

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

**RULES**  
**Senator Thrasher, Chair**  
**Senator Alexander, Vice Chair**

**MEETING DATE:** Thursday, February 24, 2011

**TIME:** 1:15 —3:15 p.m.

**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Thrasher, Chair; Senator Alexander, Vice Chair; Senators Bullard, Flores, Gaetz, Gardiner, Jones, Margolis, Negron, Richter, Siplin, Smith, and Wise

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 916</b> Thrasher	Official Florida Statutes; Adopts the Florida Statutes 2011 and designates the portions thereof that are to constitute the official law of the state. Provides that the Florida Statutes 2011 shall be effective immediately upon publication. Provides that general laws enacted during the 2010 regular session and prior thereto and not included in the Florida Statutes 2011 are repealed. Provides that general laws enacted during the November 16, 2010, special session and the 2011 regular session are not repealed by this adoption act.	RC      02/24/2011
2	<b>SB 944</b> Thrasher	Florida Statutes; Amends and reenacts various provisions of the Florida Statutes.	RC      02/24/2011
3	<b>SB 924</b> Thrasher	Florida Statutes; Deletes provisions which have become inoperative by noncurrent repeal or expiration and, pursuant to provisions, may be omitted from the 2011 Florida Statutes only through a reviser's bill duly enacted by the Legislature. Conforms cross-references.	RC      02/24/2011
4	<b>SB 946</b> Thrasher	Florida Statutes; Amends provisions to conform to the directive in section 21 of chapter 2010-70, Laws of Florida, to prepare a reviser's bill for consideration by the 2011 Regular Session of the Legislature to substitute the term "Florida College System Institution" for the terms "Florida college," "community college," and "junior college" where those terms appear in the Florida K-20 Education Code.	RC      02/24/2011

**COMMITTEE MEETING EXPANDED AGENDA**

Rules

Thursday, February 24, 2011, 1:15 —3:15 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 330</b> Gaetz (Identical H 553)	Violations of the Florida Election Code; Provides that a candidate who, in a primary or other election, falsely represents that he or she served or is currently serving in the military, commits a violation of the Florida Election Code. Requires that the commission adopt rules to provide for an expedited hearing for complaints filed with the commission. Requires that the Director of the Division of Administrative Hearings assign an administrative law judge to provide an expedited hearing in certain cases, etc.	EE 01/26/2011 Favorable RC 02/24/2011 MS GO BC
6	<b>SCR 1202</b> Thrasher	Joint Rules of the Legislature; Establishes the Joint Rules of the Florida Legislature for the 2010-2012 term.	RC 02/24/2011
7	<b>SB 1204</b> Thrasher	Joint Legislative Organizations; Repeals provisions relating to the Office of Program Policy Analysis and Government Accountability, the Joint Administrative Procedures Committee, the Legislative Committee on Intergovernmental Relations, the Joint Legislative Committee on Everglades Oversight, and the Florida Government Accountability Act. Repeal provisions relating to creation of a joint select committee to review the findings and recommendations of the Century Commission for a Sustainable Florida for potential action, etc.	RC 02/24/2011
8	<b>CS/SJR 958</b> Budget Subcommittee on Finance and Tax / Budget Subcommittee on Finance and Tax	State Revenue Limitation; Proposes amendments to the State Constitution to replace the existing state revenue limitation with a new state revenue limitation based on inflation and population changes.	<b>(If Received)</b> BFT 02/17/2011 Fav/CS BC 02/23/2011 If received RC 02/24/2011 If received
9	Consideration of Ethics Commission report on Senator Haridopolos		

**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 Rules Committee

BILL: SB 916

INTRODUCER: Senator Thrasher

SUBJECT: Official Florida Statutes

DATE: November 22, 2010      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pollitz (Stat. Rev.)	Phelps	RC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

This bill is drafted by the Division of Statutory Revision of the Office of Legislative Services to adopt the Florida Statutes 2011 and designate the portions thereof that are to constitute the official statutory law of the state. This adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law.

This bill substantially amends the following sections of the Florida Statutes: amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, F.S.

**II. Present Situation:**

The adoption act is enacted annually during each regular session. It prospectively adopts as an official document the edition of the Florida Statutes to be published following that session and provides a 1-year curing period for any possible errors in statutory material before it becomes the best evidence of the law. Currently, all statutes material passed through the 2009 Regular Session and printed in the 2010 edition has been adopted.

**III. Effect of Proposed Changes:**

The adoption act amends ss. 11.2421, 11.2422, 11.2424, and 11.2425, Florida Statutes, and provides a 1-year window for finding errors and making changes before statutory material becomes the best evidence of the law. The 2011 adoption act adopts as the official statute law of the state those portions of the 2011 Florida Statutes edition that are carried forward unchanged

from the edition published 1 year previously (2010). Portions carried forward from the 2010 edition are the official law of the state and, therefore, constitute the best evidence of the law. The portions resulting from sessions occurring subsequent to the publication of the 2010 edition are prima facie evidence of the law in all courts of the state; for this material, the enrolled acts stand as the best evidence of the law. Any “statute of a general and permanent nature” enacted before publication of the 2010 Florida Statutes that does not appear in the 2011 edition, or is not recognized and continued in force by reference therein or in s. 11.2423 or s. 11.2424, Florida Statutes, stands repealed, both by the logic of the system and by operation of s. 11.2422, Florida Statutes. *See National Bank v. Williams*, 28 Fla. 305, 20 So. 931 (1896).

The 2011 adoption act will adopt all statutes material passed through the 2010 Regular Session and printed in the 2010 edition. Material passed in a session occurring since publication of the 2010 edition must wait 1 more year before being adopted, and the session law form of that material will remain the best evidence of the law for that material.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

None.

B. **Amendments:**

None.

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

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Rules Committee

BILL: SB 944

INTRODUCER: Senator Thrasher

SUBJECT: Florida Statutes

DATE: February 2, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pollitz (Stat. Rev.)	Phelps	RC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Division of Statutory Revision of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser's bills.

This is a general reviser's bill to delete expired or obsolete language; correct cross-references and grammatical or typographical errors; remove inconsistencies and redundancies from the statutes; improve the clarity of the statutes and facilitate their correct interpretation; and confirm the restoration of provisions unintentionally omitted from republication in the acts of the Legislature during the amendatory process. A reviser's bill cannot be amended except to delete a bill section.

This bill substantially amends the following sections of the Florida Statutes: amends ss. 16.0155, 28.36, 102.012, 112.534, 206.608, 213.67, 283.30, 283.33, 283.43, 285.710, 288.0659, 288.106, 288.9604, 316.008, 319.30, 320.03, 321.05, 327.73, 339.135, 341.302, 373.036, 376.011, 380.0552, 380.503, 381.0065, 401.465, 402.7305, 403.7032, 403.891, 411.01, 435.03, 443.091, 443.131, 479.01, 494.00331, 550.334, 550.3345, 553.77, 624.310, 627.4605, 627.711, 633.081, 677.105, 893.055, 893.0551, 1002.69, 1003.428, 1003.429, and 1008.34, F.S.

**II. Present Situation:**

The Division of Statutory Revision, under the authority and requirements of s. 11.242, Florida Statutes, submits reviser's bills to the rules committees of both houses as needed. General reviser's bills to clean up obsolete language, update cross-references, and correct grammatical and typographical errors and the like are submitted every year.

**III. Effect of Proposed Changes:**

The effect of this bill is of a technical nature only; reviser's bills do not contain substantive changes. The bill will clean up grammatical and similar errors in the Florida Statutes.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Rules Committee

BILL: SB 924

INTRODUCER: Senator Thrasher

SUBJECT: Florida Statutes

DATE: February 2, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pollitz (Stat. Rev.)	Phelps	RC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Division of Statutory Revision of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser’s bills. A reviser’s bill cannot be amended except to delete a bill section.

This bill deletes statutes provisions that have been repealed by a noncurrent (past-year) session of the Legislature where that repeal or expiration date has now occurred, rendering the provision of no effect (an example would be a repeal set for October 1, 2010, by the 2009 Regular Session of the Legislature).

This bill substantially amends or repeals the following sections of the Florida Statutes: amends ss. 14.2015, 212.05, 213.053, 220.192, 339.135, and 377.6015, F.S.; repeals ss. 212.08(7)(ccc), 267.171, 288.1162(6)(b), 288.95155(2)(b), 288.99, 316.1893(2), 320.0609(2)(c), 320.131(1)(m), 379.2211, 379.2212, 400.179(2)(e), 420.9072(7)(b), 494.0017, 494.0029, 494.00295, 494.0031, 494.0032, 494.0033, 494.0034, 494.0041, 494.0061, 494.0062, 494.0064, 494.0065, 494.0072, 624.4072, 1006.15(8), and 1013.37(6), F.S.

**II. Present Situation:**

The Division of Statutory Revision, under the authority and requirements of s. 11.242(5)(b) and (i), Florida Statutes, must remove repealed statutory provisions from the statutes text where the

repeal was voted by the Legislature sitting in the current year; sections effectively repealed but where that repeal was passed by a past-year session of the Legislature can only be omitted from the statutes text through a reviser's bill pursuant to s. 11.242(5)(i).

**III. Effect of Proposed Changes:**

This bill will delete sections that have already been repealed by the Legislature by substantive legislation that the Division of Statutory Revision could not remove from the statutes text without the required inclusion in a reviser's bill.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

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

None.

- B. **Amendments:**

None.

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

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Rules Committee

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BILL: SB 946

INTRODUCER: Senator Thrasher

SUBJECT: Florida Statutes

DATE: February 3, 2011

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pollitz (Stat. Rev.)	Phelps	RC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

The Division of Statutory Revision of the Office of Legislative Services is required, by statute, to conduct a systematic and continuing study of the Florida Statutes. The purpose of this study is to recommend to the Legislature changes that will remove inconsistencies, redundancies, and unnecessary repetition from the statutes; improve clarity and facilitate correct interpretation; correct grammatical and typographical errors; and delete obsolete, repealed, or superseded provisions. These recommendations are submitted to the Legislature in the form of technical, nonsubstantive reviser’s bills. Responses to directives from the Legislature to make specific changes in the statutes, such as renaming a department, are also submitted to the Legislature via reviser’s bills.

The Division of Statutory Revision was directed by the Legislature, in s. 21, ch. 2010-70, Laws of Florida, to substitute the term “Florida college system institution” for the terms “Florida college,” “community college,” and “junior college” where those terms appear in the Florida K-20 Education Code pursuant to s. 21, ch. 2010-70.

