

Conference Budget Language
FY 2009-10 Budget

Agency	Description	Summary	Senate	Senate Doc #	House	House Doc #
General Government & Natural Resources						
1 DACS	Transfer Surveyors and Mappers to DACS	Language necessary to facilitate transfer of the Board of Surveyors and Mappers from the Department of Business and Professional Regulation to the Department of Agriculture.	Proviso & Conforming	1		
2 DACS	Florida Agriculture Promotion Campaign	Authorizes the department to extend, revise, and renew current contacts relating to the Florida Agriculture Promotion Campaign.	Imp. Bill	2		
3 DACS	Support for Food Banks	Authorizes funds to be provided for the Florida Association of Food Banks.	Proviso	3		
4 DACS	Weights and Measures Program	Reduces fee caps and provides a 5 year sunset of the weights and measures fee.	Conforming	4		
5 DEP	State Land Leases	Requires the department to review leases and sub-leases to non-state entities and provide a report.	Proviso	5		
6 DEP	Federal Stimulus Distribution Report	Requires a quarterly report from the department regarding the distribution of federal stimulus funds for drinking water and wastewater.	Proviso	6		
7 DEP	Debt Service	Division of Bond Finance	Proviso	7		
8 DEP	Class I Landfills	Repeals section 23 of chapter 2008-150, Laws of Florida.	Conforming	8		
9 DEP	Nitrogen Reduction	Prohibits expenditures for any regulation that establishes new nitrogen reduction limits.			Proviso	1

Senate #1 - Department of Agriculture and Consumer Services/
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1 A bill to be entitled
2 An act relating to surveyors and mappers; providing
3 for a type two transfer of the licensing and
4 regulation of Professional Surveyors and Mappers from
5 the Division of Professions within the Department of
6 Business and Professional Regulation to the Department
7 of Agriculture and Consumer Services; amending s.
8 20.165, F.S.; conforming provisions to changes made by
9 the act; amending s. 472.005, F.S.; revising a
10 definition; creating s. 472.006, F.S.; setting forth
11 the powers and duties of the Department of Agriculture
12 and Consumer Services relating to surveyors and
13 mappers; amending s. 472.007, F.S.; providing for the
14 Board of Professional Surveyors and Mappers to be
15 located within the Department of Agriculture and
16 Consumer Services; providing for the appointment of
17 members to the board; requiring each board member to
18 be accountable to the Commissioner of Agriculture;
19 creating s. 472.0075, F.S.; providing that the board
20 may be contacted through the department; amending s.
21 472.008, F.S.; authorizing the board to adopt rules;
22 authorizing the department to challenge any rule of
23 the board; creating s. 472.0101, F.S.; authorizing the
24 participation of foreign-trained professionals under
25 certain specified circumstances; amending s. 472.011,
26 F.S.; requiring that fees collected pursuant to ch.
27 472, F.S., be deposited into a specified trust fund;
28 authorizing the board to assess and collect certain
29 fees; creating s. 472.0131, F.S.; requiring the
30 department to prepare for professional examinations;

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31 creating s. 472.0132, F.S.; declaring that the
32 wrongful taking or copying of an examination is a
33 felony of the third degree; creating s. 472.0135,
34 F.S.; providing for educational competencies; amending
35 s. 472.015, F.S.; requiring any person desiring to be
36 licensed to apply to the department in writing on a
37 form prepared and furnished by the department;
38 authorizing the department to collect a license fee;
39 creating s. 472.016, F.S.; requiring that members of
40 the Armed Forces be kept in good standing and not be
41 charged dues and fees while on active duty; creating
42 s. 472.0165, F.S.; providing qualifications and
43 standards for immigrants who desire to be licensed as
44 a surveyor or mapper; amending s. 472.018, F.S.;
45 providing for continuing education; requiring the
46 board to establish the criteria and course content for
47 continuing education courses; creating s. 472.0201,
48 F.S.; providing for access to public records;
49 providing for certain specified exceptions; creating
50 s. 472.02011, F.S.; prohibiting persons from
51 disseminating confidential information; creating s.
52 472.0202, F.S.; prohibiting a person from practicing
53 the profession without an active status license;
54 setting forth the permissible activities of an
55 inactive licensee; creating s. 472.0203, F.S.;
56 requiring the department to send a notice of renewal
57 to the licensee; creating s. 472.0204, F.S.; requiring
58 each licensee to notify the department in writing of
59 the licensee's current mailing address and place of
60 practice; amending s. 472.033, F.S.; providing for
61 disciplinary proceedings; providing for

