

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
MILITARY AND VETERANS AFFAIRS, SPACE, AND
DOMESTIC SECURITY
Senator Altman, Chair
Senator Gibson, Vice Chair

MEETING DATE: Wednesday, March 19, 2014
TIME: 11:00 a.m.—12:30 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Altman, Chair; Senator Gibson, Vice Chair; Senators Abruzzo, Bullard, Dean, Evers, Gardiner, Legg, and Sachs

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 296 Criminal Justice / Brandes (Identical CS/H 209)	Carrying a Concealed Weapon or a Concealed Firearm; Providing an exemption from criminal penalties for carrying a concealed weapon or a concealed firearm when complying with a mandatory evacuation order during a declared state of emergency, etc. CJ 03/03/2014 Fav/CS MS 03/19/2014 Temporarily Postponed CA	Temporarily Postponed
2	CS/SB 596 Commerce and Tourism / Evers (Similar CS/H 155)	Defense Contracting; Authorizing certain prime contractors to apply to the Department of Economic Opportunity to certify that such contractors may reduce their computation of adjusted federal income by a certain amount when awarded a prime contract; providing requirements to apply for a reduction in computation of income; requiring a prime contractor to apply separately for each qualified subcontract award and to provide documentation; revising the definition of the term "adjusted federal income" for corporate income tax purposes, etc. CM 03/03/2014 Fav/CS MS 03/19/2014 Favorable AFT AP	Favorable Yeas 6 Nays 0
3	SB 1140 Hays (Similar H 7011)	Public Records/Emergency Planning or Notification by Agency; Providing an exemption from public records requirements for information furnished to an agency by a person or business for the purpose of obtaining assistance with emergency planning or emergency notification; providing a statement of public necessity, etc. MS 03/19/2014 Fav/CS GO RC	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Military and Veterans Affairs, Space, and Domestic Security
Wednesday, March 19, 2014, 11:00 a.m.—12:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SM 1298 Brandes (Similar HM 1169)	Disaster Savings Account Act; Urging Congress to pass the Disaster Savings Account Act to encourage the mitigation of property damage and costs before a natural disaster strikes, etc. MS 03/19/2014 Fav/CS BI	Fav/CS Yeas 8 Nays 0
5	SB 1326 Brandes (Compare H 7065)	Emergency Management; Specifying the availability of a cause of action with respect to a county implementing a Flood Insurance Rate Map; revising the duties of the Division of Emergency Management to conform to changes made by the act; requiring the division to contract for a flood risk analysis; exempting state employees from specified travel expense provisions when traveling under the Emergency Management Assistance Compact pursuant to a request for assistance from another state under certain circumstances, etc. MS 03/19/2014 Fav/CS CA	Fav/CS Yeas 7 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 296

INTRODUCER: Criminal Justice Committee and Senator Brandes

SUBJECT: Carrying a Concealed Weapon or a Concealed Firearm

DATE: March 18, 2014 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.	Ryon	Ryon	MS	Pre-meeting
3.			CA	

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 296 creates an exception to s. 790.01, F.S. Section 790.01, F.S., is the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so or if the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes.

The exception provided in the bill only allows a person to carry a concealed weapon, or firearm if he or she may otherwise lawfully possess a firearm, while complying with a mandatory evacuation order issued pursuant to ch. 252, F.S., regardless of licensure status.

II. Present Situation:

Under current Florida law, it is lawful for a person to carry a concealed weapon without a concealed weapon license for purposes of lawful self-defense, so long as the weapon is limited to self-defense chemical spray, a nonlethal stun gun, a dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.¹

¹ s. 790.01(4), F.S.

Without licensure, carrying a different type of concealed weapon,² electric weapon, or device other than one designed solely for defensive purposes is a first degree misdemeanor.³ Carrying a concealed firearm without proper licensure is a third degree felony offense.⁴

It is lawful for a person to openly carry a self-defense chemical spray, nonlethal stun gun or dart-firing stun gun, or other nonlethal electric weapon or device that is designed solely for defensive purposes.⁵

Certain persons under particular circumstances are exempt from the limitations on the open carry of weapons in s. 790.053, F.S., and the concealed firearm carry licensure requirements in s. 790.06, F.S., when the weapons and firearms are lawfully owned, possessed, and used. These persons and circumstances include:

- Members of the Militia, National Guard, Florida State Defense Force, Army, Navy, Air Force, Marine Corps, Coast Guard, organized reserves, and other armed forces of the state and of the United States, when on duty, when training or preparing themselves for military duty, or while subject to recall or mobilization;
- Citizens of this state subject to duty in the Armed Forces under s. 2, Art. X of the State Constitution, under chs. 250 and 251, F.S., and under federal laws, when on duty or when training or preparing themselves for military duty;
- Persons carrying out or training for emergency management duties under ch. 252, F.S.;
- Sheriffs, marshals, prison or jail wardens, police officers, Florida highway patrol officers, game wardens, revenue officers, forest officials, special officers appointed under the provisions of ch. 354, F.S., and other peace and law enforcement officers and their deputies and assistants and full-time paid peace officers of other states and of the Federal Government who are carrying out official duties while in this state;
- Guards or messengers of common carriers, express companies, armored car carriers, mail carriers, banks, and other financial institutions, while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state;
- Officers or employees of the state or United States duly authorized to carry a concealed weapon;
- Regularly enrolled members of any organization duly authorized to purchase or receive weapons from the United States or from this state, or regularly enrolled members of clubs organized for target, skeet, or trap shooting, while at or going to or from shooting practice; or regularly enrolled members of clubs organized for modern or antique firearms collecting, while such members are at or going to or from their collectors' gun shows, conventions, or exhibits;
- A person engaged in fishing, camping, or lawful hunting or going to or returning from a fishing, camping, or lawful hunting expedition;

² A concealed weapon, under s. 790.001(3)(a), F.S., means any dirk, metallic knuckles, slungshot, billie, tear gas gun, chemical weapon or device, or other deadly weapon carried on or about a person in such a manner as to conceal the weapon from the ordinary sight of another person. The weapons listed in this definition require licensure to carry them in a concealed manner.

³ s. 790.01(1), F.S.

⁴ s. 790.01(2), F.S.

⁵ s. 790.053, F.S.

- A person engaged in the business of manufacturing, repairing, or dealing in firearms, or the agent or representative of any such person while engaged in the lawful course of such business;
- A person firing weapons for testing or target practice under safe conditions and in a safe place not prohibited by law or going to or from such place;
- A person firing weapons in a safe and secure indoor range for testing and target practice;
- A person traveling by private conveyance when the weapon is securely encased or in a public conveyance when the weapon is securely encased and not in the person's manual possession;
- A person while carrying a pistol unloaded and in a secure wrapper, concealed or otherwise, from the place of purchase to his or her home or place of business or to a place of repair or back to his or her home or place of business;
- A person possessing arms at his or her home or place of business; and
- Investigators employed by the public defenders and capital collateral regional counsel of the state, while actually carrying out official duties.⁶

Concealed Weapons and Firearm Licensure

The Department of Agriculture and Consumer Services (DACS) is authorized to issue concealed weapon and firearm licenses to those applicants that qualify.⁷ Concealed weapons or concealed firearms are defined as a handgun, electronic weapon or device, tear gas gun, knife, or billie but not a machine gun for purposes of the licensure law.⁸

To obtain a concealed weapons or firearm license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee.⁹

Additionally, the applicant must attest that he or she is in compliance with the criteria contained in subsections (2) and (3) of s. 790.06, F.S.

⁶ s. 790.25(3), F.S.

⁷ s. 790.06(1), F.S.

⁸ *Id.*

⁹ s. 790.06(1)-(5), F.S.

Subsection (2) of s. 790.06, F.S., requires DACS to issue the license to carry a concealed weapon, if all other requirements are met, and the applicant:

- Is a resident of the United States and a citizen of the United States or a permanent resident alien of the United States, as determined by the United States Bureau of Citizenship and Immigration Services, or is a consular security official of a foreign government that maintains diplomatic relations and treaties of commerce, friendship, and navigation with the United States and is certified as such by the foreign government and by the appropriate embassy in this country;
- Is 21 years of age or older;
- Does not suffer from a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is not ineligible to possess a firearm pursuant to s. 790.23, F.S., by virtue of having been convicted of a felony;
- Has not been committed for the abuse of a controlled substance or been found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state relating to controlled substances within a 3-year period immediately preceding the date on which the application is submitted;
- Does not chronically and habitually use alcoholic beverages or other substances to the extent that his or her normal faculties are impaired. It shall be presumed that an applicant chronically and habitually uses alcoholic beverages or other substances to the extent that his or her normal faculties are impaired if the applicant has been committed under ch. 397, F.S., or under the provisions of former ch. 396, F.S., or has been convicted under s. 790.151, F.S., or has been deemed a habitual offender under s. 856.011(3), F.S., or has had two or more convictions under s. 316.193, F.S., or similar laws of any other state, within the 3-year period immediately preceding the date on which the application is submitted;
- Has not been adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state, unless 5 years have elapsed since the applicant's restoration to capacity by court order;
- Has not been committed to a mental institution under ch. 394, F.S., or similar laws of any other state, unless the applicant produces a certificate from a licensed psychiatrist that he or she has not suffered from disability for at least 5 years prior to the date of submission of the application;
- Has not had adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled, or the record has been sealed or expunged;
- Has not been issued an injunction that is currently in force and effect and that restrains the applicant from committing acts of domestic violence or acts of repeat violence; and
- Is not prohibited from purchasing or possessing a firearm by any other provision of Florida or federal law.¹⁰

DACS must deny the application if the applicant has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence

¹⁰ s. 790.06(2), F.S.

constituting a misdemeanor, unless 3 years have elapsed since probation or any other conditions set by the court have been fulfilled or the record has been sealed or expunged.¹¹

DACS shall revoke a license if the licensee has been found guilty of, had adjudication of guilt withheld for, or had imposition of sentence suspended for one or more crimes of violence within the preceding 3 years.¹²

DACS shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, suspend a license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.¹³ DACS shall suspend a license or the processing of an application for a license if the licensee or applicant is issued an injunction that restrains the licensee or applicant from committing acts of domestic violence or acts of repeat violence.¹⁴

In addition, DACS is required to suspend or revoke a concealed weapons license if the licensee:

- Is found to be ineligible under the criteria set forth in subsection (2);
- Develops or sustains a physical infirmity which prevents the safe handling of a weapon or firearm;
- Is convicted of a felony which would make the licensee ineligible to possess a firearm pursuant to s. 790.23, F.S.;
- Is found guilty of a crime under the provisions of ch. 893, F.S., or similar laws of any other state, relating to controlled substances;
- Is committed as a substance abuser under ch. 397, F.S., or is deemed a habitual offender under s. 856.011(3), F.S., or similar laws of any other state;
- Is convicted of a second violation of s. 316.193, F.S., or a similar law of another state, within 3 years of a previous conviction of such section, or similar law of another state, even though the first violation may have occurred prior to the date on which the application was submitted;
- Is adjudicated an incapacitated person under s. 744.331, F.S., or similar laws of any other state; or
- Is committed to a mental institution under ch. 394, F.S., or similar laws of any other state.¹⁵

Licensees must carry their license and valid identification any time they are in actual possession of a concealed weapon or firearm and display both documents upon demand by a law enforcement officer.¹⁶ Failure to have proper documentation and display it upon demand is a second degree misdemeanor.¹⁷

¹¹ s. 790.06(3), F.S.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ s. 790.06(10), F.S.

¹⁶ s. 790.790.06(1), F.S.

¹⁷ s. 790.06(1), F.S.

A concealed weapon or firearms license does not authorize a person to carry a weapon or firearm in a concealed manner into:

- Any place of nuisance as defined in s. 823.05, F.S.;
- Any police, sheriff, or highway patrol station;
- Any detention facility, prison, or jail;
- Any courthouse;
- Any courtroom, except that nothing in this section would preclude a judge from carrying a concealed weapon or determining who will carry a concealed weapon in his or her courtroom;
- Any polling place;
- Any meeting of the governing body of a county, public school district, municipality, or special district;
- Any meeting of the Legislature or a committee thereof;
- Any school, college, or professional athletic event not related to firearms;
- Any school administration building;
- Any portion of an establishment licensed to dispense alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to such purpose;
- Any elementary or secondary school facility;
- Any career center;
- Any college or university facility unless the licensee is a registered student, employee, or faculty member of such college or university and the weapon is a stun gun or nonlethal electric weapon or device designed solely for defensive purposes and the weapon does not fire a dart or projectile;
- Inside the passenger terminal and sterile area of any airport, provided that no person shall be prohibited from carrying any legal firearm into the terminal, which firearm is encased for shipment for purposes of checking such firearm as baggage to be lawfully transported on any aircraft; or
- Any place where the carrying of firearms is prohibited by federal law.

Any person who willfully violates any of the above-listed provisions commits a misdemeanor of the second degree.¹⁸

Firearms in Vehicles

It is lawful for a person 18 years of age or older to possess a concealed firearm or other weapon for self-defense or other lawful purpose within the interior of a private conveyance, without a license, if the firearm or other weapon is securely encased or is otherwise not readily accessible for immediate use. The same is true for a legal long gun, without the need for encasement, when it is carried in the private conveyance for a lawful purpose.¹⁹

“Securely encased” means in a glove compartment, whether or not locked; snapped in a holster; in a gun case, whether or not locked; in a zippered gun case; or in a closed box or container

¹⁸ s. 790.06(12), F.S.

¹⁹ s. 790.25(5), F.S.

which requires a lid or cover to be opened for access.²⁰ The term “readily accessible for immediate use” means that a firearm or other weapon is carried on the person or within such close proximity and in such a manner that it can be retrieved and used as easily and quickly as if carried on the person.²¹

Reciprocity

DACS provides an up-to-date list of the states that honor Florida concealed carry licenses.²² It should be noted that travel with a concealed weapon or firearm into states that do not honor Florida’s concealed carry licenses, or when a person does not possess a concealed carry license subjects the person to the laws of that state.