This bill substantially amends the following sections of the Florida Statutes: amends ss. 1000.01, 1000.02, 1000.04, 1000.05, 1000.06, 1000.07, 1000.21, 1001.02, 1001.03, 1001.10, 1001.11, 1001.20, 1001.27, 1001.271, 1001.28, 1001.43, 1001.60, 1001.61, 1001.62, 1001.63, 1001.64, 1001.65, 1001.705, 1001.706, 1002.20, 1002.21, 1002.33, 1002.34, 1002.41, 1002.45, 1003.03, 1003.41, 1003.4156, 1003.433, 1003.435, 1003.49, 1003.51, 1003.52, 1004.02, 1004.03, 1004.04, 1004.05, 1004.06, 1004.07, 1004.085, 1004.095, 1004.226, 1004.645, 1004.648, 1004.65, 1004.66, 1004.67, 1004.68, 1004.70, 1004.71, 1004.725, 1004.726, 1004.74, 1004.75, 1004.77, 1004.78, 1004.79, 1004.80, 1004.81, 1004.86, 1004.91, 1004.92, 1004.93, 1004.94, 1004.95, 1004.97, 1004.98, 1004.99, 1005.21, 1006.15, 1006.17, 1006.50, 1006.51,

1006.55, 1006.60, 1006.62, 1006.63, 1006.65, 1006.68, 1006.70, 1006.71, 1006.72, 1007.21, 1007.22, 1007.23, 1007.235, 1007.24, 1007.25, 1007.2615, 1007.262, 1007.263, 1007.264, 1007.265, 1007.27, 1007.271, 1007.272, 1007.28, 1007.33, 1007.34, 1007.35, 1008.30, 1008.31, 1008.32, 1008.345, 1008.385, 1008.405, 1008.41, 1008.42, 1008.43, 1008.45, 1009.21, 1009.22, 1009.23, 1009.25, 1009.26, 1009.265, 1009.27, 1009.28, 1009.285, 1009.286, 1009.29, 1009.40, 1009.42, 1009.44, 1009.50, 1009.505, 1009.533, 1009.535, 1009.55, 1009.56, 1009.60, 1009.605, 1009.65, 1009.67, 1009.70, 1009.72, 1009.77, 1009.89, 1009.891, 1009.97, 1009.971, 1009.98, 1009.981, 1010.01, 1010.02, 1010.03, 1010.04, 1010.06, 1010.07, 1010.08, 1010.09, 1010.11, 1010.22, 1010.23, 1010.30, 1010.33, 1010.34, 1010.58, 1011.01, 1011.011, 1011.012, 1011.30, 1011.31, 1011.32, 1011.51, 1011.62, 1011.68, 1011.75, 1011.80, 1011.801, 1011.81, 1011.82, 1011.83, 1011.84, 1011.85, 1011.86, 1012.01, 1012.35, 1012.56, 1012.80, 1012.81, 1012.82, 1012.83, 1012.84, 1012.85, 1012.855, 1012.86, 1012.865, 1012.87, 1012.875, 1012.88, 1012.885, 1012.98, 1013.01, 1013.02, 1013.03, 1013.12, 1013.13, 1013.19, 1013.23, 1013.231, 1013.25, 1013.27, 1013.28, 1013.31, 1013.36, 1013.37, 1013.371, 1013.40, 1013.44, 1013.51, 1013.52, 1013.60, 1013.64, 1013.65, and 1013.81, F.S.

## II. Present Situation:

Section 21, ch. 2010-70, Laws of Florida, directed the Division of Statutory Revision to substitute the term “Florida college system institution” for the terms “Florida college,” “community college, and “junior college” where those terms appear in the Florida K-20 Education Code to conform the code to changes in terminology relating to community colleges that were enacted by s. 2, ch. 2008-52, Laws of Florida, establishing the Florida College System in s. 1001.60, Florida Statutes; s. 1, ch. 2009-228, Laws of Florida, renaming the Division of Community Colleges as the Division of Florida Colleges; and s. 2, ch. 2009-228, defining the term “Florida college.”

## III. Effect of Proposed Changes:

The bill revises Florida Statutes text to conform to the directive in s. 21, ch. 2010-70, Laws of Florida, to substitute the term “Florida college system institution” for the terms “Florida college,” “community college, and “junior college” where those terms appear in the Florida K-20 Education Code.

### Other Potential Implications:

## IV. Constitutional Issues:

### A. Municipality/County Mandates Restrictions:

None.

### B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

**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 Rules Subcommittee on Ethics and Elections

BILL: SB 330

INTRODUCER: Senator Gaetz

SUBJECT: Political speech; military service misrepresentations

DATE: February 22, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	<b>Favorable</b>
2.	Fox	Phelps	RC	<b>Pre-meeting</b>
3.			MS	
4.			GO	
5.			BC	
6.				

**I. Summary:**

Senate Bill 330 makes it an administrative violation of the Florida Election Code for candidates to misrepresent the fact that they served, or are currently serving, in the U.S. military; a civil penalty of up to \$5,000 may be assessed for each violation by the Florida Elections Commission or the administrative law judge (ALJ) hearing the case, as appropriate.

This bill creates Section 104.2715 of the Florida Statutes.

**II. Present Situation:**

Section 104.271, Florida Statutes, makes it a violation of the Florida Election Code for a candidate to knowingly make a false statement about an opposing candidate in an election, an offense punishable by an administrative fine of up to \$5,000:

Any candidate who, in a primary or other election, with actual malice makes or causes to be made any statement about an opposing candidate which is false is guilty of a violation of this code.<sup>1</sup>

This appears to be the only provision in the Code that directly addresses false political speech.

Interestingly, what SB 330 proposes is strikingly similar to the federal Stolen Valor Act, which makes it a crime to falsely represent having been awarded a military honor, declaration, medal,

<sup>1</sup> § 104.241(2), F.S.

badge, etc. There is currently a disagreement among courts in different federal judicial circuits with respect to the constitutionality of that statute.<sup>2</sup>

### III. Effect of Proposed Changes:

Senate Bill 330 subjects candidates to a civil fine of up to \$5,000 for falsely representing in an election that they have served, or are serving, in the nation's military. It provides for the expedited hearing of complaints by the Florida Elections Commission or an ALJ at the Division of Administrative Hearings (DOAH), as appropriate, and further authorizes the Commission to adopt rules to provide for such expedited hearing.

Also worth noting are the facts that any person may file a complaint with the Florida Elections Commission; and, any fine assessed is deposited in the State's General Revenue Fund.

The bill takes effect July 1, 2011.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

### V. Fiscal Impact Statement:

#### A. Tax/Fee Issues:

None.

#### B. Private Sector Impact:

None.

#### C. Government Sector Impact:

Minimal; may result in some minor, additional revenue from violation penalties.

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<sup>2</sup> See *U.S. v. Alvarez*, 617 F.3d 1198 (9<sup>th</sup> Cir. 2010) (holding that Stolen Valor Act violates First Amendment free speech rights); *but see*, *U.S. v. Robbins*, 2011 WL 7384 (W.D. Va. 2011) (false statements of fact implicated by the federal statute are *not protected* by the First Amendment). Although *Alvarez* is the only *appellate* decision interpreting the Stolen Valor Act, the U.S. Court of Appeals for the Ninth Circuit has a reputation in the legal community for adopting outlier positions rejected by other circuits. Indeed, the federal district judge in *Robbins* expressly refused to follow the 2-1 majority decision in *Alvarez*, choosing instead to adopt the dissent's position that *false speech is not entitled* to first amendment protection.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The bill grants specific penalty power to the administrative law judge at DOAH, to account for the recent First District Court of Appeals decision in *Davis v. Florida Elections Commission*.<sup>3</sup>

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

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

None.

**B. Amendments:**

None.

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

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<sup>3</sup> 44 So.3d 1211 (Fla. 1<sup>st</sup> DCA 2010) (ALJ has no statutory authority to institute penalties for election violations originating with the Florida Elections Commission) .

**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 Rules Committee

BILL: SCR 1202

INTRODUCER: Senator Thrasher

SUBJECT: Joint Rules of the Legislature

DATE: February 18, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Phelps	RC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Concurrent Resolution 1202, constitutes a significant re-write of the previously-adopted Joint Rules of the Florida Legislature, primarily in the areas of joint offices/committees and the general appropriations bill review period. Portions of this concurrent resolution are part of a reform package that is to be considered with SB 1204, which removes statutory language creating or directing joint legislative committees and joint legislative offices.

In addition to numerous technical and conforming changes, major substantive changes to the previously-adopted joint rules include:

- Establishes the following joint committees: the Administrative Procedures Committee (JAPC); the Committee on Public Counsel Oversight (JCPO); and, the Legislative Auditing Committee (JLAC); transfers many of their functions currently embodied in the Florida Statutes to the joint rules; and, standardizes many of the powers, procedures, and administrative practices of the joint committees.
- Revises Joint Rule Two governing the general appropriations act process; allows electronic copies, in lieu of paper copies, of the General Appropriations Act; imposes a 24-hour review period on implementing and conforming bills that are published after the onset of the 72-hour general appropriations act review.
- Maintains the current joint legislative offices: the Office of Economic and Demographic Research (EDR); the Office of Legislative Information Technology Services (OLITS); the Office of Legislative Services (OLS); and, the Office of Program Policy Analysis and Government Accountability (OPPAGA), while providing for direct administrative oversight by the presiding officers of their staffing, budget, and other matters.

The concurrent resolution is effective upon adoption by the Senate and House of Representatives.

## II. Present Situation:

### Joint Committees

Joint legislative committees, along with most of their duties and functions, have generally been established by statute --- including the Legislative Auditing Committee (JLAC),<sup>1</sup> Administrative Procedures Committee (JAPC),<sup>2</sup> and the Committee on Public Counsel Oversight (JCPO).<sup>3</sup> The responsibilities and operations of JLAC are simultaneously governed by the statutes and joint rules.<sup>4</sup> The concurrent resolution establishes each of these joint committees by joint rule.<sup>5</sup>

### Joint Rules

The Joint Rules of the Florida Legislature, previously adopted in November 2008,<sup>6</sup> address the following subjects:

- JOINT RULE ONE – Lobbyist Registration and Compensation Reporting
- JOINT RULE TWO – General Appropriations Review Period
- JOINT RULE THREE – Legislative Support Services
- JOINT RULE FOUR – Joint Legislative Auditing Committee
- JOINT RULE FIVE – Auditor General
- JOINT RULE SIX – Office of Program Policy Analysis and Government Accountability
- JOINT RULE SEVEN – Joint Legislative Budget Commission

#### ***JOINT RULE ONE – Lobbyist Registration and Compensation Reporting***

Legislative lobbyists are required pursuant to s. 11.045, F.S., to report lobbying compensation and to register annually for each principal represented. Joint Rule One houses the registration and administration of these requirements in the Lobbyist Registration Office in the Division of Legislative Information Services within OLS, and details specific procedures and operations to implement the statutory requirements.

#### ***JOINT RULE TWO – General Appropriations Review Period***

Article III, sections 8,<sup>7</sup> 12, 19(b)<sup>8</sup> and 19(d), of the Florida Constitution make reference to general appropriations bills. Specifically, the following sections refer to the appropriations bills:

<sup>1</sup> Section 11.40(1), F.S.; previously-adopted Joint Rule 4.

<sup>2</sup> Section 11.60, F.S.

<sup>3</sup> Section 350.012, F.S.

<sup>4</sup> Section 11.40(1), F.S.; previously-adopted Joint Rule 4.

<sup>5</sup> See *infra*, III. Effect of Proposed Changes, *Joint Rule 4.1*. The corresponding statutory authorizations are slated for repeal in SB 1204 (2011).

<sup>6</sup> HCR 30 ORG (2008), enrolled.

<sup>7</sup> Article III, s. 8 of the Florida Constitution relates to the executive approval and veto of bills.

<sup>8</sup> Art. III, s. 19(b) of the Florida Constitution relates to the appropriation bill format.

- Section 12. Appropriations Bills.-- Laws making appropriations for salaries of public officers and other current expenses of the state shall contain provisions on no other subject.
- Section 19(d) SEVENTY-TWO HOUR PUBLIC REVIEW PERIOD --All general appropriation bills shall be furnished to each member of the legislature, each member of the cabinet, the governor, and the chief justice of the supreme court at least seventy-two hours before final passage by either house of the legislature of the bill in the form that will be presented to the governor.

### ***JOINT RULE THREE – Legislative Support Services***

This Joint Rule establishes the following legislative support offices: the Office of Economic and Demographic Research (EDR); the Office of Legislative Information Technology Services (OLITS); the Office of Legislative Services (OLS), along with a brief description of the duties of each. It further provides that the offices shall provide such specific support services as the presiding officers determine to be necessary. Joint Rule Three also states that a coordinator of each office shall be selected jointly by the providing officers, without regard to term or termination.

