-Purchase Agreement

The Orlando-Orange County Expressway System is operated pursuant to a lease-purchase agreement.³ Under the lease-purchase agreement the Florida Department of Transportation (FDOT), as lessee, agrees to pay the operation and maintenance costs of the associated toll facility.⁴ Upon completion of the lease-purchase agreement, ownership of the facility is transferred to the state and the FDOT would retain all revenues collected, as well as operation and maintenance responsibility.⁵ Lease-purchase agreements benefit the authority by delaying when the authority (lessor) is responsible for paying for the financial obligations of operating and maintaining the system.⁶

Currently, the lease-purchase agreement is statutorily required to provide that upon termination of the agreement, title to the expressway system must be transferred to the state.⁷ The most recent supplemented and extended lease-purchase agreement was to remain in effect until all bonds and any refunding bonds were fully paid and the FDOT was reimbursed for all amounts owed to it under the agreement. The OOCEA's obligation to the FDOT in early 2012 was approximately \$235 million, with full repayment to the FDOT expected in 2042.⁸

The Wekiva Parkway

In 2012, the OOCEA and the FDOT agreed, pursuant to a Memorandum of Understanding (MOU) to jointly undertake construction of the Wekiva Parkway (Parkway), a beltway around the Metropolitan Orlando area.⁹ An Interlocal Agreement was approved in 2014 that included specific terms and conditions governing the project that are consistent with the MOU. The agreement called for the OOCEA to independently finance, build, own, and manage sections of the Parkway primarily in Orange County, and the FDOT to be responsible for the remaining portions of the Parkway in Lake and Seminole Counties.¹⁰ As part of the agreement, OOCEA agreed to repay long-term debt owed to the FDOT.

To ensure available funds for the FDOT portion of the Wekiva Parkway, the 2012 Legislature required the OOCEA to repay the FDOT for the operation and maintenance of the expressway system in accordance with the lease-purchase agreement. A repayment schedule was established

² Bonds are payable from and secured by a pledge of net toll revenues collected from the operation of the expressway system.

³ Section 348.757, F.S.

⁴ Section 348.757(6), F.S.

⁵ Section 348.757(2), F.S.

⁶ See Senate Budget Committee Bill Analysis for SB 1998, February 15, 2012, p. 7, for more detail on the lease-purchase agreement history.

⁷ Section 348.757(2).

⁸ *Supra note 5* at p. 11.

⁹ See Metroplan Orlando website, *The Wekiva Parkway Project is Preparing to Move Forward* (June 30, 2012), available at <http://www.metroplanorlando.com/news/press-releases/wekiva-parkway-project-moves-forward/>. (last visited April 3, 2015).

¹⁰ See the Florida Transportation Commission's *Transportation Authority Monitoring and Oversight Fiscal Year 2013 Report*, p. 4, available at <http://www.ftc.state.fl.us/reports/TAMO.shtm> (last visited April 6, 2015).

for the OOCEA to reimburse the FDOT for all costs of the expressway system which were paid, advanced, or reimbursed to the OOCEA by the FDOT.¹¹

The Legislature also required that upon the earlier of the defeasance, redemption, or payment in full of bonds issued before July 1, 2012, or the earlier date to which the purchasers of the bonds have consented:

- The obligations of the FDOT under the lease-purchase agreement terminate, including payment of any cost of operation, maintenance, repair, or rehabilitation of the system;
- The lease-purchase agreement terminates;
- The expressway system remains the property of the CFX and may not be transferred to the FDOT; and
- The OOCEA remains obligated to reimburse the FDOT according to the terms of the MOU.¹²

These provisions superseded the previously enacted statutory requirement in s. 348.757(2), F.S., that the lease-purchase agreement provide for transfer of title to the former expressway system to the state upon termination of the agreement.

The OOCEA System Transfer to the Central Florida Expressway Authority

In 2014, the Legislature re-named the OOCEA as the Central Florida Expressway Authority (CFX) and transferred governance and control, legal rights and powers, responsibilities, terms, and obligations to the CFX. The area served by the CFX was expanded to include Seminole, Lake, and Osceola Counties, in addition to Orange County.¹³

The Legislature also amended the composition and membership terms of the CFX governing body. Currently, the governing body consists of nine members:

- The chairs of the Seminole, Lake, and Osceola County Commissions appoint one member each who may be a commission member or the commission chair;
- The Mayor Orange County appoints one member from the Orange County Commission;
- The Governor appoints three members each of whom must be a citizen of either Orange, Seminole, Lake, or Osceola County;
- The eighth member must be the Orange County Mayor; and
- The ninth member must be City of Orlando Mayor.¹⁴

The executive director of the Florida Turnpike Enterprise serves as a non-voting advisor. Members hold office until a successor has been appointed and qualified.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 348.753(3), F.S., to revise requirements related to the appointments to the CFX governing body by the chairs of the County Commissions of Seminole, Lake, and Osceola Counties. Currently each of these appointees *may* be a commission member or chair. The bill

¹¹ Chapter 2012-128, s. 36, L.O.F. See also s. 348.7546, F.S.

¹² Section 348.757(9), F.S.

¹³ 2014-171, L.O.F.

¹⁴ Section 348.753(3), F.S.

¹⁵ Id.

provides that each of the three appointees *must* be a commission member or chair *or a county mayor*.¹⁶

The bill also provides that the 4-year term of each member appointed by the Governor, who currently serve four years, ends on December 31 of his or her last year of service. The CFX advises this revision is to accommodate the CFX's January officer elections.¹⁷ This section also makes editorial changes and repeals an obsolete date reference related to expiration of the terms of standing board members.

Section 2 amends s. 348.754(2)(e), F.S. to clarify that CFX is a party to a 1985 lease-purchase agreement between the OOCEA and the FDOT.

Section 3 amends s. 348.757(2), F.S., to repeal the requirement that the title in fee simple absolute to the former OOCEA be transferred to the FDOT upon termination of the lease-purchase agreement. The language has been superseded by the repayment and transfer provisions enacted by the 2012 Legislature¹⁸ and the Interlocal Agreement between the FDOT and the CFX regarding the Wekiva Parkway.¹⁹

Section 4 retitles Part III of ch. 348, F.S., from "Orlando-Orange County Expressway Authority" to "Central Florida Expressway Authority" to reflect the new name of the authority.

Section 5 provides that the bill takes effect July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁶ The CFX advises this change is to accommodate different forms of county government structure. See CFX email to Senate Transportation Committee staff, March 5, 2015 (on file with the Senate Transportation Committee).

¹⁷ Id.

¹⁸ *Supra* note 11.

¹⁹ The Interlocal Agreement includes a supplement to the lease-purchase agreement that provides for the authority to retain its system upon termination of the lease purchase agreement as provided in s. 348.757(9), F.S. See 2015 FDOT Legislative Bill Analysis CS/SB 1024 (March 13, 2015) (on file with the Senate Fiscal Policy Committee).

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.²⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 348.753 and 348.757.

²⁰ 2015 FDOT Legislative Bill Analysis for CS/SB 1024 (March 13, 2015) (on file with the Senate Fiscal Policy Committee).

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 Fiscal Policy on April 9, 2015:

The committee substitute clarifies that CFX is a party to a 1985 lease-purchase agreement between OOCEA and the FDOT and retitles Part III of ch. 348, F.S. from Orlando-Orange County Expressway Authority to Central Florida Expressway Authority to reflect the new name of the authority.

CS by Transportation on March 12, 2015:

The CS modifies the bill by removing the repeal of s. 348.757(2), F.S., which currently prohibits the CFX from constructing any extensions, additions, or improvements to the expressway system in Lake County without the prior consent of the Secretary of Transportation, thereby preserving the Legislature's expressed intent to ensure the continued financial feasibility of the portions of the Wekiva Parkway for which the FDOT is responsible.

- B. **Amendments:**

None.



616102

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 75 and 76

insert:

Section 3. Paragraph (e) of subsection (2) of section 348.754, Florida Statutes, is amended to read:

348.754 Purposes and powers.—

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



616102

12 (e) To enter into and make lease-purchase agreements with
13 the department for terms not exceeding 99 years, or until any
14 bonds secured by a pledge of rentals pursuant to the agreement,
15 and any refundings pursuant to the agreement, are fully paid as
16 to both principal and interest, whichever is longer. The
17 authority is a party to a lease-purchase agreement between the
18 department and the Orlando-Orange County Expressway Authority
19 dated December 23, 1985, as supplemented by a first supplement
20 to the lease-purchase agreement dated November 25, 1986, and a
21 second supplement to the lease-purchase agreement dated October
22 27, 1988. The authority may not enter into other lease-purchase
23 agreements with the department and may not amend the existing
24 agreement in a manner that expands or increases the department's
25 obligations unless the department determines that the agreement
26 or amendment is necessary to permit the refunding of bonds
27 issued before July 1, 2013.

28 Section 4. Part III of chapter 348, Florida Statutes,
29 consisting of sections 348.751-348.765, is retitled "Central
30 Florida Expressway Authority."

31
32 ===== T I T L E A M E N D M E N T =====

33 And the title is amended as follows:

34 Delete line 16

35 and insert:

36 of a specified lease-purchase agreement; amending s.
37 348.754, F.S.; specifying that the Central Florida
38 Expressway Authority is a party to a certain lease-
39 purchase agreement between the department and the
40 Orlando-Orange County Expressway Authority;revising



616102

41 the title of part III of chapter 348, F.S.; providing
42 an

By the Committee on Transportation; and Senator Simmons

596-02195-15

20151024c1

A bill to be entitled

An act relating to the Central Florida Expressway Authority; amending s. 348.753, F.S.; requiring the chairs of the boards of specified county commissions each to appoint one member from their respective counties who is a commission member or chair or a county mayor to serve on the governing body of the authority; specifying that the terms of members appointed by the Governor end on a specified date; removing the requirement that the authority elect one of its members as secretary; amending s. 348.757, F.S.; removing the requirement that title in fee simple absolute to the former Orlando-Orange County Expressway System be transferred to the state upon the completion of the faithful performance and termination of a specified lease-purchase agreement; providing an effective date.

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

Section 1. Subsection (3) and paragraph (a) of subsection (4) of section 348.753, Florida Statutes, are amended to read:
348.753 Central Florida Expressway Authority.—

(3) The governing body of the authority shall consist of nine members. The chairs of the boards of the county commissions of Seminole, Lake, and Osceola Counties shall each appoint one member from their respective counties, who must ~~may~~ be a commission member or chair or a county mayor. The Mayor of Orange County shall appoint a member from the Orange County

Page 1 of 3

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

596-02195-15

20151024c1

Commission. The Governor shall appoint three citizen members, each of whom must be a citizen of either Orange County, Seminole County, Lake County, or Osceola County. ~~The eighth member must be the Mayor of Orange County and. The ninth member must be the~~ Mayor of the City of Orlando shall also serve as members. The executive director of the Florida Turnpike Enterprise shall serve as a nonvoting advisor to the governing body of the authority. Each member appointed by the Governor shall serve for 4 years, with his or her term ending on December 31 of his or her last year of service. Each county-appointed member shall serve for 2 years. ~~The terms of standing board members expire June 20, 2014.~~ Each appointed member shall hold office until his or her successor has been appointed and has qualified. A vacancy occurring during a term must be filled only for the balance of the unexpired term. Each appointed member of the authority must ~~shall~~ be a person of outstanding reputation for integrity, responsibility, and business ability, but, except as provided in this subsection, a person who is an officer or employee of a municipality or county may not be an appointed member of the authority. Any member of the authority is eligible for reappointment.

(4) (a) The authority shall elect one of its members as chair of the authority. The authority shall also elect one of its members as vice chair, ~~one of its members as secretary,~~ and one of its members as treasurer. The chair, vice chair, ~~secretary,~~ and treasurer shall hold such offices at the will of the authority. Five members of the authority constitute a quorum, and the vote of five members is necessary for any action taken by the authority. A vacancy in the authority does not

Page 2 of 3

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596-02195-15

20151024c1

59 impair the right of a quorum of the authority to exercise all of
60 the rights and perform all of the duties of the authority.

61 Section 2. Subsection (2) of section 348.757, Florida
62 Statutes, is amended to read:

63 348.757 Lease-purchase agreement.-

64 (2) The lease-purchase agreement must provide for the
65 leasing of the former Orlando-Orange County Expressway System,
66 by the authority, as lessor, to the department, as lessee, and
67 must prescribe the term of such lease and the rentals to be
68 paid, ~~and must provide that upon the completion of the faithful~~
69 ~~performance and the termination of the lease-purchase agreement,~~
70 ~~title in fee simple absolute to the former Orlando Orange County~~
71 ~~Expressway System as then constituted shall be transferred in~~
72 ~~accordance with law by the authority, to the state and the~~
73 ~~authority shall deliver to the department such deeds and~~
74 ~~conveyances as shall be necessary or convenient to vest title in~~
75 ~~fee simple absolute in the state.~~

76 Section 3. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: April 2, 2015

I respectfully request that **Senate Bill 1024**, relating to Central Florida Expressway Authority, be placed on the:

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

A handwritten signature in black ink, appearing to read "David Simmons".

Senator David Simmons
Florida Senate, District 10

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 Fiscal Policy

BILL: CS/SB 1208

INTRODUCER: Health Policy Committee and Senator Bean

SUBJECT: Dietetics and Nutrition

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Lloyd</u>	<u>Stovall</u>	<u>HP</u>	Fav/CS
2.	<u>Pace</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1208 revises the Dietetics and Nutrition Practice Act. Specifically the bill:

- Authorizes certain registered or certified individuals to use specified titles and designations including, certified nutrition specialist and diplomates of the American Clinical Board of Nutrition;
- Requires the Board of Medicine to waive the licensure examination requirement for certain specified applicants; and
- Provides that a licensed dietitian/nutritionist treating a patient who is under the active care of a licensed physician or licensed chiropractor is not precluded from ordering a therapeutic diet if otherwise authorized to order such a diet.

II. Present Situation:

According to the U.S. Bureau of Labor Statistics dietitians and nutritionists plan and conduct food service or nutritional programs to assist in the promotion of health and control disease. Individuals in this occupation may also supervise activities of a dietetic department providing quality food service, counsel individuals, or conduct nutritional research.¹

¹ United States Department of Labor, Bureau of Labor Statistics, *Occupational Employment and Wages, May 2014 for Dietitians and Nutritionists*, available at <http://www.bls.gov/oes/current/oes291031.htm> (last visited April 3, 2015).

Dietetics and Nutrition Credentialing Organizations

Academy of Nutrition and Dietetics

The Academy of Nutrition and Dietetics (Academy) is an organization of food and nutrition professionals with over 75,000 members committed to advancing the profession through research, education, and advocacy.² The Accreditation Council for Education in Nutrition and Dietetics (ACEND) is the Academy's accrediting agency for education programs. The Commission on Dietetic Registration (Commission) administers the Agency's credentialing programs. The Commission grants seven separate and distinct credentials, including a Registered Dietitian and Registered Dietitian Nutritionist.³

To receive the certification of Registered Dietitian or Registered Dietitian Nutritionist from the Commission, an individual must:

- Complete the minimum of a bachelor's degree granted by a United States regionally accredited college or university, or foreign equivalent;
- Meet the current minimum academic requirements as approved by the ACEND;
- Complete a supervised practice program accredited by the ACEND;
- Pass the registration examination for dietitians;
- Remit the annual registration fee (\$60);
- Comply with the Professional Development Portfolio recertification requirements.⁴

Florida requires licensure applicants to pass the Commission's licensure exam as part of the state licensure requirement.⁵

Board for Certification of Nutrition Specialists

The Board for Certification of Nutrition Specialists is a credentialing body for nutrition care professionals with advanced degrees and training in nutrition science.⁶ A Certified Nutrition Specialist (CNS) provides individual nutrition assessment, evaluation, intervention, and monitoring to prevent and improve health conditions.⁷

The CNS credential requires an individual to have:

- An advanced degree (master's or doctorate) in the field of nutrition or a doctoral level degree in a clinical health field;

² Academy of Nutrition and Dietetics, *About Us*, available at <http://www.eatrightpro.org/resources/about-us> (last visited April 3, 2015).

³ The other credentials issued by the Commission are: Nutrition and Dietetics Technician, Registered/ Dietetic Technician, Registered; Board Certified Specialist in Renal Nutrition; Board Certified Specialist in Pediatric Nutrition; Board Certified Specialist in Sports Dietetics; Board Certified Specialist in Gerontological Nutrition; and Board Certified Specialist in Oncology Nutrition. Commission on Dietetic Registration, *About CDR*, available at <http://www.cdrnet.org/about> (last visited April 2, 2015).

⁴ Commission on Dietetic Registration, *Who is a Registered Dietitian (RD) or Registered Dietitian Nutritionist (RDN)?*, available at <http://www.cdrnet.org/about/who-is-a-registered-dietitian-rd> (last visited April 3, 2015).

⁵ See Florida Department of Health, *Licensing*, available at <http://www.floridahealth.gov/licensing-and-regulation/dietetic-nutrition/licensing/index.html> (last visited April 2, 2015).

⁶ Board for Certification of Nutrition Specialists, *Setting the Standard for Advanced Nutrition Professionals*, available at <http://cbns.org/> (last visited April 3, 2015).

⁷ Id.

- Minimum coursework of 15 credit hours in nutrition and metabolism (including 6 in biochemistry) and 15 credit hours in clinical or life sciences (including 3 in anatomy/physiology);
- At least 1,000 hours of supervised practice experience;
- Successfully passed the board's Certifying Examination in clinical nutrition science; and
- Continuing education requirements of at least 75 credits every 5 years.⁸

Currently, the CNS credential offered by the Board for Certification of Nutrition Specialists is not a recognized as an avenue for licensure in Florida.⁹

American Clinical Board of Nutrition

The American Clinical Board of Nutrition (ACBN) is a credentialing agency for nutrition specialists.¹⁰ The ACBN is the only nutrition credentialing agency to offer diplomate status to health care professionals beyond the doctorate level in the United States and internationally.¹¹

The ACBN accepts all professionals beyond the doctorate level who qualify to sit for the nutrition examination. To qualify to sit for the examination a candidate must have achieved the following:

- A doctoral degree from an accredited education program holding status with the U.S. Department of Education;
- Three hundred hours of nutrition education from an accredited education program;
- Two years practice experience in nutrition; and
- Written an article acceptable by the ACBN for publication in approved journals.¹²

Candidates who successfully pass the two-part examination are designated as Diplomates of the American Clinical Board of Nutrition. Currently, the Diplomate of the American Clinical Board of Nutrition credential is not recognized as an avenue for licensure in Florida.¹³

Dietetics and Nutrition Practice in Florida

The 1988 Legislature enacted part X, of ch. 468, F.S., the "Dietetics and Nutrition Practice Act" (act), to ensure that every person who practices dietetics and nutrition or nutrition counseling meets the minimum requirements for safe practice.¹⁴ The dietetics and nutrition practice includes:

- Assessing nutrition needs and status using appropriate data;

⁸ Board for Certification of Nutrition Specialists, *Now is the Time to Transform*, available at http://cbns.org/wp-content/uploads/2010/08/CNSBrochure_web.pdf (last visited April 3, 2015).

⁹ Florida Department of Health, *Senate Bill 1208 Analysis* (February 26, 2015), p.5, (on file with the Senate Committee on Health Policy).

¹⁰ American Clinical Board of Nutrition, *Welcome to the ACBN*, available at <http://www.acbn.org/index.html> (last visited April 2, 2015).

¹¹ Id.

¹² American Clinical Board of Nutrition, *Authorization to Test*, available at <http://www.acbn.org/handbook.html> (last visited April 2, 2015).

¹³ Florida Department of Health, *Senate Bill 1208 Analysis* (February 26, 2015), p.5, (on file with the Senate Committee on Health Policy).

¹⁴ Section 468.502, F.S.

- Recommending appropriate dietary regimens, nutrition support, and nutrient intake;
- Improving health status through nutrition research, counseling, and education; and
- Developing, implementing, and managing nutrition care systems.¹⁵

Florida recognizes the titles “Licensed Dietitian/Nutritionist,” “Licensed Nutrition Counselor,” “Dietetic Technician,” and “Registered Dietitian.”¹⁶ Under Florida law, individuals registered by the Commission have the right to use the title “Registered Dietitian,” and the designation “R.D.”¹⁷

A person may not knowingly engage in the practice of dietetics and nutrition for money unless the individual is licensed¹⁸ or qualifies for one of the statutory exemptions.¹⁹ The act protects the use of certain titles, abbreviations, and insignia that indicate that an individual is a dietitian, nutritionist, or nutrition counselor. Persons that hold themselves out to be licensed as someone else, give false or forged evidence, use a license that has been revoked or suspended, employ unlicensed individuals, or conceal information commit a misdemeanor of the first degree, which is punishable in s. 775.082, F.S. or s. 775.083, F.S.²⁰

The Dietetics and Nutrition Practice Council

The Dietetic and Nutrition Practice Council of the Florida Department of Health is responsible for licensing, monitoring, disciplining, and educating dietitians, nutritionists, and nutrition counselors to ensure competency and safe practice in Florida.²¹ The Board of Medicine (BOM) delegates specific powers and duties to the Council such as approval/denial of licensure applications.²² However, the BOM disciplines licensees and has final authority over the Council.

Licensure

Two licensees are recognized under Florida law, a “licensed dietitian/nutritionists” and a “licensed nutrition counselor.”²³ Licenses are no longer issued for nutrition counselors in Florida. Any individual who was previously certified as a nutrition counselor from July 1, 1988, through March 30, 1997, however, may continue to renew his or her license under s. 468.514, F.S.²⁴

Individuals are eligible for licensure in Florida as dietitian/nutritionist either by examination or endorsement. The minimum requirements for initial licensure are:

- Submission of an application and required fees to the Department of Health;
- 900 hours of approved pre-professional experience or equivalent experience or education;
- A passing score on the Commission’s licensure examination;

¹⁵ Section 468.503(4), F.S.

¹⁶ Section 468.503(5), (6), (7) and (11), F.S.

¹⁷ Section 468.505(4), F.S.

¹⁸ See s. 468.504, F.S.

¹⁹ See s. 468.505, F.S.

²⁰ Section 468.517, F.S. A first degree misdemeanor conviction under s. 775.082(4), F.S., is punishable by a definite term of imprisonment not to exceed 1 year. Under s. 775.083, F.S., a first degree misdemeanor conviction is punishable by a fine not to exceed \$1,000, in addition to any punishment under s. 775.082, F.S.

²¹ Section 20.43(1)(g) and 468.506, F.S.

²² Rule 64B-40.003, F.A.C.

²³ Section 468.503, F.S.

²⁴ Section 468.51, F.S.

- A bachelor's degree with a major in human nutrition, food and nutrition, dietetics, or food management, or equivalent from an accredited program or school; or
- A degree from a foreign country that has been validated by the United States Department of Education as equivalent to the degree conferred in the United States; and
- Completion of a 2-hour course relating to the prevention of medical errors which is required of all licensed health care professionals.²⁵

The Board may waive the examination requirement for individuals who show proof of a registered dietitian credential from the Commission.²⁶

According to the department's 2013-14 Medical Quality Assurance Annual Report, there were 4,072 active licensees in Florida.²⁷

Type	In-State Active	Out of State Active	Military Active	Total Active
Dietitian/Nutritionist	3,628	316	12	3,956
Nutrition Counselors	98	18	0	116
Total	3,726	334	12	4,072

Therapeutic Diets

Therapeutic diets are a diet intervention ordered by a health care practitioner as part of the treatment for a disease or clinical condition to eliminate, decrease, or increase certain substances in the diet. A therapeutic diet is a component of a treatment program for an individual whose health status is impaired or at risk.²⁸

In Florida, dietetic and nutrition licensees are not authorized to implement a dietary plan for any condition for which the patient is under a physician's active care without the physician's written or oral dietary order.²⁹ If, after a good faith effort, the licensee is unable to receive authorization from the physician, the licensee is permitted to use his or her professional discretion in providing nutrition services until authorization can be received.³⁰

Federal Regulation of Therapeutic Diets

On January 30, 2015, the U.S. Department of Health and Human Services revised rules relating to food and dietetic services to permit qualified dietitians or qualified nutrition professionals to order therapeutic diets, if authorized by the medical staff and in accordance with state law governing dietitians and nutrition professionals. Previously, federal regulations restricted the

²⁵ Sections 456.013(7), 468.509, and 468.508, F.S., and Rule 64B8-42.005, F.A.C.