Limitations on Purchase of a Firearm

Florida law prohibits transfer of a firearm by a federally licensed firearm dealer to a person who:

- Has been convicted of a felony and is prohibited from receipt or possession of a firearm pursuant to s. 790.23, F.S.;
- Has been convicted of a misdemeanor crime of domestic violence;
- Has had an adjudication of guilt withheld or imposition of sentence suspended on any felony or misdemeanor crime of domestic violence unless three years have elapsed since probation or any other conditions set by the court have been fulfilled or expunction has occurred;
- Has been indicted or has had an information filed against her or him for an offense that is a felony under state or federal law (pending disposition information that indicates the potential buyer is not prohibited);
- Has had an injunction for protection against domestic violence entered against him or her under s. 741.30, F.S.;
- Has had an injunction for protection against repeat violence entered against him or her under s. 784.046, F.S.; or
- Has been arrested for a dangerous crime as specified under s. 907.041(4)(a), F.S., or the crimes listed in s. 790.065(2)(c), F.S., (pending disposition information that indicates the potential buyer is not prohibited).

Emergency Management Powers of the Governor

Section 252.36(1), F.S., states that the Governor is responsible for meeting the dangers presented to this state and its people by emergencies. Under that authority the Governor can declare a state of emergency.

Section 252.36(2), F.S., provides that the state of emergency shall continue until the Governor finds that the threat or danger has been dealt with to the extent that the emergency conditions no longer exist and she or he terminates the state of emergency by executive order or proclamation, but no state of emergency may continue for longer than 60 days unless renewed by the Governor.

²⁰ s. 790.001(17), F.S.

²¹ s. 790.001(16), F.S.

²² <http://www.freshfromflorida.com/content/download/7444/118465/ReciprocityList.pdf>

The Legislature by concurrent resolution may terminate a state of emergency at any time. Thereupon, the Governor shall issue an executive order or proclamation ending the state of emergency.

In addition, pursuant to s. 252.36(5), F.S., the Governor may:

- Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state;²³ and
- Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles. However, nothing contained in ss. 252.31-252.90, F.S., shall be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.²⁴

III. Effect of Proposed Changes:

The bill creates an exception to s. 790.01, F.S., the statute that prohibits carrying concealed weapons or firearms unless a person is licensed to do so. If the weapon is a self-defense chemical spray or nonlethal stun gun or similar device designed for defensive purposes, a person may carry it concealed without a license.

The exception provided in the bill allows a person to carry a concealed weapon or firearm on or about his or her person, regardless of licensure status, while complying with a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252, F.S. In order to carry a firearm the person must be lawfully able to possess the firearm.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²³ s. 252.36(5)(e), F.S.

²⁴ s. 252.36(5)(h), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference considered SB 296 on January 30, 2014 and determined that it would have an insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.01 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 3, 2014:

Clarifies that convicted felons who are not permitted to possess a firearm under any circumstances are not permitted to do so while following an evacuation order.

B. Amendments:

None.



615304

LEGISLATIVE ACTION

Senate	.	House
Comm: PEND	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Military and Veterans Affairs, Space, and Domestic Security (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 790.01, Florida Statutes, is amended to
read:

790.01 Unlicensed carrying of concealed weapons or
concealed firearms.—

(1) Except as provided in subsection (3) ~~(4)~~, a person who
is not licensed under s. 790.06 and who carries a concealed



615304

11 weapon or electric weapon or device on or about his or her
12 person commits a misdemeanor of the first degree, punishable as
13 provided in s. 775.082 or s. 775.083.

14 (2) Except as provided in subsection (3), a person who is
15 not licensed under s. 790.06 and who carries a concealed firearm
16 on or about his or her person commits a felony of the third
17 degree, punishable as provided in s. 775.082, s. 775.083, or s.
18 775.084.

19 (3) This section does not apply to: ~~a person licensed to~~
20 ~~carry a concealed weapon or a concealed firearm pursuant to the~~
21 ~~provisions of s. 790.06.~~

22 (a) A person who carries a concealed weapon, or a person
23 who may lawfully possess a firearm and who carries a concealed
24 firearm, on or about his or her person while in the act of
25 complying with a mandatory evacuation order issued during a
26 state of emergency declared by the Governor pursuant to chapter
27 252 or declared by a local authority pursuant to chapter 870.

28 ~~(b)(4) It is not a violation of this section for~~ A person
29 ~~who carries to carry~~ for purposes of lawful self-defense, in a
30 concealed manner:

31 ~~1.(a)~~ A self-defense chemical spray.

32 ~~2.(b)~~ A nonlethal stun gun or dart-firing stun gun or other
33 nonlethal electric weapon or device that is designed solely for
34 defensive purposes.

35 ~~(4)(5)~~ This section does not preclude any prosecution for
36 the use of an electric weapon or device, a dart-firing stun gun,
37 or a self-defense chemical spray during the commission of any
38 criminal offense under s. 790.07, s. 790.10, s. 790.23, or s.
39 790.235, or for any other criminal offense.



615304

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

41

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

43 And the title is amended as follows:

44 Delete everything before the enacting clause
45 and insert:

46 A bill to be entitled
47 An act relating to carrying a concealed weapon or a
48 concealed firearm; amending s. 790.01, F.S.; providing
49 an exemption from criminal penalties for carrying a
50 concealed weapon or a concealed firearm while in the
51 act of complying with a mandatory evacuation order
52 during a declared state of emergency; providing an
53 effective date.

By the Committee on Criminal Justice; and Senator Brandes

591-02083-14

2014296c1

1 A bill to be entitled
 2 An act relating to carrying a concealed weapon or a
 3 concealed firearm; amending s. 790.01, F.S.; providing
 4 an exemption from criminal penalties for carrying a
 5 concealed weapon or a concealed firearm when complying
 6 with a mandatory evacuation order during a declared
 7 state of emergency; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Section 790.01, Florida Statutes, is amended to
 12 read:
 13 790.01 Carrying concealed weapons or concealed firearms.-
 14 (1) Except as provided in subsection (3) ~~(4)~~, a person who
 15 carries a concealed weapon or electric weapon or device on or
 16 about his or her person commits a misdemeanor of the first
 17 degree, punishable as provided in s. 775.082 or s. 775.083.
 18 (2) Except as provided in subsection (3), a person who
 19 carries a concealed firearm on or about his or her person
 20 commits a felony of the third degree, punishable as provided in
 21 s. 775.082, s. 775.083, or s. 775.084.
 22 (3) This section does not apply to:
 23 (a) A person licensed to carry a concealed weapon or a
 24 concealed firearm pursuant to the provisions of s. 790.06.
 25 (b) A person who carries a concealed weapon or a person who
 26 may lawfully possess a firearm and who carries a concealed
 27 firearm on or about his or her person while complying with a
 28 mandatory evacuation order issued during a state of emergency
 29 declared by the Governor pursuant to chapter 252.

Page 1 of 2

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

591-02083-14

2014296c1

30 ~~(c)(4) It is not a violation of this section for~~ A person
 31 ~~who carries to carry~~ for purposes of lawful self-defense, in a
 32 concealed manner:
 33 1. (a) A self-defense chemical spray.
 34 2. (b) A nonlethal stun gun or dart-firing stun gun or other
 35 nonlethal electric weapon or device that is designed solely for
 36 defensive purposes.
 37 ~~(4)(5)~~ This section does not preclude any prosecution for
 38 the use of an electric weapon or device, a dart-firing stun gun,
 39 or a self-defense chemical spray during the commission of any
 40 criminal offense under s. 790.07, s. 790.10, s. 790.23, or s.
 41 790.235, or for any other criminal offense.
 42 Section 2. This act shall take effect July 1, 2014.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-19-14

Meeting Date

Topic Concealed Firearms

Bill Number SB 296

(if applicable)

Name Eric Friday

Amendment Barcode 615304

(if applicable)

Job Title Lead Counsel Florida Carry

Address 541 E. Monroe St.

Phone 904-353-7733

Street

Jacksonville FL 32202

E-mail efriday@fletcherandphillips.com

City

State

Zip

Speaking: For Against Information

Representing Florida Carry

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

19 MARCH 2014
Meeting Date

Topic EVACUATION CARRY CONCEALED WEAPON

Bill Number CS 296
(if applicable)

Name TERRENCE GORMAN

Amendment Barcode 615304
(if applicable)

Job Title GENERAL COUNSEL

Address 82 MARINE ST
Street

Phone _____

SE AUGUSTINE FL
City State Zip

E-mail _____

Speaking: For Against Information

Representing FL Department of Military 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.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14

Meeting Date

Topic MANDATORY EVACUATION / GUNS

Bill Number SB-296
(if applicable)

Name MARION P. HAMMER

Amendment Barcode 615304
(if applicable)

Job Title _____

Address P.O. BOX 1387

Phone 850-222-9518

Street

TALLAHASSEE FL 32302

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing NRA (NATIONAL RIFLE ASSOCIATION) UNITED SPORTSMEN 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.



The Florida Senate

Committee Agenda Request

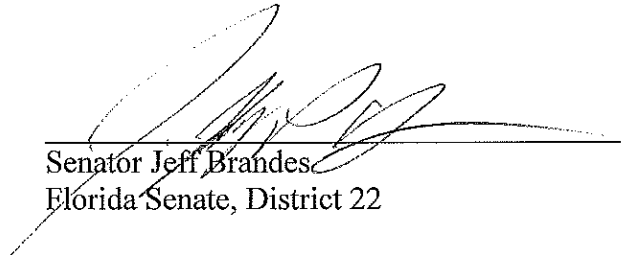
To: Senator Thad Altman, Chair
Committee on Military and Veterans Affairs, Space, and Domestic Security

Subject: Committee Agenda Request

Date: March 6, 2014

I respectfully request that **Senate Bill #296**, relating to Carrying a Concealed Weapon or Firearm, be placed on the:

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



Senator Jeff Brandes
Florida Senate, District 22

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Military and Veterans Affairs, Space, and Domestic Security
ITEM: CS/SB 296
FINAL ACTION:
MEETING DATE: Wednesday, March 19, 2014
TIME: 11:00 a.m.—12:30 p.m.
PLACE: 37 Senate Office Building

FINAL VOTE		SENATORS	3/19/2014 1		3/19/2014 2			
			Amendment 615304		Motion to Temporarily Postpone			
Yea	Nay		Evers		Altman		Yea	Nay
Yea	Nay	Yea	Nay	Yea	Nay	Yea	Nay	
		Abruzzo						
		Bullard						
		Dean						
		Evers						
		Gardiner						
		Legg						
		Sachs						
		Gibson, VICE CHAIR						
		Altman, CHAIR						
Yea	Nay	TOTALS	PEND Yea	- Nay	FAV Yea	- Nay	Yea	Nay

CODES: FAV=Favorable	RCS=Replaced by Committee Substitute	TP=Temporarily Postponed	WD=Withdrawn
UNF=Unfavorable	RE=Replaced by Engrossed Amendment	VA=Vote After Roll Call	OO=Out of Order
-R=Reconsidered	RS=Replaced by Substitute Amendment	VC=Vote Change After Roll Call	AV=Abstain from Voting

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 596

INTRODUCER: Commerce and Tourism Committee and Senator Evers

SUBJECT: Defense Contracting

DATE: March 18, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Siples</u>	<u>Hrdlicka</u>	<u>CM</u>	Fav/CS
2.	<u>Ryon</u>	<u>Ryon</u>	<u>MS</u>	Favorable
3.	_____	_____	<u>AFT</u>	_____
4.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 596 creates the Defense Works in Florida incentive program, which allows a national security-related prime contractor to reduce its taxable income by an amount of 4 percent for each subcontract it awards to a qualifying Florida-based subcontractor. To receive the incentive, the business must submit an application to the Department of Economic Opportunity (DEO) for certification that the subcontract award meets the requirements of the bill. Eligible businesses may claim the incentive for taxable years beginning on or after January 1, 2014.

The bill caps the amount of qualified subcontract awards that may be awarded to each contractor by the DEO each calendar year. The bill also limits the total amount of certifications the DEO may certify for the incentive program each calendar year.

The bill gives the DEO authority to develop forms and procedures to implement the incentive program and provides rule-making authority to the DEO and the Department of Revenue (DOR).

II. Present Situation:

Florida's Defense Industry

Florida is home to three of ten unified combatant commands and hosts two of only four Navy deep-water ports in the country with adjacent airfields, the military's only space launch facility on the east coast, the Marine Corps' only maritime prepositioning facility, and one of only three Navy Fleet Readiness Centers. The state also hosts several critical research, development, testing

and evaluation centers. In addition, the Joint Gulf Range Complex connects test and training ranges that extend from Key West to Northwest Florida and across the eastern Gulf of Mexico, and encompasses 180,000 square miles of Department of Defense-controlled airspace.¹

Defense spending in Florida was directly or indirectly responsible for \$73.4 billion, or 9.4 percent, of gross state product in 2011.² In 2011, Florida businesses generated \$13.6 billion in U.S. Department of Defense (DoD) contract awards, ranking the state 5th in the nation.³ Total defense spending also accounts for more than 758,000 jobs around the state.⁴

According to the federal government, 61,075 contracts have been awarded to prime contractors by DoD and National Aeronautics and Space Administration from federal fiscal year 2013 through the current federal fiscal year for work done in the State of Florida.

Combined, these contracts have a total value of over \$12 billion. There have been over 2,000 subcontracts awarded through those 61,075 contracts, valued at over \$2 billion.⁵

Federal Contracting Overview

The typical federal procurement process involves an agency identifying the goods and services it needs, determining the most appropriate method for purchasing those items, and carrying out an acquisition process. Under most procurement processes, an agency posts a solicitation on the Federal Business Opportunities website. Interested businesses prepare their offers in response to the solicitation, and agency personnel evaluate the offers. To be eligible to compete for government contracts a business must first obtain a Data Universal Numbering System (DUNS) number, and register with the System for Award Management (SAM). Many agencies provide assistance and services to potential and existing federal contractors.