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62 investigations; creating s. 472.0335, F.S.; providing
63 for the classification of disciplinary actions;
64 classifying actions as minor violations; creating s.
65 472.034, F.S.; providing for mediation of disciplinary
66 actions; providing procedures; creating s. 472.0345,
67 F.S.; authorizing the department and the board the
68 authority to issue citations; providing mediation
69 procedures; creating s. 472.0351, F.S.; setting forth
70 the grounds for disciplinary proceedings; listing the
71 acts that are grounds for disciplinary actions;
72 creating s. 472.0355, F.S.; providing disciplinary
73 guidelines; creating s. 472.036, F.S.; providing
74 penalties for the unlicensed practice of surveying and
75 mapping; authorizing the department to issue a
76 citation; providing for a civil penalty; creating s.
77 472.0365, F.S.; authorizing the department to collect
78 a fee to support enforcement activities; providing
79 requirements for the Department of Agriculture and
80 Consumer Services and the Department of Business and
81 Professional Regulation to minimize any interruption
82 of service or function resulting from the transfer of
83 duties; providing an effective date.
84
85 Be It Enacted by the Legislature of the State of Florida:
86
87 Section 1. All powers, duties, functions, records,
88 personnel, property, pending issues and existing contracts,
89 administrative authority, administrative rules, and unexpended
90 balances of appropriations, allocations, and other funds for the
91 licensing and regulation of Professional Surveyors and Mappers
92 are transferred by a type two transfer, as defined in s.

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93 20.06(2), Florida Statutes, from the Division of Professions
94 within the Department of Business and Professional Regulation to
95 the Department Agriculture and Consumer Services.
96 Section 2. Paragraph (a) of subsection (4) of section
97 20.165, Florida Statutes, is amended to read:
98 20.165 Department of Business and Professional Regulation.--
99 There is created a Department of Business and Professional
100 Regulation.
101 (4) (a) The following boards are established within the
102 Division of Professions:
103 1. Board of Architecture and Interior Design, created under
104 part I of chapter 481.
105 2. Florida Board of Auctioneers, created under part VI of
106 chapter 468.
107 3. Barbers' Board, created under chapter 476.
108 4. Florida Building Code Administrators and Inspectors
109 Board, created under part XII of chapter 468.
110 5. Construction Industry Licensing Board, created under
111 part I of chapter 489.
112 6. Board of Cosmetology, created under chapter 477.
113 7. Electrical Contractors' Licensing Board, created under
114 part II of chapter 489.
115 8. Board of Employee Leasing Companies, created under part
116 XI of chapter 468.
117 9. Board of Landscape Architecture, created under part II
118 of chapter 481.
119 10. Board of Pilot Commissioners, created under chapter
120 310.
121 11. Board of Professional Engineers, created under chapter
122 471.
123 12. Board of Professional Geologists, created under chapter