²⁶ 468.509(3), F.S.

²⁷ Florida Department of Health, Division of Medical Quality Assurance, *Annual Report and Long Range Plan Fiscal Year 2013-2014*, p.13, <http://mqawebteam.com/annualreports/1314/> (last visited April 6, 2015).

²⁸ Academy of Nutrition and Dietetics, *Definition of Terms List*, available at [http://www.eatright.org/uploadedFiles/Members/1\(1\).pdf](http://www.eatright.org/uploadedFiles/Members/1(1).pdf) (last visited April 6, 2015).

²⁹ Sections 468.516(1)(a) and (2)(a), F.S.

³⁰ *Id.*

ordering of diets to physicians and non-physician practitioners such as nurse practitioners and physician assistants.³¹

III. Effect of Proposed Changes:

Section 1 amends definitions related to the Dietetics and Nutrition Act.

The bill defines “commission” to mean the Commission on Dietetic Registration, which is the credentialing agency for the Academy of Nutrition and Dietetics.

The current definition for “dietetics and nutrition practice” is modified to include ordering therapeutic diets. The modification aligns state law with the federal rule change allowing qualified dietitians or qualified nutrition professionals to order therapeutic diets.

The definition for “registered dietitian” is revised to “registered dietitian” or “registered dietitian/nutritionist” which mean an individual licensed with the commission. This aligns the Florida definition with the recognized occupational term with similar educational and training requirements by the Commission.

Section 2 amends s. 468.505, F.S., to expand the titles and designations individuals may use who are registered with the commission or other credentialing entity:

Titles\Designations - CS/SB 1208		Certification\Credentials	Current Florida Law
Title	Designation	Examining Agency	Licensure Required
Registered Dietitian	R.D.	Commission (RD)	Yes - Dietitian\Nutritionist
Registered Dietitian\Nutritionist	R.D.N.	Commission (RDN)	Yes - Dietitian\Nutritionist
Certified Nutrition Specialist	C.N.S.	Certification Board for Nutrition Specialists	Not available
Diplomate of the American Clinical Board	D.A.C.B.N.	American Clinical Board of Nutrition	Not available

Section 3 amends s. 468.509, F.S., relating to qualifications for waiver of the examination requirement by the Board of Medicine. The bill waives the examination requirement for certain registered dietitian/nutritionists and individuals credentialed by the Certification Board for Nutrition Specialists or the American Board of Nutrition.

Section 4 amends s. 468.516, F.S., relating to practice requirements. Section 468.516(1)(a), F.S., requires a licensee to have a written or oral dietary order of a referring physician licensed under ch. 458, F.S., or ch. 459, F.S., before implementing a dietary plan for a condition for which a patient is under the active care of physician. The bill clarifies that the other provisions of this section would not preclude a licensed dietitian/nutritionist from independently ordering a

³¹ U.S. Department of Health and Human Services, Center for Clinical Standards and Quality/Survey & Certification Group, *Letter to State Survey Agency Directors* (January 30, 2015), p. 2, available at <http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/SurveyCertificationGenInfo/Downloads/Survey-and-Cert-Letter-15-22.pdf> (last visited April 2, 2015).

therapeutic diet, if otherwise authorized to order such a diet in this state. The newly added subsection does not appear to grant any new authority to the licensee.

Section 5 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shared with counties or municipalities.

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 bill provides another pathway for licensure for a registered dietitian, registered dietitian/nutritionist, and certified nutritional specialist by exempting these applicants from an examination.

C. Government Sector Impact:

The department indicates it will incur expenses in workload to update rules which can be absorbed within existing resources.³²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Health will need to amend its rules governing dietetics and nutrition to conform to the changes in the bill, including the professional name changes, inclusion of additional designations, and examination waivers.

³² Florida Department of Health, *CS/HB 951 Analysis* (March 19, 2015), p.4, (on file with the Senate Fiscal Policy Committee).

Under s. 464.015(5), F.S., clinical nurse specialists have the right to use the abbreviation “C.N.S.” and under the bill, certified nutrition specialists have the right to use the same abbreviation. A person who uses either abbreviation and does not have the appropriate license for that designation is guilty of a misdemeanor of the first degree, as provided under ss. 775.082 or 775.083, F.S.³³ According to the Florida Board of Nursing, Florida does not have many licensed certified nurse specialists, but they could exist in hospital settings and there could be confusion if the similar credential is used for certified nutrition specialists.³⁴

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 468.503, 468.505, 468.509, and 468.516.

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 Senate Health Policy Committee on March 17, 2015:

The committee substitute:

- Removes many changes to terminology and practice guidelines for dietetics and nutrition;
- Reinstates recognition of the profession by registered dietitian/nutritionist, rather than inserting an “or” in the title; and
- Reinstates the council rather than creating a board.

- B. Amendments:

None.

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

³³ *Supra* note 20.

³⁴ Emails from Lucy Gee, Allen Hall, and Joe Baker, Jr., Department of Health (March 16, 2015) (on file with Senate Committee on Health Policy).

By the Committee on Health Policy; and Senator Bean

588-02382-15

20151208c1

1 A bill to be entitled
 2 An act relating to dietetics and nutrition; amending
 3 s. 468.503, F.S.; defining the term "commission";
 4 redefining terms; amending s. 468.505, F.S.;
 5 authorizing certain registered or certified
 6 individuals to use specified titles and designations;
 7 amending s. 468.509, F.S.; requiring the Board of
 8 Medicine to waive the examination requirement for
 9 specified applicants; amending s. 468.516, F.S.;
 10 providing that a licensed dietitian/nutritionist
 11 treating a patient who is under the active care of a
 12 licensed physician or licensed chiropractor is not
 13 precluded from ordering a therapeutic diet if
 14 otherwise authorized to order such a diet; providing
 15 an effective date.
 16
 17 Be It Enacted by the Legislature of the State of Florida:
 18
 19 Section 1. Present subsections (3) through (11) of section
 20 468.503, Florida Statutes, are redesignated as subsections (4)
 21 through (12), respectively, present subsections (4) and (11) are
 22 amended, and a new subsection (3) is added to that section, to
 23 read:
 24 468.503 Definitions.—As used in this part:
 25 (3) "Commission" means the Commission on Dietetic
 26 Registration, the credentialing agency for the Academy of
 27 Nutrition and Dietetics.
 28 (5)(4) "Dietetics and nutrition practice" shall include
 29 assessing nutrition needs and status using appropriate data;

Page 1 of 3

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

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30 recommending appropriate dietary regimens, nutrition support,
 31 and nutrient intake; ordering therapeutic diets; improving
 32 health status through nutrition research, counseling, and
 33 education; and developing, implementing, and managing nutrition
 34 care systems, which includes, but is not limited to, evaluating,
 35 modifying, and maintaining appropriate standards of high quality
 36 in food and nutrition care services.
 37 (12)(11) "Registered dietitian" or "registered
 38 dietitian/nutritionist" means an individual registered with the
 39 commission on Dietetic Registration, the accrediting body of the
 40 American Dietetic Association.
 41 Section 2. Subsection (4) of section 468.505, Florida
 42 Statutes, is amended to read:
 43 468.505 Exemptions; exceptions.—
 44 (4) Notwithstanding any other provision of this part, an
 45 individual registered by the commission ~~on Dietetic Registration~~
 46 ~~of the American Dietetic Association~~ has the right to use the
 47 title "Registered Dietitian," or "Registered
 48 Dietitian/Nutritionist," and the designation "R.D." or "R.D.N."
 49 An individual certified by the Certification Board for Nutrition
 50 Specialists has the right to use the title "Certified Nutrition
 51 Specialist" and the designation "C.N.S." An individual certified
 52 by the American Clinical Board of Nutrition has the right to use
 53 the title "Diplomate of the American Clinical Board of
 54 Nutrition" and the designation "D.A.C.B.N."
 55 Section 3. Subsection (3) of section 468.509, Florida
 56 Statutes, is amended to read:
 57 468.509 Dietitian/nutritionist; requirements for
 58 licensure.—

Page 2 of 3

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

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20151208c1

59 (3) The board shall waive the examination requirement for
60 an applicant who presents evidence satisfactory to the board
61 that the applicant is:

62 (a) A registered dietitian or registered
63 dietitian/nutritionist who is in compliance with the
64 qualification requirements under this section; or

65 (b) A certified nutrition specialist who is certified by
66 the Certification Board for Nutrition Specialists or is a
67 Diplomate of the American Clinical Board of Nutrition, and who
68 is in compliance with the qualification requirements under this
69 section.

70 Section 4. Subsection (3) is added to section 468.516,
71 Florida Statutes, to read:

72 468.516 Practice requirements.—

73 (3) This section does not preclude a licensed
74 dietitian/nutritionist from independently ordering a therapeutic
75 diet if otherwise authorized to order such a diet in this state.

76 Section 5. This act shall take effect July 1, 2015.



The Florida Senate

Committee Agenda Request

To: Senator Anitere Flores, Chair
Committee on Fiscal Policy

Subject: Committee Agenda Request

Date: March 23, 2015

I respectfully request that **Senate Bill # 1208**, relating to Dietetics and Nutrition, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15
Meeting Date

~~95~~ 1208
Bill Number (if applicable)

Topic NUTRITION

Amendment Barcode (if applicable)

Name CHRISTINE STAPELL

Job Title EXECUTIVE DIRECTOR

Address 3834 REMINGTON GREEN
Street

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Speaking: For Against Information

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

Representing FLORIDA ACADEMY OF NUTRITION & DIETETICS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/CS/SB 1216

INTRODUCER: Fiscal Policy Committee; Community Affairs Committee; and Senator Simpson

SUBJECT: Community Development

DATE: April 10, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stearns	Yeatman	CA	Fav/CS
2.	Gusky	Miller	ATD	Recommend: Favorable
3.	Pace/Stearns	Hrdlicka	FP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1216 authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of “blighted area,” enabling community redevelopment agencies (CRAs) to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

The bill designates 10 regional planning councils (RPCs) and their borders. The Withlacoochee Regional Planning Council is dissolved and the five counties currently within that council are incorporated into three other councils. The bill deletes several of the RPCs’ statutory duties and requirements because they are already completed, unnecessary or duplicative.

The bill removes the state mandate that new developments surpassing certain thresholds and standards be subjected to the development of regional impact (DRI) review process. The bill shifts comprehensive plan amendments related to such developments to the State Coordinated Review Process.

The bill clarifies the sector plan law. It states that the planning standards of the sector planning statute supersede generally applicable planning standards elsewhere in ch. 163, F.S. The bill provides more flexibility in the designation of conservation easements related to sector plans. The bill requires certain state agencies to review an application for a detailed specific area plan (DSAP) to determine whether the development would be consistent with the comprehensive plan

and the long-term master plan. It provides that a water management district (WMD) may issue a consumptive use permit (CUP) for the same time period as a master development order if the project meets certain requirements. The bill provides that a district may phase in the water allocation over the duration of the permit to correspond to the actual needs of the development.

The bill names Pasco County as a pilot community for connected-city corridor plan amendments. The bill exempts projects within a connected-city corridor from the DRI impact review process. The bill requires community development districts (CDDs) located within a connected-city corridor and less than 2,000 acres to be established pursuant to a county ordinance. The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to submit a report on the pilot project to the Governor and Legislature in 10 years.

II. Present Situation:

Improvements to Real Property Damaged by Sinkhole Activity

The Property Assessed Clean Energy Program

The Property Assessed Clean Energy (PACE) Program enables local governments to encourage property owners to reduce energy consumption and increase energy efficiency. The PACE model allows individual residential, commercial, or industrial property owners to contract directly with qualified contractors for energy efficiency and renewable energy projects. The local government provides the upfront funding for the project through proceeds from issuing a revenue bond, which are repaid by assessments on participating property owners' tax bills.¹

Voluntary Energy and Wind Resistant Real Property Improvements

The 2010 Legislature passed an expanded form of the PACE model.² Section 163.08, F.S., provides supplemental authority to local governments regarding qualified improvements to real property. The law provides that if a local government passes an ordinance or adopts a resolution to create a program to provide up-front financing for energy conservation and efficiency, renewable energy, or wind resistance improvements, a property owner within the jurisdiction of that local government may apply to the local government for funding to finance a qualifying improvement and voluntarily enter into a financing agreement with the local government.³ "Qualifying improvements" include energy conservation and efficiency improvements; renewable energy improvements; and wind resistance improvements.⁴

At least 30 days before entering into the financing agreement, the property owner must provide notice to the mortgage holder or loan servicer of the intent to enter into the agreement, the maximum amount to be financed, and the maximum annual assessment that will be required to repay the amount.⁵ The law provides that an acceleration clause for "payment of the mortgage, note, or lien or other unilateral modification solely as a result of entering into a financing

¹ For more information, see <http://www.pacenow.org> and <http://floridapace.gov/> (last visited Apr. 9, 2015).

² Chapter 2010-139, L.O.F.

³ Section 163.08(4), F.S.

⁴ Section 163.08(2)(b), F.S.

⁵ Section 163.08(13), F.S.

agreement as provided for in this section is not enforceable.”⁶ However, the mortgage holder or loan servicer may increase the required monthly escrow by an amount necessary to annually pay the qualifying improvement assessment.

The law authorizes a local government to partner with one or more local governments for the purpose of providing and financing qualifying improvements, levy a non-ad valorem assessment to fund a qualifying improvement, incur debt to provide financing for qualifying improvements, and collect costs incurred from financing qualifying improvements through a non-ad valorem assessment. These non-ad valorem assessments are senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. In 2012, the Legislature clarified that a partnership of local governments may enter into a financing agreement and that the separate legal entity may impose the voluntary special assessments for purposes of the program.⁷

Specific qualifying improvements are determined by the 12 Florida counties where programs exist.⁸ To participate in a program, property owners must have paid property taxes and not been delinquent for the previous three years.⁹ The total assessment cannot be for an amount greater than 20 percent of the just value of the property as determined by the county property appraiser, unless consent is obtained from the mortgage holders.¹⁰ In 2010, the Federal Housing Finance Agency (FHFA) directed mortgage underwriters Fannie Mae and Freddie Mac to not purchase mortgages of homes with a PACE lien due to its senior status above a mortgage.¹¹ Although residential PACE activity subsided following this directive, some residential PACE programs are now operating with loan loss reserve funds, appropriate disclosures, or other protections meant to address the FHFA's concerns.¹²

The Community Redevelopment Act

The Community Redevelopment Act of 1969,¹³ authorizes a county or municipality to create community redevelopment agencies (CRAs) as a means of redeveloping slums and blighted areas. In accordance with a community redevelopment plan,¹⁴ CRAs can:

- Enter into contracts,

⁶ *Id.*, s. 163.08(15), F.S.

⁷ Chapter 2012-117, L.O.F.

⁸ Database of State Incentives for Renewables & Efficiency, *Florida PACE Financing*, available at <http://programs.dsireusa.org/system/program/detail/3869> (last visited Apr. 9, 2015).

⁹ Section 163.08(9), F.S.

¹⁰ Section 163.08(12)(a), F.S.

¹¹ Federal Housing Finance Agency, *FHFA Statement on Certain Energy Retrofit Loan Programs* (July, 6, 2010), available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/FHFA-Statement-on-Certain-Energy-Retrofit-Loan-Programs.aspx> (last visited Apr. 9, 2015). See also Federal Housing Financial Agency, *Statement of the Federal Housing Finance Agency on Certain Super Priority Liens* (December 22, 2014) (“FHFA wants to make clear to homeowners, lenders, other financial institutions, state officials, and the public that Fannie Mae and Freddie Mac’s policies prohibit the purchase of a mortgage where the property has a first-lien PACE loan attached to it”) available at <http://www.fhfa.gov/Media/PublicAffairs/Pages/Statement-of-the-Federal-Housing-Finance-Agency-on-Certain-Super-Priority-Liens.aspx> (last visited Apr. 9, 2015).

¹² Commercial PACE programs were not directly affected by the FHFA’s actions because Fannie Mae and Freddie Mac do not underwrite commercial mortgages. Database of State Incentives for Renewables & Efficiency, *supra* note 8.

¹³ Part III, ch. 163, F.S.

¹⁴ Section 163.360, F.S.

- Disseminate information,
- Acquire property within a slum or blighted area by voluntary methods,
- Demolish and remove buildings and improvements,
- Construct improvements, and
- Dispose of property at fair value.¹⁵

CRAAs are not permitted to levy or collect taxes; however, the local governing body is permitted to establish a community redevelopment trust fund that is funded through tax increment financing (TIF).¹⁶ Taxing authorities must annually appropriate an amount representing the calculated increment revenue to the redevelopment trust fund. This revenue is used to repay bonds issued to finance redevelopment projects. School district revenues are not subject to the tax increment mechanism.

Counties and municipalities are prohibited from exercising the community redevelopment authority provided by the Community Redevelopment Act until they adopt an ordinance that declares an area to be a slum or a blighted area.¹⁷

Section 163.340(8), F.S., defines “blighted area” as follows:

An area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the five years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;

¹⁵ Section 163.370, F.S.

¹⁶ Through tax increment financing, a baseline tax amount is determined and any taxes generated in future years above that baseline amount are transferred into the trust fund. *See* Section 163.387(1)(a), F.S.

¹⁷ Sections 163.355(1) and 163.360(1), F.S.

- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term “blighted area” also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a), F.S., agree, either by inter-local agreement or agreements with the agency or by resolution, that the area is blighted.

Sinkholes

A sinkhole has been defined as “a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater. A sinkhole forms by collapse into subterranean voids created by dissolution of limestone or dolostone or by subsidence as these strata are dissolved.”¹⁸ Sinkholes are a common feature in Florida’s landscape, due to erosional processes associated with the chemical weathering and dissolution of carbonate rocks.¹⁹ Over geologic periods of time, persistent erosion created extensive underground voids and drainage systems throughout Florida.²⁰ A sinkhole forms when sediments overlying such a void collapse. Because “groundwater that feeds springs is recharged . . . through direct conduits such as sinkholes,” the Florida Legislature has expressed a desire to promote good stewardship, effective planning strategies, and best management practices with respect to sinkholes and the springs they recharge, which may be “threatened by actual and potential flow reductions and declining water quality.”²¹

The two most commonly recommended stabilization techniques for sinkholes are grouting and underpinning.²² Under the grouting procedure, a grout mixture (either cement-based or a chemical resin that expands into foam) is injected into the ground to stabilize the subsurface soils to minimize further subsidence damage by increasing the density of the soils beneath the building as well as sealing the top of the limestone surface to minimize future raveling.²³ Underpinning consists of steel piers drilled or pushed into the ground to stabilize the building’s foundation.²⁴ One end of the steel pipe connects to the foundation of the structure with the other end resting on solid limestone. Underpinning repairs, when performed, are usually combined with grouting.

¹⁸ Section 627.706(2)(h), F.S.

¹⁹ Such as limestone and dolomite. See, Florida Dep’t of Environmental Protection, *Sinkholes*, available at <http://www.dep.state.fl.us/geology/geologictopics/sinkhole.htm> (last visited Apr. 9, 2015).

²⁰ *Id.*

²¹ Section 369.315, F.S.

²² Citizens Property Insurance Corporation, *Sinkhole Repairs: Underpinning and Grouting*, (Oct. 30, 2012) available at <https://www.citizensfla.com/shared/sinkhole/documents/GroutVersusUnderpinning.pdf> (last visited on Apr. 9, 2015).

²³ See *id.*

²⁴ See *id.*

Regional Planning Councils

The Florida Legislature passed the Florida Regional Planning Council Act in 1980.²⁵ The Legislature found that “the problems of growth and development often transcend the boundaries of individual units of local general-purpose government”²⁶ and that “there is a need for regional planning agencies to assist local governments to resolve their common problems, engage in areawide comprehensive and functional planning, administer certain federal and state grants-in-aid, and provide a regional focus in regard to multiple programs undertaken on an areawide basis.”²⁷

Today, the state is divided into 11 regional planning councils (RPCs), each functioning as an association of that district’s constituent local governments. Two-thirds of the Board of Governors of each RPC is composed of local elected officials, and the remaining third are gubernatorial appointees. Generally, the primary functions of RPCs fall into the following three major categories:²⁸

- Economic development/job creation,
- Emergency preparedness planning, training and exercise, and
- Land development and growth related activities.

Economic Development and Job Creation

Section 186.502(5), F.S., provides that RPCs have “a duty to assist local governments with activities designed to promote and facilitate economic development in the geographic area covered by the council.” RPCs carry out this duty in a number of ways. For example, each RPC is a designated Economic Development District by the U.S. Economic Development Administration. As part of this function, they engage in grant writing and administration, which result in economic development and infrastructure funds being awarded to the state that would not otherwise have been received. RPCs administer federal revolving loan funds, including those for brownfields, many of which result in job creation.²⁹ They conduct regional economic impact analysis modeling to help local governments and economic development organizations make decisions regarding incentives for new or expanding economic development projects.

RPCs also play a vital role in implementing the Florida Strategic Plan for Economic Development. In addition to providing the Comprehensive Economic Development Strategies used by the plan, RPCs held public forums at which extensive public input was received.³⁰ Several of the councils partnered with other organizations in their respective areas to create “regional prosperity plans,” including the:

- Seven50 plan, created in part by the South Florida Regional Planning Council and the Treasure Coast Regional Planning Council;

²⁵ Sections 186.501-186.513, F.S.

²⁶ Section 186.502(a), F.S.

²⁷ Section 186.502(b), F.S.

²⁸ Memo from Ronald Book, the Executive Director of the Florida Regional Councils Association, on file with the Senate Community Affairs Committee.

²⁹ *Id.*

³⁰ Florida Department of Economic Opportunity, *Florida Strategic Plan for Economic Development*, available at www.floridajobs.org/Business/FL5yrPlan/FL_5yrEcoPlan.pdf (last visited Apr. 9, 2015).

- Regional Business Plan for Tampa Bay, created under the leadership of the Tampa Bay Regional Planning Council; and
- Innovate Northeast Florida initiative, created in partnership with the Northeast Florida Regional Planning Council.³¹

Emergency Preparedness Planning, Training and Exercise

Section 186.505(11), F.S., states that RPCs have the duty “[t]o cooperate, in the exercise of [their] planning functions, with federal and state agencies in planning for emergency management as defined in s. 252.34.” RPCs fulfill this duty by serving as the state’s Local Emergency Planning Committees.³² Regional evacuation studies have historically been conducted by RPCs under contract with the Florida Department of Emergency Management.³³ These studies provide the data and information necessary for county emergency management departments to develop operational evacuation plans. These efforts, building off regional evacuation studies conducted by the RPCs in 2007 and 2010, were recognized by the American Planning Association in 2012 with its National Planning Excellence Award for Best Practices in Hazard Mitigation and Disaster Planning.³⁴

In 1988, the state’s 11 RPCs were designated as the Local Emergency Planning Committees required by federal law to implement hazardous materials emergency planning. As part of their duties in this role, the RPCs:

- Engage in public outreach.
- Provide technical assistance to local governments.
- Engage in hazards analysis/planning.
- Conduct training exercises.

Florida is recognized as having the leading hazardous materials planning process in the nation.³⁵

Land Development and Growth Management

Section 186.502(4), F.S., recognizes Florida’s RPCs as the state’s “only multipurpose regional entity that is in a position to plan for and coordinate intergovernmental solutions to growth-related problems on greater-than-local issues, provide technical assistance to local governments, and meet other needs of the communities in each region.” As part of their duties, RPCs are directed to:

- Act in an advisory capacity to the constituent local governments in regional, metropolitan, county, and municipal planning matters.³⁶
- Conduct studies of the resources of the region.³⁷
- Provide technical assistance to local governments on growth management matters.³⁸

³¹ *Id.*

³² Memo from Ronald Book, *supra* note 28.

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

³⁶ Section 186.505(10), F.S.

³⁷ Section 186.505(16), F.S.

³⁸ Section 186.505(20), F.S.