Businesses may also serve as subcontractors for other businesses (known as “prime contractors”) that have been awarded federal contracts. Most federal agencies typically release information on their websites listing prime contractors that have been awarded federal contracts, which can be a valuable resource for potential subcontractors. Other agencies, including the General Services Administration, Department of Homeland Security, and Small Business Administration provide more specific information regarding subcontracting opportunities with prime contractors on their websites.⁶

¹ Enterprise Florida, Inc. (EFI), *Florida Defense Factbook*, January 2013, available at <http://www.floridadefense.org/documents/HAAS%20Study%202013/Factbook%202013%20FINAL.pdf> (last visited March 17, 2014).

² EFI, *Florida Defense Industry Economic Impact Analysis*, January 2013, available at <http://www.floridadefense.org/documents/HAAS%20Study%202013/Impact2013FinalSubmission3.26.13.pdf> (last visited March 17, 2014).

³ EFI, *Defense and Homeland Security*, available at http://www.enterpriseflorida.com/wp-content/uploads/MB_Homeland_Security1.pdf (last visited March 17, 2014).

⁴ EFI, *Florida Defense Factbook*. Direct employment includes 61,189 military personnel, 24,705 civilian personnel, and 12,449 National Guard personnel.

⁵ United States Office of Management and Budget, USASpending.gov (information may be obtained by using search criteria for Department of Defense, prime contracts, performed in Florida, and by fiscal year), available at <http://usaspending.gov/> (last visited March 17, 2014).

⁶ L. Elaine Halchin, Congressional Research Service, *Overview of the Federal Procurement Process and Resources*, September 11, 2012, available at <https://www.fas.org/sgp/crs/misc/RS22536.pdf> (last visited Feb. 20, 2014).

Corporate Income Tax in Florida

Florida began imposing an income tax on corporations in 1972.⁷ The initial tax rate was 5 percent, but that rate was increased to 5.5 percent in 1984.⁸

Currently, Florida's corporate income tax is comprised of two separate 5.5 percent taxes and a 3.3 percent alternative minimum tax.⁹ The primary component of the tax is the 5.5 percent tax that applies to "corporations," as defined in s. 220.03, F.S.¹⁰ The second 5.5 percent tax is referred to as the "franchise tax" and is imposed on Florida banks and savings institutions, as defined in s. 220.62, F.S.¹¹

Regardless of which 5.5 percent tax applies to a taxpayer, if the taxpayer is subject to the federal alternative minimum tax (AMT), then the taxpayer could be subject to Florida's AMT.¹² If so, the taxpayer must pay the greater of the 5.5 percent tax or the 3.3 percent AMT.¹³

Florida's corporate income tax is imposed on a taxpayer's "net income."¹⁴ Net income is determined through the following process:

1. **Begin with Federal Taxable Income.** Rather than requiring the taxpayer to fully recalculate all of its income and deductions for Florida purposes, Florida taxpayers use their federal taxable income as the starting point for determining how much tax is owed Florida.
2. **Make Certain Statutory Adjustments.** These adjustments are generally known as "additions and subtractions,"¹⁵ and they relate to various items that Florida treats differently than the federal government. The income remaining after these additions and subtractions is known as "adjusted federal income."
3. **Apportion and Allocate.** Multi-state taxpayers must determine what portion of their adjusted federal income is properly taxable in Florida – a process generally referred to as "apportionment." Within this process, the taxpayer first determines what portion of its income is from business operations and what portion of its income is non-business.¹⁶ Its

⁷ See Ch. 71-984, L.O.F. Florida began imposing a corporate income tax after a constitutional amendment was adopted in 1971. Currently, the Florida Constitution does not permit an income tax on natural persons. See Art. VII, Sec. 5, Fla. Const.

⁸ See s. 21, 84-549, L.O.F. The Florida Constitution requires a 3/5 vote of the membership of each house of the Legislature in order to impose a tax in excess of 5 percent. See Art. VII, Sec. 5, Fla. Const.

⁹ Only 1 of these 3 tax components can apply to a taxpayer in a given year.

¹⁰ This component of the tax is imposed by s. 220.11(1), F.S. Only a fraction of total Florida businesses are considered "corporations" subject to the Florida corporate income tax. Sole proprietorships, partnerships, limited liability companies, and S corporations are not subject to the tax except under limited circumstances. See s. 220.03(1)(e), F.S.

¹¹ The franchise tax is imposed by s. 220.63(1), F.S.

¹² More information about the AMT for corporations is available from many sources, but a concise explanation was prepared by the nonpartisan Tax Policy Center, an affiliate of The Brookings Institute and the Urban Institute. The article is available at <http://www.taxpolicycenter.org/publications/url.cfm?ID=1000515> (last visited March 17, 2014).

¹³ See s. 220.11(4), F.S. Although the AMT is a lower nominal rate compared to the 5.5 percent tax, the AMT can result in a higher tax due because it uses a different definition of "taxable income."

¹⁴ See s. 220.12, F.S.

¹⁵ See generally s. 220.13, F.S.

¹⁶ Nonbusiness income is certain income that does not arise from transactions and activities in the regular course of the taxpayer's trade or business. See s. 220.03(1)(r), F.S.

business income is then “apportioned”¹⁷ among the states where it does business and its non-business income “allocated” to the state where the transactions or activities that gave rise to the non-business income occurred.¹⁸

Florida generally uses a three-factor apportionment formula determined by the taxpayer’s payroll, sales, and property. The formula compares the taxpayer’s total payroll, sales, and property in all states with the taxpayer’s payroll, sales and property in Florida. The ultimate result of this calculation will be a fraction. A multi-state taxpayer’s business income is then apportioned to Florida based upon that fraction.

4. **Subtract the Exemption.** Lastly, Florida grants an exemption for the first \$50,000 of income that would otherwise be taxable in Florida.¹⁹ Accordingly, after apportionment and allocation are applied to determine a taxpayer’s income that is properly taxable in Florida, the taxpayer subtracts \$50,000 before applying the tax rate. The amount of income remaining after subtraction of the \$50,000 exemption is known as “net income” and is the amount subject to Florida corporate income tax.

III. Effect of Proposed Changes:

Section 1 creates s. 288.1046, F.S., the Defense Works in Florida incentive program to provide an incentive to certain defense contractors to reduce the taxable corporate income.

The bill defines the following terms:

- “Florida prime contractor” as a business entity that is awarded a prime contract. “Florida small business subcontractor” is defined as a business entity that maintains a primary place of business in this state, has fewer than 250 employees at the time the subcontract award is made, is awarded a subcontract from a Florida prime contractor, and has no subsidiary or affiliate business relationship with the Florida prime contractor awarding the subcontract.
- “Prime contract” is defined as one that is awarded directly from the federal government.
- “Qualified defense work” is defined as a prime contract awarded for goods or services that directly or indirectly support the United States Armed Forces or that can be reasonably determined to support national security, including space-related activities. However, the term does not include contracts awarded prior to October 1, 2013.
- “Qualified subcontract award” refers to qualified defense work, in part or in whole, subcontracted from a Florida prime contractor to a Florida small business subcontractor, executed in this state and valued at more than \$250,000.

The bill provides that a Florida prime contractor may apply to the DEO to certify that the contractor may reduce the computation of its adjusted federal income by an amount equal to 4 percent of the subcontract award if it meets certain conditions. To qualify for the reduction, the Florida prime contractor must be subject to ch. 220, F.S., be awarded qualified defense work, and must award a qualified subcontract award. The incentive may be claimed for each qualified subcontract award. However, the Florida prime contractor must apply separately for each

¹⁷ See s. 220.15, F.S.

¹⁸ See s. 220.16, F.S.

¹⁹ The Florida Constitution requires an exemption of at least \$5,000. See Art. VII, Sec. 5, Fla. Const. See also s. 220.14, F.S.

qualified subcontract award for taxable years beginning on or after January 1, 2014, providing the DEO with any required documentation.

Within 10 days of certification, the DEO must provide a letter certifying a qualified subcontract award to the applicant to use when filing taxes and a copy of the letter to the DOR. For each Florida prime contractor, the DEO may certify up to \$250 million in aggregate qualified subcontract awards, equaling \$10 million in reduced taxable income and \$550,000 in reduced taxes per calendar year. The maximum amount of certifications the DEO may certify in a calendar year is \$2.5 billion in aggregate qualified subcontract awards, equaling \$100 million in reduced taxable income and \$5.5 million in reduced taxes.

For multi-year contracts, the DEO shall certify the full amount of the award in the calendar year the contract was awarded; and the Florida prime contractor may claim the incentive in the taxable year in which the payment is made to the Florida small business subcontractor.

The bill grants the DEO the authority to develop any necessary forms and processes needed to implement the incentive program. The DEO may consult with Enterprise Florida, Inc., and the Florida Defense Support Task Force, as necessary.

Section 2 amends s. 220.13(b)(1), F.S., to include the incentive created by this bill as an allowable subtraction in the computation of the adjusted federal income.

Section 3 provides an effective date of July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The Revenue Estimating Conference reviewed the impact of this bill on January 17, 2014.²⁰ The bill is estimated to have a recurring negative impact of \$3.3 million to general revenue each year.

²⁰ Revenue Estimating Conference Impact Conference Results from January 17, 2014, available at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2014/pdf/Impact0117.pdf> (last visited March 17, 2014).

In adopting this estimate, the conference determined there would be sufficient qualified defense activity to meet the cap of \$100 million in deductions to the adjusted federal income, but the apportionment to Florida would result in less tax impact than the total \$5.5 million tax cap.

B. Private Sector Impact:

The bill may have a positive fiscal impact on defense industry prime contractors that will be able to reduce corporate tax liability and may encourage Florida prime contractors to award subcontracts to small business within the state.

C. Government Sector Impact:

The DEO indicates that the fiscal impact is insignificant and any administrative costs will be absorbed by the DEO.²¹ The DOR indicates that there will be an insignificant fiscal impact.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides rulemaking authority to the DEO and the DOR to administer the provisions of the bill.

VIII. Statutes Affected:

This bill substantially amends section 220.13 of the Florida Statutes.

This bill creates section 288.1046 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 Commerce and Tourism on March 3, 2014:

The committee substitute:

- Clarifies that a “Florida small business contractor” must have 250 employees or less at the time the subcontract award is made to qualify for the incentive.
- Removes the provision that prevented work awarded locally by military institutions from being included in the definition of “qualified defense work.”

²¹ DEO, *2014 Agency Legislative Bill Analysis, Senate Bill 596*, (Jan. 15, 2014) (on file with Senate Commerce and Tourism Committee).

²² DOR, *Legislative Bill Analysis, Senate Bill 596* (Feb. 3, 2014) (on file with the Senate Commerce and Tourism Committee).

- Adds a requirement that “qualified subcontract award” must be valued at more than \$250,000 to qualify for the incentive.
- Requires the DEO, within 10 days of certification, to provide a letter certifying a qualified subcontract award to the applicant and to the DOR.
- Allows eligible businesses to claim the incentive for taxable years beginning on or after January 1, 2014.
- Makes technical changes recommended by the DOR, including changing the term “taxable year” or “tax year” to “calendar year,” as needed.
- Amends s. 220.13, F.S., to include the incentive created by this bill as an allowable subtraction in the computation of the adjusted federal income.

B. Amendments:

None.

By the Committee on Commerce and Tourism; and Senator Evers

577-02073-14

2014596c1

1 A bill to be entitled
 2 An act relating to defense contracting; creating s.
 3 288.1046, F.S.; defining terms; authorizing certain
 4 prime contractors to apply to the Department of
 5 Economic Opportunity to certify that such contractors
 6 may reduce their computation of adjusted federal
 7 income by a certain amount when awarded a prime
 8 contract; providing requirements to apply for a
 9 reduction in computation of income; requiring a prime
 10 contractor to apply separately for each qualified
 11 subcontract award and to provide documentation;
 12 providing guidelines for the department to certify an
 13 award; authorizing the department and the Department
 14 of Revenue to adopt rules; amending s. 220.13, F.S.;
 15 revising the definition of the term "adjusted federal
 16 income" for corporate income tax purposes; providing
 17 for certain reduction in computation of income, to
 18 conform; providing an effective date.

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

20 Section 1. Section 288.1046, Florida Statutes, is created
 21 to read:

22 288.1046 Defense Works in Florida Incentive.-

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

24 (a) "Florida prime contractor" means a business entity
 25 operating in this state that is awarded a prime contract.

26 (b) "Florida small business subcontractor" means a business
 27 entity that:

28 Page 1 of 6

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

577-02073-14

2014596c1

30 1. Maintains its primary place of business in the state;
 31 2. Has 250 or fewer employees at the time a qualified
 32 subcontract award is made;
 33 3. Is awarded a subcontract from a Florida prime
 34 contractor; and
 35 4. Has no subsidiary or affiliate business relationship to
 36 the prime contractor making the award.
 37 (c) "Prime contract" means a contract that is awarded
 38 directly from the Federal Government.
 39 (d) "Qualified defense work" means a prime contract awarded
 40 for manufacturing, engineering, construction, distribution,
 41 research, development, or other activities related to equipment,
 42 supplies, technology, or other goods or services that directly
 43 or indirectly support the United States Armed Forces or that can
 44 be reasonably determined to support national security, including
 45 space related activities. The term does not include contracts
 46 awarded before October 1, 2013.
 47 (e) "Qualified subcontract award" means qualified defense
 48 work, in part or in whole, subcontracted from a Florida prime
 49 contractor to a Florida small business subcontractor, which is
 50 executed in the state and valued at more than \$250,000.
 51 (2) A Florida prime contractor may apply to the department
 52 to certify that it may reduce its computation of adjusted
 53 federal income under s. 220.13 by an amount equal to 4 percent
 54 of the subcontract award if such prime contractor:
 55 (a) Is subject to chapter 220;
 56 (b) Is awarded qualified defense work; and
 57 (c) Awards a qualified subcontract award.
 58 (3) A Florida prime contractor may claim the incentive

Page 2 of 6

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577-02073-14

2014596c1

59 under subsection (2) only for taxable years beginning on or
 60 after January 1, 2014, and must apply separately to the
 61 department for each qualified subcontract award and provide the
 62 department required documentation, including, but not limited
 63 to, the application for the award and copies of contracts, tax
 64 records, or employment records.