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124 492.
125
126 13. Board of Professional Surveyors and Mappers, created
127 under chapter 472.
128 13.14 Board of Veterinary Medicine, created under chapter
129 47A.
130 Section 3. Subsection (2) of section 472.005, Florida
131 Statutes, is amended, and subsection (14) is added to that
132 section, to read:
133 472.005 Definitions. As used in ss. 472.001-472.037:
134 (2) "Department" means the Department of Agriculture and
135 Consumer Services Business and Professional Regulation.
136 (14) "Commissioner" means the Commissioner of Agriculture.
137 Section 4. Section 472.006, Florida Statutes, is created to
138 read:
139 472.006 Department; powers and duties. The department
140 shall:
141 (1) Adopt rules establishing a procedure for the biennial
142 renewal of licenses. However, the department may issue up to a
143 4-year license to selected licensees notwithstanding any other
144 law to the contrary. Fees for such renewal may not exceed the
145 fee caps for individual professions on an annualized basis as
146 authorized by law.
147 (2) Appoint the executive director of the board, subject to
148 the approval of the board.
149 (3) Submit an annual budget to the Legislature at a time
150 and in the manner provided by law.
151 (4) Develop a training program for persons newly appointed
152 to membership on the board. The program shall familiarize such
153 persons with the substantive and procedural laws and rules and
154 fiscal information relating to the regulation of the profession
155 and with the structure of the department.

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155 (5) Adopt rules pursuant to ss. 120.536(1) and 120.54 to
156 administer this chapter. The department also is authorized to
157 join with, or withhold approval of, rules proposed for adoption
158 by the board.
159 (6) Establish uniform application and other forms,
160 including certificates of licensure, necessary to administer the
161 provisions of this chapter. This subsection does not authorize
162 the department to vary any substantive requirements, duties, or
163 eligibilities for licensure or certification as provided by law.
164 (7) Establish by rule procedures by which the department
165 shall use the expert or technical advice of the board for the
166 purposes of investigation, inspection, evaluation of
167 applications, other duties of the department, or any other areas
168 the department may deem appropriate.
169 (8) Require all proceedings of the board or panel thereof
170 and all formal or informal proceedings conducted by the
171 department, an administrative law judge, or a hearing officer
172 with respect to licensing or discipline to be electronically
173 recorded in a manner sufficient to ensure the accurate
174 transcription of all matters so recorded.
175 (9) Select only those investigators, or consultants who
176 undertake investigations, who meet criteria established with the
177 advice of the board.
178 (10) Have authority to:
179 (a) Close and terminate deficient license application files
180 2 years after the board or the department notifies the applicant
181 of the deficiency; and
182 (b) Approve applications for professional licenses that
183 meet all statutory and rule requirements for licensure.
184 (11) Provide legal counsel for the board by contracting
185 with the Department of Legal Affairs, by retaining private

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counsel pursuant to s. 287.059, or by providing department staff
counsel. The board shall periodically review and evaluate the
services provided by its board counsel. Fees and costs of such
counsel shall be paid from the General Inspection Trust Fund,
subject to ss. 215.37 and 472.011. All contracts for independent
legal counsel must provide for periodic review and evaluation by
the board and the department of services provided.

(a) The department may employ or use the legal services of
outside counsel and the investigative services of outside
personnel.

(b) Any person retained by the department under contract to
review materials, make site visits, or provide expert testimony
regarding any complaint or application filed with the department
relating to the practice of surveying and mapping shall be
considered an agent of the department in determining the state
insurance coverage and sovereign immunity protection
applicability of ss. 284.31 and 768.28.

Section 5. Section 472.007, Florida Statutes, is amended to
read:

472.007 Board of Professional Surveyors and Mappers. There
is created in the Department of Agriculture and Consumer
Services ~~Business and Professional Regulation~~ the Board of
Professional Surveyors and Mappers.

(1) The board shall consist of nine members, six of whom
shall be registered surveyors and mappers primarily engaged in
the practice of surveying and mapping, one of whom shall be a
registered surveyor and mapper with the designation of
photogrammetrist, and two of whom shall be laypersons who are
not and have never been surveyors and mappers or members of any
closely related profession or occupation.

(2) Members shall be appointed by the Commissioner of

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Agriculture, subject to confirmation by the Senate for 4-year
terms.

(a) Members shall be appointed for 4-year terms and such
terms shall expire on October 31. However, a term of less than 4
years may be used to ensure that no more than 3 members' terms
expire during the same calendar year.

(b) A member whose term has expired shall continue to serve
on the board until such time as a replacement is appointed. A
vacancy on the board must be filled for the unexpired portion of
the term in the same manner as the original appointment. A
member may not serve for more than the remaining portion of a
previous member's unexpired term plus two consecutive 4-year
terms of the member's own appointment thereafter.