### ***JOINT RULE FOUR – Joint Legislative Auditing Committee (JLAC)***

Joint Rule Four details some specific powers, duties, and administrative functions of JLAC, in addition to those provided for in s. 11.40, F.S. The committee oversees the Auditor General and OPPAGA. Some specific responsibilities include:

- Reviewing the performance of the Auditor General and submitting a recommendation to the Legislature with respect to the Auditor General continuing in office.
- Requiring member expenses to be approved by the chair.
- Submitting budgetary estimates to the Senate President and House Speaker.
- Detailing specific ways to dispose of audit and review requests from legislators, including assignment to the Auditor General, OPPAGA, or committee staff.
- Exercising investigatory and subpoena power relating to any matter within the scope of an audit by the Auditor General or OPPAGA.
- Reviewing the performance of the OPPAGA director every four years, and reporting a recommendation to the Legislature with respect to re-appointment.

### ***JOINT RULE FIVE– Auditor General***

This joint rule grants rulemaking authority to the Auditor General and addresses budgetary issues. It also requires the Auditor General to distribute copies of each audit report to certain officers, including the Governor, Chief Financial Officer, the person in charge of the state agency or political subdivision audited, each member of the Joint Legislative Auditing Committee (JLAC), the appropriate substantive and fiscal committees of the Senate and House, the board of commissioners of the county in which the audit was made (for county audits, school district, and other local district audits), and district school boards (for district school board audits).

***JOINT RULE SIX – Office of Program Policy Analysis and Government Accountability***

Joint Rule Six grants the OPPAGA director limited rulemaking authority and requires the director to submit an annual work plan to the presiding officers along with a proposed operating budget. The director is responsible for approving salaries and expenses, within the limitation of the approved operating budget. The director is also responsible for all spending decisions, including contracting. Finally, the director must submit an annual report to the presiding officers recommending statutory and fiscal changes in both the substantive policy and fiscal areas, as derived from OPPAGA reports.

***JOINT RULE SEVEN – Joint Legislative Budget Commission***

This joint rule addresses the general responsibilities, membership and staffing, and notice requirements for the Joint Legislative Budget Commission, a budgetary oversight commission established by the Florida Constitution.<sup>9</sup>

**III. Effect of Proposed Changes:**

The concurrent resolution, along with SB 1204 (2011), transfers to the joint rules the statutory authorization and many of the statutory functions and requirements of the Administrative Procedures Committee (JAPC) and the Committee on Public Counsel Oversight (JCPO). It also transfers the authorization for the Legislative Auditing Committee (JLAC) from statute to joint rule. Further, SCR 1202, streamlines and makes consistent many of the powers, procedures, and administrative practices of the joint committees, such as meeting procedures, quorum requirements, voting requirements, membership, etc.

The concurrent resolution moves administrative oversight authority for OPPAGA from JLAC directly to the presiding officers, and similarly subjects other joint legislative offices to direct administrative oversight.

Senate Concurrent Resolution 1202, permits the presiding officers to contract to third parties certain responsibilities of the Lobbyist Registration Office/Division of Legislative Information Services within OLS, for a period of no longer than two years to run concurrent with their terms.

The resolution also provides for the electronic delivery of the general appropriations act in connection with the constitutional 72-hour review period in many cases, and imposes a 24-hour review period on implementing and conforming bills published after the onset of the 72-hour general appropriations act review.

More specifically, the resolution makes the following major changes to the previously-adopted joint rules:

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<sup>9</sup> Art. III, s. 19(j), FLA. CONST.

## **JOINT RULE ONE: LOBBYIST REGISTRATION AND COMPENSATION REPORTING**

Joint Rule One allows the responsibilities of the Division of Legislative Information Services within the Office of Legislative Services (“OLS”) and of the Lobbyist Registration Office to be contracted to another entity by agreement of the Senate President and House Speaker, for a period ending no later than December 1 following the organizational session of the next biennium — provided that the powers and duties of the President, Speaker, the General Counsel of OLS, and any committee that may be appointed to render opinions with respect to the legislative lobbying laws in s. 11.045, F.S.

The joint rule clarifies that only persons concerned about their own conduct and compliance with respect to Joint Rule One may request an informal opinion from the OLS General Counsel, not third parties looking to test potential complaints.

It further clarifies that even if a reporting *fine* is waived for a lobbying firm, suspension of the firm’s lobbyist registrations are not lifted and a lobbyist may not be reinstated until *all* late reports have been filed or waived.

The proposed joint rule contains numerous technical and clarifying changes, and removes obsolete and outdated provisions largely involving paper filings of lobbyist compensation reports.

## **JOINT RULE TWO: GENERAL APPROPRIATIONS REVIEW PERIOD**

This joint rule allows a copy of the general appropriations bill, a copy of the bill with amendments adopted by the non-originating house, or the conference committee report to be furnished to members of the House and Senate via an electronic copy, in lieu of paper copies. Such copy is deemed to be made available when it is accessible via the Internet or other information network consisting of systems ordinarily serving the members of the House and Senate. Additionally, other constitutional officers may officially request that an electronic copy be furnished in lieu of a printed copy.

The joint rule imposes a 24-hour review period on implementing and conforming bills that are published after the onset of the 72-hour general appropriations act review. The joint rule provides that, after the enactment of a general appropriations bill for a particular fiscal year, subsequent appropriations that make net reductions or that make supplemental appropriations are not considered to be a general appropriations bill for purposes of the 72-hour review period — unless the bill provides for salaries of public officers and other current expenses of the state for a subsequent fiscal year. This rule clarifies previous uncertainty as to whether or not a general appropriations bill, made after the enactment of a general appropriations bill for a particular fiscal year, is subject to the 72-hour review period.

It also provides that with respect to each bill that may be affected, a member may not raise a point of order under Joint Rule Two after a vote is taken on the bill. Noncompliance with any requirement of Joint Rule Two may be waived by two-thirds vote of those members present and voting in each house.

**JOINT RULE THREE (JOINT OFFICES AND POLICIES) and JOINT RULE FOUR (JOINT COMMITTEES)**<sup>10</sup>

These joint rules reorganize the joint committees and joint legislative offices, allowing for direct administrative oversight by the presiding officers.

The joint rules create and direct standing joint committees and permanent legislative offices and move various statutory directives into rule. *Please see SB 1204 and the corresponding bill analysis for a detailed analysis.*

The joint rules standardize the administration and staffing of joint legislative offices as well as the administration, staffing, and member appointments of joint committees. Additionally, the joint rules defer to joint policies established by the presiding officers for details of budgeting and spending procedures and other matters of administration.

The joint rules clarify that the policies adopted by the Senate President and Speaker of the House are binding on all employees of joint legislative offices and joint committees, and that all employees of joint legislative offices and joint committees are under the exclusive control of the Legislature.

*Joint Rule 3.1 – Joint Legislative Offices*

- Re-establishes the following joint offices:
  - Office of Economic and Demographic Research (EDR)
  - Office of Legislative Information Technology Services (OLITS)
  - Office of Legislative Services (OLS)
  - Office of Program Policy Analysis and Government Accountability (OPPAGA)
- The coordinator of each office shall serve at the pleasure of the Senate President and House Speaker, and requires a new appointment each biennium when the joint rules are adopted.
- Within the monetary limitations of the approved operating budget, salaries and expenses of the coordinator and staff shall be governed by joint policy.
- Reduces specific directives to OPPAGA and defines OPPAGA's general duties in similar fashion to the other joint offices, and transfers specific duties from 11.51(1), F.S., and parts of previously-adopted Joint Rule Six.<sup>11</sup> Specifically, OPPAGA must perform independent examinations, program reviews, and other projects as provided by general law, as provided by concurrent resolution, as directed by Joint Legislative Auditing Committee, or as directed by the presiding officers of both houses, and must provide recommendations, training, or other services to assist the Legislature. OPPAGA is required to submit a list of recommended statutory and fiscal changes to the presiding

<sup>10</sup> Most of the provisions in previously-adopted Joint Rule Four dealing with the Joint Legislative Auditing Committee have been supplanted by other rules in proposed Joint Rules Three and Four.

<sup>11</sup> Many of OPPAGA's specific duties and statutory requirements pursuant to previously-adopted Joint Rule Six and s. 11.51, F.S., respectively, have been modified or stricken as unnecessary in light of the direct administrative oversight of the presiding officers proposed in Joint Rule 3.2 and elsewhere in the Concurrent Resolution (i.e., OPPAGA Director's rulemaking authority and contracting power in previously-adopted Joint Rule 6.1).

officer by December 1 each year. These recommendations must be presented as substantive law/policy issues and as budget issues.

*Joint Rule 3.2 – Joint Policies*

- Provides that policies adopted by the Senate President and House Speaker shall bind all employees of the joint offices and joint committees.
- Clarifies that employees of all joint committees and offices shall be under the exclusive control of the Legislature, and that no officer or agency of the executive or judicial branch shall exercise any measure of control over their duties or the terms of their employment.<sup>12</sup>

*Joint Rule 4.1 – Standing Joint Committees*

- Establishes the following standing joint committees, which are currently established in the Florida Statutes:<sup>13</sup>
  - Administrative Procedures Committee<sup>14</sup> (JAPC)
  - Committee on Public Counsel Oversight<sup>15</sup> (JCPO)
  - Legislative Auditing Committee<sup>16</sup> (JLAC)
- Authorizes additional joint committees *only* by agreement of the presiding officers or by concurrent resolution approved by the Senate and House.
- Provides for the appointment of 5-7 members from each chamber, as provided by their respective rules; Chair and Vice-Chairs are alternated yearly between the members of each House.

*Joint Rule 4.2 – Procedures in Joint Committees*

- Establishes uniform requirements for: quorums;<sup>17</sup> meeting dates, times, and locations;<sup>18</sup> convening and presiding over the meeting and the conduct of business; meeting notices;<sup>19</sup> and extending meetings.
- Makes the presiding officers ultimately responsible for interpreting, applying, and enforcing the joint rules by agreement; questions of order at the meeting, though, are determined by the chair, subject to an immediate appeal at the committee meeting.
- All questions, including appeals of any ruling by the chair, are decided by majority vote of the members of the joint committee of each house present and voting.

<sup>12</sup> This provision is similar to a statutory separation of powers provision for all legislative standing and select committees and all units and offices of the legislative branch in s. 11.135, F.S.

<sup>13</sup> The Joint Legislative Budget *Commission* is still maintained in proposed Joint Rule Seven (see *infra*).

<sup>14</sup> Established pursuant to s. 11.60, F.S. (targeted for repeal in SB 1204 (2011)).

<sup>15</sup> Established pursuant to s. 350.012, F.S. (targeted for repeal in SB 1204 (2011))

<sup>16</sup> Established pursuant to s. 11.40(1), F.S. (targeted for repeal in SB 1204 (2011))

<sup>17</sup> A majority of *each* house is required to conduct any business.

<sup>18</sup> The joint committee can only meet within the dates, times, and locations authorized by both the Senate President and House Speaker.

<sup>19</sup> Notices are due 7 days before the meeting.



*Joint Rule 4.3 – Powers of Joint Committees*

- Grants legislative subpoena power to the joint committees, subject to signed approval of both presiding officers attested to by the Secretary of the Senate and Clerk of the House.
- As a way to handle different motion practices between the chambers, joint committees may adopt procedural rules, provided that they: do not conflict with the Florida Constitution, a law, or joint rule; and, are jointly approved by the Senate President and House Speaker.
- Prohibits a joint committee from creating subcommittees or workgroups unless authorized by both presiding officers.

*Joint Rule 4.4 – Administration of Joint Committees*

- Within the constraints of the approved budget, subjects the expenses of committee members and salaries and expenses of staff to the same joint policies that apply to joint legislative offices pursuant to proposed Joint Rule 3.2; requires the chair of each committee to approve and authorize all member expenses.
- All joint committee staff shall serve at the pleasure of the presiding officers; subject to adopted joint policies for legislative offices, the presiding officers may appoint and remove staff directors, general counsel, and any other joint committee staff; each joint committee staff director position requires a new appointment each biennium when the joint rules are adopted.