- Perform a coordinating function among other regional entities relating to preparation and assurance of regular review of the strategic regional policy plan, with the entities to be coordinated determined by the topics addressed in the strategic regional policy plan.³⁹
- Coordinate land development and transportation policies in a manner that fosters region wide transportation systems.⁴⁰
- Review plans of independent transportation authorities and metropolitan planning organizations to identify inconsistencies between those agencies' plans and applicable local government plans.⁴¹
- Provide consulting services to a private developer or landowner for a project.⁴²

Section 186.507, F.S., directs RPCs to develop a strategic regional policy plan. The plan is required to “contain regional goals and policies that shall address affordable housing, economic development, emergency preparedness, natural resources of regional significance, and regional transportation” and is required to “identify and address significant regional resources and facilities.”⁴³

RPCs play a role in the review and analysis of local government comprehensive plans and amendments to such plans,⁴⁴ as well as proposed developments of regional impact (DRIs).⁴⁵

Developments of Regional Impact

Development of Regional Impact Background

A DRI is defined in s. 380.06, F.S., as “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.” Section 380.06, F.S., provides for both state and regional review of local land use decisions involving DRIs. RPCs coordinate the review process with local, regional, state and federal agencies and recommend conditions of approval or denial to local governments. DRIs are also reviewed by the Department of Economic Opportunity (DEO) for compliance with state law and to identify the regional and state impacts of large-scale developments. Local DRI development orders may be appealed by the owner, the developer, or the state land planning agency to the Governor and Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.⁴⁶ Section 380.06(24), F.S., exempts numerous types of projects from review as a DRI.

The DRI program was initially created in 1972 as an interim program intended to be replaced by comprehensive planning and permitting programs. Comprehensive planning was first required by law in 1975. However, the Growth Management Act of 1985 is considered the watershed moment that brought truly modern planning requirements into force. In recognition of this fact, the Environmental Land Management Study Committee in 1992 recommended that the DRI

³⁹ Section 185.505(21), F.S.

⁴⁰ Section 186.505(23), F.S.

⁴¹ Section 186.505(24), F.S.

⁴² Section 186.505(26), F.S.

⁴³ Section 186.507(1), F.S.

⁴⁴ Section 163.3184, F.S.

⁴⁵ Section 380.06, F.S.

⁴⁶ Section 380.07(2), F.S.

program be eliminated and relegated to an enhanced version of the Intergovernmental Coordination Element (ICE) in their local plans.⁴⁷ After much controversy, this recommendation never fully came to fruition and the DRI program continued in its previous form. The Legislature has enacted a number of exemptions to the DRI program since that time, but never fully repealed it as originally intended.

DRI Review

All developments that meet the DRI thresholds and standards provided by statute⁴⁸ and rules adopted by the Administration Commission⁴⁹ are required to undergo DRI review, unless the Legislature has provided an exemption for that particular type of project, the development is located within a “dense urban land area,”⁵⁰ or the development is located in a planning area receiving a legislative exemption such as a sector plan or a rural land stewardship area. The types of developments required to undergo DRI review upon meeting the specified thresholds and standards include attraction and recreation facilities, office developments, retail and service developments, mixed-use developments, residential developments, schools, and recreational vehicle developments.⁵¹ Over the years, the Legislature has enacted new exemptions and increased the thresholds that projects must surpass in order to trigger DRI review.

Florida’s 11 RPCs coordinate the multi-agency review of proposed DRIs. A DRI review is begun by a developer contacting the RPC with jurisdiction over a proposed development to arrange a pre-application conference.⁵² The developer or the RPC may request other affected state and regional agencies participate in the conference to identify issues raised by the proposed project and the level of information that the agency will require in the application to assess those issues. At the pre-application conference, the RPC provides the developer with information about the DRI process and uses the pre-application conference to identify issues and to coordinate the appropriate state and local agency requirements.

An agreement may also be reached between the RPC and the developer regarding assumptions and methodology to be used in the application for development approval. If an agreement is reached, the reviewing agencies may not later object to the agreed-upon assumptions and methodologies unless the project changes or subsequent information makes the assumptions or methodologies no longer relevant.

Upon completion of the pre-application conference with all parties, the developer files an application for development approval with the local government, the RPC, and the state land planning agency (DEO). The RPC reviews the application for sufficiency and may request additional information (no more than twice) if the application is deemed insufficient.⁵³

⁴⁷ See Richard G. Rubino and Earl M. Starnes, *Lessons Learned? The History of Planning in Florida*. Tallahassee, FL: Sentry Press, 2008. ISBN 978-1-889574-31-8.

⁴⁸ Section 380.0651, F.S.

⁴⁹ Rule 28-24, F.A.C.

⁵⁰ The criteria for qualification as a dense urban land area are contained in s. 380.06(29), F.S. Currently, eight counties and 243 cities qualify as dense urban land areas that are exempt from the DRI program.

⁵¹ Section 380.0651, F.S.

⁵² Section 380.06(7), F.S.

⁵³ Section 380.06(10), F.S.

Once the RPC determines the application is sufficient or the developer declines to provide additional information, the local government must hold a public hearing on the application for development within 90 days.⁵⁴ Within 50 days after receiving notice of the public hearing, the RPC is required to prepare and submit to the local government a report and recommendations on the regional impact of the proposed development.⁵⁵ The RPC is required to identify regional issues specifically examining the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities identified in the applicable state (state comprehensive plan) or regional (strategic regional policy plan) plans;
- The development will significantly impact adjacent jurisdictions; and
- In reviewing the first two issues, whether the development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.⁵⁶

If the proposed project will have impacts within the purview of other state agencies, those agencies will also prepare reports and recommendations on the issues raised by the project and within their statutorily-prescribed jurisdiction. These reports become part of the RPC's report, but the RPC may attach dissenting views.⁵⁷ When water management district (WMD) and Department of Environmental Protection (DEP) permits have been issued pursuant to ch. 373, F.S., or ch. 403, F.S., the RPC may comment on the regional implications of the permits but may not offer conflicting recommendations.⁵⁸ Finally, the state land planning agency also reviews DRIs for compliance with state laws and to identify regional and state impacts and to make recommendations to local governments for approving, not approving, or suggesting mitigation conditions.⁵⁹

At the local public hearing on the proposed DRI, concurrent comprehensive plan amendments associated with the proposed DRI must be heard as well. When considering whether the development must be approved, denied, or approved subject to conditions, restrictions, or limitations, the local government considers the extent to which:

- The development is consistent with its comprehensive plan and land development regulations;
- The development is consistent with the report and recommendations of the RPC; and
- The development is consistent with the state comprehensive plan.⁶⁰

Within 30 days of the public hearing on the application for development approval, the local government must decide whether to issue a development order or not. Within 45 days after a development order is or is not rendered, the owner or developer of the property or the state land planning agency may appeal the order to the Governor and Cabinet, sitting as the Florida Land

⁵⁴ Section 380.06(11), F.S.

⁵⁵ Section 380.06(12), F.S.

⁵⁶ Section 380.06(12)(a), F.S.

⁵⁷ Section 380.06(12)(b), F.S.

⁵⁸ *Id.*

⁵⁹ See Senate Interim Report 2012-114, *The Development of Regional Impact Process*, Sept. 2011.

⁶⁰ Section 380.06(13), F.S. DRIs located in areas of critical state concern must also comply with the land development regulations in s. 380.05, F.S.

and Water Adjudicatory Commission.⁶¹ An “aggrieved or adversely affected party” may appeal and challenge the consistency of a development order with the local comprehensive plan.⁶²

Completion of this entire process can take one to two years and require the expenditure of significant resources, both on the part of private developers and state agencies, resulting in costs totaling in the millions of dollars.

Comprehensive Plans and the Comprehensive Plan Amendment Process

Completion of the DRI process does not give a developer final authority to build. Rather, the permitting local government almost always must also approve an amendment to its local comprehensive plan prior to construction, and the developer must still obtain all requisite permits.

In 1985, the Florida Legislature passed the landmark Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development. A locality’s comprehensive plan lays out the locations for future public facilities, including roads, water and sewer facilities, neighborhoods, parks, schools, and commercial and industrial developments. Development that does not conform to the comprehensive plan may not be approved by a local government unless the local government amends its comprehensive plan first.

State law requires a proposed comprehensive plan amendment to receive three public hearings, the first held by the local planning board.⁶³ The local commission (city or county) must then hold an initial public hearing regarding the proposed amendment and subsequently transmit it to several statutorily identified reviewing agencies.⁶⁴ These are the same agencies that are required to review proposed DRIs, including the DEO, the relevant RPC, and adjacent local governments that request to participate.⁶⁵

Similar to the DRI process, the state agencies review the proposed amendment for impacts related to their statutory purview. The RPC reviews the amendment specifically for “extrajurisdictional impacts that would be inconsistent with the comprehensive plan of any affected local government within the region” as well as adverse effects on regional resources or facilities.⁶⁶ Upon receipt of the reports from the various agencies the local government holds a second public hearing at which the governing body votes to approve the amendment or not. If the amendment receives a favorable vote it is transmitted to the DEO for final review.⁶⁷ The DEO then has either 31 days or 45 days (depending on the review process to which the amendment is subject) to determine whether the proposed comprehensive plan amendment is in compliance with all relevant agency rules and laws.⁶⁸

⁶¹ Section 380.07(2), F.S.

⁶² Section 163.3215, F.S.

⁶³ Section 163.3174(4)(a), F.S.

⁶⁴ Section 163.3184, F.S.

⁶⁵ *Id.*

⁶⁶ Section 163.3184(3)(b)3.a., F.S.

⁶⁷ Section 163.3184, F.S.

⁶⁸ *Id.*

The Expedited State Review Process vs. the State Coordinated Review Process

In 2011, the Florida Legislature bifurcated the process for approving comprehensive plan amendments. Most plan amendments were placed into the Expedited State Review Process, while plan amendments related to large-scale developments were placed into the State Coordinated Review Process. The two processes operate in much the same way, however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the DEO, rather than communicated directly to the permitting local government by each individual reviewing agency

The Intergovernmental Coordination Element (ICE) of a Comprehensive Plan

Every local government is required to have adopted an ICE into its comprehensive plan.⁶⁹ This element is required to demonstrate consideration of the effects of the local plan upon the development of adjacent jurisdictions.⁷⁰ It must describe joint processes for collaborative planning and decision-making with regard to the location and extension of public facilities subject to concurrency and the siting of facilities with countywide significance, among other things.⁷¹

The statutory ICE provisions contain another requirement that is key to effective implementation of interlocal coordination in comprehensive planning and growth management, i.e., that all local governments establish interlocal agreements covering certain topics.⁷² The interlocal agreement must:⁷³

- Establish joint processes to facilitate coordination;
- Ensure that the local government addresses through coordination mechanisms the impacts of development proposed in the comprehensive plan upon development in adjacent jurisdictions; and
- Ensure coordination in establishing level of service standards for public facilities with any state, regional, or local entity having operational and maintenance responsibility for such facilities.

Sector Plans

Originally authorized as a pilot program in 1998, the Legislature enacted s. 163.3245, F.S., in 2011 to permit all local governments to adopt a sector plan into their comprehensive plans. The Legislature stated that the sector planning process is “designed to promote and encourage long-term planning for conservation, development and agriculture on a landscape scale as well as facilitate protection of regionally significant resources, including, but not limited to, regionally significant water courses and wildlife corridors.”⁷⁴

⁶⁹ Section 163.3177(6), F.S.

⁷⁰ Section 163.3177(6)(h)1., F.S.

⁷¹ Section 163.3177(6)(h)2., F.S.

⁷² Section 163.3177(6)(h)3., F.S.

⁷³ *Id.*

⁷⁴ Section 163.3245(1), F.S.

Sector plans must be a minimum of 15,000 acres and may not be created within an area of critical state concern.⁷⁵ The sector planning process requires two levels of planning:

- Adoption of a long-term master plan (formerly a “conceptual long-term buildout overlay”) for the entire planning area as an amendment to the local comprehensive plan adopted pursuant to the state coordinated review process in s. 163.3184(4), F.S.; and
- Adoption by a local development order of two or more detailed specific area plans (DSAP) that implement the long-term master plan and within which DRI requirements are waived.⁷⁶

The law allows a local government, prior to preparing a sector plan, to request a scoping meeting with a developer proposing a sector plan. The scoping meeting must be noticed, open to the public, and conducted by the applicable RPC with affected local governments and certain state agencies. If a scoping meeting is conducted, the RPC must make written recommendations to the DEO and affected local governments on the issues requested by the local government.⁷⁷

Section 163.3245, F.S., specifies that the long-term master plan must include maps, illustrations, and text supported by data and analysis to address and identify:

- A framework map that, at a minimum, generally depicts conservation land use, identifies allowed uses in the planning area, specifies maximum and minimum densities and intensities of use, and provides the general framework for the development pattern;
- A general identification of the water supplies needed and available sources of water, including water resource development and water supply development projects, and water conservation measures needed to meet the projected demand of the future land uses in the long-term master plan;
- A general identification of the transportation facilities to serve the future land uses in the long-term master plan;
- A general identification of other regionally significant public facilities necessary to support the future land uses;
- A general identification of regionally significant natural resources within the planning area and policies setting forth the procedures for protection or conservation of specific resources consistent with the overall conservation and development strategy for the planning area;
- General principles and guidelines addressing, among other things, future land uses, the use of lands identified for permanent preservation through recordation of conservation easements, achieving a healthy environment, limiting urban sprawl, and providing housing types; and
- Identification of general procedures and policies to facilitate intergovernmental coordination to address extrajurisdictional impacts from the future land uses.

The two-level planning process provides that a long-term master plan and a DSAP may be based upon a planning period longer than the planning period of the local comprehensive plan. Both the long-term master plan and the DSAP must specify the projected population within the planning area during the chosen planning period. Concurrent with or subsequent to review and adoption of a long-term master plan, an applicant may apply for approval of a master development order for the entire planning area in order to establish the buildout date for the sector plan.⁷⁸

⁷⁵ *Id.*

⁷⁶ Section 163.3245(3), F.S.

⁷⁷ Section 163.3245(2), F.S.

⁷⁸ Section 163.3245(6), F.S.

A long-term master plan may include a phasing or staging schedule that allocates a portion of the local government's future growth to the planning area through the planning period. Neither the long-term master plan nor a DSAP are required to demonstrate need based upon projected population growth or on any other basis.⁷⁹ The state land planning agency must consult with certain state and governmental agencies when it is reviewing a long-term master plan.⁸⁰

When a local government issues a development order approving a DSAP, it must provide copies of the order to the state land planning agency and the owner or developer of the property affected by the order according to the rules established for DRI development orders.⁸¹ This order may be appealed by the owner, developer, or state land planning agency to the Florida Land and Water Adjudicatory Commission by filing a petition alleging that the DSAP is not consistent with the long-term master plan or the local government's comprehensive plan. The administrative proceeding for review of a DSAP is conducted according to s. 380.07(6), F.S., and the commission must grant or deny permission to develop according to the long-term master plan and may attach conditions or restrictions to its decision.⁸²

If a development order is challenged by an aggrieved and adversely affected party in a judicial proceeding pursuant to s. 163.3215, F.S., the state land planning agency, if it has received notice, must dismiss its appeal to the commission and may intervene in the pending judicial proceeding.⁸³

Once a long-term master plan becomes legally effective, s. 163.3245, F.S., requires the plan to be connected to any long-range transportation plan developed by a metropolitan planning organization and the regional water supply plan. A WMD also may issue consumptive use permits (CUPs) for the duration of the long-term master plan or DSAP, considering the ability of the master plan area to contribute to regional water supply availability and the need to maximize reasonable-beneficial use of the water resource. The consumptive use permitting criteria must be applied based upon the projected population, the approved densities and intensities of use and their distribution in the long-term master plan, but the allocation of the water may be phased over the duration of the permit to reflect actual projected needs.⁸⁴

When a DSAP becomes effective for a portion of the planning area governed by a long-term master plan, developments within the DSAP are not subject to DRI review.⁸⁵ A developer may enter into a development agreement with the local government.⁸⁶ The duration of the agreement may be through the planning period of the long-term master plan or the DSAP.⁸⁷

⁷⁹ Section 163.3245(3)(a) and (b), F.S.

⁸⁰ Section 163.3245(3)(c), F.S.

⁸¹ Section 163.3245(3)(e), F.S.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ Section 163.3245(4), F.S.

⁸⁵ Section 163.3245(5), F.S.

⁸⁶ Section 163.3245(7), F.S.

⁸⁷ *Id.*

Property owners within the planning area of a proposed long-term master plan may withdraw their consent to the master plan prior to adoption by the local government, and the parcels withdrawn will not be subject to the long-term master plan, any DSAP, or the exemption from DRI review.⁸⁸ After the local government adopts the long-term master plan, a property owner may withdraw from the master plan only if the local government approves by adopting a plan amendment.⁸⁹

Existing agricultural, silvicultural, and other natural resource activities are protected by s. 163.3245, F.S., within a long-term master plan or a DSAP.⁹⁰ The law also protects properties against downzoning, unit density reduction, or intensity reduction in the DSAP until the buildout date.⁹¹

Rural Areas of Opportunity

Rural Areas of Opportunity (RAOs) are rural communities, or regions composed of rural communities, that have been adversely affected by extraordinary economic events or natural disasters. The Governor, by executive order, may designate up to three RAOs, which establishes each region as a priority assignment for the Rural Economic Development Initiative agencies and allows the Governor to waive criteria of any economic development incentive including, but not limited to:

- The Qualified Target Industry Tax Refund Program under s. 288.106, F.S.;
- The Quick Response Training Program and the Quick Response Training Program for participants in the welfare transition program under s. 288.047, F.S.;
- Transportation projects under s. 288.063, F.S.;
- The brownfield redevelopment bonus refund under s. 288.107, F.S.; and
- The rural job tax credit program under ss. 212.098 and 220.1895, F.S.⁹²

Regional Water Supply Plans

Section 373.709, F.S., requires each WMD to conduct water supply planning for a water supply planning region where it determines that existing sources of water are not adequate to supply water for all existing and future reasonable-beneficial uses and to sustain the water resources and related natural systems for the planning period. Each regional water supply plan must be based on at least a 20-year planning period and must include, at a minimum:

- A water supply development component for each water supply planning region identified by the WMD;
- A water resource development component;
- A recovery or prevention strategy;
- A funding strategy;
- Consideration of how the project options in the plan serve the public interest or save costs;
- The technical data and information applicable to each planning region;

⁸⁸ Section 163.3245(8), F.S.

⁸⁹ *Id.*

⁹⁰ Section 163.3245(9), F.S.

⁹¹ Section 163.3245(5)(d), F.S.

⁹² Department of Economic Opportunity, *Rural Areas of Opportunity*, available at <http://www.floridajobs.org/business-growth-and-partnerships/rural-and-economic-development-initiative/rural-areas-of-opportunity> (last visited Apr. 9, 2015).

- The minimum flows and levels established for water resources;
- Reservations of water adopted by rule;
- Identification of surface waters or aquifers for which minimum flows and levels are scheduled to be adopted; and
- An analysis of areas or instances in which variances may be used to create water supply or water resource development projects.⁹³

Basin Management Action Plans

Basin Management Action Plans (BMAPs) address pollutant loading in impaired waterbodies so they meet their total maximum daily loads. A total maximum daily load is the amount of a pollutant a waterbody may assimilate and still meet water quality standards. The plans equitably allocate pollutant reductions to individual basins, as a whole to all basins, or to each identified source of pollution. BMAPs then establish schedules for implementing projects and activities to meet pollution reduction allocations.⁹⁴

Consumptive Use Permits

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily by a permittee. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Under s. 373.223, F.S., the proposed water use must:

- Be a “reasonable-beneficial use” as defined in s. 373.019(16), F.S.;
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.

Connected-city Corridors

Local Government Comprehensive Planning Certification Program

In 2002, the Florida Legislature created the Local Government Comprehensive Planning Certification Program⁹⁵ to establish a process that requires less state and regional oversight of the comprehensive plan amendment process for local governments that identify a geographic area for certification within which they commit to directing growth. Section 163.3246, F.S., allows the DEO to enter into up to eight new certification agreements each year. To be eligible, a local government must demonstrate a record of effectively adopting, implementing, and enforcing its comprehensive plan and demonstrate technical, financial, and administrative expertise. The local government must also demonstrate that it has adopted programs in the comprehensive plan and land development regulations that:

- Promote infill development and redevelopment, including prioritized and timely permitting processes;
- Promote affordable housing for low-income and very low-income households or specialized housing to assist elderly and disabled persons;

⁹³ Section 373.709, F.S.

⁹⁴ Section 403.067(7), F.S.

⁹⁵ Chapter 2002-296, L.O.F., and s. 163.3246, F.S.

- Achieve effective intergovernmental coordination and address extrajurisdictional effects of development;
- Promote economic diversity and growth while encouraging the protection and restoration of the environment;
- Provide and maintain public urban and rural open space and recreational opportunities;
- Manage transportation and land uses to support public transit and promote opportunities for pedestrian and non-motorized transportation;
- Use design principles to promote individual community identity;
- Redevelop blighted areas;
- Adopt a local mitigation strategy and have programs to improve disaster preparedness;
- Encourage clustered, mixed-use developments;
- Encourage urban infill and discourage urban sprawl;
- Assure protection of key natural areas and agricultural lands; and
- Ensure the cost-efficient provision of public infrastructure and services.⁹⁶

The DEO may revoke the local government's certification if the local government is not in compliance with the terms of the certification agreement.⁹⁷ The DEO's decision to revoke a certification is subject to challenge under s. 120.569, F.S. The DEO indicated that four local governments have been certified under the program – the cities of Orlando, Lakeland, Miramar, and Freeport.⁹⁸

Under current law, no connected-city corridor specific development approval process exists.

Special Districts

Special districts are a unit of local government created for a special purpose, as opposed to a county or municipality that exists to provide a wide range of general purpose services. A special district has jurisdiction to operate within limited geographical areas, which are used to manage, own, operate, maintain, and finance basic capital infrastructure, facilities, and services.⁹⁹ 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.

There are a total of 1,636 active special districts in Florida. The Special District Information Program within the DEO serves as the clearinghouse for special district information, and maintains a list of special districts categorized by function which can include community development districts (CDDs) (592), community redevelopment districts (216), downtown development districts (14), drainage and water control districts (86), economic development

⁹⁶ Section 163.3246(2)(e), F.S.

⁹⁷ Section 163.3246(12), F.S.

⁹⁸ Department of Economic Opportunity, Division of Community Development, *Local Government Comprehensive Planning Certification Program – 2013 Report* (July 1, 2013).

⁹⁹ Chapter 189, F.S., applies to the formation, governance, administration, supervision, merger, and dissolution of special districts unless otherwise expressly provided in law.

districts (12), fire control and rescue districts (63), mosquito control districts (18), and soil and water conservation districts (58).¹⁰⁰

Community Development Districts

CDDs are a type of special district created pursuant to ch. 190, F.S. The purpose of a CDD is to provide an “alternative method to manage and finance basic services for community development.”¹⁰¹ Counties and cities may create CDDs of less than 1,000 acres.¹⁰² CDDs larger than 1,000 acres can only be created by the Governor and the Cabinet, sitting as the Florida Land and Water Adjudicatory Commission.¹⁰³ Chapter 190, F.S., provides that CDDs must comply with many of the same requirements that apply to other special districts.

III. Effect of Proposed Changes:

Section 1 amends s. 163.08, F.S., to allow supplemental authority for financing sinkhole-related improvements to real property. The bill establishes a finding of a compelling state interest in providing local government assistance that enables property owners to finance qualified improvements to property damaged by sinkhole activity. The bill expands the definition of “qualifying improvement” to include stabilization or other repairs to property damaged by sinkhole activity. The bill provides that a sinkhole-related qualifying improvement is deemed affixed to a building or facility; and provides that a disclosure statement to that effect be given to a prospective purchaser of the property.

Section 2 repeals s. 163.3175(9), F.S., requiring a local government and certain other parties to enter into mediation if the local government does not address the compatibility of lands adjacent to military installations in its future land use plans. All local governments adjacent to military installations have already completed this task.

Section 3 amends s. 163.3184, F.S., to require a comprehensive plan amendment related to a development that qualifies as a DRI pursuant to s. 380.06, F.S., to be reviewed under the State Coordinated Review Process.