(3) The board shall annually elect from among its number a
chairperson and vice chairperson.

(4) The board shall meet at least once annually and may
meet as often as is necessary. The chairperson or a quorum of
the board have the authority to call other meetings.

(a) A quorum is necessary for the conduct of official
business by the board or any committee thereof. Unless otherwise
provided by law, 51 percent or more of the appointed members of
the board or any committee, when applicable, constitute a
quorum.

(b) The membership of committees of the board, except as
otherwise authorized under this chapter, shall be composed of
currently appointed members of the board. The vote of a majority
of the members of the quorum is necessary for any official
action by the board or committee.

(c) Three consecutive unexcused absences or absences
constituting 50 percent or more of the board's meetings within
any 12-month period shall cause the board membership of the

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248 member in question to become void, and the position shall be
249 considered vacant. The board shall define unexcused absences by
250 rule.

251 (5) Unless otherwise provided by law, a board member or
252 former board member serving on a probable cause panel must be
253 compensated \$50 for each day in attendance at an official
254 meeting of the board and for each day participating in any other
255 business involving the board. The board shall adopt a rule
256 defining the phrase "other business involving the board."
257 However, the phrase may not routinely be defined to include
258 telephone conference calls. A board member is also entitled to
259 reimbursement for expenses pursuant to s. 112.061. Travel out of
260 state requires the prior approval of the commissioner or the
261 commissioner's designee.

262 (6) The department and the board may advise licensees
263 periodically, through the publication of a newsletter, of
264 information that the department or the board determines is of
265 interest to the industry. Unless otherwise prohibited by law,
266 the department and the board shall publish a summary of final
267 orders resulting in fines, suspensions, or revocations, and any
268 other information the department or the board determines is of
269 interest to the public.

270 (7)(a) Each board member is accountable to the commissioner
271 for the proper performance of his or her duties as a member of
272 the board. The commissioner shall investigate any legally
273 sufficient complaint or unfavorable written report received by
274 the commissioner or by the department or the board concerning
275 the actions of the board or its individual members. The
276 commissioner may suspend from office any board member for
277 malfeasance, misfeasance, neglect of duty, drunkenness,
278 incompetence, permanent inability to perform the member's

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279 official duties, or commission of a felony.

280 (b) Each board member and each former board member serving
281 on a probable cause panel is exempt from civil liability for any
282 act or omission committed while acting in the member's official
283 capacity. The department shall defend any member in any action
284 against the board or a member of the board. In addition, the
285 department may defend the member's company or business in any
286 action against the company or business if the department
287 determines that the actions from which the suit arises are
288 actions taken by the member in the member's official capacity
289 and were within the scope of the member's statutory authority.
290 In providing such defense, the department may employ or use the
291 legal services of the Department of Legal Affairs or outside
292 counsel retained pursuant to s. 287.059. Fees and costs of
293 providing legal services under this subsection shall be paid
294 from the General Inspection Trust Fund, subject to ss. 215.37
295 and 472.011.

296 Section 6. Section 472.0075, Florida Statutes, is created
297 to read:

298 472.0075 Contacting board through department. The board may
299 be contacted through the headquarters of the department in the
300 City of Tallahassee.

301 Section 7. Section 472.008, Florida Statutes, is amended to
302 read:

303 472.008 Rules of the board.--

304 (1) The board has authority to adopt rules pursuant to ss.
305 420.536(4) and 120.54 to implement the provisions of this
306 chapter conferring duties upon it. This specific grant of
307 rulemaking authority to the board shall be exercised only
308 through proceedings pursuant to ss. 120.536(1) and 120.54 and
309 with the prior approval of the department.

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310 (2) The board shall adopt rules authorizing the use of
311 professional titles by retired surveyors and mappers. Such rules
312 shall establish guidelines designed to avoid abuse by retirees
313 and confusion on the part of the general public. The rules shall
314 not require continuing education requirements in order to use a
315 professional title by a retiree.