65 (4) The department may establish application, approval,
 66 appeal, and accountability processes as necessary. The
 67 department may consult with Enterprise Florida, Inc., and the
 68 Florida Defense Support Task Force as necessary to administer
 69 this section.

70 (a) Within 10 days after certifying a qualified subcontract
 71 award, the department shall provide:

72 1. A letter certifying the award to the applicant; and

73 2. A copy of the letter certifying the award to the
 74 Department of Revenue.

75 (b) The department may certify, for each Florida prime
 76 contractor applicant per calendar year, up to \$250 million in
 77 aggregate qualified subcontract awards, equaling up to \$10
 78 million in reduced taxable income and up to \$550,000 in reduced
 79 taxes.

80 (c) The department may certify in total, per calendar year,
 81 up to \$2.5 billion in aggregate qualified subcontract awards,
 82 equaling up to \$100 million in reduced taxable income and up to
 83 \$5.5 million in reduced taxes.

84 (d) For a multiyear qualified subcontract award:

85 1. The department shall certify the full amount of the
 86 award under paragraphs (b) and (c) in the calendar year it was
 87 awarded; and

577-02073-14

2014596c1

88 2. The Florida prime contractor may claim the incentive in
 89 the taxable year in which payment is made to the Florida small
 90 business subcontractor.

91 (5) The department and the Department of Revenue may adopt
 92 rules to administer this section.

93 Section 2. Paragraph (b) of subsection (1) of 220.13,
 94 Florida Statutes, is amended to read:

95 220.13 "Adjusted federal income" defined.—

96 (1) The term "adjusted federal income" means an amount
 97 equal to the taxpayer's taxable income as defined in subsection
 98 (2), or such taxable income of more than one taxpayer as
 99 provided in s. 220.131, for the taxable year, adjusted as
 100 follows:

101 (b) Subtractions.—

102 1. There shall be subtracted from such taxable income:

103 a. The net operating loss deduction allowable for federal
 104 income tax purposes under s. 172 of the Internal Revenue Code
 105 for the taxable year, except that any net operating loss that is
 106 transferred pursuant to s. 220.194(6) may not be deducted by the
 107 seller;~~r~~

108 b. The net capital loss allowable for federal income tax
 109 purposes under s. 1212 of the Internal Revenue Code for the
 110 taxable year;~~r~~

111 c. The excess charitable contribution deduction allowable
 112 for federal income tax purposes under s. 170(d)(2) of the
 113 Internal Revenue Code for the taxable year;~~r~~ and

114 d. The excess contributions deductions allowable for
 115 federal income tax purposes under s. 404 of the Internal Revenue
 116 Code for the taxable year.

577-02073-14

2014596c1

117
 118 However, a net operating loss and a capital loss shall never be
 119 carried back as a deduction to a prior taxable year, but all
 120 deductions attributable to such losses shall be deemed net
 121 operating loss carryovers and capital loss carryovers,
 122 respectively, and treated in the same manner, to the same
 123 extent, and for the same time periods as are prescribed for such
 124 carryovers in ss. 172 and 1212, respectively, of the Internal
 125 Revenue Code.

126 2. There shall be subtracted from such taxable income any
 127 amount to the extent included therein the following:

128 a. Dividends treated as received from sources without the
 129 United States, as determined under s. 862 of the Internal
 130 Revenue Code.

131 b. All amounts included in taxable income under s. 78 or s.
 132 951 of the Internal Revenue Code.

133
 134 However, as to any amount subtracted under this subparagraph,
 135 there shall be added to such taxable income all expenses
 136 deducted on the taxpayer's return for the taxable year which are
 137 attributable, directly or indirectly, to such subtracted amount.
 138 Further, no amount shall be subtracted with respect to dividends
 139 paid or deemed paid by a Domestic International Sales
 140 Corporation.

141 3. In computing "adjusted federal income" for taxable years
 142 beginning after December 31, 1976, there shall be allowed as a
 143 deduction the amount of wages and salaries paid or incurred
 144 within this state for the taxable year for which no deduction is
 145 allowed pursuant to s. 280C(a) of the Internal Revenue Code

Page 5 of 6

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577-02073-14

2014596c1

146 (relating to credit for employment of certain new employees).

147 4. There shall be subtracted from such taxable income any
 148 amount of nonbusiness income included therein.

149 5. There shall be subtracted any amount of taxes of foreign
 150 countries allowable as credits for taxable years beginning on or
 151 after September 1, 1985, under s. 901 of the Internal Revenue
 152 Code to any corporation which derived less than 20 percent of
 153 its gross income or loss for its taxable year ended in 1984 from
 154 sources within the United States, as described in s.

155 861(a)(2)(A) of the Internal Revenue Code, not including credits
 156 allowed under ss. 902 and 960 of the Internal Revenue Code,
 157 withholding taxes on dividends within the meaning of sub-
 158 subparagraph 2.a., and withholding taxes on royalties, interest,
 159 technical service fees, and capital gains.

160 6. There shall be subtracted from such taxable income 4
 161 percent of the amount of the subcontract award certified by the
 162 Department of Economic Opportunity pursuant to s. 288.1046.

163 7. Notwithstanding any other provision of this code, except
 164 with respect to amounts subtracted pursuant to subparagraphs 1.
 165 and 3., any increment of any apportionment factor which is
 166 directly related to an increment of gross receipts or income
 167 which is deducted, subtracted, or otherwise excluded in
 168 determining adjusted federal income shall be excluded from both
 169 the numerator and denominator of such apportionment factor.
 170 Further, all valuations made for apportionment factor purposes
 171 shall be made on a basis consistent with the taxpayer's method
 172 of accounting for federal income tax purposes.

173 Section 3. This act shall take effect July 1, 2014.

Page 6 of 6

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THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/14

Meeting Date

Topic Defense Contracting

Bill Number 596
(if applicable)

Name Rheb Harbison

Amendment Barcode _____
(if applicable)

Job Title Gov't Consultant

Address 301 S Bronough St. Ste 500

Phone 850-577-1403

Street

TLH

32301

E-mail rheba@capitolinsight.com

City

State

Zip

Speaking: For Against Information

WAIVE IN SUPPORT

Representing Associated Industries 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/2014

Meeting Date

Topic Defense Contracting

Bill Number 596
(if applicable)

Name Joe Marino

Amendment Barcode _____
(if applicable)

Job Title President

Address 4067 Roscrea Dr

Phone 850 320 8780

Street

Tall

City

FL

State

32309

Zip

E-mail joe.marino@fl-dc.org

Speaking: For Against Information

Representing Florida Defense Contractors Assoc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19

Meeting Date

Topic Defense Contracting

Bill Number 594
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 1316 S Bronough
Street

Phone 521-1235

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

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

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR GREG EVERS

2nd District

March 5, 2014

Honorable Senator Altman
Senate Military Affairs, Space and Domestic Security
314 SB
404 S. Monroe St.
Tallahassee, FL 32399

RE: SB 596

Dear Chairman Altman:

Please allow this letter to serve as my respectful request to include SB 596 regarding Defense Contractors on the agenda for your Military Affairs, Space and Domestic Security Committee meeting.

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

Sincerely,

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

Greg Evers
State Senator, District 2

REPLY TO:

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

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Military and Veterans Affairs, Space, and Domestic Security
ITEM: CS/SB 596
FINAL ACTION: Favorable
MEETING DATE: Wednesday, March 19, 2014
TIME: 11:00 a.m.—12:30 p.m.
PLACE: 37 Senate Office Building

FINAL VOTE		SENATORS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay
		Abruzzo						
X		Bullard						
X		Dean						
		Evers						
X		Gardiner						
X		Legg						
		Sachs						
X		Gibson, VICE CHAIR						
X		Altman, CHAIR						
6	0	TOTALS						
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 1140

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

SUBJECT: Public Records/Emergency Planning or Notification by Agency

DATE: March 19, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Ryon/Spaulding	Ryon	MS	Fav/CS
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1140 creates a public records exemption for certain personal identification information provided to the Florida Division of Emergency Management (DEM) by an individual or a business for the purpose of receiving assistance with emergency planning. The bill provides for retroactive application of the exemption, and for legislative review and repeal under the provisions of the Open Government Sunset Review Act.

The bill contains a statement of public necessity as required by the State Constitution.

Because the bill creates a public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for passage.

II. Present Situation:

Florida's Public Records Law

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.¹⁰ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹¹ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹²

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean as "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹¹ Section 119.15(3), F.S.

¹² Section 119.15(6)(b), F.S.

Open Government Sunset Review Act

The Open Government Sunset Review Act¹³ sets forth a legislative review process for newly-created or substantially-amended public-records or public-meetings exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public-records or public-meetings exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

The Act also requires consideration of six questions regarding the scope of the exemption and related protections.¹⁴

Division of Emergency Management's "Get a Plan" Campaign

The Florida Division of Emergency Management (DEM), established in the Executive Office of the Governor,¹⁵ is the state's emergency management agency. The State Emergency Management Act directs the DEM to oversee and manage emergency preparedness, response, recovery and mitigation programs in Florida.¹⁶ Among the DEM's statutorily required duties is the requirement to institute a multifaceted public educational campaign on emergency preparedness.¹⁷ Such a campaign must promote the personal responsibility of individual citizens to be self-sufficient for up to 72 hours following a natural or manmade disaster.¹⁸

In 2006, the DEM launched its "Get a Plan" campaign to encourage individuals, families, and businesses to develop disaster plans in preparation of and in response to natural or manmade disasters. "Get a Plan" is an online preparedness tool that allows individuals, families, and businesses to create an emergency plan tailored to the specific needs of the user. The tool allows users to establish a user name and password to access the online tool at their convenience to adjust or update any aspect of their emergency response plan.

Emergency plans may include sensitive information such as alternative locations for families to meet or business relocation in the event of building damage; business contacts, including utility providers, supplier, and employees; backup suppliers for key materials and services dependent

¹³ Section 119.15, F.S.

¹⁴ Section 119.15(6)(a), F.S.

¹⁵ Section 14.2016, F.S.

¹⁶ Section 252.31, F.S.

¹⁷ Section 252.35(2)(i), F.S.

¹⁸ Id.

upon by businesses; important records and documents that the business needs to operate; and emergency community contacts and disaster resources.

From 2006 to 2013, the DEM's "Get a Plan" tool hosted emergency response plans for 50,628 families and 8,551 businesses. Due to technical issues, the "Get a Plan" online tool has been temporarily removed from the DEM's website. However, the DEM plans to re-launch the "Get a Plan" online tool with an improved design and function to encourage more participation among Florida residents and businesses in planning for emergencies.¹⁹

Currently, information collected by the DEM for the purpose of assisting families and businesses with emergency planning is not exempt from the public records requirements in s. 119.071(1), F.S., and s. 24(a), Art. I of the State Constitution.

III. Effect of Proposed Changes:

The bill creates s. 252.905, F.S., to exempt from public records requirements any information provided by an individual or business to the DEM for the purpose of receiving assistance with emergency planning. The exemption applies to information held by the DEM before, on, or after July 1, 2014.

The exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill contains a finding of public necessity for this exemption. It states that it is a public necessity that information furnished by a person or business to the DEM for the purpose of obtaining assistance with emergency planning be exempt from public records requirements. The finding provides that the DEM manages a public awareness program to encourage individuals, families, and businesses to develop disaster plans in preparation of and in response to natural or manmade disasters. These disaster plans may include sensitive information and the potential disclosure of such information serves as a disincentive for creating a disaster plan. The bill finds that without the exemption, the effective and efficient administration of the DEM's statewide public awareness program is significantly impaired. The bill further finds that the harm that may result from the release of personal or business information obtained by the DEM for emergency disaster planning outweighs any public benefit that may be derived from disclosure of information.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁹ "Get a Plan" Campaign information obtained via e-mail correspondence with DEM staff on March 13, 2014. (On file with the Senate Military and Veterans Affairs, Space, and Domestic Security Committee).

B. Public Records/Open Meetings Issues:

Vote Requirement: Section 24(c), Art. I of the State Constitution requires a two-thirds vote of each house of the Legislature for passage of a newly created public records or public meetings exemption. Because this bill creates a new public records exemption, it requires a two-thirds vote for passage.

Subject Requirement: Section 24(c), Art. I of the State Constitution requires the Legislature to create public records or public meetings exemptions in legislation separate from substantive law changes. This bill complies with that requirement.

Public Necessity Statement: Section 24(c), Art. I of the State Constitution requires a public necessity statement for a newly created public records or public meetings exemption. Because this bill creates a new public records exemption, it includes a public necessity statement.

Breadth: A public records exemption must be no broader than necessary to accomplish the stated purpose of the law.²⁰ The public records exemption in the bill applies only to the DEM for the purpose of providing assistance with emergency planning.

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.

²⁰ *Memorial Hospital-West Volusia v. News-Journal Corporation*, 729 So. 2d 373, 380 (Fla. 1999); *Halifax Hospital Medical Center v. News-Journal Corporation*, 724 So. 2d 567 (Fla. 1999).

VIII. Statutes Affected:

This bill creates section 252.905 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 Military and Veterans Affairs, Space, and Domestic Security on March 19, 2014:

The committee substitute:

- Creates a new section in ch. 252, F.S., to accommodate the public records exemption in the bill.
- Provides that the exemption is subject to the Open Government Sunset Review Act.
- Adds to the statement of public necessity that without the exemption, the effective and efficient administration of DEM's public awareness program is significantly impaired.

B. Amendments:

None.