Section 4 amends s. 163.3245, F.S., to update the sector plan law. The bill clarifies that the planning standards of s. 163.3245(3)(a), F.S., concerning long-term master plans, supersede generally applicable planning standards elsewhere in ch. 163, F.S.

The bill also clarifies that the planning standards of s. 163.3245(3)(b), F.S., concerning DSAPs, supersede generally applicable planning standards elsewhere in ch. 163, F.S.

The bill allows conservation easements associated with a long-term master plan or a DSAP to be based on digital orthophotography prepared by a surveyor and mapper licensed under ch. 472, F.S., and may include a right of adjustment authorizing the developer, with the consent of the

¹⁰⁰ Data as of April 2015. Information relating to special districts and their functions can be found in the SDIP online publication “Florida Special District Handbook Online,” available at <http://www.floridaspecialdistricts.org/handbook/> (last visited Apr. 9, 2015).

¹⁰¹ Section 190.002(3), F.S.

¹⁰² Section 190.005(2), F.S.

¹⁰³ Section 190.005(1), F.S.

local government, to modify portions of the area protected by the easement to substitute other lands by recording an amendment to the conservation easement. The bill requires that those substitute lands:

- Contain no less gross acreage than the lands to be removed;
- Have equivalent values in the proportion and quality of wetlands, uplands, and wildlife habitat; and
- Be contiguous to other lands protected by the easement.

The bill requires the applicant for a DSAP to transmit copies of the application to the reviewing agencies specified in s. 163.3184(1)(c), F.S., or their successor agencies,¹⁰⁴ for review and comment as to whether the DSAP would be consistent with the comprehensive plan and the long-term master plan. Any comments from those reviewing agencies must be submitted in writing to the host local government within 30 days after the applicant's transmittal of the application.

The bill authorizes the DEP, the Fish and Wildlife Conservation Commission, or the WMD to accept wetland or upland preservation lands previously designated as conservation lands in relation to the development of a sector plan for the purposes of compensatory mitigation related to permitting under chs. 373 or 379, F.S., without considering that those lands are already encumbered by a previously recorded conservation easement.

The bill clarifies that neither a long-term master plan nor a DSAP limits the right to establish new agricultural or silvicultural uses that are consistent with the sector plan.

The bill authorizes an applicant with an approved master development order to request that the applicable WMD issue a CUP for the same period of time as the approved master development order.

The bill states that the more specific provisions of s. 163.3245, F.S., shall supersede the generally applicable provisions of ch. 163, F.S., which would otherwise apply. However, the bill clarifies that the sector plan law does not preclude a local government from requiring data and analysis beyond the minimum criteria it establishes.

Section 5 amends s. 163.3246, F.S., to provide legislative intent to:

- Encourage the creation of connected-city corridors that facilitate the growth of high-technology industry and innovation through partnerships that support research, marketing, workforce and entrepreneurship.
- Provide for a locally controlled, comprehensive plan amendment process for such projects that are designed to:
 - Achieve a cleaner, healthier environment;
 - Limit urban sprawl by promoting diverse but interconnected communities;

¹⁰⁴ Section 163.3184(1)(c), F.S., defines "reviewing agencies" as: the state land planning agency (DEO); the appropriate RPC; the appropriate WMD; the DEP; the Department of State; the Department of Transportation; and, under specific circumstances, the Department of Education; the commanding officer of an affected military installation; the Fish and Wildlife Conservation Commission; the Department of Agriculture and Consumer Services; and the county in which the municipality is located.

- Provide a range of intergenerational housing types;
- Protect wildlife and natural areas;
- Assure the efficient use of land and other resources;
- Create quality communities of a design that promotes alternative transportation networks and travel by multiple transportation modes; and
- Enhance the prospects for the creation of jobs.

The bill includes a legislative finding and declaration that this state's connected-city corridors require a reduced level of state and regional oversight because of their high degree of urbanization and the planning capabilities and resources of the local government.

The bill creates a 10-year pilot project in Pasco County for connected-city corridor plan amendments. Plan amendments may be based on a longer than normal planning period and are not required to demonstrate need based on projected population growth or any other basis.

The DEO must certify the pilot program, including the boundary of the connected-city corridor certification area, by July 15, 2015. Pasco County is required to submit an annual or biennial monitoring report to the DEO. The report must include at a minimum:

- The number of amendments to the comprehensive plan adopted by Pasco County;
- The number of plan amendments challenged by an affected person; and
- The disposition of the challenges.

If Pasco County adopts a long-term transportation network plan and financial feasibility plan then projects within the connected-city corridor are deemed to have satisfied all concurrency and transportation mitigation requirements. Projects located within the Pasco connected-city corridor are exempt from DRI review requirements.

The Office of Program Policy Analysis and Government Accountability (OPPAGA) is directed to submit a report to the Governor and Legislature by December 1, 2024, regarding the pilot project and provide recommendations for change and other local governments that should be certified to participate.

The bill repeals requirements related to an application for development approval filed by a developer proposing a project that would have been subject to review pursuant to s. 380.06, F.S., if the local government with jurisdiction over the project had not been certified to review such projects pursuant to s. 163.3246, F.S. Current law requires the developer to notify the RPC of submitting such an application to the local government. The RPC is required to coordinate with the developer and the local government to ensure that all concurrency and environmental permit requirements are met. The bill repeals these requirements because certification program participants are few and these provisions have had little effect, according to the Florida Regional Council Association (FRCA).¹⁰⁵

Section 6 amends s. 163.3248(4), F.S., to remove a statutory reference to RPCs related to rural land stewardship areas. The reference is unnecessary because the action it purports to authorize can be performed with or without the reference.

¹⁰⁵ The FRCA is the statewide organization of the RPCs.

Section 7 amends s. 163.340, F.S., to add certain sinkhole activity to the list of factors that define a “blighted area.” Specifically, the definition is expanded to account for land that has a “substantial number or percentage of properties” that have been damaged by sinkhole activity and have not been adequately repaired or stabilized. Thus, the bill would enable a CRA focused on redeveloping land with properties damaged by sinkholes to establish a community redevelopment trust fund that is funded through TIF.

Section 8 amends s. 163.524, F.S., to conform a cross-reference.

Section 9 repeals s. 186.0201, F.S., requiring electric utilities to provide RPCs with advisory reports on their plans for electric utility substation development over the next 5 years.

Section 10 amends s. 186.505(22), F.S., to delete the duty of RPCs to establish and conduct a cross-acceptance negotiation process with local governments. According to FRCA, no council has ever been requested to perform this duty.

Section 11 creates s. 186.512, F.S., to designate 10 RPCs and their constituent counties. The Withlacoochee Regional Planning Council is dissolved and the 5 counties currently within the boundaries of that council are incorporated into 3 existing councils:

- Levy and Marion counties – North Central Florida Regional Planning Council;
- Sumter County – East Central Florida Regional Planning Council; and
- Citrus and Hernando counties – Tampa Bay Regional Planning Council.

The section also provides that beginning January 1, 2016, the Governor may review and update the district boundaries of the RPCs. The bill states that, for purposes of transition from one RPC to another, the successor RPC shall apply the prior strategic regional policy plan to a local government until such time as the successor RPC amends its plan to include the affected local government within the new region.

Section 12 amends s. 186.513, F.S., to repeal the requirement that RPCs make a joint report and recommendations to the appropriate legislative committees. However, the RPCs must still make individual reports to the state land planning agency.

Section 13 amends s. 190.005, F.S., to provide that the exclusive method of establishing a CDD of 2,000 acres or less within a connected-city corridor is by adoption of an ordinance by the county commission. The bill also exempts CDDs within both a connected-city corridor and the jurisdiction of more than one city from a requirement that the petition establishing the district be filed with the Florida Land and Water Adjudicatory Commission.

Section 14 amends s. 253.7828, F.S., to repeal the specific mandate that RPCs, among other state agencies, recognize the special character of the Cross Florida Greenways State Recreation and Conservation Area. This mandate is unnecessary, according to the FRCA.

Section 15 repeals s. 260.018, F.S., requiring all local governments, state agencies, and RPCs to recognize the special character of the state’s greenways and trails, because this statute does not appear to be necessary.

Section 16 amends s. 339.135(4), F.S., to repeal language related to the 2014-2015 transportation work program that is set to expire on July 1, 2015.

Section 17 amends s. 339.155(4), F.S., to repeal the requirement that RPCs review urbanized area transportation plans and any other planning products stipulated in s. 339.175, F.S., and provide written recommendations. It also repeals the requirement that RPCs directly assist local governments that are not part of a metropolitan area transportation planning process in the development of the transportation element of their comprehensive plans. These duties can be performed without the statutory reference, making it unnecessary.

Section 18 amends s. 373.236, F.S., to authorize a WMD to issue a permit to an applicant for the same time period as the applicant's approved master development order if the order was issued subject to the following requirements:

- It was issued by a county which, at the time the order was issued, was designated as an RAO pursuant to s. 288.0656, F.S.;
- It was not located in an area encompassed by a regional water supply plan as set forth in s. 373.709(1), F.S.; and
- It was not located within the BMAP of a first magnitude spring.¹⁰⁶

In reviewing the permit application, the WMD must apply the permitting criteria in s. 373.223, F.S., based on the projected population and approved densities and intensities of use and their distribution in the master development order. However, the WMD may phase in the water allocation over the duration of the permit to correspond to actual projected needs. This subsection does not supersede the public interest test established in s. 373.223, F.S.

Section 19 amends s. 380.06, F.S., to provide that new developments will not be subject to the DRI review requirements provided by s. 380.06, F.S. However, already existing developments of regional impact will continue to be governed by s. 380.06, F.S.

The bill repeals the requirement that an RPC notify a local government if it does not receive a biennial report from a developer related to a DRI.

Section 20 amends s. 403.50663(2) and (3), F.S., to repeal the statutory option that an RPC hold an informational public meeting if a local government elects not to do so. The bill amends the statute to state that it is the legislative intent that local governments hold such a meeting, rather than local governments or RPCs hold the meeting.

Section 21 repeals s. 403.507(2)(a)5., F.S., requiring that an RPC prepare a report regarding the impacts of a proposed electrical power plant and its consistency with the strategic regional policy plan. According to the FRCA, the statutory mandate is duplicative and unnecessary.

¹⁰⁶ First magnitude springs are springs that have a median water discharge greater than or equal to 100 cubic feet per second for the period of record.

Section 22 amends s. 403.508(3)(a) and (4)(a), F.S., to repeal the requirement that RPCs participate in land use and certification hearings regarding a proposed power plant facility. Several other state agencies are still required to participate.

Section 23 amends s. 403.5115(5), F.S., to repeal the requirement that an RPC publish a notice of an informational public hearing. Local governments holding a hearing are still required to publish a notice of the hearing.

Section 24 repeals s. 403.526(2)(a)6., F.S., requiring that RPCs prepare a report on the impacts of a proposed electrical transmission line or corridor and its consistency with the strategic regional policy plan, because the requirement is duplicative and unnecessary.

Section 25 amends s. 403.527(2)(a) and (3)(a), F.S., to repeal the requirement that RPCs participate in land use and certification hearings regarding a proposed electrical transmission line or corridor. A number of state agencies are still required to participate.

Section 26 amends s. 403.5272(2) and (3), F.S., to repeal the option that an RPC hold an informational public meeting if a local government elects not to do so. The bill amends the statute to state that it is the legislative intent that local governments hold such a meeting, rather than local governments or RPCs hold the meeting.

Section 27 repeals s. 403.7264(4), F.S., requiring RPCs to assist the DEP in site selection, public awareness, and program coordination related to amnesty days for purging small quantities of hazardous wastes. According to FRCA, the DEP has never asked for this assistance and the statutory direction is unnecessary.

Section 28 repeals s. 403.941(2)(a)6., F.S., requiring RPCs to present a report on the impacts of a proposed natural gas transmission pipeline or corridor and the pipeline or corridor's consistency with the strategic regional policy plan because the requirement is duplicative and unnecessary.

Section 29 amends s. 403.9411(4)(a) and (6), F.S., to repeal the requirement that RPCs participate in a certification hearing regarding siting of natural gas transmission pipeline corridors.

Section 30 amends s. 419.001(6), F.S., to repeal statutory authorization for a community residential home and a local government to utilize dispute resolution procedures provided by an RPC. According to FRCA, this provision has never been utilized and a community residential home and a local government could utilize the RPC for dispute resolution regardless of whether this statutory provision exists.

Section 31 amends s. 985.682(4), F.S., to repeal statutory authorization for the Department of Juvenile Justice and local governments to utilize dispute resolution procedures provided by an RPC. According to FRCA, this provision has never been utilized and is unnecessary to allow the department to utilize the RPC for dispute resolution services.

Section 32 provides that the bill will be effective upon becoming law.

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:

Section 163.08, F.S., amended by section 1 of this bill, is the subject of litigation in the Florida Supreme Court. In *Florida Bankers Association v. State*, Case No. SC14-1603, the Court is considering whether the statute impairs contractual obligations in violation of Part. 1, s. 10, Florida Constitution. In *Reynolds v. State*, Case No. SC14-1618, the Court is considering whether a financing agreement created pursuant to s. 163.08, F.S., impairs contractual obligations. The Court has scheduled oral argument in both cases for May 7, 2015.

Section 163.08(8), F.S., provides that an assessment levied to fund a qualifying improvement is senior to existing mortgage debt, so if the homeowner defaults or goes into foreclosure, the delinquent payments would be recovered before the mortgage. An issue in the pending court cases is whether the provision making the assessment senior to existing mortgages impairs the mortgage contracts in violation of Art. I, s. 10 of the Florida Constitution.

Section 1 of this bill contains a finding of a compelling government interest in providing local government assistance to enable property owners to effect improvements on property damaged by sinkhole activity. In *Pomponio v. Claridge of Pompano Condo. Inc.*, 378 So.2d 774, 780 (Fla. 1979), the court explained that whether a statute impermissibly impairs contractual obligations is a “balancing process to determine whether the nature and extent of the impairment is constitutionally tolerable in light of the importance of the state’s objective, or whether it unreasonably intrudes into the parties’ bargain to a degree greater than is necessary to achieve that objective.”

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Revenue Estimating Conference has not yet determined the impact of this bill.

B. Private Sector Impact:

Owners of property damaged by sinkhole activity will be able to enter into financing agreements with a local government that passes an ordinance or adopts a resolution to participate in the program established in s. 163.08, F.S.

CRAAs will be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has been “damaged by sinkhole activity which have not been adequately repaired or stabilized.” As a result, these areas may receive TIF revenues under the Community Redevelopment Act, and property values in the area may increase as a result of any improvements using TIF.

Deleting duplicative statutory duties assigned to RPCs may have a positive, but indeterminate, fiscal impact to the private sector.

This bill will prevent future developments from being required by state law to undergo the DRI review process, which could reduce costs for those types of developments that would otherwise have qualified as a DRI.

Private developers may benefit from the provisions of the bill which provide that projects within the connected-city corridor are deemed to have satisfied all concurrency and transportation mitigation requirements and that such projects are exempt from the DRI review requirements.

C. Government Sector Impact:

A municipality or county would be able to develop a community redevelopment plan utilizing the expanded definition of “blighted area” to include land that has a “substantial number or percentage of properties damaged by sinkhole activity which have not been adequately repaired or stabilized.” This could result in a portion of the ad valorem taxes from those lands being used for TIF.

Dissolving the Withlacoochee Regional Planning Council and deleting duplicative statutory duties assigned to RPCs may have a positive, but indeterminate, fiscal impact to state and local governments.

This bill will reduce the number of duplicative reviews that state agencies must perform with relation to the same developments. This could result in cost savings for those state agencies.

According to the DEO, there will be some costs associated with the review of and comment on documents submitted concerning DSAPs. The costs are dependent on the number of applications submitted, but will likely be negligible.

The bill authorizes a local review process for comprehensive plan amendments in the connected-city corridor rather than a state review process which could reduce the need for the DEO’s resources for such reviews. The long-term governmental costs associated

with projects within the connected-city corridor being deemed to have satisfied all concurrency and transportation mitigation requirements and being exempt from DRI review requirements are unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 163.08, 163.340, 163.3175, 163.3184, 163.3245, 163.3246, 163.3248, 163.524, 186.505, 186.513, 190.005, 253.7828, 339.135, 339.155, 373.236, 380.06, 403.50663, 403.507, 403.508, 403.5115, 403.526, 403.527, 403.5272, 403.7264, 403.941, 403.9411, 419.001, and 985.682.

This bill creates section 186.512 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 186.0201 and 260.018.

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 Fiscal Policy on April 9, 2015:

The amended bill authorizes local governments to enter into financing agreements with property owners to finance qualified improvements to property damaged by sinkhole activity. Additionally, the bill expands the definition of “blighted area,” enabling CRAs to enter into voluntary contracts to redevelop properties damaged by sinkhole activity.

The bill designates 10 RPCs and their borders. The Withlacoochee Regional Planning Council is dissolved and the five counties currently within that council are incorporated into three other councils. The bill deletes several of the RPCs’ statutory duties and requirements because they are already completed, unnecessary or duplicative.

The bill removes the state mandate that new developments surpassing certain thresholds and standards be subjected to the DRI review process. The bill shifts comprehensive plan amendments related to such developments from the Expedited State Review Process to the State Coordinated Review Process.

The bill clarifies the sector plan law. It states that the planning standards of the sector planning statute supersede generally applicable planning standards elsewhere in ch. 163, F.S. The bill provides more flexibility in the designation of conservation easements related to sector plans. The bill requires certain state agencies to review an application for

a DSAP to determine whether the development would be consistent with the comprehensive plan and the long-term master plan. It provides that a WMD may issue a CUP for the same time period as a master development order if the project meets certain requirements. The bill provides that a district may phase in the water allocation over the duration of the permit to correspond to the actual needs of the development.

The bill names Pasco County as a pilot community for connected-city corridor plan amendments. The bill exempts projects within a connected-city corridor from the DRI review process. The bill requires CDDs located within a connected-city corridor and less than 2,000 acres to be established pursuant to a county ordinance. The bill directs the OPPAGA to submit a report on the pilot project to the Governor and Legislature in 10 years.

CS by Community Affairs on March 17, 2015:

- Creates a 10-year pilot project and names Pasco County as a pilot community.
- Describes connected-city corridor plan amendments and provides certain requirements and optional features.
- Provides a concurrency exemption for certain connected-city corridors.
- Provides a DRI exemption.
- Directs the OPPAGA to submit a report to the Governor and Legislature.
- Provides the exclusive method of establishing certain CDDs.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
	.	
	.	
	.	

The Committee on Fiscal Policy (Stargel) recommended the following:

Senate Amendment (with title amendment)

Between lines 19 and 20

insert:

Section 1. Present paragraph (c) of subsection (1) of section 163.08, Florida Statutes, is redesignated as paragraph (d), a new paragraph (c) is added to that subsection, and paragraph (b) of subsection (2) and subsections (10) and (14) of that section are amended, to read:

163.08 Supplemental authority for improvements to real



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11 property.-

12 (1)

13 (c) The Legislature finds that properties damaged by
14 sinkhole activity which are not adequately repaired may
15 negatively affect the market valuation of surrounding
16 properties, resulting in the loss of property tax revenues to
17 local communities. The Legislature finds that there is a
18 compelling state interest in providing local government
19 assistance to enable property owners to voluntarily finance
20 qualified improvements to property damaged by sinkhole activity.

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

22 (b) "Qualifying improvement" includes any:

23 1. Energy conservation and efficiency improvement, which is
24 a measure to reduce consumption through conservation or a more
25 efficient use of electricity, natural gas, propane, or other
26 forms of energy on the property, including, but not limited to,
27 air sealing; installation of insulation; installation of energy-
28 efficient heating, cooling, or ventilation systems; building
29 modifications to increase the use of daylight; replacement of
30 windows; installation of energy controls or energy recovery
31 systems; installation of electric vehicle charging equipment;
32 and installation of efficient lighting equipment.

33 2. Renewable energy improvement, which is the installation
34 of any system in which the electrical, mechanical, or thermal
35 energy is produced from a method that uses one or more of the
36 following fuels or energy sources: hydrogen, solar energy,
37 geothermal energy, bioenergy, and wind energy.

38 3. Wind resistance improvement, which includes, but is not
39 limited to:



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- 40 a. Improving the strength of the roof deck attachment;
- 41 b. Creating a secondary water barrier to prevent water
- 42 intrusion;
- 43 c. Installing wind-resistant shingles;
- 44 d. Installing gable-end bracing;
- 45 e. Reinforcing roof-to-wall connections;
- 46 f. Installing storm shutters; or
- 47 g. Installing opening protections.

48 4. Stabilization or other repairs to property damaged by
49 sinkhole activity.

50 (10) A qualifying improvement shall be affixed to a
51 building or facility that is part of the property and shall
52 constitute an improvement to the building or facility or a
53 fixture attached to the building or facility. For the purposes
54 of stabilization or other repairs to property damaged by
55 sinkhole activity, a qualifying improvement is deemed affixed to
56 a building or facility. An agreement between a local government
57 and a qualifying property owner may not cover wind-resistance
58 improvements in buildings or facilities under new construction
59 or construction for which a certificate of occupancy or similar
60 evidence of substantial completion of new construction or
61 improvement has not been issued.

62 (14) At or before the time a purchaser executes a contract
63 for the sale and purchase of any property for which a non-ad
64 valorem assessment has been levied under this section and has an
65 unpaid balance due, the seller shall give the prospective
66 purchaser a written disclosure statement in the following form,
67 which shall be set forth in the contract or in a separate
68 writing:



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69
70 QUALIFYING IMPROVEMENTS FOR ENERGY EFFICIENCY,
71 RENEWABLE ENERGY, ~~OR~~ WIND RESISTANCE, OR SINKHOLE
72 STABILIZATION OR REPAIR.—The property being purchased
73 is located within the jurisdiction of a local
74 government that has placed an assessment on the
75 property pursuant to s. 163.08, Florida Statutes. The
76 assessment is for a qualifying improvement to the
77 property relating to energy efficiency, renewable
78 energy, ~~or~~ wind resistance, or stabilization or repair
79 of property damaged by sinkhole activity, and is not
80 based on the value of property. You are encouraged to
81 contact the county property appraiser's office to
82 learn more about this and other assessments that may
83 be provided by law.

84 Section 2. Subsection (8) of section 163.340, Florida
85 Statutes, is amended to read:

86 163.340 Definitions.—The following terms, wherever used or
87 referred to in this part, have the following meanings:

88 (8) "Blighted area" means an area in which there are a
89 substantial number of deteriorated~~;~~ or deteriorating
90 structures;~~;~~ in which conditions, as indicated by government-
91 maintained statistics or other studies, endanger life or
92 property or are leading to economic distress; ~~or endanger life~~
93 ~~or property,~~ and in which two or more of the following factors
94 are present:

95 (a) Predominance of defective or inadequate street layout,
96 parking facilities, roadways, bridges, or public transportation
97 facilities.~~;~~



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- 98 (b) Aggregate assessed values of real property in the area
99 for ad valorem tax purposes have failed to show any appreciable
100 increase over the 5 years prior to the finding of such
101 conditions.†
- 102 (c) Faulty lot layout in relation to size, adequacy,
103 accessibility, or usefulness.†
- 104 (d) Unsanitary or unsafe conditions.†
- 105 (e) Deterioration of site or other improvements.†
- 106 (f) Inadequate and outdated building density patterns.†
- 107 (g) Falling lease rates per square foot of office,
108 commercial, or industrial space compared to the remainder of the
109 county or municipality.†
- 110 (h) Tax or special assessment delinquency exceeding the
111 fair value of the land.†
- 112 (i) Residential and commercial vacancy rates higher in the
113 area than in the remainder of the county or municipality.†
- 114 (j) Incidence of crime in the area higher than in the
115 remainder of the county or municipality.†
- 116 (k) Fire and emergency medical service calls to the area
117 proportionately higher than in the remainder of the county or
118 municipality.†
- 119 (l) A greater number of violations of the Florida Building
120 Code in the area than the number of violations recorded in the
121 remainder of the county or municipality.†
- 122 (m) Diversity of ownership or defective or unusual
123 conditions of title which prevent the free alienability of land
124 within the deteriorated or hazardous area.†~~or~~
- 125 (n) Governmentally owned property with adverse
126 environmental conditions caused by a public or private entity.