Proposed Joint Rules 4.5 – 4.7 establish specific powers and duties for each joint committee, most of which are transferred from current Florida Statutes targeted for repeal by SB 1204, or re-located and streamlined from other sections of the previously-adopted joint rules.<sup>20</sup>

*Joint Rule 4.5 – Special Powers and Duties of the Legislative Auditing Committee (JLAC)*

- Reduces specific directives to JLAC, as appropriate to increase both administrative and policy flexibility.
- Authorizes the joint committee to direct the Auditor General or OPPAGA to conduct certain audits, reviews, or examinations.<sup>21</sup>
- The joint committee may receive requests for audits and reviews from legislators<sup>22</sup> and as directed to it by general law;<sup>23</sup> authorizes the committee to make any appropriate disposition of such requests within a reasonable time, as opposed to detailing specific dispositions as provided in previously-adopted Joint Rule 4.1(5).
- Removes OPPAGA from direct joint committee oversight, as the OPPAGA coordinator now serves at the pleasure of the presiding officers.<sup>24</sup>

<sup>20</sup> Staffing and budgets issues are, for the most part, otherwise provided for in a more uniform manner in proposed Joint Rules 3 and 4.1-4.4.

<sup>21</sup> Transferred from 11.40(3), F.S. (targeted for repeal in SB 1204 (2011)).

<sup>22</sup> This is provided for in previously-adopted Joint Rule 4.1(5).

<sup>23</sup> Some statutes direct audit petitions and requests to the Legislative Audit Committee.

<sup>24</sup> See *supra* proposed Joint Rule 3.1.

- Allows the joint committee to review the performance of the Auditor General and report to the Senate and House.

*Joint Rule 4.6 – Special Powers and Duties of the Administrative Procedures Committee (JAPC)*

Joint Rule 4.6 transfers to the joint rules most of the statutory duties and functions currently embodied in s. 11.60(2), F.S.,<sup>25</sup> relating to JAPC's oversight of agency rules and actions, reports to the Legislature, consultation with standing committees, seeking judicial review of the validity of certain agency rules, etc.

Specifically, the joint rule directs JAPC to:

- Maintain a continuous review of the statutory authority on which each administrative rule is based, and notify the appropriate agency when the authority is eliminated or significantly changed.
- Maintain a continuous review of administrative rules and identify and request an agency to repeal any rule or any provision of any rule that reiterates or paraphrases a statute or for which statutory authority has been repealed.
- Review administrative rules and advise agencies of the findings.
- Exercise the duties prescribed in law<sup>26</sup> relating to adoption and promulgation of rules.
- Generally review agency action relating to the Administrative Procedures Act.
- Report to the Senate and the House of Representatives the recommended need for legislation or other appropriate action. The joint rule specifies when the report is due and what must be included in the report.
- Maintain regular contact with legislative standing committees that have jurisdiction over the subject areas addressed in agency proposed rules regarding legislative authority for the proposed rules and for agency action.
- Maintain a continuous review of the administrative rulemaking process.
- Establish measurement criteria to evaluate agency compliance with the delegation of legislative authority and implementing rules.
- Maintain a continuous review of statutes that authorize agencies to adopt rules and make recommendations as to the advisability of considering changes to the delegate legislative authority to adopt rules in specific circumstances.

The joint rule also provides that, subject to approval of both presiding officers, JAPC has standing to seek judicial review of the validity of any administrative rule to which the committee has voted an objection and that has not been withdrawn, modified, repealed, or amended to meet the objection. The joint rule makes it clear that the Committee may not act without approval of the President of the Senate and the Speaker of the House of Representatives. Furthermore, the joint rule provides that judicial review may not be initiated until the Governor and the head of the agency have been notified of the Committee's proposed action and have been given reasonable opportunity to meet with the Committee. The joint rule authorizes JAPC to expend public funds from its appropriation for the purpose of seeking judicial review.

<sup>25</sup> Targeted for repeal in SB 1204 (2011).

<sup>26</sup> See generally Chapter 120, F.S.

*Joint Rule 4.7 – Special Powers and Duties of the Committee on Public Counsel Oversight (JCPO)*

Joint Rule 4.7 transfers most of the statutory duties and functions currently embodied in s. 350.012, F.S.<sup>27</sup>

Specifically the joint rule:

- Requires the Committee on Public Counsel Oversight to appoint a Public Counsel.
- Authorizes the Committee to file a complaint with the Commission on Ethics alleging a violation of Chapter 350, F.S., by a current or former public service commissioner, an employee of the Public Service Commission, or a member of the Public Service Commission Nominating Council.
- Clarifies that, unlike other joint committees,<sup>28</sup> the Committee does not have permanent staff. Instead, legislative staff will be selected by the President of the Senate and the Speaker of the House as needed.

**JOINT RULE FIVE: AUDITOR GENERAL**

Continues all the current provisions of previously-adopted Joint Rule Five (with only technical changes), and adds a provision providing for the electronic transmission of copies of documents required under the rule.

**JOINT RULE SIX: JOINT LEGISLATIVE BUDGET COMMISSION (JLBC)**<sup>29</sup>

Maintains the previously-adopted joint rules with respect to the JLBC (with only technical changes),<sup>30</sup> except: the policies and procedures developed by the commission to carry out its assigned responsibilities are subject to the approval of the presiding officers; and, the commission is specifically exempted from Joint Rule Four, in order to comply with requirements for the Commission set-out in the Florida Constitution.<sup>31</sup>

SB 1204 removes statutory language purporting to create or direct joint legislative committees and joint legislative offices and PCB RCC 11-05 incorporates various statutory provisions in the joint rules. The following tracing table is provided to show which statutory provisions have been amended, repealed, or superseded by joint rule.

<sup>27</sup> Targeted for repeal in SB 1204 (2011).

<sup>28</sup> See *supra* proposed Joint Rule 4.4.

<sup>29</sup> Previously-adopted Joint Rule Six, specifying certain OPPAGA functions and operations, has been repealed; proposed Joint Rule Three establishes OPPAGA and subjects it to direct oversight by the presiding officers, effectively making the previously-adopted provisions of Joint Rule Six unnecessary.

<sup>30</sup> The rules for the JLBC are embodied in previously-adopted Joint Rule Seven.

<sup>31</sup> See Art. III, s. 19(j), FLA. CONST.

**Office of Program Policy Analysis and Governmental Accountability**

<b>Statute</b>	<b>Subject</b>	<b>Result</b>
11.51 (1)	Creates the Office; requires independent examinations, program reviews, and other projects	Superseded by J.R. 3.1, which established OPPAGA as a joint legislative office
11.51 (2)	Provides that the Office is independent of the Auditor General for purposes of general policies	Superseded by J.R. 3.1 and 3.2
11.51 (3)	Requires the Office to maintain a schedule of examinations of state programs	Superseded by J.R. 3.1 and 3.2
11.511(1)	Requires the Legislative Auditing Committee to appoint a director, subject to confirmation and reappointment	Superseded by J.R. 3.1
11.511(2)(a)	Requires the director to take the Constitutional oath of office	Repealed
11.511(2)(b)	Provides that the appointee perform the functions until confirmed by each house	Superseded by J.R. 3.1
11.511(3)	Provides for restrictions on officers and full-time employees relating to political activity and employment	Superseded by J.R. 3.1 and 3.2
11.511(4)-(5)	Requires the performance of examinations; authorizes the director to adopt and enforce rules to carry out duties	Superseded by J.R. 3.1 and 3.2
11.511(6)	Permits director to postpone scheduled examinations.	Superseded by J.R. 3.1 and 3.2
11.513	OPPAGA program evaluation and justification review	Obsolete, permitted if necessary by J.R. 3.1

**Administrative Procedures Committee**

<b>Statute</b>	<b>Subject</b>	<b>Result</b>
11.60(1)	Creates the Committee and sets forth the composition and membership	Superseded by J.R. 4.1
11.60(2)	Provides for the duties of the Committee	Provisions moved to J.R. 4.6 except as provided below.
11.60(2)(i)-(j)	Appoints an executive director and general counsel by majority vote of the members on the Committee. Provides the committee has general administrative responsibility for the operations of its staff	Superseded by J.R. 4.4.
11.60(3)	Provides that expenses are paid from the appropriation for legislative expense	Superseded by J.R. 4.4.
11.60(4)	Requires the committee to maintain a review of the statutes that authorize agencies to adopt rules and to make recommendations to the legislature relating to the delegated legislative authority to adopt rules	Provision moved to J.R. 4.6(11); Requirement incorporated in J.R. 4.6(6)

**Committee on Public Counsel Oversight**

<b>Statute</b>	<b>Subject</b>	<b>Result</b>
350.012(1)	Creates the Committee and sets forth the composition and membership	Superseded by J.R. 4.1
350.012(2)	Requires the Committee to appoint a Public Counsel	Provision moved to J.R. 4.7(1)
350.012(3)	Authorizes the Committee to file a complaint with the Commission on Ethics on certain persons	Provision moved to J.R. 4.7(2)
350.012(4)	Provides that the Committee does not have permanent staff and presiding officers will select staff when and as needed	Provision moved to J.R. 4.7(3)

**Office of Legislative Services**

<b>Statute</b>	<b>Subject</b>	<b>Result</b>
11.147(1)	Creates the Office to provide support services jointly to both houses.	Provision revised to reflect that OLS established by J.R. 3.1(1) rather than statute
11.147(2)	Provides that the presiding officers may select a coordinator for the Office	Appointment of OLS coordinator controlled by J.R.3.1(2) rather than statute

**Legislative Auditing Committee**

<b>Statute</b>	<b>Subject</b>	<b>Result</b>
11.40(1)	Creates a standing joint committee and sets forth the composition and membership	Superseded by J.R. 4.1
11.40(2)	Places committee under joint rules	Superseded by J.R. 4.1
11.40(3)	Authorizes the committee to direct the Auditor General or the OPPAGA to conduct an audit, review, or examination	Provision moved to J.R. 4.5(1)
11.40(4)(b)	LAC to oversee and maintain web page	Obsolete. Legislative oversight of such services under administrative supervision of presiding officers under Joint Rule 3.2 and 4.4

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

As a result of creating a more efficient process via the electronic distribution of the General Appropriations Act, a positive fiscal impact is likely to be realized but is indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Rules Committee

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BILL: SB 1204

INTRODUCER: Senator Thrasher

SUBJECT: Joint Legislative Organizations

DATE: February 22, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Phelps	RC	<b>Pre-meeting</b>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

**I. Summary:**

Senate Bill 1204 repeals or amends various sections of the Florida Statutes concerning the following joint legislative entities: the Office of Program Policy Analysis and Government Accountability (“OPPAGA”), the Joint Administrative Procedures Committee (“JAPC”), the Legislative Committee on Intergovernmental Relations (“LCIR”), the Joint Legislative Committee on Everglades Oversight (“JCEO”), the Joint Legislative Sunset Committee (“JCSC”) and other related Legislative Sunset Review Committees,<sup>1</sup> the Joint Select Committee-the Century Commission for a Sustainable Florida, Technology Review Workgroup, the Joint Committee on Public Counsel Oversight (“JCPO”), the Legislative Commission on Migrant and Seasonal Labor, the Legislative Auditing Committee (“JLAC”), the Office of Economic and Demographic Research, the Office of Legislative Services (“OLS”), and the Council for Education Policy Research and Improvement. Additionally, reporting duties of the Department of Children and Family Services’ children and families client and management information system will be impacted by the bill.

JLAC, JAPC, and JCPO are re-established in the Joint Rules of the Florida Legislature under proposed Senate Concurrent Resolution 1202 (2011). EDR, OPPAGA, and OLS are maintained in the Joint Rules of the Florida Legislature under proposed Senate Concurrent Resolution 1202 (2011).