682040

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Military and Veterans Affairs, Space, and Domestic Security (Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 252.905, Florida Statutes, is created to
read:

252.905 Emergency planning information; public records
exemption.—

(1) Any information furnished by a person or a business to
the division for the purpose of being provided assistance with



682040

11 emergency planning is exempt from s. 119.07(1) and s. 24(a),
12 Art. I of the State Constitution. This exemption applies to
13 information held by the division before, on, or after the
14 effective date of this exemption.

15 (2) This section is subject to the Open Government Sunset
16 Review Act in accordance with s. 119.15, and shall stand
17 repealed on October 2, 2019, unless reviewed and saved from
18 repeal through reenactment by the Legislature.

19 Section 2. The Legislature finds that it is a public
20 necessity that information furnished by a person or a business
21 to the Division of Emergency Management for the purpose of being
22 provided assistance with emergency planning be made exempt from
23 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
24 State Constitution. The Division of Emergency Management manages
25 a statewide public awareness program to educate the public to be
26 self-sufficient for up to 72 hours following a natural or
27 manmade disaster. The public awareness program encourages
28 individuals, families, and businesses to develop disaster plans
29 in preparation of and in response to such natural or manmade
30 disasters. Emergency plans may include sensitive information
31 such as alternate locations for families to meet or business
32 relocation in the event of building damage; business contacts,
33 including utility providers, suppliers, and employees; backup
34 suppliers for key materials and services depended upon by the
35 business; important records and documents that the business
36 needs to operate; and emergency community contacts and disaster
37 resources. Without this exemption, the effective and efficient
38 administration of the Division of Emergency Management's
39 statewide public awareness program is significantly impaired.



682040

40 The potential disclosure of sensitive information has served as
41 a disincentive for creating a disaster plan, particularly among
42 businesses that fear that the disclosure of sensitive
43 information may place their businesses at a competitive
44 disadvantage. Therefore, the Legislature finds that the harm
45 that may result from the release of personal or business
46 information obtained by the Division of Emergency Management for
47 the purpose of providing assistance with emergency planning for
48 the preparation of and response to a natural or manmade disaster
49 outweighs any public benefit that may be derived from disclosure
50 of the information.

51 Section 3. This act shall take effect July 1, 2014.

52
53 ===== T I T L E A M E N D M E N T =====

54 And the title is amended as follows:

55 Delete everything before the enacting clause
56 and insert:

57 A bill to be entitled
58 An act relating to public records; creating s.
59 252.905, F.S.; creating an exemption from public
60 records requirements for information furnished to the
61 Division of Emergency Management by a person or
62 business for the purpose of obtaining assistance with
63 emergency planning; providing for retroactive
64 application of the exemption; providing for future
65 repeal and legislative review of the exemption;
66 providing a statement of public necessity; providing
67 an effective date.

By Senator Hays

11-01173A-14

20141140__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; providing an exemption from public
 4 records requirements for information furnished to an
 5 agency by a person or business for the purpose of
 6 obtaining assistance with emergency planning or
 7 emergency notification; providing a statement of
 8 public necessity; providing an effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Paragraph (j) of subsection (5) of section
 13 119.071, Florida Statutes, is amended to read:
 14 119.071 General exemptions from inspection or copying of
 15 public records.—
 16 (5) OTHER PERSONAL INFORMATION.—
 17 (j)1. Any information furnished by a person or business to
 18 an agency for the purpose of being provided assistance with
 19 emergency planning or emergency notification by the agency,
 20 ~~including the person's name, address, telephone number, e-mail~~
 21 ~~address, or other electronic communication address,~~ is exempt
 22 from s. 119.07(1) and s. 24(a), Art. I of the State
 23 Constitution. This exemption applies to information held by an
 24 agency before, on, or after the effective date of this
 25 exemption.
 26 2. This paragraph is subject to the Open Government Sunset
 27 Review Act in accordance with s. 119.15, and shall stand
 28 repealed on October 2, 2016, unless reviewed and saved from
 29 repeal through reenactment by the Legislature.

Page 1 of 2

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

11-01173A-14

20141140__

30 Section 2. The Legislature finds that it is a public
 31 necessity that information furnished by a person or business to
 32 an agency for the purpose of obtaining assistance with emergency
 33 planning or emergency notification be exempt from s. 119.07(1),
 34 Florida Statutes, and s. 24(a), Article I of the State
 35 Constitution. The Division of Emergency Management manages a
 36 statewide public awareness program to educate the public to be
 37 self-sufficient for up to 72 hours following a natural or
 38 manmade disaster. The public awareness program encourages
 39 individuals, families, and businesses to develop disaster plans
 40 in preparation of and in response to such natural or manmade
 41 disasters. Emergency plans may include sensitive information
 42 such as alternate locations for families to meet or business
 43 relocation in the event of building damage; business contacts,
 44 including utility providers, suppliers, and employees; backup
 45 suppliers for key materials and services depended upon by the
 46 business; important records and documents that the business
 47 needs to operate; and emergency community contacts and disaster
 48 resources. The potential disclosure of sensitive information has
 49 served as a disincentive for creating a disaster plan,
 50 particularly among businesses that fear that the disclosure of
 51 sensitive information may place their businesses at a
 52 competitive disadvantage. Therefore, the Legislature finds that
 53 the harm that may result from the release of personal or
 54 business information obtained by an agency for emergency
 55 planning for the preparation of and in response to a natural or
 56 manmade disaster outweighs any public benefit that may be
 57 derived from disclosure of the information.
 58 Section 3. This act shall take effect July 1, 2014.

Page 2 of 2

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-19-14

Meeting Date

Topic DEM Public Records

Bill Number 1140
(if applicable)

Name Julie Roberts

Amendment Barcode _____
(if applicable)

Job Title External Affairs Dir

Address 2555 Shumard Oak
Street

Phone _____

Tallahassee FL 32399
City State Zip

E-mail _____

Speaking: For Against Information

Representing DEM

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ALAN HAYS
11th District

COMMITTEES:
Appropriations Subcommittee on General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Governmental Oversight and Accountability, *Vice Chair*
Appropriations
Appropriations Subcommittee on Criminal and Civil Justice
Banking and Insurance
Commerce and Tourism

JOINT COMMITTEES:
Joint Select Committee on Collective Bargaining, *Co-Chair*
Joint Legislative Auditing Committee
Joint Legislative Budget Commission

MEMORANDUM

To: Senator Thad Altman, Chair
Military and Veterans Affairs, Space, and Domestic Security Committee
CC: Elizabeth Ryon, Staff Director
Lois Graham, Committee Administrative Assistant

From: Senator D. Alan Hays

Subject: Request to agenda SB 1140 – Public Records/Emergency Planning or Notification by Agency

Date: February 28, 2014

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

Sincerely,

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 110, Clermont, Florida 34711 (352) 241-9344 FAX: (888) 263-3677

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
COMMITTEE VOTE RECORD

COMMITTEE: Military and Veterans Affairs, Space, and Domestic Security
ITEM: SB 1140
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, March 19, 2014
TIME: 11:00 a.m.—12:30 p.m.
PLACE: 37 Senate Office Building

FINAL VOTE		SENATORS	3/19/2014 ¹ Amendment 682040					
			Yea	Nay	Yea	Nay	Yea	Nay
		Abruzzo						
X		Bullard						
X		Dean						
		Evers						
X		Gardiner						
X		Legg						
		Sachs						
X		Gibson, VICE CHAIR						
X		Altman, CHAIR						
6	0		RCS	-				
Yea	Nay	TOTALS	Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable RCS=Replaced by Committee Substitute TP=Temporarily Postponed WD=Withdrawn
 UNF=Unfavorable RE=Replaced by Engrossed Amendment VA=Vote After Roll Call OO=Out of Order
 -R=Reconsidered RS=Replaced by Substitute Amendment VC=Vote Change After Roll Call AV=Abstain from Voting

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SM 1298

INTRODUCER: Military and Veterans Affairs, Space, and Domestic Security and Senator Brandes

SUBJECT: Disaster Savings Account Act

DATE: March 21, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Ryon/Spaulding</u>	<u>Ryon</u>	<u>MS</u>	<u>Fav/CS</u>
2.	_____	_____	<u>BI</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SM 1298 is a memorial to the Congress of the United States urging it to pass the Disaster Savings Account Act of 2014. This congressional proposal would allow homeowners to establish a tax-free savings account to be used for expenses to retrofit homes to make them more disaster-resistant.

II. Present Situation:

The Impact of Natural Disasters in the United States

Since 1980, the United States has been affected by 151 weather/climate disasters that resulted in over \$1 billion in damages for each event, costing U.S. taxpayers in excess of \$1 trillion in total damages.¹ Seventeen of those billion dollar disasters were hurricanes or severe flooding events that impacted Florida, causing \$321.5 billion in damages in affected states and resulted in 2,740 deaths.²

Florida's vulnerable geography and environment combined with the subtropical climate create continuous threats from these severe weather events.³ The state's susceptibility to these severe

¹ National Oceanic and Atmospheric Administration, *Billion-Dollar U.S. Weather/Climate Disasters 1980-2013*. Available at: <http://www.ncdc.noaa.gov/billions/events.pdf>.

² Id.

³ Florida Division of Emergency Management. *The State of Florida Tropical and Non-Tropical Severe Weather Annex to the 2012 Florida Comprehensive Emergency Management Plan*. Available at:

weather events is evidenced by its rank as the state with the fifth highest number of Federal Disaster Declarations⁴ over the past 60 years with 66 declarations.⁵

From an insurance perspective, Florida is significantly exposed to potential loss due to a storm or flood. The following bullets are characteristic of Florida's risk to natural disasters:

- Over 2 million National Flood Insurance Program (NFIP)⁶ policies are written on Florida properties, accounting for approximately 37 percent of the total policies written by the NFIP nationwide.⁷
- Florida was ranked as the most expensive state for homeowners insurance in 2011, with an average expenditure of \$1,933.⁸
- Florida has the highest number of properties at potential risk for hurricane-driven storm surge,⁹ with more than 1.4 million properties valued at more than \$386 billion.¹⁰
- The value of coastal exposure in Florida was nearly \$2.9 trillion in 2012, far exceeding the other gulf region states,¹¹ who have a combined coastal exposure of 1.6 trillion.¹²
- Six of the twelve most costly hurricanes in insurance history impacted Florida,¹³ with the following insured losses for each event:
 - Hurricane Andrew (1992): \$25.6 billion.
 - Hurricane Jeanne (2004): \$5.6 billion.
 - Hurricane Francis (2004): \$5.6 billion.
 - Hurricane Charley (2004): \$9.2 billion.
 - Hurricane Wilma (2005): \$11.1 billion.
 - Hurricane Katrina (2005): \$48.7 billion.¹⁴

<http://www.floridadisaster.org/documents/CEMP/2012/Tropical%20and%20Non-Tropical%20Severe%20Weather%20Annex%20-%202012.20.11.pdf>

⁴ At the request of a disaster impacted state's Governor, the President may declare that a major disaster or emergency exists, thus activating an array of Federal programs to assist in the response and recovery effort. Not all programs, however, are activated for every disaster.

⁵ Federal Emergency Management Agency. *Disaster Declarations by State/Tribal Government*. Available at: <http://www.fema.gov/disasters/grid/state-tribal-government>.

⁶ The NFIP is administered by the Federal Emergency Management Agency and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government.

⁷ Federal Emergency Management Agency, NFIP Fiscal Year-End Statistics by State - Total Number of Policies in Force: As of September 30, 2013, http://www.fema.gov/media-library-data/1393877626658-20650668ddf12d6bf6da138a0136b385/Total_PIF_fy2013.pdf

⁸ Presentation to the Florida House of Representatives Insurance & Banking Subcommittee, by Lynne McChristian, Insurance Information Institute: "State of the Florida Property Insurance Market: Past, Present and Future," Feb. 19, 2014. p. 21. (Citing 2013 National Association of Insurance Commissioners). Available at <http://www.iii.org/assets/docs/pdf/Florida-021914.pdf>.

⁹ Storm surge is a complex phenomenon that occurs when water is pushed toward the shore through force of powerful winds associated with cyclonic storms. Storm surge has the potential to cause tremendous property loss, resulting in billions of dollars in property damage. *See infra* note 10, at 5 and 10.

¹⁰ Core Logic. *2013 Storm Surge Report*. p. 13. Available at: <http://www.corelogic.com/about-us/researchtrends/storm-surge-report.aspx>.

¹¹ Gulf region states, sometime referred to as "hurricane alley," include: Florida, Alabama, Mississippi, Louisiana, and Texas.

¹² *See supra* note 8, at 45.

¹³ *See supra* note 8, at 44.

¹⁴ *Id.*

Disaster Mitigation

Mitigation is the effort to reduce the loss of life and property by lessening the impact of disasters.¹⁵ Mitigation creates safer communities by reducing loss of life and property, enables individuals to recover more rapidly from floods and other disasters, and lessens the financial impact to the local, state, and federal government.¹⁶ Mainly funded by grants from state and federal resources, mitigation has also been successful in avoiding flood losses, reducing the need for public sheltering, and reducing the cost of disaster response and recovery.¹⁷ Examples of mitigation efforts include the elevation or relocation of chronically flood-damaged homes away from flood hazard areas, retrofitting buildings to make them resistant to earthquakes or strong winds, and adoption and enforcement of adequate building codes and standards set by local, state and federal governments.¹⁸

The Federal Emergency Management Agency (FEMA) manages various grant programs to encourage individuals and communities to take proactive steps to prepare for storms and flooding to mitigate losses and damages. FEMA's Hazard Mitigation Grant Program provides grants to states and local governments to implement long-term hazard mitigation measures after a major disaster declaration.¹⁹ Additionally, FEMA's Flood Mitigation Assistance Program provides funding to states and communities to implement measures that reduce or eliminate the long-term risk of flood damage to buildings, manufactured homes, and other structures.²⁰ A 2005 study found that on average, a dollar spent by FEMA on hazard mitigation provides the nation \$4 in future benefits.²¹

The Florida Division of Emergency Management supports hazard mitigation in the state by providing assistance to communities through the Residential Construction Mitigation Program. This program promotes wind mitigation and funds hazard mitigation upgrades for residents.