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127 (o) A substantial number or percentage of properties
128 damaged by sinkhole activity which have not been adequately
129 repaired or stabilized.

130
131 However, the term "blighted area" also means any area in which
132 at least one of the factors identified in paragraphs (a) through
133 (o) is ~~(n)~~ are present and all taxing authorities subject to s.
134 163.387(2) (a) agree, either by interlocal agreement ~~or~~
135 ~~agreements~~ with the agency or by resolution, that the area is
136 blighted. Such agreement or resolution must be limited to a
137 determination shall only determine that the area is blighted.
138 For purposes of qualifying for the tax credits authorized in
139 chapter 220, "blighted area" means an area as defined in this
140 subsection.

141 Section 3. Subsection (3) of section 163.524, Florida
142 Statutes, is amended to read:

143 163.524 Neighborhood Preservation and Enhancement Program;
144 participation; creation of Neighborhood Preservation and
145 Enhancement Districts; creation of Neighborhood Councils and
146 Neighborhood Enhancement Plans.—

147 (3) After the boundaries and size of the Neighborhood
148 Preservation and Enhancement District have been defined, the
149 local government shall pass an ordinance authorizing the
150 creation of the Neighborhood Preservation and Enhancement
151 District. The ordinance shall contain a finding that the
152 boundaries of the Neighborhood Preservation and Enhancement
153 District comply with ~~meet the provisions of~~ s. 163.340(7) or s.
154 (8) (a) - (o) ~~(8) (a) - (n)~~ or do not contain properties that are
155 protected by deed restrictions. Such ordinance may be amended or



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156 repealed in the same manner as other local ordinances.

157 Section 4. Paragraph (c) of subsection (2) of section
158 163.3184, Florida Statutes, is amended to read:

159 163.3184 Process for adoption of comprehensive plan or plan
160 amendment.—

161 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

162 (c) Plan amendments that are in an area of critical state
163 concern designated pursuant to s. 380.05; propose a rural land
164 stewardship area pursuant to s. 163.3248; propose a sector plan
165 pursuant to s. 163.3245; update a comprehensive plan based on an
166 evaluation and appraisal pursuant to s. 163.3191; propose a
167 development that qualifies as a development of regional impact
168 pursuant to s. 380.06 ~~s. 380.06(24)(x)~~; or are new plans for
169 newly incorporated municipalities adopted pursuant to s.
170 163.3167 shall follow the state coordinated review process in
171 subsection (4).

172 Section 5. Subsection (30) is added to section 380.06,
173 Florida Statutes, to read:

174 380.06 Developments of regional impact.—

175 (30) NEW PROPOSED DEVELOPMENTS.—A new proposed development
176 otherwise subject to the review requirements of this section
177 shall be approved by a local government pursuant to s.
178 163.3184(4) in lieu of proceeding in accordance with this
179 section.

180 Section 6. Subsection (9) of section 163.3175, Florida
181 Statutes, is amended to read:

182 163.3175 Legislative findings on compatibility of
183 development with military installations; exchange of information
184 between local governments and military installations.—



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185 ~~(9) If a local government, as required under s.~~
186 ~~163.3177(6)(a), does not adopt criteria and address~~
187 ~~compatibility of lands adjacent to or closely proximate to~~
188 ~~existing military installations in its future land use plan~~
189 ~~element by June 30, 2012, the local government, the military~~
190 ~~installation, the state land planning agency, and other parties~~
191 ~~as identified by the regional planning council, including, but~~
192 ~~not limited to, private landowner representatives, shall enter~~
193 ~~into mediation conducted pursuant to s. 186.509. If the local~~
194 ~~government comprehensive plan does not contain criteria~~
195 ~~addressing compatibility by December 31, 2013, the agency may~~
196 ~~notify the Administration Commission. The Administration~~
197 ~~Commission may impose sanctions pursuant to s. 163.3184(8). Any~~
198 ~~local government that amended its comprehensive plan to address~~
199 ~~military installation compatibility requirements after 2004 and~~
200 ~~was found to be in compliance is deemed to be in compliance with~~
201 ~~this subsection until the local government conducts its~~
202 ~~evaluation and appraisal review pursuant to s. 163.3191 and~~
203 ~~determines that amendments are necessary to meet updated general~~
204 ~~law requirements.~~

205 Section 7. Subsection (11) of section 163.3246, Florida
206 Statutes, is amended to read:

207 163.3246 Local government comprehensive planning
208 certification program.—

209 (11) If the local government of an area described in
210 subsection (10) does not request that the state land planning
211 agency review the developments of regional impact that are
212 proposed within the certified area, an application for approval
213 of a development order within the certified area shall be exempt



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214 from review under s. 380.06, ~~subject to the following:~~

215 ~~(a) Concurrent with filing an application for development~~
216 ~~approval with the local government, a developer proposing a~~
217 ~~project that would have been subject to review pursuant to s.~~
218 ~~380.06 shall notify in writing the regional planning council~~
219 ~~with jurisdiction.~~

220 ~~(b) The regional planning council shall coordinate with the~~
221 ~~developer and the local government to ensure that all~~
222 ~~concurrency requirements as well as federal, state, and local~~
223 ~~environmental permit requirements are met.~~

224 Section 8. Subsection (4) of section 163.3248, Florida
225 Statutes, is amended to read:

226 163.3248 Rural land stewardship areas.—

227 (4) A local government or one or more property owners may
228 request assistance and participation in the development of a
229 plan for the rural land stewardship area from the state land
230 planning agency, the Department of Agriculture and Consumer
231 Services, the Fish and Wildlife Conservation Commission, the
232 Department of Environmental Protection, the appropriate water
233 management district, the Department of Transportation, ~~the~~
234 ~~regional planning council~~, private land owners, and
235 stakeholders.

236 Section 9. Subsection (22) of section 186.505, Florida
237 Statutes, is amended to read:

238 186.505 Regional planning councils; powers and duties.—Any
239 regional planning council created hereunder shall have the
240 following powers:

241 ~~(22) To establish and conduct a cross-acceptance~~
242 ~~negotiation process with local governments intended to resolve~~



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243 ~~inconsistencies between applicable local and regional plans,~~
244 ~~with participation by local governments being voluntary.~~

245 Section 10. Section 186.512, Florida Statutes, is created
246 to read:

247 186.512 Designation of regional planning councils.—

248 (1) The territorial area of the state is subdivided into
249 the following districts for the purpose of regional
250 comprehensive planning. The name and geographic area of each
251 respective district must accord with the following:

252 (a) West Florida Regional Planning Council: Bay, Escambia,
253 Holmes, Okaloosa, Santa Rosa, Walton, and Washington Counties.

254 (b) Apalachee Regional Planning Council: Calhoun, Franklin,
255 Gadsden, Gulf, Jackson, Jefferson, Leon, Liberty, and Wakulla
256 Counties.

257 (c) North Central Florida Regional Planning Council:
258 Alachua, Bradford, Columbia, Dixie, Gilchrist, Hamilton,
259 Lafayette, Levy, Madison, Marion, Suwannee, Taylor, and Union
260 Counties.

261 (d) Northeast Florida Regional Planning Council: Baker,
262 Clay, Duval, Flagler, Nassau, Putnam, and St. Johns Counties.

263 (e) East Central Florida Regional Planning Council:
264 Brevard, Lake, Orange, Osceola, Seminole, Sumter, and Volusia
265 Counties.

266 (f) Central Florida Regional Planning Council: DeSoto,
267 Hardee, Highlands, Okeechobee, and Polk Counties.

268 (g) Tampa Bay Regional Planning Council: Citrus, Hernando,
269 Hillsborough, Manatee, Pasco, and Pinellas Counties.

270 (h) Southwest Florida Regional Planning Council: Charlotte,
271 Collier, Glades, Hendry, Lee, and Sarasota Counties.



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272 (i) Treasure Coast Regional Planning Council: Indian River,
273 Martin, Palm Beach, and St. Lucie Counties.

274 (j) South Florida Regional Planning Council: Broward,
275 Miami-Dade, and Monroe Counties.

276 (2) Beginning January 1, 2016, and thereafter, the Governor
277 may review and update the district boundaries of the regional
278 planning councils pursuant to his authority under s. 186.506(4).

279 (3) For the purposes of transition from one regional
280 planning council to another, the successor regional planning
281 council shall apply the prior strategic regional policy plan to
282 a local government until such time as the successor regional
283 planning council amends its plan pursuant to this chapter to
284 include the affected local government within the new region.

285 Section 11. Section 186.513, Florida Statutes, is amended
286 to read:

287 186.513 Reports.—Each regional planning council shall
288 prepare and furnish an annual report on its activities to the
289 state land planning agency as defined in s. 163.3164 and the
290 local general-purpose governments within its boundaries and,
291 upon payment as may be established by the council, to any
292 interested person. ~~The regional planning councils shall make a~~
293 ~~joint report and recommendations to appropriate legislative~~
294 ~~committees.~~

295 Section 12. Section 253.7828, Florida Statutes, is amended
296 to read:

297 253.7828 Impairment of use or conservation by agencies
298 prohibited.—All agencies of the state, ~~regional planning~~
299 ~~councils,~~ water management districts, and local governments
300 shall recognize the special character of the lands and waters



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301 designated by the state as the Cross Florida Greenways State
302 Recreation and Conservation Area and shall not take any action
303 which will impair its use and conservation.

304 Section 13. Paragraph (j) of subsection (4) of section
305 339.135, Florida Statutes, is amended to read:

306 339.135 Work program; legislative budget request;
307 definitions; preparation, adoption, execution, and amendment.—

308 (4) FUNDING AND DEVELOPING A TENTATIVE WORK PROGRAM.—

309 ~~(j) Notwithstanding paragraph (a) and for the 2014-2015~~
310 ~~fiscal year only, the department may use up to \$15 million of~~
311 ~~appropriated funds to pay the costs of strategic and regionally~~
312 ~~significant transportation projects. Funds may be used to~~
313 ~~provide up to 75 percent of project costs for production-ready~~
314 ~~eligible projects. Preference shall be given to projects that~~
315 ~~support the state's economic regions, or that have been~~
316 ~~identified as regionally significant in accordance with s.~~
317 ~~339.155(4) (c), (d), and (e), and that have an increased level of~~
318 ~~nonstate match. This paragraph expires July 1, 2015.~~

319 Section 14. Paragraph (b) of subsection (4) of section
320 339.155, Florida Statutes, is amended to read:

321 339.155 Transportation planning.—

322 (4) ADDITIONAL TRANSPORTATION PLANS.—

323 (b) Each regional planning council, as provided for in s.
324 186.504, or any successor agency thereto, shall develop, as an
325 element of its strategic regional policy plan, transportation
326 goals and policies. The transportation goals and policies must
327 be prioritized to comply with the prevailing principles provided
328 in subsection (1) and s. 334.046(1). The transportation goals
329 and policies shall be consistent, to the maximum extent



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330 feasible, with the goals and policies of the metropolitan
331 planning organization and the Florida Transportation Plan. The
332 transportation goals and policies of the regional planning
333 council will be advisory only and shall be submitted to the
334 department and any affected metropolitan planning organization
335 for their consideration and comments. Metropolitan planning
336 organization plans and other local transportation plans shall be
337 developed consistent, to the maximum extent feasible, with the
338 regional transportation goals and policies. ~~The regional~~
339 ~~planning council shall review urbanized area transportation~~
340 ~~plans and any other planning products stipulated in s. 339.175~~
341 ~~and provide the department and respective metropolitan planning~~
342 ~~organizations with written recommendations, which the department~~
343 ~~and the metropolitan planning organizations shall take under~~
344 ~~advisement. Further, the regional planning councils shall~~
345 ~~directly assist local governments that are not part of a~~
346 ~~metropolitan area transportation planning process in the~~
347 ~~development of the transportation element of their comprehensive~~
348 ~~plans as required by s. 163.3177.~~

349 Section 15. Subsection (18) of section 380.06, Florida
350 Statutes, is amended to read:

351 380.06 Developments of regional impact.—

352 (18) BIENNIAL REPORTS.—The developer shall submit a
353 biennial report on the development of regional impact to the
354 local government, the regional planning agency, the state land
355 planning agency, and all affected permit agencies in alternate
356 years on the date specified in the development order, unless the
357 development order by its terms requires more frequent
358 monitoring. If the report is not received, ~~the regional planning~~



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359 ~~agency or~~ the state land planning agency shall notify the local
360 government. If the local government does not receive the report
361 or receives notification that ~~the regional planning agency or~~
362 the state land planning agency has not received the report, the
363 local government shall request in writing that the developer
364 submit the report within 30 days. The failure to submit the
365 report after 30 days shall result in the temporary suspension of
366 the development order by the local government. If no additional
367 development pursuant to the development order has occurred since
368 the submission of the previous report, then a letter from the
369 developer stating that no development has occurred shall satisfy
370 the requirement for a report. Development orders that require
371 annual reports may be amended to require biennial reports at the
372 option of the local government.

373 Section 16. Subsections (2) and (3) of section 403.50663,
374 Florida Statutes, are amended to read:

375 403.50663 Informational public meetings.—

376 (2) Informational public meetings shall be held solely at
377 the option of each local government ~~or regional planning council~~
378 ~~if a public meeting is not held by the local government~~. It is
379 the legislative intent that local governments ~~or regional~~
380 ~~planning councils~~ attempt to hold such public meetings. Parties
381 to the proceedings under this act shall be encouraged to attend;
382 however, no party other than the applicant and the department
383 shall be required to attend such informational public meetings.

384 (3) A local government ~~or regional planning council~~ that
385 intends to conduct an informational public meeting must provide
386 notice of the meeting to all parties not less than 5 days prior
387 to the meeting and to the general public in accordance with s.



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388 403.5115(5). The expense for such notice is eligible for
389 reimbursement under s. 403.518(2)(c)1.

390 Section 17. Paragraph (a) of subsection (2) of section
391 403.507, Florida Statutes, is amended to read:

392 403.507 Preliminary statements of issues, reports, project
393 analyses, and studies.-

394 (2)(a) No later than 100 days after the certification
395 application has been determined complete, the following agencies
396 shall prepare reports as provided below and shall submit them to
397 the department and the applicant, unless a final order denying
398 the determination of need has been issued under s. 403.519:

399 1. The Department of Economic Opportunity shall prepare a
400 report containing recommendations which address the impact upon
401 the public of the proposed electrical power plant, based on the
402 degree to which the electrical power plant is consistent with
403 the applicable portions of the state comprehensive plan,
404 emergency management, and other such matters within its
405 jurisdiction. The Department of Economic Opportunity may also
406 comment on the consistency of the proposed electrical power
407 plant with applicable strategic regional policy plans or local
408 comprehensive plans and land development regulations.

409 2. The water management district shall prepare a report as
410 to matters within its jurisdiction, including but not limited
411 to, the impact of the proposed electrical power plant on water
412 resources, regional water supply planning, and district-owned
413 lands and works.

414 3. Each local government in whose jurisdiction the proposed
415 electrical power plant is to be located shall prepare a report
416 as to the consistency of the proposed electrical power plant



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417 with all applicable local ordinances, regulations, standards, or
418 criteria that apply to the proposed electrical power plant,
419 including any applicable local environmental regulations adopted
420 pursuant to s. 403.182 or by other means.

421 4. The Fish and Wildlife Conservation Commission shall
422 prepare a report as to matters within its jurisdiction.

423 ~~5. Each regional planning council shall prepare a report~~
424 ~~containing recommendations that address the impact upon the~~
425 ~~public of the proposed electrical power plant, based on the~~
426 ~~degree to which the electrical power plant is consistent with~~
427 ~~the applicable provisions of the strategic regional policy plan~~
428 ~~adopted pursuant to chapter 186 and other matters within its~~
429 ~~jurisdiction.~~

430 ~~5.6.~~ The Department of Transportation shall address the
431 impact of the proposed electrical power plant on matters within
432 its jurisdiction.

433 Section 18. Paragraph (a) of subsection (3) and paragraph
434 (a) of subsection (4) of section 403.508, Florida Statutes, are
435 amended to read:

436 403.508 Land use and certification hearings, parties,
437 participants.—

438 (3) (a) Parties to the proceeding shall include:

- 439 1. The applicant.
- 440 2. The Public Service Commission.
- 441 3. The Department of Economic Opportunity.
- 442 4. The Fish and Wildlife Conservation Commission.
- 443 5. The water management district.
- 444 6. The department.
- 445 ~~7. The regional planning council.~~



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446 ~~7.8.~~ The local government.

447 ~~8.9.~~ The Department of Transportation.

448 (4) (a) The order of presentation at the certification
449 hearing, unless otherwise changed by the administrative law
450 judge to ensure the orderly presentation of witnesses and
451 evidence, shall be:

452 1. The applicant.

453 2. The department.

454 3. State agencies.

455 4. Regional agencies, including ~~regional planning councils~~
456 ~~and~~ water management districts.

457 5. Local governments.

458 6. Other parties.

459 Section 19. Subsection (5) of section 403.5115, Florida
460 Statutes, is amended to read:

461 403.5115 Public notice.—

462 (5) A local government ~~or regional planning council~~ that
463 proposes to conduct an informational public meeting pursuant to
464 s. 403.50663 must publish notice of the meeting in a newspaper
465 of general circulation within the county or counties in which
466 the proposed electrical power plant will be located no later
467 than 7 days prior to the meeting. A newspaper of general
468 circulation shall be the newspaper that has the largest daily
469 circulation in that county and has its principal office in that
470 county. If the newspaper with the largest daily circulation has
471 its principal office outside the county, the notices shall
472 appear in both the newspaper having the largest circulation in
473 that county and in a newspaper authorized to publish legal
474 notices in that county.



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475 Section 20. Paragraph (a) of subsection (2) of section
476 403.526, Florida Statutes, is amended to read:

477 403.526 Preliminary statements of issues, reports, and
478 project analyses; studies.—

479 (2) (a) No later than 90 days after the filing of the
480 application, the following agencies shall prepare reports as
481 provided below, unless a final order denying the determination
482 of need has been issued under s. 403.537:

483 1. The department shall prepare a report as to the impact
484 of each proposed transmission line or corridor as it relates to
485 matters within its jurisdiction.

486 2. Each water management district in the jurisdiction of
487 which a proposed transmission line or corridor is to be located
488 shall prepare a report as to the impact on water resources and
489 other matters within its jurisdiction.

490 3. The Department of Economic Opportunity shall prepare a
491 report containing recommendations which address the impact upon
492 the public of the proposed transmission line or corridor, based
493 on the degree to which the proposed transmission line or
494 corridor is consistent with the applicable portions of the state
495 comprehensive plan, emergency management, and other matters
496 within its jurisdiction. The Department of Economic Opportunity
497 may also comment on the consistency of the proposed transmission
498 line or corridor with applicable strategic regional policy plans
499 or local comprehensive plans and land development regulations.

500 4. The Fish and Wildlife Conservation Commission shall
501 prepare a report as to the impact of each proposed transmission
502 line or corridor on fish and wildlife resources and other
503 matters within its jurisdiction.



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504 5. Each local government shall prepare a report as to the
505 impact of each proposed transmission line or corridor on matters
506 within its jurisdiction, including the consistency of the
507 proposed transmission line or corridor with all applicable local
508 ordinances, regulations, standards, or criteria that apply to
509 the proposed transmission line or corridor, including local
510 comprehensive plans, zoning regulations, land development
511 regulations, and any applicable local environmental regulations
512 adopted pursuant to s. 403.182 or by other means. A change by
513 the responsible local government or local agency in local
514 comprehensive plans, zoning ordinances, or other regulations
515 made after the date required for the filing of the local
516 government's report required by this section is not applicable
517 to the certification of the proposed transmission line or
518 corridor unless the certification is denied or the application
519 is withdrawn.

520 ~~6. Each regional planning council shall present a report~~
521 ~~containing recommendations that address the impact upon the~~
522 ~~public of the proposed transmission line or corridor based on~~
523 ~~the degree to which the transmission line or corridor is~~
524 ~~consistent with the applicable provisions of the strategic~~
525 ~~regional policy plan adopted under chapter 186 and other impacts~~
526 ~~of each proposed transmission line or corridor on matters within~~
527 ~~its jurisdiction.~~

528 6.7. The Department of Transportation shall prepare a
529 report as to the impact of the proposed transmission line or
530 corridor on state roads, railroads, airports, aeronautics,
531 seaports, and other matters within its jurisdiction.

532 ~~7.8.~~ The commission shall prepare a report containing its



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533 determination under s. 403.537, and the report may include the
534 comments from the commission with respect to any other subject
535 within its jurisdiction.

536 ~~8.9.~~ Any other agency, if requested by the department,
537 shall also perform studies or prepare reports as to subjects
538 within the jurisdiction of the agency which may potentially be
539 affected by the proposed transmission line.

540 Section 21. Paragraph (a) of subsection (2) and paragraph
541 (a) of subsection (3) of section 403.527, Florida Statutes, are
542 amended to read:

543 403.527 Certification hearing, parties, participants.-

544 (2) (a) Parties to the proceeding shall be:

545 1. The applicant.

546 2. The department.

547 3. The commission.

548 4. The Department of Economic Opportunity.

549 5. The Fish and Wildlife Conservation Commission.

550 6. The Department of Transportation.

551 7. Each water management district in the jurisdiction of
552 which the proposed transmission line or corridor is to be
553 located.

554 8. The local government.

555 ~~9. The regional planning council.~~

556 (3) (a) The order of presentation at the certification
557 hearing, unless otherwise changed by the administrative law
558 judge to ensure the orderly presentation of witnesses and
559 evidence, shall be:

560 1. The applicant.

561 2. The department.



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- 562 3. State agencies.
- 563 4. Regional agencies, including ~~regional planning councils~~
- 564 ~~and~~ water management districts.
- 565 5. Local governments.
- 566 6. Other parties.

567 Section 22. Subsections (2) and (3) of section 403.5272,
568 Florida Statutes, are amended to read:

569 403.5272 Informational public meetings.—

570 (2) Informational public meetings shall be held solely at
571 the option of each local government ~~or regional planning~~
572 ~~council~~. It is the legislative intent that local governments ~~or~~
573 ~~regional planning councils~~ attempt to hold such public meetings.
574 Parties to the proceedings under this act shall be encouraged to
575 attend; however, a party other than the applicant and the
576 department is not required to attend the informational public
577 meetings.

578 (3) A local government ~~or regional planning council~~ that
579 intends to conduct an informational public meeting must provide
580 notice of the meeting, with notice sent to all parties listed in
581 s. 403.527(2)(a), not less than 15 days before the meeting and
582 to the general public in accordance with s. 403.5363(4).

583 Section 23. Subsection (4) of section 403.7264, Florida
584 Statutes, is amended to read:

585 403.7264 Amnesty days for purging small quantities of
586 hazardous wastes.—Amnesty days are authorized by the state for
587 the purpose of purging small quantities of hazardous waste, free
588 of charge, from the possession of homeowners, farmers, schools,
589 state agencies, and small businesses. These entities have no
590 appropriate economically feasible mechanism for disposing of



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591 their hazardous wastes at the present time. In order to raise
592 public awareness on this issue, provide an educational process,
593 accommodate those entities which have a need to dispose of small
594 quantities of hazardous waste, and preserve the waters of the
595 state, amnesty days shall be carried out in the following
596 manner:

597 ~~(4) Regional planning councils shall assist the department~~
598 ~~in site selection, public awareness, and program coordination.~~
599 ~~However, the department shall retain full responsibility for the~~
600 ~~state amnesty days program.~~

601 Section 24. Paragraph (a) of subsection (2) of section
602 403.941, Florida Statutes, is amended to read:

603 403.941 Preliminary statements of issues, reports, and
604 studies.—

605 (2) (a) The affected agencies shall prepare reports as
606 provided in this paragraph and shall submit them to the
607 department and the applicant within 60 days after the
608 application is determined sufficient:

609 1. The department shall prepare a report as to the impact
610 of each proposed natural gas transmission pipeline or corridor
611 as it relates to matters within its jurisdiction.