This bill substantially amends or repeals the following sections of the Florida Statutes: ss. 1.01, 11.40, 11.45, 11.147, 11.51, 11.511, 11.513, 11.60, 11.70, 11.80, 11.901-11.920, 29.0085, 112.313, 112.3189, 112.324, 125.045, 163.055, 163.3245, 163.3247, 166.021, 189.421,

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<sup>1</sup> The Government Accountability Act requiring agency sunset review is repealed in its entirety.

216.0446, 216.163, 216.181, 218.32, 282.322, 218.38, 287.0943, 288.7001, 350.012, 350.061, 350.0614, 373.026, 373.036, 373.45296, 409.146, 450.201, 450.221, 450.231, 450.241, 450.261, 590.33, and 1001.01, F.S.

## II. Present Situation:

### **Office of Program Policy Analysis and General Accountability (“OPPAGA”)**

The Office of Program Policy Analysis and General Accountability is created in Section 11.51, F.S. Pursuant to Section 11.513, Florida Statutes, OPPAGA is responsible for program evaluation and justification review of each state agency.

### **Joint Administrative Procedures Committee (“JAPC”)**

The Joint Administrative Procedures Committee is created in Section 11.60, F.S. JAPC is charged with review of agency rulemaking, agency action, and other duties contained in Section 11.60 and Chapter 120 of the Florida Statutes.

### **Legislative Committee on Intergovernmental Relations (“LCIR”)**

The Legislative Committee on Intergovernmental Relations is created in Section 11.70, F.S. LCIR is responsible for evaluation of the interrelationships of local, regional, state, and federal agencies in the provision of public services.

### **Joint Legislative Committee on Everglades Oversight (“JCEO”)**

The Joint Legislative Committee on Everglades Oversight is created in Section 11.80, F.S. JCEO monitors implementation of the Everglades Forever Act.<sup>2</sup> As such, it is responsible for monitoring all funding, expenditures, agreements, schedules of projects, land acquisition, and permitting associated with the implementation of the Everglades Forever Act.

### **Government Accountability Act; Legislative Sunset Review Committees and the Joint Legislative Sunset Committee (“JCSC”)**

The Government Accountability Act (“GAA”) is contained in Section 11.901 through Section 11.920, F.S. Section 11.903, F.S., provides for the creation of standing committee(s) in each house of the Legislature to conduct independent reviews of the agency sunsets provided for in the GAA. Section 11.903, F.S., creates a Joint Legislative Sunset Committee for the purpose of overseeing the agency review process in the Act.

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<sup>2</sup> The Everglades Forever Act is located in Section 373.4592, F.S.



**Joint Select Committee - the Century Commission for a Sustainable Florida**

This Committee is created in Section 163.3247(4)(g), F.S. The Committee is charged with reviewing the findings and recommendations of the Century Commission for a Sustainable Florida for potential legislative action.

**Technology Review Workgroup**

The Technology Review Workgroup is created in Section 216.0446, F.S. The Workgroup is responsible for evaluating agencies' information technology resource needs and requests for information technology resources.

**Committee on Public Counsel Oversight ("JCPO")**

The Committee on Public Counsel Oversight ("JCPO") is created in Section 350.012, F.S. The JCPO is required to appoint a Public Counsel, as provided by general law, and is responsible for other duties as provided by law.

**Legislative Commission on Migrant and Seasonal Labor**

The Legislative Commission on Migrant and Seasonal Labor is created in Section 450.201, F.S. The Commission is charged with maintaining a continuing consultative examination and supervision of the migrant labor programs relating to living conditions, health, housing, and sanitation. The Commission also coordinates federal, state, and local programs administered by agencies of the executive branch of the State of Florida.

**Legislative Auditing Committee ("JLAC")**

The Legislative Auditing Committee ("JLAC") is created in Section 11.40, F.S. JLAC may direct the Auditor General or OPPAGA to review, investigate, or conduct audits provided for in Section 11.45, F.S. JLAC is also governed by previously adopted Rule 4 of the Joint Rules of the Florida Legislature.<sup>3</sup>

**Office of Economic and Demographic Research ("EDR")**

The Office of Economic and Demographic Research is created in previously adopted Joint Rule 3.1 of the Joint Rules of the Florida Legislature.<sup>4</sup> Pursuant to that Rule, the Office provides research support services, principally regarding forecasting economic and social trends that affect policymaking, revenues, and appropriations.

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<sup>3</sup> HCR 30 ORG (2008), enrolled.

<sup>4</sup> Id.

### **Office of Legislative Services (“OLS”)**

The Office of Legislative Services (“OLS”) is created in 11.147, F.S., and is also provided for in previously adopted Rule 3.1 of the Joint Rules of the Florida Legislature.<sup>5</sup> Pursuant to that Rule, the Office provides legislative support services other than those services provided by the Office of Economic and Demographic Research and the Office of Legislative Information Technology Services. The Division of Statutory Revision and the Division of Legislative Information are divisions of OLS.

### **The Council for Education Policy Research and Improvement**

Pursuant to Section 1000.01, F.S., the Council for Education Policy Research and Improvement is an independent office under the Office of Legislative Services. The Council was established to replace the Postsecondary Education Planning Commission.

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

The bill moves the authorization for, and some of the duties of, the following entities from the Florida Statutes to the Joint Rules of the Florida Legislature: JLAC, JAPC, JPCO, OPPAGA, EDR, and OLS. Numerous technical and conforming changes are also made to the Florida Statutes.

### **Legislative Auditing Committee**

The statutory authority creating the Joint Legislative Auditing Committee’s in Section 11.40(1), F.S., is repealed. Under SCR 1202 (2011), JLAC is recreated in Rule 4 of the Joint Rules of the Florida Legislature.

Additionally, the bill also makes the following technical and conforming changes to the statutes:

- Creating Section 1.01(17), F.S., which defines the term “Legislative Auditing Committee” as a committee or committees designated by joint rule of the Legislature, by the President of the Senate or the Speaker of the House of Representatives, or by agreement between the President of the Senate and the Speaker of the House of Representatives;
- Repealing Section 11.40(2), F.S., which provides that the Committee is governed by the Joint Rules of the Florida Legislature;
- Deleting Section 11.40(3), F.S., which permits JLAC to direct the Auditor General or OPPAGA to conduct an audit, review, or examination of any entity described in Section 11.45(2), F.S., and Section 11.45(3), F.S.;
- Amending cross-references in Section 11.45(1), F.S., to conform the deletion of subsection 11.513, F.S.;
- Deleting requirement in Section 11.40(4)(b), F.S., that JLAC provide oversight and management of the Transparency Florida Act described in Section 215.985, F.S.;

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<sup>5</sup> Id.

- Amending Section 11.40(5), F.S., to provide that the Committee may schedule a hearing to determine if an entity who violates Sections 11.45(5)-(7), Section 218.32(1), or Section 218.38, F.S., should be subject to further state action;
- Removing mandate in Section 11.45(6), Florida Statutes, and Sections 11.45(7)(a),(b), and (d), F.S., that JLAC proceed in accordance with Section 11.40, F.S.;
- Amending Section 112.3189(9)(c), F.S., to require the Chief Inspector General to transmit a report to the Legislative Auditing Committee created in Rule 4 of the Joint Rules of the Florida Legislature in SCR 1202 (2011);
- Amending Section 189.421(3), F.S., which requires JLAC to notify the department that districts have failed to disclose financial reports and establishing the pertinent procedures to conform a statutory citation with changes made elsewhere in the bill; and,
- Deleting requirements in Section 218.32(1)(f), F.S., and Section 218.38(3), F.S., that JLAC proceed in accordance with Section 11.40(5), F.S.

### **Joint Administrative Procedures Committee**

The enabling legislation concerning JAPC in Section 11.60, F.S., is deleted. Under SCR 1202 (2011), JAPC would be recreated in Rule 4 of the Joint Rules of the Florida Legislature along with many of the current statutory functions and duties. The bill creates Section 1.01(16), F.S., which defines the term “Administrative Procedures Committee” as a committee designated by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives, to conform.

### **Committee on Public Counsel Oversight**

The bill repeals Section 350.012, F.S., which provides for the creation of the Committee on Public Counsel Oversight and provides its statutory authority. The Committee on Public Counsel Oversight is recreated in Rule 4 of the Joint Rules of the Florida Legislature in SCR 1202 (2011).

Additionally, the bill also makes the following technical and conforming changes to the statutes: The bill amends Section 350.061(1), F.S., to provide that the Committee as recreated in Rule 4 shall appoint a Public Counsel and deletes the requirement that the Public Counsel be appointed by majority vote of the committee. Currently, Section 350.0614(2), F.S., requires that funds be available for expenditure as provided by law and the rules or decisions of the Committee on Public Counsel Oversight. The bill deletes the phrase “and the rules or decisions of the Committee on Public Counsel Oversight.”

### **Office of Program Policy Analysis and Government Accountability**

The bill deletes the statutory language creating OPPAGA in Section 11.51(1), F.S. Under SCR 1202 (2011), OPPAGA is recreated in Rule 3 of the Joint Rules of the Florida Legislature.

The bill makes the following technical and conforming changes to the Florida Statutes:

- Creating Section 1.01(18), F.S., which defines “Office of Program Policy Analysis and Government Accountability” as an entity designated by joint rule of the Legislature or by

- agreement between the President of the Senate and the Speaker of the House of Representatives;
- Deleting Section 11.51(2), F.S., specifying that OPPAGA is independent of the Auditor General for purposes of general policies established by the Legislative Auditing Committee;
  - Deleting requirement in Section 11.51(3), F.S., that OPPAGA maintain a schedule of examinations of state programs is deleted; and,
  - Specifying in Section 11.51(5), F.S., that the designated representative of OPPAGA, rather than the designated representative of the director of OPPAGA, is required to discuss the examination and preliminary findings to the official whose office is examined.

Additionally, the bill repeals Section 11.511, F.S., concerning the Director's powers and duties. The bill also repeals Section 11.513, F.S., concerning the conduct of program evaluation and justification review. The topics in these subsections will be addressed in the Joint Rules of the Florida Legislature.

### **Office of Economic and Demographic Research**

The Office of Economic and Demographic Research is created in Rule 3 of the Joint Rules of the Florida Legislature.

Additionally, the bill also makes the following technical and conforming changes to the statutes: The bill creates Section 1.01(19), F.S., which defines the Office of Economic and Demographic Research as an entity designated by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives. The bill amends Sections 125.045(4) and (5), F.S., to require county economic development entities to file certain reports with the Office of Economic and Demographic Research instead of the Legislative Committee on Intergovernmental Relations or its successor entity. The amendment to Section 125.045(5), F.S., also requires the Office of Economic and Demographic Research to compile the information provided by the counties into a report and provide it to the President of the Senate and the Speaker of the House of Representatives.

This Office will continue to be governed by the Joint Rules of the Florida Legislature.

### **Office of Legislative Services**

The bill amends Section 11.147, F.S., to provide that OLS is designated as such by joint rule of the Legislature or by agreement between the President of the Senate and the Speaker of the House of Representatives.

Additionally, the bill also makes the following technical and conforming changes to the statutes: The bill deletes Section 11.147(2), F.S., providing for the President of the Senate and Speaker of the House of Representatives to select a coordinator for OLS, who shall report directly to the President and Speaker. Further, Section 11.147(3), F.S., is amended to provide that the joint committees and other joint units of the Legislature shall be governed by joint rules of the Senate and House of Representatives. This provision has also been amended to delete the phrase that the

joint committees and other joint units shall remain in effect until repealed or amended by concurrent resolution. The bill also provides for renumbering to conform.

The following joint legislative entities are being repealed and are not being recreated in the Joint Rules of the Florida Legislature. Numerous technical and conforming changes are also made to the Florida Statutes.