The Disaster Savings Account Act of 2014

The Disaster Savings Accounts Act of 2014 is a pending congressional proposal to amend the Internal Revenue Code to allow homeowners to establish a tax-exempt savings account exclusively for the purpose of paying qualified disaster mitigation and disaster recovery expenses.²² H.R. 3989 (U.S. Representative Dennis Ross) and S. 1991 (U.S. Senator Jim Inhofe) provide a deduction from gross income up to \$5,000 in a taxable year for cash contributions to

¹⁵ Federal Emergency Management Agency. *Mitigation's Value to Society Fact Sheet*. Available at: http://www.fema.gov/media-library-data/20130726-1621-20490-9581/mitigationvaluetosociety_2012.pdf.

¹⁶ *Id.*

¹⁷ Florida Division of Emergency Management. *State of Florida Hazard Mitigation Plan*. 2013. Available at: [http://www.floridadisaster.org/Mitigation/State/documents/2013stateplan/Executive%20Summary%20\(final%20draft\).pdf](http://www.floridadisaster.org/Mitigation/State/documents/2013stateplan/Executive%20Summary%20(final%20draft).pdf)

¹⁸ Federal Emergency Management Agency. *The Disaster Process & Disaster Aid Programs*. Available at: <http://www.fema.gov/disaster-process-disaster-aid-programs>

¹⁹ 42 U.S.C. s. 5131

²⁰ 42 U.S.C. s. 4101

²¹ Multihazard Mitigation Council. *Natural Hazard Mitigation Saves: An Independent Study to Assess the Future Savings from Mitigation Activities*. 2005. Available at: http://c.ymcdn.com/sites/www.nibs.org/resource/resmgr/MMC/hms_vol1.pdf.

²² H.R. 3989, 113th Cong. (February 4, 2014); S. 1991, 113th Cong. (February 4, 2014)

such account.²³ Homeowners may expend funds from their disaster savings account for the following mitigation expenses:

- Safe rooms;²⁴
- Opening protection (i.e., impact and wind resistant windows, exterior doors, garage doors);
- Reinforcement of roof-to-wall and floor-to-wall connections for wind or seismic activity;
- Roof covering for impact, fire, or high wind resistance;
- Cripple and shear walls to resist seismic activity;²⁵
- Flood resistant building materials;
- Elevating structures and utilities above base flood elevation;
- Lightning protection systems;
- Whole home standby generators; and
- Any activity specified by the Secretary of the Treasury as appropriate to mitigate the risks of future hazards.

Additionally, under the proposal, homeowners may expend funds from their disaster savings account to replace or repair disaster-related uninsured personal casualty personal losses totaling \$3,000 or greater.

III. Effect of Proposed Changes:

The memorial urges the Congress of the United States to pass the Disaster Savings Account Act of 2014 creating disaster savings accounts to pay expenses for mitigating the effects of a disaster.

If passed, copies of CS/SM 1298 are to be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²³ Other congressionally approved tax-advantaged savings account include Individual Retirement Accounts (IRAs) and Health Savings Accounts (HSAs).

²⁴ A safe room is a hardened structure specifically designed to provide "near-absolute protection" in extreme weather events, including tornadoes and hurricanes.

²⁵ Cripple walls are short exterior walls built on top of foundation walls to create a crawlspace. These walls are built to carry the entire weight of the house. During an earthquake, cripple walls must sustain lateral (horizontal) movement and are at risk of failure. This can cause the house to collapse or shift significantly, often off its foundation. Cripple walls were a common construction practice in west coast homes until 1950.

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:

None.

IX. Additional Information:A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Military and Veterans Affairs, Space, and Domestic Security on March 19, 2014:**

The committee substitute elaborates on the unique risk of hurricanes and floods to Florida and the benefits of hazard mitigation to society.

B. Amendments:

None.



640820

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/21/2014	.	
	.	
	.	
	.	

The Committee on Military and Veterans Affairs, Space, and Domestic Security (Legg) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause and insert:

That the Congress of the United States is urged to pass the Disaster Savings Accounts (DSA) Act of 2014, sponsored by United State Representative Dennis Ross and United States Senator Jim Inhofe, which allows individuals a deduction for amounts that are contributed to disaster savings accounts and used for disaster mitigation expenses.



640820

11 BE IT FURTHER RESOLVED that copies of this memorial be
12 dispatched to the President of the United States, to the
13 President of the United States Senate, to the Speaker of the
14 United States House of Representatives, and to each member of
15 the Florida delegation to the United States Congress.

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 everything before the resolving clause
20 and insert:

21 A bill to be entitled
22 A memorial to the Congress of the United States,
23 urging Congress to pass the Disaster Savings Accounts
24 Act to encourage the mitigation of property damage and
25 costs before a natural disaster strikes.

26
27 WHEREAS, Florida carries more hurricane risk than all of
28 its neighboring "hurricane alley" states combined, and

29 WHEREAS, Florida, which represented less than 6 percent of
30 the national population in 2011, accounts for about 40 percent
31 of the total number of policies issued by the National Flood
32 Insurance Program, and

33 WHEREAS, Florida, with its unique hurricane and flood
34 risks, ranks among the most expensive in the nation for
35 homeowners insurance, and

36 WHEREAS, mitigation programs and improvements produce safer
37 structures and reduce the impact of natural disasters, thereby
38 reducing property damage, loss of life, insurance rates, and
39 other costs associated with disasters, and



640820

40 WHEREAS, research shows that every dollar invested in
41 mitigation results in 4 to 7 times that amount in savings, and

42 WHEREAS, disaster mitigation projects produce jobs in the
43 manufacturing and construction sectors, and

44 WHEREAS, tax-preferred savings accounts encourage
45 homeowners to fortify their homes, mitigate against future
46 natural disasters, and invest in their own safety, and

47 WHEREAS, the Disaster Savings Accounts Act of 2014,
48 proposed in H.R. 3989 and S. 1991, is a market-based solution to
49 empower homeowners against natural disaster risks, and

50 WHEREAS, the Disaster Savings Accounts Act of 2014 was
51 introduced to amend the Internal Revenue Code of 1986 and to
52 allow individuals a deduction for amounts contributed to
53 disaster savings accounts to help defray the cost of preparing
54 their homes to better withstand a disaster, NOW, THEREFORE,

By Senator Brandes

22-01451-14

20141298__

Senate Memorial

A memorial to the Congress of the United States,
urging Congress to pass the Disaster Savings Account
Act to encourage the mitigation of property damage and
costs before a natural disaster strikes.

WHEREAS, Florida has a unique hurricane and flood risk and
the most expensive homeowners' insurance in the nation, and

WHEREAS, mitigation before a disaster strikes creates safer
structures and reduces the impact of natural disasters, thereby
reducing property damage and costs, including insurance costs,
associated with these disasters, and

WHEREAS, the creation of tax-exempt disaster savings
accounts will encourage homeowners to mitigate their homes from
future natural disasters, NOW, THEREFORE,

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

That the Congress of the United States is urged to pass the
Disaster Savings Account Act creating disaster savings accounts
to pay expenses for mitigating the effects of a disaster.

BE IT FURTHER RESOLVED that copies of this memorial be
dispatched to the President of the United States, to the
President of the United States Senate, to the Speaker of the
United States House of Representatives, and to each member of
the Florida delegation to the United States Congress.

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19

Meeting Date

Topic Disaster Savings

Bill Number 1298
(if applicable)

Name Carolyn Johnson

Amendment Barcode _____
(if applicable)

Job Title Policy Director

Address 130 S Bronough St
Street

Phone _____

City

State

Zip

E-mail _____

Speaking: For Against Information

Representing FL Chamber of Commerce

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)



The Florida Senate

Committee Agenda Request

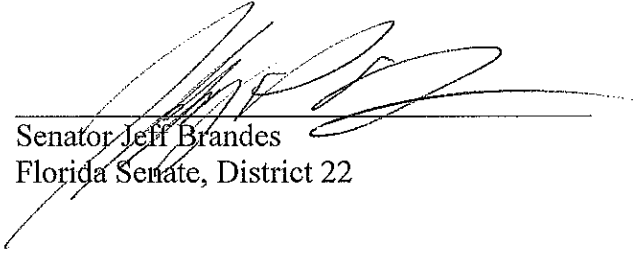
To: Senator Thad Altman, Chair
Committee on Military and Veterans Affairs, Space, and Domestic Security

Subject: Committee Agenda Request

Date: March 6, 2014

I respectfully request that **Senate Bill #1298**, relating to _____, be placed on the:

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



Senator Jeff Brandes
Florida Senate, District 22

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 1326

INTRODUCER: Military and Veterans Affairs, Space and Domestic Security and Senator Brandes

SUBJECT: Emergency Management

DATE: March 20, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hoagland	Ryon	MS	Fav/CS
2.			CA	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

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

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

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

II. Present Situation:

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

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

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

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.⁵ The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government. Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.⁶

In 1973⁷ the U.S. Congress passed the Flood Disaster Protection Act. The 1973 Act required property owners with mortgages issued by federally regulated or insured lenders to purchase flood insurance if their properties are located in Special Flood Hazard Areas. Special Flood Hazard Areas are defined by FEMA as high-risk areas where there is at least a 1 in 4 chance of flooding during a 30-year mortgage.⁸

¹ Section 70.001(1) and (9), F.S.

² Section 70.001(2)-(3)(a), F.S.

³ Section 70.001(3)(c), F.S.

⁴ Thomas Ruppert, Esq., Coastal Planning Specialist, Florida Sea Grant College Program and Michael Candiotti, J.D., *Analysis and 2011 Update on the Bert J. Harris, Jr., Private Property Rights Protection Act*, https://www.flseagrant.org/wp-content/uploads/2012/01/BertHarrisAct_analysis_FSG-web_1.11.pdf (last visited 3/12/14) (citing The Clean Water Act, 33 U.S.C. § 1342(b) (2010); see Ronald L. Weaver, *1997 Update on the Bert Harris Private Property Protection Act*, 9 FLA. BAR. J 70, n. 3 (1997)).

⁵ <http://www.fema.gov/media-library/assets/documents/7277?id=2216> (Last visited March 17, 2014).

⁶ *National Flood Insurance Program: Program Description*, pgs. 2-4., Federal Emergency Management Agency/Federal Insurance and Mitigation Administration (August 1, 2002) <http://www.fema.gov/media-library/assets/documents/1150?id=1480> (Last visited March 17, 2014).

⁷ http://www.fema.gov/media-library-data/20130726-1545-20490-9247/frm_acts.pdf (Last visited March 17, 2014).

⁸ http://www.floodsmart.gov/floodsmart/pages/flooding_flood_risks/defining_flood_risks.jsp (Last visited March 17, 2014).

The National Flood Insurance Reform Act of 1994⁹ (1994 Reform Act) required federal financial regulatory agencies¹⁰ to revise their flood insurance regulations. The 1994 Reform Act applied flood insurance requirements to loans purchased by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) and to agencies that provide government insurance or guarantees such as the Small Business Administration, the Federal Housing Administration, and the U.S. Department of Veterans Affairs. Lending institutions regulated by federal agencies are prohibited from offering loans on properties located in a Special Flood Hazard Area (SFHA) of a community participating in the NFIP unless the property is covered by flood insurance.¹¹ The amount of flood insurance required by lending institutions must be at least equal to the outstanding principal balance of the loan, or the maximum amount¹² available under the NFIP, whichever is less.

Flood Insurance Rate Maps

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

National Flood Insurance Program Community Rating System

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

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

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

⁹ Title V of the Riegle Community Development and Regulatory Improvement Act of 1994. Pub. L. 103-325, Title V, 108 Stat. 2160, 2255-87 (September 23, 1994).

¹⁰ Office of Comptroller of Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, Farm Credit Administration and Federal Reserve.

¹¹ *FDIC Compliance Manual*, V – 6.1. <http://www.fdic.gov/regulations/compliance/manual/index.html> (Last visited March 17, 2014).

¹² Building coverage is limited to \$250,000 for residential dwellings and \$500,000 for non-residential buildings. Contents coverage is available for up to \$100,000 for a residence and \$500,000 for a business.

<https://www.fema.gov/pdf/fima/FEMA511-12-Chapter11.pdf> (last visited March 17, 2014).

¹³ <http://www.fema.gov/floodplain-management/flood-map> (Last visited March 12, 2014).

¹⁴ <http://www.fema.gov/national-flood-insurance-program-community-rating-system> (Last visited March 12, 2014).

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

A community can improve its CRS Class rating by implementing activities that relate to public information, mapping and regulations, flood damage reduction, and flood preparation. Activities within these categories are assigned points that relate to improved Class ratings for the community.¹⁶ As of October 2012, local governments in Florida are rated from Class 10 to Class 5.¹⁷ Class 5 provides a 25 percent discount for SFHA properties and a 10 percent discount for non-SFHA properties. No discounts are provided for communities with Class 10 ratings.¹⁸

The Biggert-Waters Flood Insurance Reform Act

In 2012 the United States Congress passed the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters Act).¹⁹ The Biggert-Waters Act reauthorized the National Flood Insurance Program for 5 years. Key provisions of the legislation require the NFIP to raise rates to reflect true flood risk, make the program more financially stable, and change how Flood Insurance Rate Map updates impact policyholders. These changes by Congress have resulted or will result in premium rate increases for approximately 20 percent of NFIP policyholders nationwide.

The Biggert-Waters Act increases flood insurance premiums purchased through the program for second homes, business properties, severe repetitive loss properties, and substantially improved damaged properties by requiring premium increases of 25 percent per year until premiums meet the full actuarial cost of flood coverage. Most residences immediately lose their subsidized²⁰ rates if the property is sold, the policy lapses, repeated and severe flood losses occur, or a new policy is purchased. Policyholders whose communities adopt a new, updated Flood Insurance Rate Map (FIRM) that results in higher rates will experience a 5-year phase in of rate increases to achieve rates that incorporate the full actuarial cost of coverage.