316 (3) The department has standing to challenge any rule or
317 proposed rule of the board pursuant to s. 120.56. In addition to
318 challenges for any invalid exercise of delegated legislative
319 authority, the administrative law judge, upon such a challenge
320 by the department, may declare all or part of a rule or proposed
321 rule invalid if it:

322 (a) Does not protect the public from any significant and
323 discernible harm or damages;

324 (b) Unreasonably restricts competition or the availability
325 of professional services in the state or in a significant part
326 of the state; or

327 (c) Unnecessarily increases the cost of professional
328 services without a corresponding or equivalent public benefit.

329 A presumption is not created for the existence of any of the
330 conditions cited in this subsection if the department challenges
331 the rule or proposed rule.

332 (4) The department or the board is a substantially
333 interested party for purposes of s. 120.54(7). The board may, as
334 an adversely affected party, initiate and maintain an action
335 pursuant to s. 120.68 challenging final agency action.

336 (5) Any proposed board rule that has not been modified to
337 remove proposed committee objections of the Administrative
338 Procedures Committee must receive approval from the department
339 before filing the rule with the Department of State for final
340

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341 adoption. The department may repeal any rule enacted by the
342 board which has taken effect without having met proposed
343 committee objections of the Administrative Procedures Committee.

344 Section 8. Section 472.0101, Florida Statutes, is created
345 to read:

346 472.0101 Foreign-trained professionals; special examination
347 and license provisions. -

348 (1) When not otherwise provided by law, the department
349 shall by rule provide procedures under which exiled
350 professionals may be examined under this chapter. A person is
351 eligible for the examination if the exiled professional:

352 (a) Immigrated to the United States after leaving the
353 person's home country because of political reasons, provided the
354 country is located in the Western Hemisphere and does not have
355 diplomatic relations with the United States;

356 (b) Applies to the department and submits a fee;

357 (c) Was a resident of this state immediately preceding the
358 person's application;

359 (d) Demonstrates to the department, through submission of
360 documentation verified by the applicant's respective
361 professional association in exile, that the applicant was
362 graduated with an appropriate professional or occupational
363 degree from a college or university. However, the department may
364 not require receipt of any documentation from the Republic of
365 Cuba as a condition of eligibility under this section;

366 (e) Lawfully practiced the profession for at least 3 years;

367 (f) Prior to 1980, successfully completed an approved
368 course of study pursuant to chapters 74-105 and 75-177, Laws of
369 Florida; and

370 (g) Presents a certificate demonstrating the successful
371 completion of a continuing education program which offers a

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372 course of study that will prepare the applicant for the
373 examination offered under subsection (2). The department shall
374 develop rules for the approval of such programs for the board.

375 (2) Upon request of a person who meets the requirements of
376 subsection (1) and submits an examination fee, the department,
377 for the board, shall conduct a written practical examination
378 that tests the person's current ability to practice the
379 profession competently in accordance with the actual practice of
380 the profession. Evidence of meeting the requirements of
381 subsection (1) shall be treated by the department as evidence of
382 the applicant's preparation in the academic and preprofessional
383 fundamentals necessary for successful professional practice, and
384 the applicant may not be examined by the department on such
385 fundamentals.

386 (3) The fees charged for the examinations offered under
387 subsection (2) shall be established by the department, for the
388 board, by rule and shall be sufficient to develop or to contract
389 for the development of the examination and its administration,
390 grading, and grade reviews.

391 (4) The department shall examine any applicant who meets
392 the requirements of subsections (1) and (2). Upon passing the
393 examination and the issuance of the license, a licensee is
394 subject to the administrative requirements of this chapter. Each
395 applicant so licensed is subject to all provisions of this
396 chapter.

397 (5) Upon a request by an applicant otherwise qualified
398 under this section, the examinations offered under subsection
399 (2) may be given in the applicant's native language if any
400 translation costs are borne by the applicant.

401 (6) The department, for the board, may not issue an initial
402 license to, or renew a license of, any applicant or licensee who

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403 is under investigation or prosecution in any jurisdiction for an
404 action that would constitute a violation of this chapter until
405 such time as the investigation or prosecution is complete, at
406 which time the provisions of this chapter shall apply.