### **Legislative Committee on Intergovernmental Relations**

LCIR is eliminated by repeal of Section 11.70, F.S., containing LCIR's enabling provisions.<sup>6</sup>

Additionally, the bill makes the following conforming and technical changes to the Florida Statutes:

- Amending Section 29.0085(1), F.S., by requiring certain revenues and expenditure statements be made in the form and manner prescribed by the Chief Financial Officer in consultation with the President of the Senate and the Speaker of the House of Representatives;
- Deleting the requirement in that Section that the Chief Financial Officer consult with LCIR; Section 112.313(9)(a), F.S., is amended to remove the executive director of the LCIR from the two year postemployment restriction on representing clients for compensation before the LCIR; The bill also deletes the requirement that a finding that a member of LCIR violated the Code of Ethics be forwarded by the Commission on Ethics to the President of the Senate and the Speaker of the House of Representatives;
- Deleting the requirement in Section 163.055(4), F.S., that program providers annually submit information to the LCIR;
- Section 163.055(5), F.S., no longer requires the LCIR to assist the Chief Financial Officer in preparation of the requests for proposals, reviewing of each contract, or providing the Chief Financial Officer written advisory comments and recommendations;
- Removing a reference to LCIR in Section 163.55(5)(c), F.S., establishing the factors to be considered in reviewing contract proposals;
- No longer requiring the Chief Financial Officer to provide LCIR a copy of the decision to award a contract under Section 163.055(6), F.S.;
- Relieving LCIR's obligation under Section 163.055(9), F.S., to perform an annual performance review and provide its findings to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Chief Financial Officer;
- Requiring the Department of Community Affairs to provide a report to the President of the Senate and the Speaker of the House of Representatives instead of LCIR pursuant to Section 163.3245, F.S.;
- Replacing references to LCIR with references to the Office of Economic and Demographic Research in Section 166.021(9), F.S.;
- Providing that, pursuant to Section 166.021(9), F.S., the Office of Economic and Demographic Research will be responsible for providing certain reports to the President

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<sup>6</sup> LCIR is not provided for in the current version of the Joint Rules of the Florida Legislature or in SCR 1202.

- of the Senate and the Speaker of the House of Representatives instead of the Office of Trade, Tourism, and Economic Development; and,
- Deleting the requirement in Section 287.0943(2)(b), F.S., that the chairperson of LCIR, or his designee, serve as an *ex officio* member of the Minority Business Certification Task Force.

### **Joint Legislative Committee on Everglades Oversight**

The bill eliminates the Joint Legislative Committee on Everglades Oversight by repeal of the enabling legislation in Section 11.80, F.S.<sup>7</sup>

The bill makes the following technical and conforming changes to the Florida Statutes:

- Requiring the South Florida Water Management District to provide certain information concerning approved projects to the President of the Senate and the Speaker of the House of Representatives instead of the Legislative Committee on Everglades Oversight under Section 373.026(8)(b), F.S.;
- Deleting the requirement in Section 373.036(7)(e), F.S., that the annual report of the South Florida Water Management District contain an Everglades Forever Act annual implementation report required by Section 11.80(4), F.S.;
- Removing the Joint Legislative Committee on Everglades Oversight's authority to approve the format of the consolidated annual report required in Section 373.45926(3), F.S.;
- Divesting the Committee's authority in Section 373.45926(3), F.S., to direct the Auditor General to conduct an audit; and,
- Requiring the annual report required in Section 373.45926(7), F.S., to be made to the President of the Senate and the Speaker of the House of Representatives instead of the Joint Legislative Committee on Everglades Oversight.

### **Government Accountability Act**

The bill eliminates the Legislative Sunset Review Committees and the Joint Legislative Sunset Committee by repeal of the entire Florida Government Accountability Act (Sections 11.901-11.920, Florida Statutes).<sup>8</sup>

Additionally, the bill also makes the following technical and conforming changes to the statutes: The bill amends Section 288.7001(4)(a), F.S., by deleting a reference to the sunset review schedule in Section 11.905, F.S., and providing that the Small Business Regulatory Advisory Council may periodically review rules of agencies to determine whether the rules should remain, be amended, or be repealed. The bill also amends Section 288.7001(4)(c), F.S., to delete the requirement that, within six months after the agency report is completed, the Council must

<sup>7</sup> The Joint Legislative Committee on Everglades Oversight is not provided for in the current version of the Joint Rules of the Florida Legislature or in SCR 1202.

<sup>8</sup> Neither the Legislative Sunset Review Committees nor the Joint Legislative Sunset Committee is provided for in the current version of the Joint Rules of the Florida Legislature or in SCR 1202.

provide a report to the Joint Legislative Sunset Review Committee pursuant to Section 11.907, F.S. The remainder of the paragraph contains minor technical changes to conform.

### **Joint Select Committee-the Century Commission for a Sustainable Florida**

SB 1204 repeals Section 163.3247(4)(g), F.S., eliminating the Joint Select Committee to review the findings and recommendations of the Century Commission for a Sustainable Florida.<sup>9</sup>

### **Technology Review Workgroup**

The Technology Review Workgroup is eliminated by repeal of Section 216.0446, F.S.<sup>10</sup> The bill also repeals the provisions concerning monitoring processes for information resources management projects pursuant to 282.322, F.S., and Section 216.163(2)(f), Florida Statutes. The bill amends Section 216.181, F.S., by removing the requirement that certain technology-related amendments must be reviewed by the Technology Review Workgroup.

### **Legislative Commission on Migrant and Seasonal Labor**

The Legislative Commission on Migrant and Seasonal Labor is eliminated by repeal of Sections 450.201, 450.221, 450.231, and 450.241, F.S.<sup>11</sup> Additionally, the bill also makes the following technical and conforming changes to the statutes: The bill amends Section 450.261 by deleting the requirement that the two legislative members shall be chosen from among the members of the Legislative Commission on Migrant and Seasonal Labor. That Section is also amended to delete the requirement that at least one of the two members appointed by the Governor shall be chosen from among the members of the advisory committee to the Legislative Commission on Migrant and Seasonal Labor.

### **The Council for Education Policy Research and Improvement**

The bill deletes Section 1000.01(6), F.S., which creates the Council. The bill also deletes Section 1000.01(7), F.S., which provides that all personnel, unexpended balances of appropriations, and allocations of the Postsecondary Education Planning Commission are transferred to the Council.

### *Other Provisions*

### **Legislative Budget Commission**

The bill contains a conforming change giving the Legislative Budget Commission authority to approve certain expenditures relating to information technology projects pursuant to Section 261.181(5), F.S.

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<sup>9</sup> The Joint Select Committee- Century Commission for a Sustainable Florida is not provided for in the current version of the Joint Rules of the Florida Legislature or in SCR 1202.

<sup>10</sup> The Technology Review Workgroup is not provided for in the current version of the Joint Rules of the Florida Legislature or in SCR 1202.

<sup>11</sup> The Legislative Commission on Migrant and Seasonal Labor is not provided for in the current version of the Joint Rules of the Florida Legislature or in SCR 1202.

**Florida Department of Children and Families**

The bill also makes conforming changes impacting the Florida Department of Children and Families. The bill amends Section 409.146(9), F.S., concerning the children and families client and management information system, by requiring the Department to report to the President of the Senate and the Speaker of the House of Representatives instead of the Joint Information Technology Resources Committee. The bill also deletes the portion of that Section requiring the Joint Information Technology Resources Committee to review the report and forward it to the appropriate committees in the Senate and the House of Representatives.

**Southeastern Interstate Forest Fire Protection Compact**

Currently, Section 590.33, F.S., provides that two of Florida's four members on the Southeastern Interstate Forest Fire Protection Compact Advisory Committee are required to be Legislators, one of which is from the Senate and the other from the House of Representatives. The bill amends that Section by specifying that the President of the Senate and the Speaker of the House of Representatives would each be responsible for designating one member.

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

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

Some of the changes made in this bill conform to funding decisions made in the 2010-2011 General Appropriations Act. Implementation of provisions may result in a positive fiscal impact which is indeterminate at this time.



**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Additional Information:**

**A. Committee Substitute – Statement of Substantial Changes:**

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

None.

**B. Amendments:**

None.

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

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**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Rules Committee

BILL: CS/SJR 958

INTRODUCER: Budget Subcommittee on Finance and Tax

SUBJECT: State Government Revenue Limitation

DATE: February 23, 2011      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cote	Diez-Arguelles	BFT	<b>Fav/CS</b>
2.	Cote	Meyer, C.	BC	<b>Favorable</b>
3.	Cote	Phelps	RC	<b>Pre-meeting</b>
4.				
5.				
6.				

<b>Please see Section VIII. for Additional Information:</b>	
A. COMMITTEE SUBSTITUTE.....	<input checked="" type="checkbox"/> Statement of Substantial Changes
B. AMENDMENTS.....	<input type="checkbox"/> Technical amendments were recommended
	<input type="checkbox"/> Amendments were recommended
	<input type="checkbox"/> Significant amendments were recommended

**I. Summary:**

This joint resolution amends Section 1, Article VII and creates Section 19, Article VII and Section 32, Article XII of the Florida Constitution. The joint resolution:

- Replaces the existing state revenue limitation based on Florida personal income growth with a new state revenue limitation based on changes in population and inflation.
- Requires excess revenues to be deposited into the Budget Stabilization Fund, used to support public education, or returned to the taxpayers.
- Adds fines and revenues used to pay debt service on bonds issued after July 1, 2012 to the state revenues subject to the limitation.
- Authorizes the Legislature to increase the revenue limitation by a supermajority vote.
- Authorizes the Legislature to place a proposed increase before the voters, requiring approval by 60 percent of the voters.

The proposed amendment will be submitted to the electors at the general election in 2012 or at an earlier election specifically authorized by law, and, if approved, will take effect upon approval by the electors. The new state revenue limitation will first apply to state fiscal year 2014-15.

## II. Present Situation:

In 1994, Florida's voters approved an amendment to the State Constitution<sup>1</sup> that limits state revenue collections to the prior year's allowed revenue plus an adjustment for the growth in the Florida economy, as measured by state personal income.<sup>2</sup> The revenue limit in any year is determined by multiplying the average annual growth rate in Florida personal income in the previous five years by the maximum amount of revenue permitted under the limitation in the previous year. Excess collections are deposited in the Budget Stabilization Fund until it is fully funded and thereafter must be refunded to taxpayers as provided by general law. The Legislature, by a two-thirds vote of the membership of each house, may increase the allowable state revenue for any fiscal year. Such an increase must be in a separate bill that contains no other subject and must set forth the dollar amount by which the state revenues are increased. The Legislature must wait 72 hours after the third reading of the bill before taking a vote.

For purposes of the limitation, "state revenues" are defined as taxes, fees, licenses, and charges for services imposed by the Legislature on individuals, businesses, or agencies outside state government.<sup>3</sup> "State revenues" does not include:

- Revenues necessary to meet bond requirements
- Revenues that provide matching funds for the federal Medicaid program (with the exception of revenues used to support the Public Medical Assistance Trust Fund and revenues used to fund elective expansions to Medicaid made after July 1, 1994);
- Proceeds from the state lottery returned as prizes;
- Receipts of the Florida Hurricane Catastrophe Trust Fund;
- Balances carried forward from prior fiscal years;
- Taxes, licenses, fees, and charges for services imposed by local governments; or
- Taxes, licenses, fees and charges for services required to be imposed by an amendment or revision to the constitution after July 1, 1994.

In addition to the revenues explicitly not included, the definition of state revenues excludes grants from the federal government and other revenues that are not "taxes, fees, licenses, and charges for services imposed by the legislature . . ."

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<sup>1</sup> Article VII, Section 1(e), Florida Constitution.

<sup>2</sup> Generally, Florida personal income is a measure of all earnings (wages, salaries, proprietor's income), plus dividends, interest, rent and transfer payments.