612 2. Each water management district in the jurisdiction of
613 which a proposed natural gas transmission pipeline or corridor
614 is to be located shall prepare a report as to the impact on
615 water resources and other matters within its jurisdiction.

616 3. The Department of Economic Opportunity shall prepare a
617 report containing recommendations which address the impact upon
618 the public of the proposed natural gas transmission pipeline or
619 corridor, based on the degree to which the proposed natural gas



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620 transmission pipeline or corridor is consistent with the
621 applicable portions of the state comprehensive plan and other
622 matters within its jurisdiction. The Department of Economic
623 Opportunity may also comment on the consistency of the proposed
624 natural gas transmission pipeline or corridor with applicable
625 strategic regional policy plans or local comprehensive plans and
626 land development regulations.

627 4. The Fish and Wildlife Conservation Commission shall
628 prepare a report as to the impact of each proposed natural gas
629 transmission pipeline or corridor on fish and wildlife resources
630 and other matters within its jurisdiction.

631 5. Each local government in which the natural gas
632 transmission pipeline or natural gas transmission pipeline
633 corridor will be located shall prepare a report as to the impact
634 of each proposed natural gas transmission pipeline or corridor
635 on matters within its jurisdiction, including the consistency of
636 the proposed natural gas transmission pipeline or corridor with
637 all applicable local ordinances, regulations, standards, or
638 criteria that apply to the proposed natural gas transmission
639 pipeline or corridor, including local comprehensive plans,
640 zoning regulations, land development regulations, and any
641 applicable local environmental regulations adopted pursuant to
642 s. 403.182 or by other means. No change by the responsible local
643 government or local agency in local comprehensive plans, zoning
644 ordinances, or other regulations made after the date required
645 for the filing of the local government's report required by this
646 section shall be applicable to the certification of the proposed
647 natural gas transmission pipeline or corridor unless the
648 certification is denied or the application is withdrawn.



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649 ~~6. Each regional planning council in which the natural gas~~
650 ~~transmission pipeline or natural gas transmission pipeline~~
651 ~~corridor will be located shall present a report containing~~
652 ~~recommendations that address the impact upon the public of the~~
653 ~~proposed natural gas transmission pipeline or corridor, based on~~
654 ~~the degree to which the natural gas transmission pipeline or~~
655 ~~corridor is consistent with the applicable provisions of the~~
656 ~~strategic regional policy plan adopted pursuant to chapter 186~~
657 ~~and other impacts of each proposed natural gas transmission~~
658 ~~pipeline or corridor on matters within its jurisdiction.~~

659 ~~6.7.~~ The Department of Transportation shall prepare a
660 report on the effect of the natural gas transmission pipeline or
661 natural gas transmission pipeline corridor on matters within its
662 jurisdiction, including roadway crossings by the pipeline. The
663 report shall contain at a minimum:

664 a. A report by the applicant to the department stating that
665 all requirements of the department's utilities accommodation
666 guide have been or will be met in regard to the proposed
667 pipeline or pipeline corridor; and

668 b. A statement by the department as to the adequacy of the
669 report to the department by the applicant.

670 ~~7.8.~~ The Department of State, Division of Historical
671 Resources, shall prepare a report on the impact of the natural
672 gas transmission pipeline or natural gas transmission pipeline
673 corridor on matters within its jurisdiction.

674 ~~8.9.~~ The commission shall prepare a report addressing
675 matters within its jurisdiction. The commission's report shall
676 include its determination of need issued pursuant to s.
677 403.9422.



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678 Section 25. Paragraph (a) of subsection (4) and subsection
679 (6) of section 403.9411, Florida Statutes, are amended to read:
680 403.9411 Notice; proceedings; parties and participants.—
681 (4) (a) Parties to the proceeding shall be:
682 1. The applicant.
683 2. The department.
684 3. The commission.
685 4. The Department of Economic Opportunity.
686 5. The Fish and Wildlife Conservation Commission.
687 6. Each water management district in the jurisdiction of
688 which the proposed natural gas transmission pipeline or corridor
689 is to be located.
690 7. The local government.
691 ~~8. The regional planning council.~~
692 8.9. The Department of Transportation.
693 ~~9.10.~~ The Department of State, Division of Historical
694 Resources.
695 (6) The order of presentation at the certification hearing,
696 unless otherwise changed by the administrative law judge to
697 ensure the orderly presentation of witnesses and evidence, shall
698 be:
699 (a) The applicant.
700 (b) The department.
701 (c) State agencies.
702 (d) Regional agencies, including ~~regional planning councils~~
703 ~~and~~ water management districts.
704 (e) Local governments.
705 (f) Other parties.
706 Section 26. Subsection (6) of section 419.001, Florida



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707 Statutes, is amended to read:

708 419.001 Site selection of community residential homes.—

709 (6) If agreed to by both the local government and the
710 sponsoring agency, a conflict may be resolved through informal
711 mediation. The local government shall arrange for the services
712 of an independent mediator ~~or may utilize the dispute resolution~~
713 ~~process established by a regional planning council pursuant to~~
714 ~~s. 186.509~~. Mediation shall be concluded within 45 days of a
715 request therefor. The resolution of any issue through the
716 mediation process shall not alter any person's right to a
717 judicial determination of any issue if that person is entitled
718 to such a determination under statutory or common law.

719 Section 27. Subsection (4) of section 985.682, Florida
720 Statutes, is amended to read:

721 985.682 Siting of facilities; criteria.—

722 (4) When the department requests such a modification and it
723 is denied by the local government, the local government or the
724 department shall initiate the dispute resolution process
725 ~~established under s. 186.509~~ to reconcile differences on the
726 siting of correctional facilities between the department, local
727 governments, and private citizens. ~~If the regional planning~~
728 ~~council has not established a dispute resolution process~~
729 ~~pursuant to s. 186.509~~, The department shall establish, by rule,
730 procedures for dispute resolution. The dispute resolution
731 process shall require the parties to commence meetings to
732 reconcile their differences. If the parties fail to resolve
733 their differences within 30 days after the denial, the parties
734 shall engage in voluntary mediation or similar process. If the
735 parties fail to resolve their differences by mediation within 60



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736 days after the denial, or if no action is taken on the
737 department's request within 90 days after the request, the
738 department must appeal the decision of the local government on
739 the requested modification of local plans, ordinances, or
740 regulations to the Governor and Cabinet. Any dispute resolution
741 process initiated under this section must conform to the time
742 limitations set forth herein. However, upon agreement of all
743 parties, the time limits may be extended, but in no event may
744 the dispute resolution process extend over 180 days.

745 Section 28. Section 186.0201, Florida Statutes, is
746 repealed.

747 Section 29. Section 260.018, Florida Statutes, is repealed.

748 Section 30. Present subsection (13) of section 163.3245,
749 Florida Statutes, is redesignated as subsection (14),
750 subsections (3) and (9) of that section are amended, and a new
751 subsection (13) and subsection (15) are added to that section,
752 to read:

753 163.3245 Sector plans.—

754 (3) Sector planning encompasses two levels: adoption
755 pursuant to s. 163.3184 of a long-term master plan for the
756 entire planning area as part of the comprehensive plan, and
757 adoption by local development order of two or more detailed
758 specific area plans that implement the long-term master plan and
759 within which s. 380.06 is waived.

760 (a) In addition to the other requirements of this chapter,
761 except for those that are inconsistent with or superseded by the
762 planning standards of this paragraph, a long-term master plan
763 pursuant to this section must include maps, illustrations, and
764 text supported by data and analysis to address the following:



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- 765 1. A framework map that, at a minimum, generally depicts
766 areas of urban, agricultural, rural, and conservation land use;
767 identifies allowed uses in various parts of the planning area;
768 specifies maximum and minimum densities and intensities of use;
769 and provides the general framework for the development pattern
770 in developed areas with graphic illustrations based on a
771 hierarchy of places and functional place-making components.
- 772 2. A general identification of the water supplies needed
773 and available sources of water, including water resource
774 development and water supply development projects, and water
775 conservation measures needed to meet the projected demand of the
776 future land uses in the long-term master plan.
- 777 3. A general identification of the transportation
778 facilities to serve the future land uses in the long-term master
779 plan, including guidelines to be used to establish each modal
780 component intended to optimize mobility.
- 781 4. A general identification of other regionally significant
782 public facilities necessary to support the future land uses,
783 which may include central utilities provided onsite within the
784 planning area, and policies setting forth the procedures to be
785 used to mitigate the impacts of future land uses on public
786 facilities.
- 787 5. A general identification of regionally significant
788 natural resources within the planning area based on the best
789 available data and policies setting forth the procedures for
790 protection or conservation of specific resources consistent with
791 the overall conservation and development strategy for the
792 planning area.
- 793 6. General principles and guidelines addressing the urban



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794 form and the interrelationships of future land uses; the
795 protection and, as appropriate, restoration and management of
796 lands identified for permanent preservation through recordation
797 of conservation easements consistent with s. 704.06, which shall
798 be phased or staged in coordination with detailed specific area
799 plans to reflect phased or staged development within the
800 planning area; achieving a more clean, healthy environment;
801 limiting urban sprawl; providing a range of housing types;
802 protecting wildlife and natural areas; advancing the efficient
803 use of land and other resources; creating quality communities of
804 a design that promotes travel by multiple transportation modes;
805 and enhancing the prospects for the creation of jobs.

806 7. Identification of general procedures and policies to
807 facilitate intergovernmental coordination to address
808 extrajurisdictional impacts from the future land uses.

809
810 A long-term master plan adopted pursuant to this section may be
811 based upon a planning period longer than the generally
812 applicable planning period of the local comprehensive plan,
813 shall specify the projected population within the planning area
814 during the chosen planning period, and may include a phasing or
815 staging schedule that allocates a portion of the local
816 government's future growth to the planning area through the
817 planning period. A long-term master plan adopted pursuant to
818 this section is not required to demonstrate need based upon
819 projected population growth or on any other basis.

820 (b) In addition to the other requirements of this chapter,
821 except for those that are inconsistent with or superseded by the
822 planning standards of this paragraph, the detailed specific area



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823 plans shall be consistent with the long-term master plan and
824 must include conditions and commitments that provide for:

825 1. Development or conservation of an area of at least 1,000
826 acres consistent with the long-term master plan. The local
827 government may approve detailed specific area plans of less than
828 1,000 acres based on local circumstances if it is determined
829 that the detailed specific area plan furthers the purposes of
830 this part and part I of chapter 380.

831 2. Detailed identification and analysis of the maximum and
832 minimum densities and intensities of use and the distribution,
833 extent, and location of future land uses.

834 3. Detailed identification of water resource development
835 and water supply development projects and related infrastructure
836 and water conservation measures to address water needs of
837 development in the detailed specific area plan.

838 4. Detailed identification of the transportation facilities
839 to serve the future land uses in the detailed specific area
840 plan.

841 5. Detailed identification of other regionally significant
842 public facilities, including public facilities outside the
843 jurisdiction of the host local government, impacts of future
844 land uses on those facilities, and required improvements
845 consistent with the long-term master plan.

846 6. Public facilities necessary to serve development in the
847 detailed specific area plan, including developer contributions
848 in a 5-year capital improvement schedule of the affected local
849 government.

850 7. Detailed analysis and identification of specific
851 measures to ensure the protection and, as appropriate,



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852 restoration and management of lands within the boundary of the
853 detailed specific area plan identified for permanent
854 preservation through recordation of conservation easements
855 consistent with s. 704.06, which easements shall be effective
856 before or concurrent with the effective date of the detailed
857 specific area plan and other important resources both within and
858 outside the host jurisdiction. Any such conservation easement
859 may be based on rectified aerial photographs without the need
860 for a survey and may include a right of adjustment authorizing
861 the grantor to modify portions of the area protected by a
862 conservation easement and substitute other lands in their place
863 if the lands to be substituted contain no less gross acreage
864 than the lands to be removed; have equivalent values in the
865 proportion and quality of wetlands, uplands, and wildlife
866 habitat; and are contiguous to other lands protected by the
867 conservation easement. Substitution is accomplished by recording
868 an amendment to the conservation easement as accepted by and
869 with the consent of the grantee which consent may not be
870 unreasonably withheld.

871 8. Detailed principles and guidelines addressing the urban
872 form and the interrelationships of future land uses; achieving a
873 more clean, healthy environment; limiting urban sprawl;
874 providing a range of housing types; protecting wildlife and
875 natural areas; advancing the efficient use of land and other
876 resources; creating quality communities of a design that
877 promotes travel by multiple transportation modes; and enhancing
878 the prospects for the creation of jobs.

879 9. Identification of specific procedures to facilitate
880 intergovernmental coordination to address extrajurisdictional



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881 impacts from the detailed specific area plan.
882
883 A detailed specific area plan adopted by local development order
884 pursuant to this section may be based upon a planning period
885 longer than the generally applicable planning period of the
886 local comprehensive plan and shall specify the projected
887 population within the specific planning area during the chosen
888 planning period. A detailed specific area plan adopted pursuant
889 to this section is not required to demonstrate need based upon
890 projected population growth or on any other basis. All lands
891 identified in the long-term master plan for permanent
892 preservation shall be subject to a recorded conservation
893 easement consistent with s. 704.06 before or concurrent with the
894 effective date of the final detailed specific area plan to be
895 approved within the planning area. Any such conservation
896 easement may be based on rectified aerial photographs without
897 the need for a survey and may include a right of adjustment
898 authorizing the grantor to modify portions of the area protected
899 by a conservation easement and substitute other lands in their
900 place if the lands to be substituted contain no less gross
901 acreage than the lands to be removed; have equivalent values in
902 the proportion and quality of wetlands, uplands, and wildlife
903 habitat; and are contiguous to other lands protected by the
904 conservation easement. Substitution is accomplished by recording
905 an amendment to the conservation easement as accepted by and
906 with the consent of the grantee which consent may not be
907 unreasonably withheld.
908 (c) In its review of a long-term master plan, the state
909 land planning agency shall consult with the Department of



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910 Agriculture and Consumer Services, the Department of
911 Environmental Protection, the Fish and Wildlife Conservation
912 Commission, and the applicable water management district
913 regarding the design of areas for protection and conservation of
914 regionally significant natural resources and for the protection
915 and, as appropriate, restoration and management of lands
916 identified for permanent preservation.

917 (d) In its review of a long-term master plan, the state
918 land planning agency shall consult with the Department of
919 Transportation, the applicable metropolitan planning
920 organization, and any urban transit agency regarding the
921 location, capacity, design, and phasing or staging of major
922 transportation facilities in the planning area.

923 (e) Whenever a local government issues a development order
924 approving a detailed specific area plan, a copy of such order
925 shall be rendered to the state land planning agency and the
926 owner or developer of the property affected by such order, as
927 prescribed by rules of the state land planning agency for a
928 development order for a development of regional impact. Within
929 45 days after the order is rendered, the owner, the developer,
930 or the state land planning agency may appeal the order to the
931 Florida Land and Water Adjudicatory Commission by filing a
932 petition alleging that the detailed specific area plan is not
933 consistent with the comprehensive plan or with the long-term
934 master plan adopted pursuant to this section. The appellant
935 shall furnish a copy of the petition to the opposing party, as
936 the case may be, and to the local government that issued the
937 order. The filing of the petition stays the effectiveness of the
938 order until after completion of the appeal process. However, if



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939 a development order approving a detailed specific area plan has
940 been challenged by an aggrieved or adversely affected party in a
941 judicial proceeding pursuant to s. 163.3215, and a party to such
942 proceeding serves notice to the state land planning agency, the
943 state land planning agency shall dismiss its appeal to the
944 commission and shall have the right to intervene in the pending
945 judicial proceeding pursuant to s. 163.3215. Proceedings for
946 administrative review of an order approving a detailed specific
947 area plan shall be conducted consistent with s. 380.07(6). The
948 commission shall issue a decision granting or denying permission
949 to develop pursuant to the long-term master plan and the
950 standards of this part and may attach conditions or restrictions
951 to its decisions.

952 (f) The applicant for a detailed specific area plan shall
953 transmit copies of the application to the reviewing agencies
954 specified in s. 163.3184(1)(c), or their successor agencies, for
955 review and comment as to whether the detailed specific area plan
956 is consistent with the comprehensive plan and the long-term
957 master plan. Any comments from the reviewing agencies shall be
958 submitted in writing to the local government with jurisdiction
959 and to the state land planning agency within 30 days after the
960 applicant's transmittal of the application.

961 (g) ~~(f)~~ This subsection does not prevent preparation and
962 approval of the sector plan and detailed specific area plan
963 concurrently or in the same submission.

964 (h) If an applicant seeks to use wetland or upland
965 preservation achieved by granting conservation easements
966 required under this section as compensatory mitigation for
967 permitting purposes under chapter 373 or chapter 379, the



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968 Department of Environmental Protection, the Fish and Wildlife
969 Conservation Commission, or the water management district may
970 accept such mitigation under the criteria established in the
971 uniform assessment method required by s. 373.414, or pursuant to
972 chapter 379, as applicable, without considering the fact that a
973 conservation easement encumbering the same real property was
974 previously recorded pursuant to paragraph (b).

975 (9) The adoption of a long-term master plan or a detailed
976 specific area plan pursuant to this section does not limit the
977 right to continue existing agricultural or silvicultural uses or
978 other natural resource-based operations or to establish similar
979 new agricultural or silvicultural uses that are consistent with
980 the plans approved pursuant to this section.

981 (13) An applicant with an approved master development order
982 may request that the applicable water management district issue
983 a consumptive use permit as set forth in s. 373.236(8) for the
984 same period of time as the approved master development order.

985 (15) The more specific provisions of this section shall
986 supersede the generally applicable provisions of this chapter
987 which otherwise would apply. This section does not preclude a
988 local government from requiring data and analysis beyond the
989 minimum criteria established in this section.

990 Section 31. Subsection (8) is added to section 373.236,
991 Florida Statutes, to read:

992 373.236 Duration of permits; compliance reports.—

993 (8) A water management district may issue a permit to an
994 applicant, as set forth in s. 163.3245(13), for the same period
995 of time as the applicant's approved master development order if
996 the master development order was issued under s. 380.06(21) by a



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997 county which, at the time the order issued, was designated as a
998 rural area of opportunity under s. 288.0656, was not located in
999 an area encompassed by a regional water supply plan as set forth
1000 in s. 373.709(1), and was not located within the basin
1001 management action plan of a first magnitude spring. In reviewing
1002 the permit application and determining the permit duration, the
1003 water management district shall apply s. 163.3245(4) (b).

1004
1005 ===== T I T L E A M E N D M E N T =====

1006 And the title is amended as follows:

1007 Delete line 2

1008 and insert:

1009 An act relating to community development; amending s.
1010 163.08, F.S.; declaring that there is a compelling
1011 state interest in enabling property owners to
1012 voluntarily finance certain improvements to property
1013 damaged by sinkhole activity with local government
1014 assistance; expanding the definition of the term
1015 "qualifying improvement" to include stabilization or
1016 other repairs to property damaged by sinkhole
1017 activity; providing that stabilization or other
1018 repairs to property damaged by sinkhole activity are
1019 qualifying improvements considered affixed to a
1020 building or facility; revising the form of a specified
1021 written disclosure statement to include an assessment
1022 for a qualifying improvement relating to stabilization
1023 or repair of property damaged by sinkhole activity;
1024 amending s. 163.340, F.S.; expanding the definition of
1025 the term "blighted area" to include a substantial



1026 number or percentage of properties damaged by sinkhole
1027 activity which are not adequately repaired or
1028 stabilized; conforming a cross-reference; amending s.
1029 163.524, F.S.; conforming a cross-reference; amending
1030 s. 163.3184, F.S.; requiring plan amendments proposing
1031 a development that qualifies as a development of
1032 regional impact to be subject to the state coordinated
1033 review process; amending s. 380.06, F.S.; providing
1034 that new proposed developments are subject to the
1035 state-coordinated review process and not the
1036 development of regional impact review process;
1037 amending s. 163.3175, F.S.; deleting obsolete
1038 provisions; amending s. 163.3246, F.S.; removing
1039 restrictions on certain exemptions; amending s.
1040 163.3248, F.S.; removing the requirement that regional
1041 planning councils provide assistance in developing a
1042 plan for a rural land stewardship area; amending s.
1043 186.505, F.S.; removing the power of regional planning
1044 councils to establish and conduct cross-acceptance
1045 negotiation processes; creating s. 186.512, F.S.;
1046 subdividing the state into specified geographic
1047 regions for the purpose of regional comprehensive
1048 planning; authorizing the Governor to review and
1049 update the district boundaries of the regional
1050 planning councils; providing requirements to aid in
1051 the transition of regional planning councils; amending
1052 s. 186.513, F.S.; deleting the requirement that
1053 regional planning councils make joint reports and
1054 recommendations; amending s. 253.7828, F.S.;



1055 conforming provisions to changes made by the act;
1056 amending s. 339.135, F.S.; deleting obsolete
1057 provisions; amending s. 339.155, F.S.; removing
1058 certain duties of regional planning councils; amending
1059 s. 380.06, F.S.; removing the requirement that certain
1060 developers submit biennial reports to regional
1061 planning agencies; amending s. 403.50663, F.S.;
1062 removing requirements relating to certain
1063 informational public meetings; amending s. 403.507,
1064 F.S.; removing the requirement that regional planning
1065 councils prepare reports addressing the impact of
1066 proposed electrical power plants; amending s. 403.508,
1067 F.S.; removing the requirement that regional planning
1068 councils participate in certain proceedings; amending
1069 s. 403.5115, F.S.; conforming provisions to changes
1070 made by the act; amending s. 403.526, F.S.; removing
1071 the requirement that regional planning councils
1072 prepare reports addressing the impact of proposed
1073 transmission lines or corridors; amending s. 403.527,
1074 F.S.; removing the requirement that regional planning
1075 councils parties participate in certain proceedings;
1076 amending s. 403.5272, F.S.; conforming provisions to
1077 changes made by the act; amending s. 403.7264, F.S.;
1078 removing the requirement that regional planning
1079 councils assist with amnesty days for purging small
1080 quantities of hazardous wastes; amending s. 403.941,
1081 F.S.; removing the requirement that regional planning
1082 councils prepare reports addressing the impact of
1083 proposed natural gas transmission lines or corridors;



496958

1084 amending s. 403.9411, F.S.; removing the requirement
1085 that regional planning councils participate in certain
1086 proceedings; amending ss. 419.001 and 985.682, F.S.;
1087 removing provisions relating to the use of a certain
1088 dispute resolution process; repealing s. 186.0201,
1089 F.S., relating to electric substation planning;
1090 repealing s. 260.018, F.S., relating to agency
1091 recognition of certain publicly owned lands and
1092 waters; amending s. 163.3245, F.S.; providing that
1093 other requirements of this chapter inconsistent with
1094 or superseded by certain planning standards relating
1095 to a long-term master plan do not apply; providing
1096 that other requirements of this chapter inconsistent
1097 with or superseded by certain planning standards
1098 relating to detailed specific area plans do not apply;
1099 providing that conservation easements may be based on
1100 rectified aerial photographs without the need for a
1101 survey and may include a right of adjustment subject
1102 to certain requirements; providing that substitution
1103 is accomplished by recording an amendment to a
1104 conservation easement as accepted by and with the
1105 consent of the grantee; requiring the applicant for a
1106 detailed specific area plan to transmit copies of the
1107 application to specified reviewing agencies for review
1108 and comment; requiring such agency comments to be
1109 submitted to the local government having jurisdiction
1110 and to the state land planning agency, subject to
1111 certain requirements; authorizing the Department of
1112 Environmental Protection, the Fish and Wildlife



1113 Conservation Commission, or the water management
1114 district to accept compensatory mitigation under
1115 certain circumstances, pursuant to a specified section
1116 or chapter; providing that the adoption of a long-term
1117 master plan or a detailed specific area plan pursuant
1118 to this section does not limit the right to establish
1119 new agricultural or silvicultural uses under certain
1120 circumstances; allowing an applicant with an approved
1121 master development order to request that the
1122 applicable water management district issue a specified
1123 consumptive use permit for the same period of time as
1124 the approved master development order; providing
1125 applicability; providing that a local government is
1126 not precluded from requiring data and analysis beyond
1127 the minimum criteria established in this section;
1128 amending s. 373.236, F.S.; authorizing a water
1129 management district to issue a permit to an applicant
1130 for the same period of time as the applicant's
1131 approved master development order, subject to certain
1132 requirements and restrictions; amending



837202

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Fiscal Policy (Stargel) recommended the following:

1 **Senate Amendment to Amendment (496958) (with title**
2 **amendment)**

3
4 Delete lines 858 - 860

5 and insert:

6 outside the host jurisdiction. Any such conservation easement
7 may be based on digital orthophotography prepared by a surveyor
8 and mapper licensed under chapter 472 and may include a right of
9 adjustment authorizing

10 Delete lines 895 - 897



837202

11 and insert:
12 approved within the planning area. Any such conservation
13 easement may be based on digital orthophotography prepared by a
14 surveyor and mapper licensed under chapter 472 and may include a
15 right of adjustment

16
17 ===== T I T L E A M E N D M E N T =====

18 And the title is amended as follows:

19 Delete lines 1100 - 1101

20 and insert:

21 digital orthophotography prepared by a surveyor and
22 mapper licensed under chapter 472 and may include a
23 right of adjustment subject

By the Committee on Community Affairs; and Senator Simpson

578-02392-15

20151216c1

A bill to be entitled

An act relating to connected-city corridors; amending s. 163.3246, F.S.; providing legislative intent; designating Pasco County as a pilot community; requiring the state land planning agency to provide a written certification to Pasco County within a certain timeframe; providing requirements for certain plan amendments; requiring the Office of Program Policy Analysis and Government Accountability to submit a report and recommendations to the Governor and the Legislature by a certain date; providing requirements for the report; amending s. 190.005, F.S.; requiring community development districts up to a certain size located within a connected-city corridor to be established pursuant to an ordinance; providing an effective date.