407 Section 9. Subsections (10) through (16) are added to
408 section 472.011, Florida Statutes, to read:
409 472.011 Fees.--

410 (10) All funds collected under this section, and the amount
411 paid for licenses, fines, and fees, shall be deposited into the
412 General Inspection Trust Fund of the Department of Agriculture
413 and Consumer Services.

414 (11) If sufficient action is not taken by the board within
415 1 year after notification by the department that license fees
416 are projected to be inadequate, the department shall set license
417 fees on behalf of the board to cover anticipated costs and to
418 maintain the required cash balance. Further, it is the
419 legislative intent that this regulated profession not operate
420 with a negative cash balance. The department may provide by rule
421 for the advancement of sufficient funds if this profession is
422 operating with a negative cash balance. Such advancement may be
423 for a period not to exceed 2 consecutive years and shall require
424 interest to be paid by the regulated profession. Interest shall
425 be calculated at the current rate earned on General Inspection
426 Trust Fund investments. Interest earned shall be allocated to
427 the various funds in accordance with the allocation of
428 investment earnings during the period of the advance.

429 (12) The board may, by rule, assess and collect a one-time
430 fee from each active and each voluntary inactive licensee in an
431 amount necessary to eliminate a cash deficit or, if there is not
432 a cash deficit, in an amount sufficient to maintain the
433 financial integrity of this profession as required in this

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434 subsection.
435 (13) The department may contract with public and private
436 entities to receive and deposit revenue pursuant to this
437 section. The Legislature shall appropriate funds from the
438 General Inspection Trust Fund sufficient to carry out the
439 provisions of this chapter. To the maximum extent possible, the
440 department shall directly charge all expenses under this chapter
441 to the account of the regulated profession. For the purpose of
442 this subsection, direct charge expenses shall include, but not
443 be limited to, costs for investigations, examinations, and legal
444 services. The department shall maintain adequate records to
445 support its allocation of department expenses. The department
446 shall provide the board with reasonable access to these records
447 upon request. The board shall be provided an annual report of
448 revenue and direct and allocated expenses related to the
449 operation of the profession. These reports shall be used by the
450 board to determine the amount of license fees.
451 (14) A condensed management report of budgets, finances,
452 performance statistics, and recommendations shall be provided to
453 the board at least once a quarter. The department shall identify
454 and include in such presentations any changes, or projected
455 changes, made to the board's budget since the last presentation.
456 (15) If a duplicate license is required or requested by a
457 licensee, the board may charge a fee as determined by rule not
458 to exceed \$25 before issuing a duplicate license.
459 (16) The department or the board shall charge a fee not to
460 exceed \$25 for the certification of a public record. The fee
461 shall be determined by rule of the department. The department or
462 the appropriate board shall assess a fee for duplication of a
463 public record as provided in s. 119.07(4).
464 Section 10. Section 472.0131, Florida Statutes, is created

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465 to read:
466 472.0131 Examinations; development; administration.
467 (1) The department shall provide, contract, or approve
468 services for the development, preparation, administration,
469 scoring, score reporting, and evaluation of all examinations.
470 The department shall consult with the board in providing such
471 services.
472 (a) The department shall ensure that examinations
473 adequately and reliably measure an applicant's ability to
474 practice the profession of surveying and mapping. After an
475 examination developed or approved by the department has been
476 administered, the board or department may reject any question
477 that does not reliably measure the general areas of competency
478 specified in the rules of the board. The department shall use
479 professional testing services for the development, preparation,
480 and evaluation of examinations when such services are available
481 and approved by the board.
482 (b) For each examination developed by the department or
483 contracted vendor, to the extent not otherwise specified by
484 statute, the board shall by rule specify the general areas of
485 competency to be covered by the examination, the relative weight
486 to be assigned in grading each area tested, the score necessary
487 to achieve a passing grade, and the fees, where applicable, to
488 cover the actual cost for any purchase, development, and
489 administration of the required examination. However, statutory
490 fee caps in this chapter shall apply. This subsection does not
491 apply to national examinations approved and administered
492 pursuant to paragraph (d).
493 (c) If a practical examination is deemed to be necessary,
494 rules shall specify the criteria by which examiners are to be
495 selected, the grading criteria to be used by the examiner, the

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496 relative weight to be assigned in grading each criterion, and
497 the score necessary to achieve a passing grade. When a mandatory
498 standardization exercise for a practical examination is required
499 by law, the board may conduct such exercise. Board members may
500 serve as examiners at a practical examination with the consent
501 of the board.