<sup>3</sup> Examples of state revenue sources covered by the limitation include auto title and lien fees, beverage licenses, cigarette and other tobacco products tax, corporation fees and income tax, documentary stamp taxes, estate tax, hotel and restaurant licenses and fees, hunting and fishing licenses, insurance premium tax, motor fuels taxes, pari-mutuel tax, pollutant taxes, sales and use tax, severance taxes, and unemployment compensation tax. (See *2010 Florida Tax Handbook* for examples of other state revenue sources, <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2010.pdf>)

The constitution requires that in the event there is a transfer of responsibility for the funding of governmental functions between the state and other level of government, an adjustment to the revenue limitation must be made by general law to reflect the fiscal impact of this transfer.<sup>4</sup>

The constitution also requires the legislature to adopt procedures necessary to administer the revenue limitation by general law; however, such legislation has not been enacted.

### **Impacts of the Constitutional Revenue Limitation**

In the first few years after the adoption of the constitutional revenue limitation, state revenue collections were close to the constitutional limitation. Since that time, however, revenues subject to the limitation have generally grown more slowly than personal income. The only other year revenues came close to the limitation was in 2005-2006 when state revenues came within \$658m of the limitation.

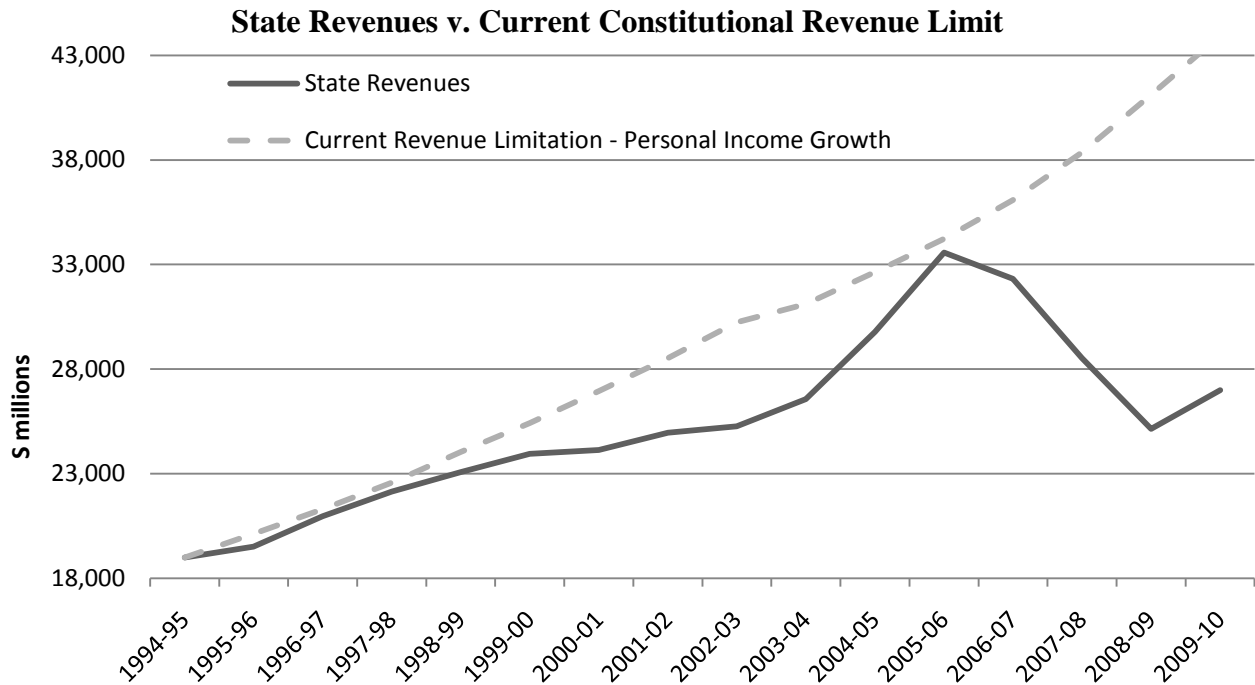
Since 1999, the Florida Legislature has enacted several measures to reduce state revenue. For example, the intangibles tax, sales and use tax, beverage tax, corporate income tax, and pari-mutuel tax have all been reduced by the Legislature. Additionally, changes in federal law have caused a reduction in estate tax revenue. These changes in tax laws have contributed to the widening gap between state revenues and the revenue limit.

Finally, the effects of the recent recession have also contributed to the widening gap. The gap is not expected to narrow in the foreseeable future.

The following chart displays the history of the current revenue limitation.

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<sup>4</sup> In 2002, the Legislature removed State University System revenues from the definition of “state revenues.” See Chapter 2002-387, Laws of Florida.



**Tax and Expenditure Limits in Other States**

Thirty states currently have some kind of limit on taxes or expenditures.<sup>5</sup> These limits are designed to restrain growth in government spending by placing constitutional or statutory restrictions on the amount government can spend or on the amount of revenue government can raise. Generally, they fall into one of the categories described below:

- Revenue limits which tie yearly increases in revenue to personal income or some other type of measure such as inflation or population;
- Expenditure limits similarly linked to personal income or another growth index;
- Appropriations limited to a percentage of the revenue estimate;
- Voter approval requirements for all tax increases over a specified amount; or
- Legislative supermajority requirements for a two-thirds, three-fourths, or four-fifths majority vote in both chambers to pass a tax increase or new taxes.
- Some states have combined components of these types of limits.

In terms of limiting budgets, results from studies are mixed. Many studies conclude that the state limits have not been as effective as proponents envisioned because of the ease with which state governments can circumvent the limits. Some fiscal policy experts agree that voter approval and supermajority requirements place tighter constraints on state governments than other revenue and expenditure limits.

<sup>5</sup> This discussion of other state limitations is largely adapted from *State Tax and Expenditure Limits 2008*, National Conference of State Legislatures, <http://www.ncsl.org/default.aspx?tabid=12633>.

### **Revenue Limitation in Colorado**

In 1992, Colorado voters passed what some consider the most restrictive revenue limitation in the nation.<sup>6</sup> The Colorado law applies to all taxing districts within the state and voter approval is required to approve any tax increase. Additionally, the Colorado revenue limitation restricts general revenue to the prior year's revenues adjusted for population growth and inflation. Since the limit is based on prior year's revenues rather than the prior year's revenue limitation, any decline in revenues due to a recession leads to a permanent ratcheting down of spending levels. After the recession in the early 2000s, the ratcheting down effect held the revenue base at recessionary levels. In 2005, Colorado voters suspended the revenue limitation for a period of five years to ease existing limits and allow the budget to recover and move forward.

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

This joint resolution proposes an amendment to the Florida Constitution that replaces the current state revenue limitation with a new limitation. The major changes are:

- the use of personal income in the growth factor is replaced with a growth factor based on population and inflation;
- the base year is updated to Fiscal Year 2013-14;
- the definition of "state revenues" subject to the limitation is expanded to include fines and revenues used to pay debt service for bonds issued by the state after July 1, 2012; and
- the definition of "state revenues" subject to the limitation is revised to explicitly exclude receipts of Citizens Property Insurance Corporation, public universities and colleges.

### **State Revenue Limitation**

Section 19 of Article VII of the State Constitution is created and limits state revenues in any fiscal year as follows:

- For the 2014-2015 fiscal year, to an amount equal to the state revenues collected during the 2013-2014 fiscal year multiplied by the sum of the adjustment for growth plus four one-hundredths.
- For the 2015-2016 fiscal year, to an amount equal to the state revenues collected during the 2014-2015 fiscal year multiplied by the sum of the adjustment for growth plus three one-hundredths.
- For the 2016-2017 fiscal year, to an amount equal to the state revenues collected during the 2015-2016 fiscal year multiplied by the sum of the adjustment for growth plus two one-hundredths.

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<sup>6</sup>See, e.g., McGuire, Therese and Kim Rueben. 2006. "The Colorado revenue limit: The economic effects of TABOR." Washington, DC: Economic Policy Institute Briefing Paper No. 172, <http://www.epi.org/publications/entry/bp172/>.

- For the 2017-2018 fiscal year, to an amount equal to the state revenues collected during the 2016-2017 fiscal year multiplied by the sum of the adjustment for growth plus one one-hundredth.
- For the 2018-2019 fiscal year and thereafter, state revenues are limited to an amount equal to the state revenue limitation for the previous fiscal year multiplied by the adjustment for growth.

The “adjustment for growth” is defined as an amount equal to the average for the previous five years of the product of the inflation factor and the population factor. The “inflation factor” is defined as an amount equal to one plus the percent change in the calendar year annual average Consumer Price Index for All Urban Consumers, U.S city average, as published by the United States Department of Labor. Finally, the “population factor” is defined as an amount equal to one plus the percent change in the population of the state as of April 1 compared to April 1 of the prior year.

The adjustment for growth must be determined by March 1 preceding the applicable fiscal year using the latest available information, and once determined, may not be changed based on revisions to such information.

Like the current limitation, the proposed limitation does not apply to all revenues received by the state. The limitation applies only to revenues generally considered to be within the Legislature’s control and used to fund state expenditures. “State revenues” are defined to mean taxes, fees, licenses, fines, and charges for services imposed by the legislature on individuals, businesses or agencies outside state government. “State revenues” does not include:

- Revenues necessary to meet bond requirements set forth in documents authorizing the issuance of bonds by the state for bonds issues prior to July 1, 2012;
- Revenues that provide matching funds for the federal Medicaid program (with the exception of revenues used to support the Public Medical Assistance Trust Fund and revenues used to fund optional expansions made after July 1, 1994);
- Proceeds from the state lottery returned as prizes;
- Receipts of the Florida Hurricane Catastrophe Trust Fund and Citizens Property Insurance Corporation;
- Receipts of public universities and colleges;
- Balances carried forward from prior fiscal years;
- Taxes, licenses, fees, fines and charges for services imposed by local, regional or school district governing bodies; or
- Taxes, licenses, fees, fines and charges for services authorized by an amendment or revision to the constitution after May 6, 2011.

### **Revenues in Excess of the Limit**

State revenues collected for any fiscal year in excess of the revenue limitation are transferred to the Budget Stabilization Fund until the fund reaches its maximum balance as provided in Article

III, Section 19(g) of the Florida Constitution<sup>7</sup>. Thereafter, excess revenues must be used for the support and maintenance of public schools by reducing the minimum financial effort required from school districts for participation in a state-funded education finance program, or, if the minimum financial effort is no longer required, returned to taxpayers as provided by general law.

### **Authority of the Legislature to Increase the Revenue Limitation**

The Legislature has two options to increase the state revenue limitation:

- 1) The Legislature, by a two-thirds vote of the membership of each house, may increase the revenue limitation for any fiscal year. Unless otherwise provided by the bill increasing the revenue limitation, the increased revenue limitation shall be used to determine the revenue limitation for future fiscal years.
- 2) The Legislature, by a three-fifths vote of the membership of each house, may increase the allowable state revenue for any one fiscal year. Increases to the revenue limitation by a three-fifths vote must be disregarded when determining the revenue limitation in subsequent fiscal years.

A bill increasing the revenue limitation must contain no other subject and set forth the dollar amount by which the state revenue limitation is increased. The vote may not be taken less than 72 hours after the third reading in either house of the legislature of the bill in the form that it will be presented to the Governor before taking a vote.

### **Authority of the Voters to Increase the Revenue Limitation**

The Legislature may place before the voters a measure to increase the state revenue limitation by a concurrent resolution approved by a two-thirds vote of the membership of each house. The measure must set forth the dollar amount by which the state revenue limitation will be increased and must be approved by a vote of at least 60 percent of the electors voting on the measure in a general election. Unless otherwise provided by the ballot language presented to the voters, the increased revenue limitation must be used to determine the revenue limitation for future fiscal years.