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

Section 1. Subsection (14) is added to section 163.3246, Florida Statutes, to read:
163.3246 Local government comprehensive planning certification program.—

(14) It is the intent of the Legislature to encourage the creation of connected-city corridors that facilitate the growth of high-technology industry and innovation through partnerships that support research, marketing, workforce, and entrepreneurship. It is the intent of the Legislature to provide for a locally controlled, comprehensive plan amendment process

Page 1 of 6

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

578-02392-15

20151216c1

for such projects that are designed to achieve a cleaner, healthier environment; limit urban sprawl by promoting diverse but interconnected communities; provide a range of intergenerational housing types; protect wildlife and natural areas; assure the efficient use of land and other resources; create quality communities of a design that promotes alternative transportation networks and travel by multiple transportation modes; and enhance the prospects for the creation of jobs. The Legislature finds and declares that this state's connected-city corridors require a reduced level of state and regional oversight because of their high degree of urbanization and the planning capabilities and resources of the local government.

(a) Notwithstanding subsections (2), (4), (5), (6), and (7), Pasco County is named a pilot community and shall be considered certified for a period of 10 years for connected-city corridor plan amendments. The state land planning agency shall provide a written notice of certification to Pasco County by July 15, 2015, which shall be considered a final agency action subject to challenge under s. 120.569. The notice of certification must include:

1. The boundary of the connected-city corridor certification area; and

2. A requirement that Pasco County submit an annual or biennial monitoring report to the state land planning agency according to the schedule provided in the written notice. The monitoring report shall, at a minimum, include the number of amendments to the comprehensive plan adopted by Pasco County, the number of plan amendments challenged by an affected person, and the disposition of such challenges.

Page 2 of 6

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

578-02392-15

20151216c1

59 (b) A plan amendment adopted under this subsection may be
 60 based upon a planning period longer than the generally
 61 applicable planning period of the Pasco County local
 62 comprehensive plan, shall specify the projected population
 63 within the planning area during the chosen planning period, may
 64 include a phasing or staging schedule that allocates a portion
 65 of Pasco County's future growth to the planning area through the
 66 planning period, and may designate a priority zone or subarea
 67 within the connected-city corridor for initial implementation of
 68 the plan. A plan amendment adopted under this subsection is not
 69 required to demonstrate need based upon projected population
 70 growth or on any other basis.

71 (c) If Pasco County adopts a long-term transportation
 72 network plan and financial feasibility plan, and subject to
 73 compliance with the requirements of such a plan, the projects
 74 within the connected-city corridor are deemed to have satisfied
 75 all concurrency and other state agency or local government
 76 transportation mitigation requirements except for site-specific
 77 access management requirements.

78 (d) If Pasco County does not request that the state land
 79 planning agency review the developments of regional impact that
 80 are proposed within the certified area, an application for
 81 approval of a development order within the certified area is
 82 exempt from review under s. 380.06.

83 (e) The Office of Program Policy Analysis and Government
 84 Accountability (OPPAGA) shall submit to the Governor, the
 85 President of the Senate, and the Speaker of the House of
 86 Representatives by December 1, 2024, a report and
 87 recommendations for implementing a statewide program that

Page 3 of 6

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20151216c1

88 addresses the legislative findings in this subsection. In
 89 consultation with the state land planning agency, OPPAGA shall
 90 develop the report and recommendations with input from other
 91 state and regional agencies, local governments, and interest
 92 groups. OPPAGA shall also solicit citizen input in the
 93 potentially affected areas and consult with the affected local
 94 government and stakeholder groups. Additionally, OPPAGA shall
 95 review local and state actions and correspondence relating to
 96 the pilot program to identify issues of process and substance in
 97 recommending changes to the pilot program. At a minimum, the
 98 report and recommendations must include:

99 1. Identification of local governments other than the local
 100 government participating in the pilot program which should be
 101 certified. The report may also recommend that a local government
 102 is no longer appropriate for certification; and

103 2. Changes to the certification pilot program.

104 Section 2. Subsection (2) of section 190.005, Florida
 105 Statutes, is amended to read:

106 190.005 Establishment of district.—

107 (2) The exclusive and uniform method for the establishment
 108 of a community development district of less than 1,000 acres in
 109 size or a community development district of up to 2,000 acres in
 110 size located within a connected-city corridor established
 111 pursuant to s. 163.3246(14) shall be pursuant to an ordinance
 112 adopted by the county commission of the county having
 113 jurisdiction over the majority of land in the area in which the
 114 district is to be located granting a petition for the
 115 establishment of a community development district as follows:

116 (a) A petition for the establishment of a community

Page 4 of 6

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578-02392-15 20151216c1

117 development district shall be filed by the petitioner with the
 118 county commission. The petition shall contain the same
 119 information as required in paragraph (1) (a).

120 (b) A public hearing on the petition shall be conducted by
 121 the county commission in accordance with the requirements and
 122 procedures of paragraph (1) (d).

123 (c) The county commission shall consider the record of the
 124 public hearing and the factors set forth in paragraph (1) (e) in
 125 making its determination to grant or deny a petition for the
 126 establishment of a community development district.

127 (d) The county commission shall not adopt any ordinance
 128 which would expand, modify, or delete any provision of the
 129 uniform community development district charter as set forth in
 130 ss. 190.006-190.041. An ordinance establishing a community
 131 development district shall only include the matters provided for
 132 in paragraph (1) (f) unless the commission consents to any of the
 133 optional powers under s. 190.012(2) at the request of the
 134 petitioner.

135 (e) If all of the land in the area for the proposed
 136 district is within the territorial jurisdiction of a municipal
 137 corporation, then the petition requesting establishment of a
 138 community development district under this act shall be filed by
 139 the petitioner with that particular municipal corporation. In
 140 such event, the duties of the county, hereinabove described, in
 141 action upon the petition shall be the duties of the municipal
 142 corporation. If any of the land area of a proposed district is
 143 within the land area of a municipality, the county commission
 144 may not create the district without municipal approval. If all
 145 of the land in the area for the proposed district, even if less

Page 5 of 6

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578-02392-15 20151216c1

146 than 1,000 acres, is within the territorial jurisdiction of two
 147 or more municipalities, except for proposed districts within a
 148 connected-city corridor established pursuant to s. 163.3246(14),
 149 the petition shall be filed with the Florida Land and Water
 150 Adjudicatory Commission and proceed in accordance with
 151 subsection (1).

152 (f) Notwithstanding any other provision of this subsection,
 153 within 90 days after a petition for the establishment of a
 154 community development district has been filed pursuant to this
 155 subsection, the governing body of the county or municipal
 156 corporation may transfer the petition to the Florida Land and
 157 Water Adjudicatory Commission, which shall make the
 158 determination to grant or deny the petition as provided in
 159 subsection (1). A county or municipal corporation shall have no
 160 right or power to grant or deny a petition that has been
 161 transferred to the Florida Land and Water Adjudicatory
 162 Commission.

163 Section 3. This act shall take effect upon becoming a law.

Page 6 of 6

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Community Affairs, *Chair*
Environmental Preservation and Conservation,
Vice Chair
Appropriations Subcommittee on General Government
Finance and Tax
Judiciary
Transportation

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON

18th District

April 2, 2015

Honorable Anitere Flores
Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairwoman Flores,

Please place SB 1216 relating to connected-city corridors, on the next Committee on Fiscal Policy agenda.

Please contact my office with any questions. Thank you.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

CC: Jennifer Hrdlicka, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15

Meeting Date

1216

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gary Hunter

Job Title Attorney

Address 119 S. Monroe St. Suite 300

Phone 222-7500

Street

Tallahassee

FL

32301

City

State

Zip

Email ghunter@hgslaw.com

Speaking: For Against Information

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

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/15
Meeting Date

1216
Bill Number (if applicable)

Topic Growth management / support bill as amended

496958
Amendment Barcode (if applicable)

Name CHARLES PATTISON

837202

Job Title POLICY DIRECTOR

Address 304 N. MONROE
Street

Phone 202-6277

TALLAHASSEE 32301
City State Zip

Email cpattison@1000fob.org

Speaking: For Against Information

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

Representing 1000 FRIENDS OF FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1430

INTRODUCER: Fiscal Policy Committee and Senator Abruzzo

SUBJECT: Discounts on Public Park Entrance Fees and Transportation Fares

DATE: April 9, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sanders</u>	<u>Ryon</u>	<u>MS</u>	Favorable
2.	<u>White</u>	<u>Yeatman</u>	<u>CA</u>	Favorable
3.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1430 requires county and municipal departments of parks and recreation to provide a full or partial discount on park entrance fees to the following individuals:

- Current military servicemembers;
- Honorably discharged veterans;
- Honorably discharged veterans with a service-connected disability;
- The surviving spouse or parents of a military servicemember who died in combat; and
- The surviving spouse or parent of a law enforcement officer, firefighter, emergency medical technician, or paramedic who died in the line of duty.

The bill also requires regional transportation authorities to provide disabled veterans with discounts on fares for use of fixed-route transportation systems.

Counties, municipalities, and regional transportation authorities may experience a decrease in revenue generated from park entrance fees or transportation fares. The Revenue Estimating Conference estimates that the bill will have a negative, indeterminate fiscal impact on local government revenue.

II. Present Situation:

Veteran and Military Presence in Florida

The composition of military personnel who reside in Florida consists of the following:

- More than 1.6 million veterans;¹
- More than 249,000 veterans with a service-connected disability;²
- 96,979 active duty and reserve personnel,³ and
- More than 12,000 Florida National Guard members.⁴

After their military service, veterans and their families may qualify for a variety of benefits administered by the U.S. Department of Veterans Affairs and by the state of Florida.⁵

State Park Entrance Fee Discounts

The Division of Recreation and Parks (division) within the Department of Environmental Protection oversees Florida’s 161 state parks. The division offers two types of annual entrance passes: the individual annual entrance pass for \$60 and the family annual entrance pass for \$120. The division currently provides the following park entrance fee discounts:⁶

- Active duty members and honorably discharged veterans of the U.S. Armed Forces, National Guard, or reserve components receive a 25 percent discount on an annual entrance pass;
- Veterans with service-connected disabilities receive lifetime family annual entrance passes at no charge;
- Surviving spouses and parents of deceased members of the U.S. Armed Forces, National Guard, or reserve components who have fallen in combat receive a lifetime family annual entrance passes at no charge; and
- Surviving spouses and parents of a law enforcement officer or firefighter who died in the line of duty receive lifetime family annual entrance passes at no charge.

The table below reflects the park entrance fee discounts provided for Fiscal Year 2013-2014:⁷

State Park Entrance Fee Discounts, s. 258.0145, F.S., FY 2013-14	
Individual Entrance Pass (25% discount: active duty servicemembers and veterans)	1,295
<u>Value of Discount</u>	\$19,425

¹ Florida Dep’t of Veterans’ Affairs, *Fast Facts*, available at http://floridavets.org/?page_id=50 (last visited 4/6/2015).

² *Id.*

³ Data from Revenue Estimating Conference, *Impact Conference Results for CS/HB 721 (HB 1095 and SB 1430 similar)* (adopted March 13, 2015).

⁴ Florida Dep’t of Military Affairs, *About Us*, available at <http://www.floridaguard.army.mil/about-us> (last visited 4/6/2015).

⁵ U.S. Dep’t of Veterans Affairs, Office of Public Affairs, *State Summary: Florida* (2014); Florida Dep’t of Veteran’s Affairs, *Florida Veteran’s Benefits Guide* (2014), available at http://floridavets.org/?page_id=110 (last visited 4/6/2015).

⁶ Section 258.0145, F.S.

⁷ E-mail correspondence with the Florida Dep’t of Environmental Protection on Mar. 20, 2015 (on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

Family Annual Entrance Pass (25% discount: active duty servicemembers and veterans)	4,103
<u>Value of Discount</u>	\$123,090
Lifetime Family Annual Entrance Pass (Full discount: disabled veterans; the spouse and parents of a fallen military servicemember, law enforcement officer, or firefighter)	9,804
<u>Value of Discount</u>	\$1,176,480
Total Passes FY 2013-2014	15,202
<u>Total Value of Discount</u>	<u>\$1,318,995</u>

Current law does not address entrance fee discounts for county and municipal parks for current and former military personnel and their families or the families of deceased first responders. There are approximately 267 county and municipal parks and recreation agencies in Florida, each managing a number of park areas, which offer a variety of amenities.⁸

Regional Transportation Authorities

Section 163.567, F.S., states that any two or more contiguous counties, municipalities, other political subdivisions, or combinations thereof are authorized to convene a charter committee for the purpose of developing a regional transportation authority. However, no county, municipality, or other political subdivision may be a member in more than one authority.⁹ A regional transportation authority has the authority to, in part, purchase, own, or operate, or provide for the operation of, transportation facilities.¹⁰

Chapters 163, 343, and 349, F.S., govern the regional transportation authorities. The following authorities are created in statute or special law:

- Northeast Florida Regional Transportation Commission.
- South Florida Regional Transportation Authority.
- Central Florida Regional Transportation Authority.
- Northwest Florida Transportation Corridor Authority.
- Tampa Bay Area Regional Transportation Authority.
- Jacksonville Transportation Authority.
- Pinellas Suncoast Transit Authority.
- Hillsborough Area Regional Transit Authority.

Of these regional transportation authorities, two provide commuter services. Tri-Rail, operated by the South Florida Regional Transportation Authority, currently offers a 50 percent discount on Fare EASY Cards to persons with disabilities.¹¹ LYNX, operated by the Central Florida

⁸ Telephone conversation between Florida Recreation and Parks Association, Inc., staff and Senate Military and Veterans Affairs, Space, and Domestic Security Committee staff (Mar. 20, 2015).

⁹ Section 163.597(1), F.S.

¹⁰ Section 163.568, F.S.

¹¹ Acceptable forms of documentation to present at the ticket kiosk include a Disabled Veterans ID, a letter from a physician, a Driver’s License indicating disability, or Social Security documentation for disability benefits. See Tri-Rail, *Discount Policy*, available at <http://www.tri-rail.com/fares/discount-policy/> (last visited 4/6/2015).

Regional Transportation Authority, provides discounted fares to persons with medical disabilities.¹²

III. Effect of Proposed Changes:

The bill creates ss. 125.029 and 166.0447, F.S., (Sections 1 and 3) to require counties and municipalities to provide a partial or a full discount on park entrance fees to the following persons:

- A current member of the U.S. Armed Forces, their reserve components, or the National Guard;
- An honorably discharged veteran of the U.S. Armed Forces, their reserve components, or the National Guard;
- An honorably discharged veteran of the U.S. Armed Forces, their reserve components, or the National Guard who has a service-connected disability as determined by the U.S. Department of Veterans Affairs;
- A surviving spouse and parents of a deceased member of the U.S. Armed Forces, their reserve components, or the National Guard who died in the line of duty under combat-related conditions; and
- A surviving spouse and parents of a law enforcement officer, firefighter, emergency medical technician, or paramedic who died in the line of duty.

The bill defines the term “park entrance fee” to mean a fee charged to access lands managed by a county or municipal park or recreation department. The term does not include expanded amenity fees for amenities such as campgrounds, aquatic facilities, stadiums or arenas, facility rentals, special events, boat launching, golf, zoos, museums, gardens, or programs taking place within public lands.

The bill also creates s. 163.58, F.S., (Section 2) to require a regional transportation authority to provide disabled veterans¹³ with a partial or a full discount on fares when using a fixed-route transportation system operated by the authority.

A county, municipality, or regional transportation authority must provide the discount upon a satisfactory showing to the entity of information evidencing eligibility.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution requires any general law that reduces a local government’s authority to raise revenues in the aggregate, to be passed by a two-thirds vote of the membership of each house of the Legislature. This bill has the effect of reducing municipal and county revenues generated from park entrance fees by requiring

¹² See LYNX, *Reduced Fare Application*, available at <http://www.golynx.com/buy-tickets/reduced-fares-application.stml> (last visited 4/6/2015).

¹³ As defined in s. 295.07(1)(a), F.S.

discounts for the military, their families, and the families of deceased first responders. Laws having insignificant fiscal impact are exempt from the mandates requirements;¹⁴ however, the Revenue Estimating Conference estimates that the bill will have a negative, indeterminate fiscal impact on local government revenue.¹⁵

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference estimates that the bill will have a negative, indeterminate fiscal impact on local government revenue.¹⁶

B. Private Sector Impact:

The individuals described above will be eligible for a full or partial discount on entrance fees at county and municipal parks. Disabled military veterans will be eligible for a full or partial discount when using a fixed-route transportation system operated by a regional transportation authority.

C. Government Sector Impact:

County and municipal departments of parks and recreation will experience a decrease in revenue generated from park entrance fees because of this bill. To the extent disabled veterans use the discount provided at transportation systems, regional transportation authorities will experience a decrease in revenue from fares.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁴ FLA. CONST. art. VII, s. 18(d). An insignificant fiscal impact means an amount not greater than ten cents times the average statewide population for the applicable fiscal year.

¹⁵ Revenue Estimating Conference, *Impact Conference Results for CS/HB 721 (HB 1095 and SB 1430 similar)* (adopted March 13, 2015).

¹⁶ *Id.*

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 125.029, 163.58, and 166.0447.

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 Fiscal Policy on April 9, 2015:

The committee substitute does the following:

- Permits a surviving spouse and parents of a fallen emergency medical technician or paramedic employed by the state or local government to receive a full or partial discount on local park entrance fees;
- Corrects a reference to the reserve component of the U.S. Armed Forces;
- Requires individuals to submit *information* satisfactory to the local government or transportation authority to evidence eligibility, instead of requiring written documentation;
- Specifies that the bill applies to transportation authorities under chs. 163, 343, and 349, F.S.; and
- Specifies that the fare discount provided by a transportation authority is for fixed-route transportation systems.

- B. **Amendments:**

None.



517374

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/09/2015	.	
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The Committee on Fiscal Policy (Abruzzo) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 125.029, Florida Statutes, is created to
read:

125.029 County park entrance fee discounts.-

(1) A county park or recreation department shall provide a
partial or a full discount on park entrance fees to the
following individuals who present information satisfactory to



517374

11 the county department which evidences eligibility for the
12 discount:

13 (a) A current member of the United States Armed Forces,
14 their reserve components, or the National Guard.

15 (b) An honorably discharged veteran of the United States
16 Armed Forces, their reserve components, or the National Guard.

17 (c) An honorably discharged veteran of the United States
18 Armed Forces, their reserve components, or the National Guard,
19 who has a service-connected disability as determined by the
20 United States Department of Veterans Affairs.

21 (d) A surviving spouse and parents of a deceased member of
22 the United States Armed Forces, their reserve components, or the
23 National Guard, who died in the line of duty under combat-
24 related conditions.

25 (e) A surviving spouse and parents of a law enforcement
26 officer, as defined in s. 943.10(1), a firefighter, as defined
27 in s. 633.102, or an emergency medical technician or paramedic
28 employed by state or local government, who died in the line of
29 duty.

30 (2) As used in this section, the term "park entrance fee"
31 means a fee charged to access lands managed by a county park or
32 recreation department. The term does not include expanded
33 amenity fees for amenities, such as campgrounds, aquatic
34 facilities, stadiums or arenas, facility rentals, special
35 events, boat launching, golf, zoos, museums, gardens, or
36 programs taking place within public lands.

37 Section 2. Section 163.58, Florida Statutes, is created to
38 read:

39 163.58 Transportation fare discounts.—An authority as



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40 defined in this chapter, chapter 343, or chapter 349 shall
41 provide a partial or a full discount on fares for the use of a
42 fixed-route transportation system operated by the authority to a
43 disabled veteran as described in s. 295.07(1)(a) who presents
44 information satisfactory to the authority which evidences
45 eligibility for the discount.

46 Section 3. Section 166.0447, Florida Statutes, is created
47 to read:

48 166.0447 Municipal park entrance fee discounts.—

49 (1) A municipal park or recreation department shall provide
50 a partial or a full discount on park entrance fees to the
51 following individuals who present information satisfactory to
52 the municipal department which evidences eligibility for the
53 discount:

54 (a) A current member of the United States Armed Forces,
55 their reserve components, or the National Guard.

56 (b) An honorably discharged veteran of the United States
57 Armed Forces, their reserve components, or the National Guard.

58 (c) An honorably discharged veteran of the United States
59 Armed Forces, their reserve components, or the National Guard,
60 who has a service-connected disability as determined by the
61 United States Department of Veterans Affairs.

62 (d) A surviving spouse and parents of a deceased member of
63 the United States Armed Forces, their reserve components, or the
64 National Guard, who died in the line of duty under combat-
65 related conditions.

66 (e) A surviving spouse and parents of a law enforcement
67 officer, as defined in s. 943.10(1), a firefighter, as defined
68 in s. 633.102, or an emergency medical technician or paramedic



517374

69 employed by state or local government, who died in the line of
70 duty.

71 (2) As used in this section, the term "park entrance fee"
72 means a fee charged to access lands managed by a municipal park
73 or recreation department. The term does not include expanded
74 amenity fees for amenities, such as campgrounds, aquatic
75 facilities, stadiums or arenas, facility rentals, special
76 events, boat launching, golf, zoos, museums, gardens, or
77 programs taking place within public lands.

78 Section 4. This act shall take effect July 1, 2015.

79

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

81 And the title is amended as follows:

82 Delete everything before the enacting clause
83 and insert:

84 A bill to be entitled
85 An act relating to discounts on public park entrance
86 fees and transportation fares; creating s. 125.029,
87 F.S.; requiring counties to provide a partial or a
88 full discount on park entrance fees to military
89 members, veterans, and the spouse and parents of
90 certain deceased military members, law enforcement
91 officers, firefighters, emergency medical technicians,
92 and paramedics; requiring that individuals seeking the
93 discount present information satisfactory to the
94 county department which evidences eligibility;
95 defining the term "park entrance fee"; providing
96 certain exclusions; creating s. 163.58, F.S.;
97 requiring certain regional transportation authorities



517374

98 to provide a partial or a full discount on fares for
99 certain disabled veterans; creating s. 166.0447, F.S.;
100 requiring municipalities to provide a partial or a
101 full discount on park entrance fees to military
102 members, veterans, and the spouse and parents of
103 certain deceased military members, law enforcement
104 officers, firefighters, emergency medical technicians,
105 and paramedics; requiring that individuals seeking the
106 discount present information satisfactory to the
107 municipal department which evidences eligibility;
108 defining the term "park entrance fee"; providing
109 certain exclusions; providing an effective date.