NFIP Flood Insurance in Florida

Over 2 million NFIP policies are written on Florida properties, with approximately 268,500 policies receiving subsidized rates.²¹ Florida policies account for approximately 37 percent of the total policies written by the NFIP.²²

¹⁵ http://www.fema.gov/media-library-data/20130726-1605-20490-8915/nfip_crs_fact_sheet_sept_2012.txt (Last visited March 12, 2014).

¹⁶ *Id.*

¹⁷ http://www.fema.gov/media-library-data/45d30e14bdec841d92462f9424567b73/19_crs_508_oct2013.pdf (Last visited March 12, 2014).

¹⁸ *Id.*

¹⁹ <http://www.fema.gov/flood-insurance-reform-act-2012> (Last visited March 17, 2014).

²⁰ A subsidized policy is one that does not pay the full actuarial rate and is not reflective of the true risk of flood to that property. Homes located in a high-risk flood zone and built before the first flood insurance rate map became effective, and that have not been substantially damaged or improved, may currently be receiving subsidized flood insurance premium rates. <http://www.fema.gov/region-vi/national-flood-insurance-program-reform-frequently-asked-questions> (Last visited March 17, 2014).

²¹ Office of Insurance Regulation, *The Biggert-Waters Flood Insurance Reform Act of 2012*, (Presentation to the Florida Senate Banking and Insurance Committee on October 8, 2013). http://flsenate.gov/PublishedContent/Committees/2012-2014/BI/MeetingRecords/MeetingPacket_2346.pdf (Last visited March 17, 2014).

²² <http://bsa.nfipstat.fema.gov/reports/1011.htm> (Last visited March 17, 2014).

Historically, properties insured in Florida have paid approximately \$3.60 in premium for NFIP flood coverage for every \$1 received in claims payments.²³ The rate impact of the Biggert-Waters Act on subsidized policies in Florida is approximately as follows:

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

Florida Division of Emergency Management

The Division of Emergency Management (DEM), established in the Executive Office of the Governor,²⁴ is the state's emergency management agency. The duties of DEM are provided in part I of chapter 252, F.S., known as the State Emergency Management Act.²⁵

Section 252.35, F.S., provides the duties of DEM, including:²⁶

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

DEM's Bureau of Mitigation houses the State Floodplain Management Office. Floodplain Management Specialists work with Florida's communities, assisting them to manage development in their floodplains, as well as monitoring these efforts to assure compliance with the NFIP. The State Floodplain Management Office also coordinates and/or collaborates on the following activities statewide:²⁷

- Map Modernization and FEMA Risk MAP priorities
- Integration of flood-resistant standards into the Florida Building Code
- Coordination with federal flood mitigation grant programs

²³ Wharton Center for Risk Management and Decision Processes, *Who's Paying and Who's Benefiting Most From Flood Insurance Under the NFIP? A Financial Analysis of the U.S. National Flood Insurance Program (NFIP)*, (Issue Brief, Fall 2011).

²⁴ Section 14.2016, F.S.

²⁵ Section 252.31, F.S.

²⁶ Subsection 252.35(2)(a)-(y), F.S.

²⁷ <http://www.floridadisaster.org/Mitigation/SFMP/Index.htm> (Last visited March 13, 2014).

- Integration of floodplain management concepts and tasks into local mitigation strategies (developed by each of the 67 Florida counties)
- Floodplain management and flooding issues pertaining to the State's Enhanced Hazard Mitigation Plan and planning process
- State agency management of state-owned facilities in special flood hazard areas
- Training of local floodplain management officials in partnership with the Florida Floodplain Managers Association
- Local floodplain management challenges and opportunities
- Coordination with the Florida Dam Safety Program
- Partnerships with federal, state and local organizations pertinent to floodplain management

The implementation of pre-disaster mitigation incentives, such as the NFIP Community Rating System and federal flood mitigation grant programs,²⁸ serve Florida's residents and businesses that continue to experience high growth and development.²⁹

Emergency Management Assistance Compact

The Emergency Management Assistance Compact (Compact) is a national interstate mutual aid agreement that enables states to share resources during times of disaster. Ratified by Congress,³⁰ the Compact serves as the nation's system for providing relief to states requesting assistance from assisting member states. EMAC can be used either in lieu of federal assistance or in conjunction with federal assistance. The 13 articles of the Compact that sets the foundation for sharing resources from state to state have been adopted by all 50 states, the District of Columbia, the U.S. Virgin Islands, and Puerto Rico.³¹

Article IX of the Compact addresses the payment of reimbursement, providing that any state that renders aid to another state is reimbursed by the state receiving such aid for any loss or damage to or expense incurred in the operation of any equipment and the provision of any service in answering a request for aid and for the costs incurred in connection with such requests; a state providing aid may assume in whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate such services to the receiving state without charge or cost. Any two or more states can enter into supplementary agreements establishing a different allocation of costs among those states.³²

Public Employee Per Diem and Travel Expenses

Section 112.061, F.S., establishes standard travel reimbursement rates applicable to all public officers, employees and authorized persons whose travel is authorized and paid by a public agency.³³ In order for exemptions to the provisions of section 112.061, F.S., to apply, the

²⁸ Such as the Flood Mitigation Assistance Program, the Severe Repetitive Loss Program, and the Repetitive Flood Claims Program

²⁹ See *supra* note, 27.

³⁰ PL-104-321

³¹ <http://www.fema.gov/pdf/emergency/nrf/EMACoverviewForNRF.pdf> (Last visited March 12, 2014).

³² *Id.*

³³ Subsection 112.016(1), F.S.

exemption must include a specific reference to section 112.061, F.S., and may only apply to the extent of the exemption.³⁴

In Florida, public employees that are deployed to assist during a disaster through the EMAC are reimbursed for travel per diem under section 112.061, F.S. Per diem rates in states requesting assistance may be higher than the Florida allowance causing hardship for employees supporting these states.³⁵

In 2006, the Legislature set the reimbursement rates for travelers as follows:³⁶

- The per diem rate is \$80.³⁷
- The breakfast rate is \$6.
- The lunch rate is \$11.
- The dinner rate is \$19.
- The per mile rate for a privately owned vehicle is 44.5 cents per mile.

III. Effect of Proposed Changes:

Section 1 amends s. 70.001, F.S., relating to private property rights protections, to provide that a cause of action does not exist for administrative actions taken or ordinances adopted by a governmental entity,³⁸ such as a county or municipality, to implement a Florida Insurance Rate Map issued by the Federal Emergency Management Agency if such action or ordinance is for the purpose of participating in the National Flood Insurance program. However, this provision's protection of a governmental entity's action does not apply if the administrative action or ordinance incorrectly applies any aspect of the Flood Insurance Map to a property such as, but not limited to, incorrectly assessing the elevation of the property.

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

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

³⁴ *Id.*

³⁵ Florida Division of Emergency Management, SB 1326 Agency Bill Analysis, March 5, 2014. (On file with Military and Veterans Affairs, Space, and Domestic Security Committee)

³⁶ Subsection 112.016 (6), F.S.

³⁷ If actual expenses exceed \$80, an employee may be reimbursed for actual expenses for lodging in addition to the statutory rates for meals as provided in Subsection 112.016(6), F.S.

³⁸ Subsection 70.001, F.S., defines the term "governmental entity" as an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority. The term does not include the United States or any of its agencies, or an agency of the state, a regional or a local government created by the State Constitution or by general or special act, any county or municipality, or any other entity that independently exercises governmental authority, when exercising the powers of the United States or any of its agencies through a formal delegation of federal authority.

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

The bill provides legislative findings that the passage by Congress of the Biggert-Waters Flood Insurance Reform Act of 2012 requires a complete and specific analysis of flood risk to Florida property owners to ensure continued availability of affordable flood insurance. The findings also call for the analysis to provide important data and insights supporting the entry of private insurance companies into the flood insurance market.

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

The risk analysis must consider existing vendor models recognized by the insurance industry, the Flood Insurance Rate Maps, and Special Flood Hazard Areas designated by the National Flood Insurance Program. The analysis must include, at a minimum:

- Determining the extent that flood insurance premium rates reasonably reflect the risk of loss to insurers.
- Identifying the likelihood of differentiated premium rates based on property location, value, and vulnerability to flood damage.
- Identifying policies to strengthen and support the investment of new private market underwriting capacity in Florida's flood insurance market.
- Review of the appropriateness of publically available premium rate factor analyses and commentary as related to latest available data on property vulnerability, flood risk, and cost of repair or rebuilding.
- Pilot studies of at least three sample inventory coastal regions, representing urban, suburban and rural areas in Florida. The pilot studies will include assessment of the building stock and quantitative catastrophic storm surge modeling to assess if current insurance premiums are sufficient for long-term, sustainable and affordable flood insurance.
- A comparison of the models' technical pricing of risks with those required by the NFIP and other insurers. The comparison must also consider commentary on potential reasons for any differences and recommended action to resolve those differences.

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

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

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

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

C. Government Sector Impact:

The bill appropriates \$127,368 to the Division of Emergency Management (DEM) from recurring General Revenue for the DEM to provide assistance to local governments participating in the National Flood Insurance Program Community Rating System.

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

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

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

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

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

IX. Additional Information:

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

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

The committee substitute:

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

- B. **Amendments:**

None.



475134

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/20/2014	.	
	.	
	.	
	.	

The Committee on Military and Veterans Affairs, Space, and Domestic Security (Evers) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Subsection (14) is added to section 70.001, Florida Statutes, to read:

70.001 Private property rights protection.-

(14) A cause of action does not exist under this section with respect to an administrative action taken or an ordinance adopted by a governmental entity to implement a Flood Insurance



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11 Rate Map issued by the Federal Emergency Management Agency for
12 the purpose of participating in the National Flood Insurance
13 Program unless such administrative action or ordinance
14 incorrectly applies any aspect of the Flood Insurance Rate Map
15 to a property such as, but not limited to, incorrectly assessing
16 the elevation of a property.

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

20 252.34 Definitions.—As used in this part, the term:

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

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

28 252.35 Emergency management powers; Division of Emergency
29 Management.—

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

33 (y) Maintain an updated state flood risk analysis
34 contingent upon funding by the Legislature and make such
35 analysis readily available to the public, and provide assistance
36 through designated personnel to local governments participating
37 in the National Flood Insurance Program Community Rating System.

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



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40 252.441 State flood risk analysis initiative.-

41 (1) The Legislature finds that passage by Congress of the
42 Biggert-Waters Flood Insurance Reform Act of 2012, Pub. L. No.
43 112-141, requires a complete and specific analysis of flood risk
44 to Florida property owners to ensure the continued availability
45 of flood insurance at affordable rates. Such an analysis could
46 provide important data and insights supporting the entry of
47 private insurance companies into the flood insurance market.

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

58 (a) A determination of the extent to which flood insurance
59 premium rates, including observed rate increases in the NFIP as
60 a result of the Biggert-Waters Flood Insurance Reform Act of
61 2012, reasonably reflect the risk of loss to insurers;

62 (b) The identification of the potential of differentiated
63 premium rates based on property location, value, and
64 vulnerability to flood damage;

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



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69 demand;

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

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

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

90 (3) The division must award the contract in accordance with
91 the competitive solicitation requirements in chapter 287 to a
92 firm that has experience in natural catastrophe risk modeling,
93 rate analysis consultation services, and transactional services.

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



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98
99 The Legislature may authorize annual updates to the state flood
100 risk analysis contingent upon specific funding in the General
101 Appropriations Act.

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

104 252.9335 Expense reimbursement under compact.—The travel
105 expense reimbursement provisions of s. 112.061 do not apply to
106 an employee of the state traveling under the Emergency
107 Management Assistance Compact when such expenses are reimbursed
108 based on the amount agreed upon in an interstate mutual aid
109 request for assistance.

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

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

121
122 ===== T I T L E A M E N D M E N T =====

123 And the title is amended as follows:

124 Delete everything before the enacting clause
125 and insert:

126 A bill to be entitled



475134

127 An act relating to emergency management; amending s.
128 70.001, F.S.; specifying the availability of a cause
129 of action with respect to a governmental entity
130 implementing a Flood Insurance Rate Map; amending s.
131 252.34, F.S.; defining the term "state flood risk
132 analysis"; amending s. 252.35, F.S.; revising the
133 duties of the Division of Emergency Management to
134 conform to changes made by the act; creating s.
135 252.441, F.S.; providing legislative findings;
136 requiring the division to contract for a flood risk
137 analysis; prescribing requirements for the risk
138 analysis; requiring the division to award the contract
139 in accordance with competitive solicitation
140 requirements; requiring the division to submit a
141 report of the risk analysis results to the Governor
142 and the Legislature by a specified date; providing
143 that the Legislature may authorize annual updates to
144 the risk analysis; creating s. 252.9335, F.S.;
145 exempting state employees from specified travel
146 expense provisions when traveling under the Emergency
147 Management Assistance Compact pursuant to a request
148 for assistance from another state under certain
149 circumstances; providing appropriations; providing an
150 effective date.

By Senator Brandes

22-01210C-14

20141326__

1 A bill to be entitled
 2 An act relating to emergency management; amending s.
 3 70.001, F.S.; specifying the availability of a cause
 4 of action with respect to a county implementing a
 5 Flood Insurance Rate Map; amending s. 252.34, F.S.;
 6 defining the term "state flood risk analysis";
 7 amending s. 252.35, F.S.; revising the duties of the
 8 Division of Emergency Management to conform to changes
 9 made by the act; creating s. 252.441, F.S.; providing
 10 legislative findings; requiring the division to
 11 contract for a flood risk analysis; prescribing
 12 requirements for the risk analysis; requiring the
 13 division to award the contract in accordance with
 14 competitive solicitation requirements; requiring the
 15 division to submit a report of the risk analysis
 16 results to the Governor and the Legislature by a
 17 specified date; providing that completion of the risk
 18 analysis is contingent upon an appropriation;
 19 providing that annual updates to the risk analysis may
 20 be authorized by the Legislature; creating s.
 21 252.9335, F.S.; exempting state employees from
 22 specified travel expense provisions when traveling
 23 under the Emergency Management Assistance Compact
 24 pursuant to a request for assistance from another
 25 state under certain circumstances; providing
 26 appropriations; providing an effective date.