### **Revenue Limit Adjustment by the Legislature**

The Legislature must provide by general law for adjustments to the state revenue limitation to reflect the fiscal impact of transfers of responsibility for the funding of government functions between the state and other levels of government occurring after May 6, 2011 or the fiscal impact of a new federal mandate.

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<sup>7</sup> Ten percent of the last completed fiscal year's net revenue collections for the General Revenue Fund.

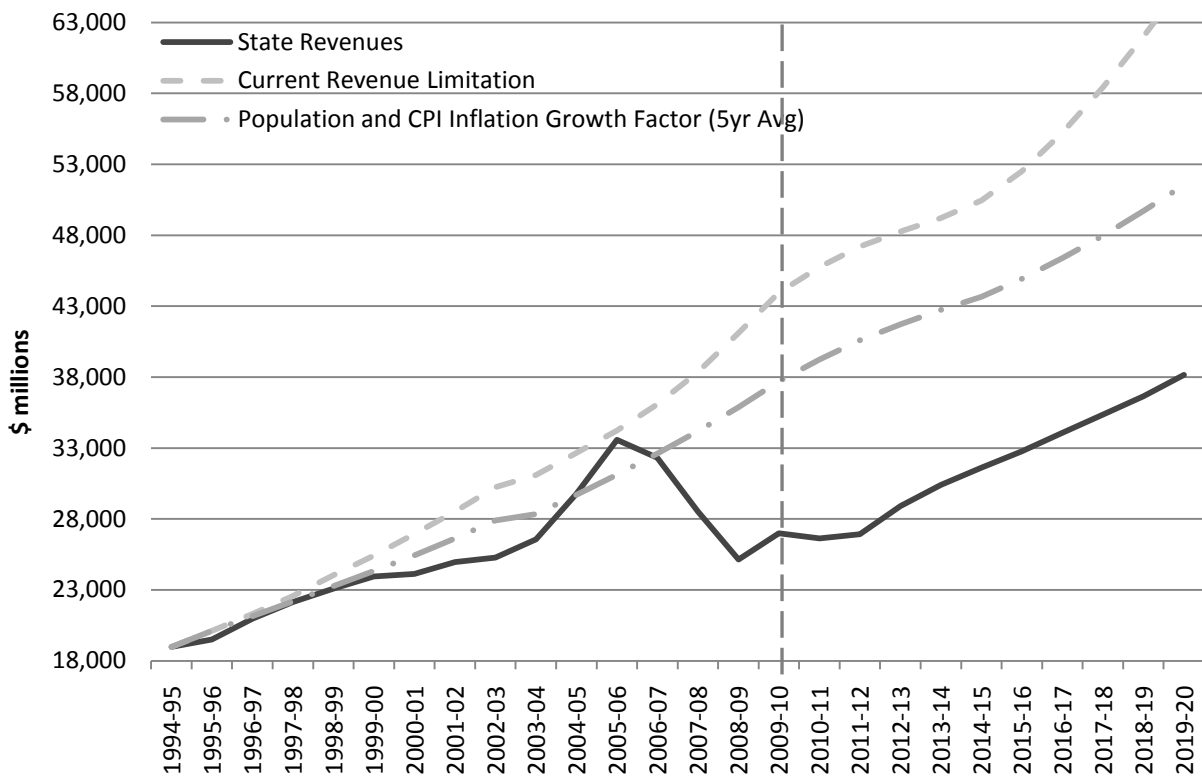


### Likely Impacts of Proposed Constitutional Amendment

Over time, the proposed state revenue limitation is more likely to constrain growth in state revenues than the current limitation.

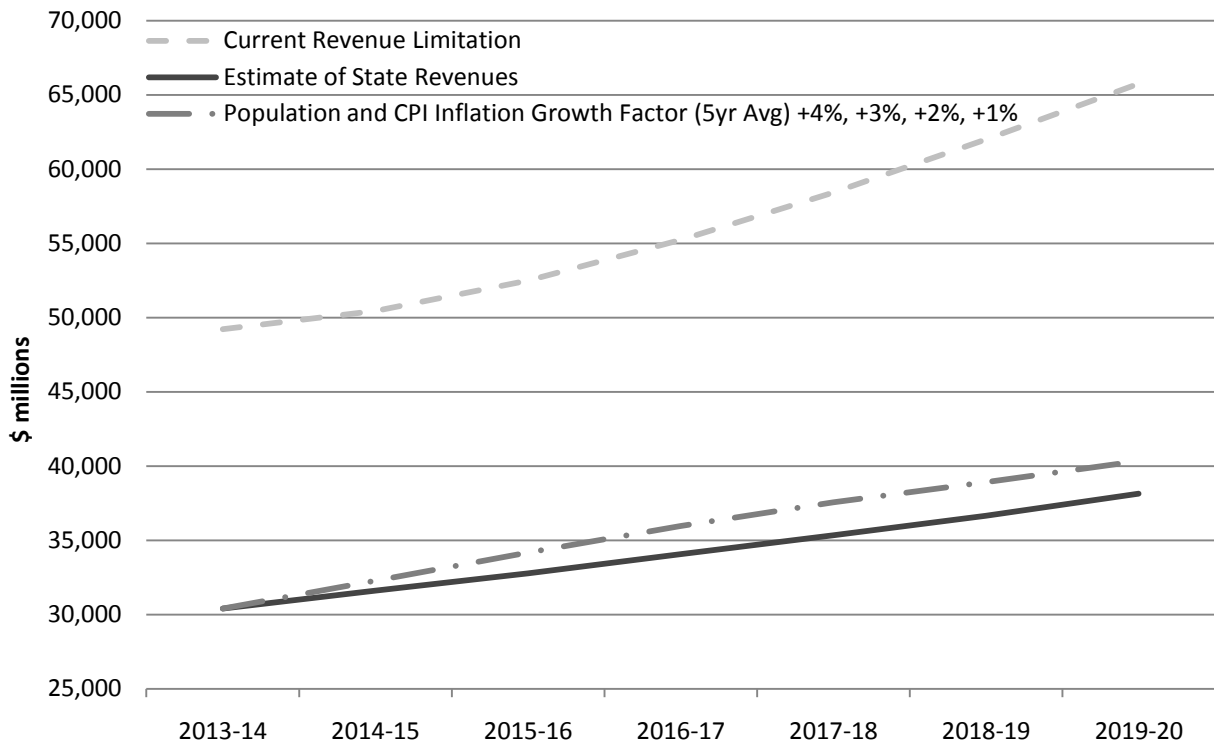
The limitation adopted by the voters in 1994 does not appear to have worked as a meaningful limitation on state revenues. Revenue growth since that time has lagged behind growth in the state's economy. If the adjustment for growth proposed in this CS/SJR 958 had been in effect since 1994, all other things being equal, state revenues would have exceeded the revenue limitation in fiscal years 2004-05 and 2005-06, as shown on the following chart.

**Current vs. Proposed Growth Factors  
starting with 1994-95 base year**



Based on the most current revenue projections and estimates of near term growth in population and inflation, the proposed revenue limitation is expected to exceed the amount of state revenues subject to the limitation at least until fiscal year 2019-2020, as shown on the following chart. These projections will change based on new estimates of revenues, population, and the consumer price index.

**Current vs. Proposed Revenue Limitation  
starting with 2013-14 base year<sup>8</sup>**



Population and CPI Inflation Growth Factor (5yr Avg.) +4%, +3%, +2%, +1%							
		4%	3%	2%	1%		
<b>Base Year 2013-14</b>	<b>2013-14</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>
Estimate of State Revenues	30,399	31,619	32,766	34,067	35,348	36,655	38,145
Adjustment for growth		1.0617	1.0589	1.0522	1.0443	1.0363	1.0365
Revenue Limit	30,399	32,276	34,178	35,962	37,556	38,918	40,340
Revenues (Over) or Under the Limit		657	1,413	1,895	2,208	2,263	2,194

<sup>8</sup> “State revenues” shown on this chart and graph are state revenues covered under the current limitation and do not include fines or revenues used to pay debt service for bonds issued by the state after July 1, 2012. The inclusion of these additional revenues is not expected to materially affect the general shape of state revenues. State Medicaid expenditures excluded from state revenues are based on the estimated percentage growth between FY 2012-13 and FY 2013-2014 remaining constant into the future. The Medicaid expenditure estimate does not include the impact of federal health care reform legislation.

**IV. Constitutional Issues:**

- A. Municipality/County Mandates Restrictions:
- B. None. Public Records/Open Meetings Issues:  
None.
- C. Trust Funds Restrictions:  
None.
- D. Other Constitutional Issues:

Section 1, Article XI of the State Constitution, authorizes the Legislature to propose amendments to the State Constitution by joint resolution approved by three-fifths vote of the membership of each house. The amendment must be placed before the electorate at the next general election held 90 days after the proposal has been filed with the Secretary of State's office, or at an earlier special election, if approved by a law enacted with a three-fourths vote of the membership of each house of the legislature.

Section 5(e), Article XI of the State Constitution, requires 60 percent voter approval for a constitutional amendment to take effect. If approved by 60 percent of the electors voting on the measure in the next general election, the amendment will take effect upon approval.

**V. Fiscal Impact Statement:**

- A. Tax/Fee Issues:

The provisions of this joint resolution will restrict the ability of state government to raise taxes, licenses, fees, fines, or charges for services and limits the use of revenues received in excess of the constitutional limitation.

- B. Private Sector Impact:

None.

- C. Government Sector Impact:

The Division of Elections of the Department of State (division) is required to publish the proposed constitutional amendment twice in a newspaper of general circulation in each county. The average cost per word to advertise an amendment is \$106.14 according to the division.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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

**CS by Budget Subcommittee on Finance and Tax on February 17, 2011:**

The CS makes two technical changes:

- Replaces the phrase “community colleges” with “public colleges”.
- Replaces the term “percentage point” with the term “one-hundredths” to reflect proper form.

The CS also clarifies the language of the ballot summary statement that explains the use of revenues in excess of the limit. This language parallels the language in the bill.

**B. Amendments:**

None.



## THE FLORIDA SENATE

### COMMITTEE ON RULES

#### *Location*

402 Senate Office Building

#### *Mailing Address*

404 South Monroe Street  
Tallahassee, Florida 32399-1100  
(850) 487-5350

Senator John Thrasher, *Chair*  
Senator JD Alexander, *Vice Chair*

**Professional Staff:** John B. Phelps, *Staff Director*

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

### Chronology of Ethics Complaint against Senator Haridopolos

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- On December 14, 2009, the Commission on Ethics receives a complaint against Senator Haridopolos for failure to fully disclose his financial interests.
- The Executive Director of the Commission on Ethics determines that the Complaint was legally sufficient and directs that a preliminary investigation be performed.
- The investigator's report on Senator Haridopolos's financial disclosure forms for 2004-2008 determines that certain required information was omitted from the filings.
- When so informed, Senator Haridopolos admits the error and acknowledges that he "failed to correctly describe his assets and creditors on his CE Form 6's." By following the same information entry pattern year after year he affirmed that the errors made in 2004 were replicated through 2008.
- Senator Haridopolos files corrected forms on September 14, 2010.
- On October 24, 2010, the Advocate for the Commission on Ethics recommends a finding of probable cause that Senator Haridopolos violated Article II, Sec. 8(a) and (i) of the Constitution by failing to fully disclose his financial interests.
- On October 28, 2010, Senator Haridopolos and the Commission on Ethics agree to a Joint Stipulation of Fact, Law and Recommended Order.
- On December 8, 2010, the Commission on Ethics issues a Final Order and Public Report finding that Senator Haridopolos had violated Article II, Sec. 8(a) and (i) of the Constitution by failing to fully disclose his financial interests for the years 2004-2008.
- The Executive Director of the Commission on Ethics writes to Senator Haridopolos, in his capacity as President of the Senate, informing him of the Commission's action.
- Senator Haridopolos refers the matter to Rules Chair, Senator John Thrasher, for appropriate action.