By Senator Abruzzo

25-00321B-15

20151430__

1 A bill to be entitled
 2 An act relating to discounts on public park entrance
 3 fees and transportation fares; creating s. 125.029,
 4 F.S.; requiring counties to provide a partial or a
 5 full discount on park entrance fees to military
 6 members, veterans, and the spouse and parents of
 7 certain deceased military members, law enforcement
 8 officers, and firefighters; requiring that individuals
 9 seeking the discount present written documentation
 10 satisfactory to the county department which evidences
 11 eligibility; defining the term "park entrance fee";
 12 providing certain exclusions; creating s. 163.58,
 13 F.S.; requiring regional transportation authorities to
 14 provide a partial or a full discount on fares and on
 15 other charges for certain disabled veterans; creating
 16 s. 166.0447, F.S.; requiring municipalities to provide
 17 a partial or a full discount on park entrance fees to
 18 military members, veterans, and the spouse and parents
 19 of certain deceased military members, law enforcement
 20 officers, and firefighters; requiring that individuals
 21 seeking the discount present written documentation
 22 satisfactory to the municipal department which
 23 evidences eligibility; defining the term "park
 24 entrance fee"; providing certain exclusions; providing
 25 an effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:

28
 29 Section 1. Section 125.029, Florida Statutes, is created to

Page 1 of 4

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

25-00321B-15

20151430__

30 read:
 31 125.029 Military, law enforcement, and firefighter county
 32 park entrance fee discounts.-
 33 (1) A county park or recreation department shall provide a
 34 partial or a full discount on park entrance fees to the
 35 following individuals who present written documentation
 36 satisfactory to the county department which evidences
 37 eligibility for the discount:
 38 (a) A current member of the United States Armed Forces, the
 39 National Guard, or their reserve components.
 40 (b) An honorably discharged veteran of the United States
 41 Armed Forces, the National Guard, or their reserve components.
 42 (c) An honorably discharged veteran of the United States
 43 Armed Forces, the National Guard, or their reserve components,
 44 who has a service-connected disability as determined by the
 45 United States Department of Veterans Affairs.
 46 (d) A surviving spouse and parents of a deceased member of
 47 the United States Armed Forces, the National Guard, or their
 48 reserve components, who died in the line of duty under combat-
 49 related conditions.
 50 (e) A surviving spouse and parents of a law enforcement
 51 officer, as defined in s. 943.10(1), or a firefighter, as
 52 defined in s. 633.102, who died in the line of duty.
 53 (2) As used in this section, the term "park entrance fee"
 54 means a fee charged to access lands managed by a county park or
 55 recreation department. The term does not include expanded
 56 amenity fees for amenities, such as campgrounds, aquatic
 57 facilities, stadiums or arenas, facility rentals, special
 58 events, boat launching, golf, zoos, museums, gardens, or

Page 2 of 4

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

25-00321B-15

20151430__

59 programs taking place within public lands.

60 Section 2. Section 163.58, Florida Statutes, is created to
61 read:

62 163.58 Transportation fare discounts.—An authority shall
63 provide a partial or a full discount on fares and on other
64 charges for the use of a transportation system or a
65 transportation facility owned or operated by the authority to a
66 disabled veteran as described in s. 295.07(1)(a) who presents
67 written documentation satisfactory to the authority which
68 evidences eligibility for the discount.

69 Section 3. Section 166.0447, Florida Statutes, is created
70 to read:

71 166.0447 Military, law enforcement, and firefighter
72 municipal park entrance fee discounts.—

73 (1) A municipal park or recreation department shall provide
74 a partial or a full discount on park entrance fees to the
75 following individuals who present written documentation
76 satisfactory to the municipal department which evidences
77 eligibility for the discount:

78 (a) A current member of the United States Armed Forces, the
79 National Guard, or their reserve components.

80 (b) An honorably discharged veteran of the United States
81 Armed Forces, the National Guard, or their reserve components.

82 (c) An honorably discharged veteran of the United States
83 Armed Forces, the National Guard, or their reserve components,
84 who has a service-connected disability as determined by the
85 United States Department of Veterans Affairs.

86 (d) A surviving spouse and parents of a deceased member of
87 the United States Armed Forces, the National Guard, or their

25-00321B-15

20151430__

88 reserve components, who died in the line of duty under combat-
89 related conditions.

90 (e) A surviving spouse and parents of a law enforcement
91 officer, as defined in s. 943.10(1), or a firefighter, as
92 defined in s. 633.102, who died in the line of duty.

93 (2) As used in this section, the term "park entrance fee"
94 means a fee charged to access lands managed by a municipal park
95 or recreation department. The term does not include expanded
96 amenity fees for amenities, such as campgrounds, aquatic
97 facilities, stadiums or arenas, facility rentals, special
98 events, boat launching, golf, zoos, museums, gardens, or
99 programs taking place within public lands.

100 Section 4. This act shall take effect July 1, 2015.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human
Services
Communications, Energy, and Public Utilities
Community Affairs
Fiscal Policy
Regulated Industries

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

Minority Whip
25th District

March 31st, 2015

The Honorable Anitere Flores
The Florida Senate
413 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairwoman Flores:

I respectfully request that Senate Bill 1430, related to Discounts on Public Park Entrance Fees and Transportation Fares, be considered for placement on the Fiscal Policy committee agenda. This piece of legislation will require counties to provide military members, veterans, and the spouse and parents of certain deceased military members, law enforcement officers, and firefighters with discounted public park entrance fees.

Thank you in advance for your consideration. Please let me know if I can provide you with any additional information.

Sincerely,

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

Joseph Abruzzo

Cc: Jennifer Hrdlicka, Staff Director

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- 110 Dr. Marlin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

4/9/2015

Meeting Date

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

SB 1430

Bill Number (if applicable)

Topic DISCOUNTS ON PUBLIC PARK ENTRANCE FEES

Amendment Barcode (if applicable)

Name COLLEEN KREPSTEKIES (crep-steck-keys)

Job Title Legislative & Cabinet Affairs Director

Address Suite 2105, The Capitol

Phone (850) 497-1533

Street

Tallahassee FL 32399

City

State

Zip

Email KREPSTEKIESC@fdva.State.FL.US

Speaking: For Against Information

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

Representing The Florida Dept. of Veterans' Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

04-09-15

Meeting Date

1430

Bill Number (if applicable)

Topic DV TRANS. FARE DISCOUNTS

Amendment Barcode (if applicable)

Name VICKI WOOLDRIDGE

Job Title GOV. APRES. MGR.

Address 800 NW 33rd St.

Phone 954-213-8690

Street

PUMPAHO BLVA FL 33064

Email wooldndrge.v@sfra.fl.gov

City

State

Zip

Speaking: For Against Information

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

Representing SO. FL. REGIONAL TRANSPORTATION AUTHORITY / TRI-RAIL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/8/15
Meeting Date

1430
Bill Number (if applicable)

Topic PARK Fee's

Amendment Barcode (if applicable)

Name Jim Tolley

Job Title President - Florida Professional Firefighters

Address 345 W MADISON ST
Street
Tallahassee, FL
City State Zip

Phone _____

Email _____

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
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 Fiscal Policy

BILL: CS/SB 7052

INTRODUCER: Finance and Tax Committee and Military and Veterans Affairs, Space, and Domestic Security Committee

SUBJECT: Ad Valorem Tax Exemption for Deployed Servicemembers

DATE: April 8, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	<u>Sanders</u>	<u>Ryon</u>		MS Submitted as Committee Bill
1.	<u>Babin</u>	<u>Diez-Arguelles</u>	<u>FT</u>	Fav/CS
2.	<u>Hrdlicka</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7052 amends s. 196.173, F.S., to include 11 new designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption and to remove one operation for which the time to qualify for exemption has expired. A servicemember may receive the exemption on homestead property for the portion of the preceding calendar year that the servicemember was deployed on active duty outside the continental United States, Alaska, or Hawaii in support of statutorily-identified military operations.

The bill waives the normal March 1 application deadline for the exemption application for 2015 only. For 2015, it requires servicemembers to apply by June 1, 2015.

The bill is effective upon becoming law and first applies to ad valorem tax rolls for 2015.

The Revenue Estimating Conference has determined that this bill will reduce local revenues by \$200,000 annually.

II. Present Situation:

Ad Valorem Exemption for Deployed Servicemembers

Section 196.173, F.S., provides an additional ad valorem tax exemption for homestead property owned by a military servicemember¹ deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature. The exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.²

Eligible Military Operations

The exemption is currently available to servicemembers who had a qualifying deployment in support of:

- Operation Noble Eagle, which began on September 15, 2001;
- Operation Enduring Freedom, which began on October 7, 2001;
- Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010;
- Operation New Dawn, which began September 1, 2010, and ended on December 15, 2011; or
- Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.³

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year.⁴

To the extent possible, the report must include:

- The official and common names of the military operations;
- The general location and purpose of each military operation;
- The date each military operation commenced; and
- The date each military operation terminated, unless the operation is ongoing.⁵

Exemption Application

A servicemember who seeks to claim the tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment.⁶ The application for the exemption must be made on a form prescribed by the

¹ The term “servicemember” is defined as a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard. *See* s. 196.173(7), F.S.

² Section 196.173(4), F.S.

³ Section 196.173(2), F.S.

⁴ Section 196.173(3), F.S.

⁵ *Id.*

⁶ Section 196.173(5)(a), F.S.

Department of Revenue and furnished by the property appraiser. The servicemember must provide with the application:

- Proof of a qualifying deployment;
- The dates of the qualifying deployment; and
- Other information necessary to verify eligibility for and the amount of the exemption.

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application or within 30 days after receiving notice of the designation of qualifying deployments by the Legislature, whichever is later.⁷ If a servicemember's application is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board (VAB) along with the procedures for filing such appeal.⁸

III. Effect of Proposed Changes:

Section 1 amends s. 196.173, F.S., to add 11 unclassified military operations for which deployed servicemembers may qualify for the exemption. These 11 operations are identified in the statutorily required report submitted to the Legislature by the Department of Military Affairs⁹ and includes the following operations:

- Operation Joint Guardian, which began on June 12, 1999;
- Operation Octave Shield, which began in 2000;
- Operation Trans-Sahara Counterterrorism Partnership, which began in June 2005;
- Operation Nomad Shadow, which began in 2007;
- Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007;
- Operation Objective Voice, which began in 2009;
- Operation Georgia Deployment Program, which began in August 2009;
- Operation Copper Dune, which began in 2010;
- Operation Observant Compass, which began in October 2011;
- Operation Juniper Shield, which began in 2013; and
- Operation Inherent Resolve, which began on August 8, 2014.

The bill removes Operation Iraqi Freedom from the list of qualifying operations because the time for claiming an exemption for the applicable tax rolls has expired.

Section 2 provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2015 only. For 2015, servicemembers must apply by June 1, 2015.

The property appraiser or VAB may grant the exemption to an otherwise qualifying applicant who fails to meet the June 1 deadline if the applicant provides an application to the property appraiser or files a petition with the VAB on or before the 25th day following the mailing by the property appraiser of the notices required under s. 194.011(1), F.S., and demonstrates extenuating circumstances that warrant granting the exemption.

⁷ Section 196.173(6), F.S.

⁸ Sections 194.015 and 194.011, F.S.

⁹ Named Operations Report (February 17, 2015), on file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee.

Section 3 provides that the bill is effective upon becoming law and first applies to ad valorem tax rolls for 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

While the bill reduces the authority that counties have to raise revenue, the bill is expected to have an insignificant fiscal impact (see Tax/Fee Issues below). As such, the bill is exempt from the provisions of Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference has determined that SB 7052 will reduce local governments' revenues by \$200,000 annually.¹⁰

B. Private Sector Impact:

If the bill becomes law, servicemembers deployed to one of the aforementioned military operations could receive property tax relief.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 196.173 of the Florida Statutes.

¹⁰ Revenue Estimating Conference, *Deployed Service Members Exemptions, Proposed Language*, (March 6, 2015) available at http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2015/_pdf/page230-232.pdf (last visited April 3, 2015).

This bill creates an undesignated section of the Florida law.

IX. Additional Information:

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

CS by Finance and Tax on March 30, 2015:

The CS removes Operation Iraqi Freedom from the list of qualifying operations because the time for claiming an exemption for the applicable tax rolls has expired.

- B. **Amendments:**

None.

By the Committees on Finance and Tax; and Military and Veterans Affairs, Space, and Domestic Security

593-03134-15

20157052c1

A bill to be entitled

An act relating to an ad valorem tax exemption for deployed servicemembers; amending s. 196.173, F.S.; expanding the military operations that qualify a servicemember deployed in support of such an operation in the previous calendar year for an additional ad valorem tax exemption; providing an extended deadline and specifying procedures for filing an application for such tax exemption for a qualifying deployment during the 2014 calendar year; providing procedures to appeal a denial by a property appraiser of an application for such tax exemption; providing for retroactive applicability; providing an effective date.

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

Section 1. Subsection (2) of section 196.173, Florida Statutes, is amended to read:

196.173 Exemption for deployed servicemembers.—

(2) The exemption is available to servicemembers who were deployed during the preceding calendar year on active duty outside the continental United States, Alaska, or Hawaii in support of any of the following operations:

(a) Operation Joint Guardian, which began on June 12, 1999.

(b) Operation Octave Shield, which began in 2000.

(c) ~~(a)~~ Operation Noble Eagle, which began on September 15, 2001.~~†~~

(d) ~~(b)~~ Operation Enduring Freedom, which began on October

Page 1 of 4

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

593-03134-15

20157052c1

7, 2001.~~†~~

~~(e) Operation Iraqi Freedom, which began on March 19, 2003, and ended on August 31, 2010.†~~

(e) Operation Trans-Sahara Counterterrorism Partnership, which began in June 2005.

(f) Operation Nomad Shadow, which began in 2007.

(g) Operation U.S. Airstrikes Al Qaeda in Somalia, which began in January 2007.

(h) Operation Objective Voice, which began in 2009.

(i) Operation Georgia Deployment Program, which began in August 2009.

(j) Operation Copper Dune, which began in 2010.

(k) ~~(d)~~ Operation New Dawn, which began on September 1, 2010, and ended on December 15, 2011.~~†~~ ~~†~~

(l) ~~(e)~~ Operation Odyssey Dawn, which began on March 19, 2011, and ended on October 31, 2011.

(m) Operation Observant Compass, which began in October 2011.

(n) Operation Juniper Shield, which began in 2013.

(o) Operation Inherent Resolve, which began on August 8, 2014.

The Department of Revenue shall notify all property appraisers and tax collectors in this state of the designated military operations.

Section 2. Application deadline for additional ad valorem tax exemption under s. 196.173, Florida Statutes, for 2014 qualifying deployments.—

(1) Notwithstanding the application deadline in s.

Page 2 of 4

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

593-03134-15 20157052c1

59 196.173(5), Florida Statutes, the deadline for an applicant to
 60 file an application with the property appraiser for an
 61 additional ad valorem tax exemption for a qualifying deployment
 62 during the 2014 calendar year is June 1, 2015.

63 (2) If an application is not timely filed under subsection
 64 (1), a property appraiser may grant the exemption if:

65 (a) The applicant files an application for the exemption on
 66 or before the 25th day after the mailing by the property
 67 appraiser during the 2015 calendar year of the notice required
 68 under s. 194.011(1), Florida Statutes;

69 (b) The applicant is qualified for the exemption; and

70 (c) The applicant produces sufficient evidence, as
 71 determined by the property appraiser, which demonstrates that
 72 the applicant was unable to apply for the exemption in a timely
 73 manner or otherwise demonstrates extenuating circumstances that
 74 warrant granting the exemption.

75 (3) If the property appraiser denies an application under
 76 subsection (2), the applicant may file, pursuant to s.
 77 194.011(3), Florida Statutes, a petition with the value
 78 adjustment board which requests that the exemption be granted.
 79 Such petition must be filed on or before the 25th day after the
 80 mailing by the property appraiser during the 2015 calendar year
 81 of the notice required under s. 194.011(1), Florida Statutes.
 82 Notwithstanding s. 194.013, Florida Statutes, the eligible
 83 servicemember is not required to pay a filing fee for such
 84 petition. Upon reviewing the petition, the value adjustment
 85 board may grant the exemption if the applicant is qualified for
 86 the exemption and demonstrates extenuating circumstances, as
 87 determined by the board, that warrant granting the exemption.

Page 3 of 4

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

593-03134-15 20157052c1

88 Section 3. This act shall take effect upon becoming a law,
 89 and first applies to ad valorem tax rolls for 2015.

Page 4 of 4

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Chair*
Fiscal Policy, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Communications, Energy, and Public Utilities
Community Affairs
Criminal Justice

JOINT COMMITTEES:
Joint Legislative Auditing Committee
Joint Select Committee on Collective
Bargaining

SENATOR ROB BRADLEY
7th District

MEMORANDUM

To: Senator Anitere Flores
From: Senator Rob Bradley *RS*
Subject: Votes in Fiscal Policy
Date: April 9, 2015

Due to presenting my bill in the Rules Committee today, I was unable to vote on the bills being heard in the Fiscal Policy Committee. Pursuant to Rule 2.28(4), I am submitting this letter to indicate how I would have voted if present.

For the record, I would like to show yes votes for the following bills:

- CS/CS/SB 112
- CS/SB 338
- SB 558
- CS/SB 568
- CS/CS/SB 596
- CS/SB 640
- CS/CS/668
- SB 684
- CS/SB 738
- CS/SB 746
- CS/SB 760
- CS/SB 904
- SB 954
- SB 996
- CS/SB 1024
- CS/SB 1208
- CS/SB 1216
- SB 1430
- CS/SB 7052

REPLY TO:

- 2233 Park Avenue, Suite 303, Orange Park, Florida 32073 (904) 278-2085
- 208 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Finance and Tax, *Chair*
Communications, Energy, and Public Utilities,
Vice Chair
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Fiscal Policy

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR DOROTHY L. HUKILL
8th District

April 9, 2015

The Honorable Anitere Flores
413 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Missed Votes

Dear Chairwoman Flores:

Due to presenting my bill in the Rules Committee today, I was unable to vote on the bills being heard in the Committee on Fiscal Policy. Pursuant to Rule 2.28 (4), I am submitting this letter to indicate how I would have voted if present.

For the record, I would like to show yes votes for the following bills:

S0112	Special License Plates	Hays
S0338	Engineers	Altman
S0558	Public Lodging and Public Food Service Establishments	Stargel
S0568	Family Trust Companies	Richter
S0596	Craft Distilleries	Hays
S0640	Vital Statistics	Detert
S0668	Emergency Fire Rescue Services and Facilities Surtax	Latvala
S0684	Convenience Businesses	Grimsley
S0738	Clinical Laboratories	Grimsley
S0746	Diabetes Awareness Training for Law Enforcement Officers	Lee
S0760	Child Protection	Bradley
S0904	Home Health Services	Bean

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

ANDY GARDINER
President of the Senate

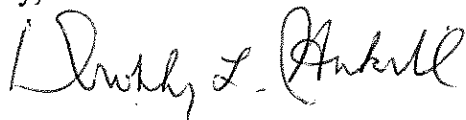
GARRETT RICHTER
President Pro Tempore

April 9, 2015

Page 2

S0954	Involuntary Examinations of Minors	Garcia
S0996	Home Medical Equipment	Richter
S1024	Central Florida Expressway Authority	Simmons
S1208	Dietetics and Nutrition	Bean
S1216	Connected-city Corridors	Simpson
S1430	Discounts on Public Park Entrance Fees and Transportation Fares	Abruzzo
S7052	Ad Valorem Tax Exemption for Deployed Servicemembers	Mil Aff Space Dom Sec

Sincerely,



Dorothy L. Hukill, District 8

cc: Jennifer Hrdlicka, Staff Director of the Fiscal Policy Committee
Tamra Lyon, Administrative Assistant of the Fiscal Policy Committee



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Regulated Industries, *Vice Chair*
Appropriations
Appropriations Subcommittee on General Government
Banking and Insurance
Finance and Tax
Fiscal Policy

SENATOR GWEN MARGOLIS

35th District

April 9, 2015

Senator Anitere Flores, Chair
Committee on Fiscal Policy
225 Knott Building
404 S. Monroe Street
Tallahassee, Florida 32399

Dear Madame Chair,

Due to presenting my bill in Rules Committee today, I was unable to vote on some of the bills being heard in the Fiscal Policy Committee. Pursuant to Rule 2.28(4), I am submitting this letter to indicate how I would have voted if present.

For the record, I would like the record to reflect that I would have voted favorably on the following bills:

SB 338
SB 596
SB 668
SB 684
SB 738
SB 746
SB 904
SB 954
SB 1024
SB 1208
SB 1216

Thank you,

A handwritten signature in black ink, appearing to read "Gwen Margolis".

REPLY TO:

- 3050 Biscayne Boulevard, Suite 600, Miami, Florida 33137 (305) 571-5777
- 414 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5035

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: KN 412
Caption: Senate Fiscal Policy

Case:
Judge:

Type:

Started: 4/9/2015 9:01:18 AM
Ends: 4/9/2015 9:41:35 AM **Length:** 00:40:18

9:01:28 AM Roll call
9:02:06 AM Tab 18 Senator Abruzzo SB 1430
9:02:38 AM Amendment barcode 517374 adopted
9:03:21 AM CS/SB 1430 favorable
9:03:55 AM CS/SB 1430 favorable
9:03:57 AM Tab 4 Senator Richter SB 568
9:04:40 AM SB 568 favorable
9:05:07 AM Tab 14 Senator Richter SB 996
9:06:32 AM SB 996 favorable
9:07:05 AM Tab 11 Senator Bradley SB 760
9:09:17 AM Amendment barcode 364762
9:09:39 AM Amendment favorable
9:10:02 AM CS/SB 760 favorable
9:10:44 AM Tab 6 Senator Detert CS/SB 640
9:11:03 AM Amendment barcode 589854
9:11:50 AM Amendment favorable
9:11:57 AM CS/SB 640 favorable
9:12:31 AM Tab 19 CS/SB 7052
9:13:36 AM CS/SB 7052 favorable
9:14:05 AM Tab 1 Senator Hays SB 112
9:15:12 AM CS/CS/SB 112 favorable
9:15:55 AM Tab 2 Senator Altman SB 338
9:16:48 AM Devon West for Senator Altman
9:17:05 AM Amendment barcode 154518
9:17:27 AM Amendment favorable
9:18:02 AM Amendment barcode 932050
9:18:13 AM Amendment favorable
9:19:16 AM CS/SB 338 favorable
9:19:49 AM Tab 3 Senator Stargel SB 558
9:20:38 AM SB 558 favorable
9:21:04 AM Tab 5 Senator Hays SB 596
9:21:42 AM SB 596 favorable
9:22:15 AM Tab 7 Senator Latvala SB 668 (Brenda Johnson)
9:24:03 AM SB 668 favorable
9:24:37 AM Tab 8 Senator Grimsley
9:24:44 AM SB 684 (Anne Bell)
9:25:41 AM SB 684 favorable
9:26:08 AM Tab 9 Senator Grimsley SB 738 (Anne Bell)
9:27:05 AM SB 738 favorable
9:27:31 AM Tab 10 Senator Lee SB 746 (Doug Roberts)
9:28:26 AM SB 746 favorable
9:28:55 AM Tab 12 Senator Bean SB 904
9:29:36 AM SB 904 favorable
9:30:04 AM Tab 13 Senator Garcia SB 954 (LA presented)
9:30:35 AM Amendment barcode 540404
9:30:48 AM Amendment favorable
9:31:05 AM SB 954 favorable
9:31:43 AM Tab 15 Senator Simmons SB 1024 (LA presented)
9:32:04 AM Amendment barcode 616102
9:32:41 AM Amendment favorable
9:32:59 AM SB 1024 favorable
9:33:29 AM Tab 16 Senator Bean SB 1208

9:34:52 AM SB 1208 favorable
9:35:21 AM Tab 17 Senator Simpson (Mary) SB 1216
9:36:31 AM Amendment barcode 496958
9:37:44 AM Amendment favorable
9:38:44 AM Amendment barcode 837202
9:38:53 AM Amendment favorable
9:39:37 AM Amendment 496958 as amended favorable
9:40:13 AM SB 1216 favorable
9:41:18 AM Senator Hays moves we adjourn