27
 28 Be It Enacted by the Legislature of the State of Florida:
 29

Page 1 of 5

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

22-01210C-14

20141326__

30 Section 1. Subsection (14) is added to section 70.001,
 31 Florida Statutes, to read:
 32 70.001 Private property rights protection.—
 33 (14) A cause of action does not exist under this section
 34 with respect to an administrative action taken or an ordinance
 35 adopted by a county to implement a Flood Insurance Rate Map
 36 issued by the Federal Emergency Management Agency for the
 37 purpose of participating in the National Flood Insurance Program
 38 unless such administrative action or ordinance incorrectly
 39 applies any aspect of the Flood Insurance Rate Map to a property
 40 in such a way as to, but not limited to, incorrectly assess the
 41 elevation of the property.
 42 Section 2. Present subsection (9) of section 252.34,
 43 Florida Statutes, is redesignated as subsection (10), and a new
 44 subsection (9) is added to that section, to read:
 45 252.34 Definitions.—As used in this part, the term:
 46 (9) "State flood risk analysis" means the most recently
 47 updated flood risk analysis issued by the division pursuant to
 48 s. 252.441.
 49 Section 3. Present paragraph (y) of subsection (2) of
 50 section 252.35, Florida Statutes, is redesignated as paragraph
 51 (z), and a new paragraph (y) is added to that subsection, to
 52 read:
 53 252.35 Emergency management powers; Division of Emergency
 54 Management.—
 55 (2) The division is responsible for carrying out the
 56 provisions of ss. 252.31-252.90. In performing its duties, the
 57 division shall:
 58 (y) Maintain an updated state flood risk analysis

Page 2 of 5

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

22-01210C-14 20141326__

59 contingent upon funding by the Legislature and make such report
 60 readily available to the public, and provide assistance through
 61 designated personnel to local governments participating in the
 62 National Flood Insurance Program Community Rating System.

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

65 252.441 State flood risk analysis initiative.—

66 (1) The Legislature finds that passage by Congress of the
 67 Biggert-Waters Flood Insurance Reform Act of 2012, Pub. L. No.
 68 112-141, requires a complete and specific analysis of flood risk
 69 to Florida homeowners to ensure the continued availability of
 70 flood insurance at affordable rates. Such an analysis could
 71 provide important data and insights supporting the entry of
 72 private insurance companies into the flood insurance market.

73 (2) The division shall contract for a state flood risk
 74 analysis to evaluate the state's flood risk. Such analysis shall
 75 take into consideration existing vendor models recognized by the
 76 insurance industry, Flood Insurance Rate Maps issued by the
 77 Federal Emergency Management Agency, and Special Flood Hazard
 78 Areas designated by the National Flood Insurance Program (NFIP).
 79 The risk analysis must include, but is not limited to, the
 80 following:

81 (a) A determination of the extent to which flood insurance
 82 premium rates, including observed rate increases in the NFIP as
 83 a result of the Biggert-Waters Flood Insurance Reform Act of
 84 2012, reflect the risk of loss to insurers are reasonable;

85 (b) The identification of the likelihood of differentiated
 86 premium rates based on property location, value, and
 87 vulnerability to flood damage;

22-01210C-14 20141326__

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

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

96 (e) Selection of at least three geographical sample
 97 inventory regions representative of construction in this state
 98 for a pilot study in coastal regions. Selected sample inventory
 99 regions shall be equally representative between urban, suburban,
 100 and rural areas that have reliable, comprehensive public domain
 101 data available;

102 (f) A detailed data quality assessment of the relevant
 103 building stock assessments;

104 (g) Quantitative catastrophic storm surge modeling using
 105 vendor models recognized by the insurance industry to assess if
 106 current insurance premiums are sufficient to ensure the long-
 107 term, sustainable availability of flood insurance at affordable
 108 rates; and

109 (h) A comparison of the model's technical pricing of risks
 110 with those currently required by the NFIP and other insurers, as
 111 well as commentary on potential reasons for any differences and
 112 recommended action to resolve such differences.

113 (3) The division must award the contract in accordance with
 114 competitive solicitation requirements in chapter 287 to a firm
 115 that has experience in natural catastrophe risk modeling, rate
 116 analysis consultation services, and transactional services.

22-01210C-14

20141326__

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

121 (5) Completion of the risk analysis shall be contingent
122 upon funding provided in the 2014-2015 General Appropriations
123 Act. The Legislature may authorize annual updates to the state
124 flood risk analysis.

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

127 252.9335 Expense reimbursement under compact.--The travel
128 expense reimbursement provisions of s. 112.061 do not apply to
129 an employee of the state traveling under the Emergency
130 Management Assistance Compact when such expenses are reimbursed
131 based on the amount agreed upon in an interstate mutual aid
132 request for assistance.

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 19, 2014
Meeting Date

Topic Emergency Management

Bill Number 1326
(if applicable)

Name JANET BROWN

Amendment Barcode 475134
(if applicable)

Job Title Director of Legislative Policy & STAFF OFFICES

Address 625 N. Adams Street
Street

Phone 800-207-9406

Tallahassee, FL 32301
City State Zip

E-mail JANET_BROWN@TNC.ORG

Speaking: For Against Information

Representing The Nature Conservancy

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3-19-14
Meeting Date

Topic EMERGENCY MANAGEMENT

Bill Number 1326
(if applicable)

Name JEFF SHARKEY

Amendment Barcode _____
(if applicable)

Job Title CAG, PRESIDENT

Address 106 E. COLLEGE AVE. SUITE 640

Phone 850 224 1660

City TU State FL Zip 32301

E-mail JEFFREYSHARKEY@gmail.com

Speaking: For Against Information

Representing WILLIS GLOBAL RISK SOLUTIONS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



The Florida Senate

Committee Agenda Request

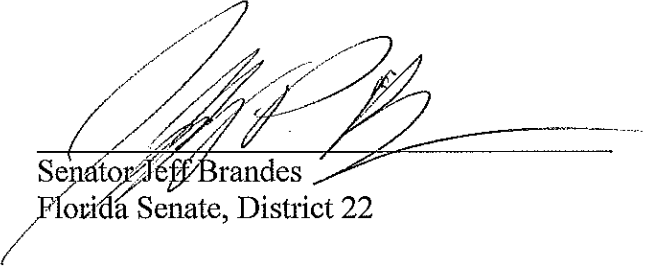
To: Senator Thad Altman, Chair
Committee on Military and Veterans Affairs, Space, and Domestic Security

Subject: Committee Agenda Request

Date: March 6, 2014

I respectfully request that **Senate Bill #1326**, relating to Emergency Management, be placed on the:

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



Senator Jeff Brandes
Florida Senate, District 22



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Commerce and Tourism, *Vice Chair*
Environmental Preservation and
Conservation, *Vice Chair*
Appropriations Subcommittee on Education
Appropriations Subcommittee on Finance and Tax
Communications, Energy, and Public Utilities
Military Affairs, Space, and Domestic Security

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

25th District

March 18th, 2014

The Honorable Thad Altman
The Florida Senate
314 Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Altman:

Please accept this letter as my formal request to excuse myself from the Military and Veterans Affairs, Space, and Domestic Security committee meeting on Wednesday, March 19th, 2014.

Please let me know if I can provide any further information. Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Joseph Abruzzo".

Joseph Abruzzo
Florida State Senator
District 25

Cc: Elizabeth Ryon, Staff Director

REPLY TO:

- 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774
- 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

CourtSmart Tag Report

Room: LL 37

Case:

Type:

Caption: Senate Military and Veteran Affairs, Space and Domestic Security

Judge:

Started: 3/19/2014 11:03:26 AM

Ends: 3/19/2014 11:47:19 AM Length: 00:43:54

11:03:28 AM Meeting called to order by Chairman Altman
11:03:39 AM Roll call by Administrative Assistant, Lois Graham
11:04:01 AM Brief statement from Chairman Altman regarding decorum
11:04:24 AM Tab 1 CS/SB 296 by Senator Brandes - Carrying a Concealed Weapon
11:04:46 AM Senator Brandes explains Amendment 615304
11:05:12 AM Chairman Altman states this is a courtesy amendment by Senator Evers
11:05:36 AM Speaker Captain Terrence Gorman, General Counsel, Florida Department of Military Affairs speaking on the amendment
11:10:02 AM Chairman Altman ask if members has questions
11:10:14 AM Senator Evers makes a statement regarding the bill
11:12:32 AM Response from Captain Gorman
11:14:23 AM Chairman Altman ask if there were additional questions for Captain Gorman
11:14:37 AM Question from Senator Dean
11:15:23 AM Response from Captain Gorman
11:16:24 AM Question from Chairman Altman
11:16:55 AM Response from Captain Gorman
11:19:41 AM Question from Senator Evers
11:20:07 AM Response from Captain Gorman
11:22:41 AM Chairman Altman ask if there were additional questions
11:22:46 AM Question from Senator Legg
11:24:15 AM Response from Captain Gorman
11:25:50 AM Comments from Senator Dean
11:26:33 AM Comments from Senator Evers
11:27:14 AM Response from Captain Gorman
11:27:21 AM Comments from Chairman Altman
11:27:40 AM Comments from Senator Evers
11:28:15 AM Response from Captain Gorman
11:28:19 AM Comments from Chairman Altman
11:28:25 AM Speaker Mr. Eric Friday, Lead Counsel, Florida Carry
11:30:22 AM Comments from Senator Legg
11:31:09 AM Comments from Chairman Altman
11:31:28 AM Comments from Mr. Friday
11:32:33 AM Speaker Ms. Marion Hammer, NRA Unified Sportsmen of Florida
11:35:22 AM Comments from Chairman Altman
11:35:29 AM Senator Brandes stated that he would like to TP CS/SB 296 for further consideration
11:35:47 AM Chairman Altman moves to TP CS/SB 296
11:36:10 AM Chairman Altman asked for Senator Brandes to present SM 1298
11:36:32 AM Tab 4 SM 1298 by Senator Brandes - Disaster Savings Account Act. - Explaining amendment 640820 courtesy by Senator Legg
11:37:30 AM Amendment adopted
11:37:45 AM Chairman Altman states that we are back on the bill as amended
11:37:55 AM Ms. Carolyn Johnson, Policy Director, FL Chamber of Commerce waives in support

11:38:06 AM Chairman Altman asks for Senator Brandes to close on SM 1298
11:38:15 AM Senator Brandes waves close and Chairman Altman asked if he wants a CS
11:38:24 AM Senator Gardiner moves for CS on SM 1298
11:38:34 AM Roll call by Administrative Assistant, Lois Graham on SM 1298
11:38:43 AM Chairman Altman states CS/SM 1298 passes
11:38:56 AM Tab 5 SB 1326 by Senator Brandes - Emergency Management
11:39:13 AM Senator Evers courtesy amendment 475134
11:39:27 AM Senator Brandes explains the amendment
11:39:47 AM Chairman Altman asked for questions on the amendment
11:39:58 AM Ms. Janet Bowman, of the Nature Conservancy speaking
11:40:49 AM Chairman Altman asked for discussion or debate on the amendment
11:41:05 AM Amendment adopted
11:41:09 AM Mr. Jeff Sharkey, Willis Global Risk Solutions waives in support on the bill as amended
11:41:24 AM Chairman Altman asked for any questions or debate on the bill as amended
11:41:33 AM Senator Brandes waives closing and Chairman Altman ask if he wants a CS
11:41:39 AM Senator Evers moves for Committee Substitute
11:41:48 AM Roll call by Administrative Assistant, Lois Graham on CS/SM 1326
11:42:00 AM The bill passes as amended
11:42:17 AM Chairman Altman ask from Ms. Cornwell to come forward
11:42:39 AM Tab 3 - SB 1140 by Senator Hays presented by Nanci Cornwell, Legislative Assistant
11:43:17 AM Ms. Cornwell explains amendment 682040 courtesy of Senator Dean
11:43:45 AM Chairman Altman asked for questions on the bill as amended
11:43:55 AM Amendment adopted
11:44:05 AM Chairman Altman states that we are back on bill as amended
11:44:15 AM Ms. Julie Roberts, External Affairs Director waives in support
11:44:22 AM Chairman Altman ask for discussion or debate on the bill as amended
11:44:36 AM Chairman Altman ask Ms. Cornwell if she would like a CS
11:44:50 AM Chairman Altman states Senator Legg moves for a CS
11:44:51 AM Ms. Cornwell waives closure
11:45:00 AM Chairman Altman ask for roll call on CS/SB 1140
11:45:10 AM Roll call by Administrative Assistant, Lois Graham - bill passes
11:45:14 AM Chairman Altman states that Senator Abruzzo does have an excused absence
11:45:24 AM Tab 2 CS/SB 596 by Senator Evers, Defense Contracting presented by Angela Miller, Legislative Assistant
11:46:06 AM Chairman Altman ask for questions
11:46:13 AM Mr. Rheb Harbison, Government Consultant - waives in support
11:46:23 AM Mr. Joe Marino, President Florida Defense Contractors Association - waives in support
11:46:29 AM Ms. Carol Johnson, Policy Director, Florida Chamber of Commerce - waives in support
11:46:37 AM Chairman Altman ask for debate
11:46:43 AM Ms. Miller waives closure
11:46:49 AM Chairman Altman ask Administrative Assistant to call roll on CS/SB 596
11:46:55 AM Roll call by Administrative Assistant, Lois Graham
11:47:00 AM Chairman Altman states the bill passes
11:47:05 AM Senator Gibson moves to rise