502 (d) The board may approve by rule the use of any national
503 examination which the department has certified as meeting
504 requirements of national examinations and generally accepted
505 testing standards under department rules. Providers of
506 examinations, which may be profit or nonprofit entities, seeking
507 certification by the department shall pay the actual costs
508 incurred by the department in making a determination regarding
509 the certification of the vendor. The department shall use any
510 national examination that is available, certified by the
511 department, and approved by the board. The name and number of a
512 candidate may be provided to a national contractor for the
513 limited purpose of preparing the grade tape and information to
514 be returned to the board or department or, to the extent
515 otherwise specified by rule, the candidate may apply directly to
516 the vendor of the national examination. The department may
517 delegate to the board the duty to provide and administer the
518 examination. Any national examination approved by the board
519 prior to October 1, 1997, is deemed certified under this
520 paragraph. Any licensing or certification examination that is
521 not developed or administered by the department in-house or
522 provided as a national examination shall be competitively bid.

523 (e) The department shall adopt rules regarding the security
524 and monitoring of examinations. In order to maintain the
525 security of examinations, the department may employ the
526 procedures set forth in s. 472.033 to seek fines and injunctive

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527 relief against an examinee who violates s. 472.0132 or the rules
528 adopted under this paragraph. The department, or any agent
529 thereof, may, for the purposes of investigation, confiscate any
530 written, photographic, or recording material or device in the
531 possession of the examinee at the examination site which the
532 department deems necessary to enforce such provisions or rules.

533 (f) If the board concurs, the department may, for a fee,
534 share with any other state's licensing authority an examination
535 developed by or for the department unless prohibited by a
536 contract entered into by the department for development or
537 purchase of the examination. The department, with the
538 concurrence of the board, shall establish guidelines that ensure
539 security of a shared exam and shall require that any other
540 state's licensing authority comply with those guidelines. Those
541 guidelines shall be approved by the board. All fees paid by the
542 user shall be applied to the department's examination and
543 development program under this chapter.

544 (2) For each examination developed by the department or a
545 contracted vendor, the board shall make rules providing for
546 reexamination of any applicant who failed an examination. If
547 both a written and a practical examination are given, an
548 applicant is required to retake only the portion of the
549 examination for which he or she failed to achieve a passing
550 grade, if the applicant successfully passes that portion within
551 a reasonable time, as determined by rule of the board, of his or
552 her passing the other portion.

553 (3) Except for national examinations approved and
554 administered pursuant to paragraph (1)(d), the department shall
555 provide procedures for applicants who have taken and failed an
556 examination developed by the department or a contracted vendor
557 to review their examination questions, answers, papers, grades,

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and grading key for the questions the candidate answered incorrectly or, if not feasible, the parts of the examination failed. Applicants shall bear the actual cost for the department to provide examination review pursuant to this subsection. An applicant may waive in writing the confidentiality of his or her examination grades.

(4) For each examination developed or administered by the department or a contracted vendor, an accurate record of each applicant's examination questions, answers, papers, grades, and grading key shall be kept for a period of not less than 2 years immediately following the examination, and such record shall thereafter be maintained or destroyed as provided in chapters 119 and 257. This subsection does not apply to national examinations approved and administered pursuant to paragraph (1)(d).

(5) Meetings and records of meetings of any member of the department or of the board held for the exclusive purpose of creating or reviewing licensure examination questions or proposed examination questions are confidential and exempt from ss. 119.07(1) and 286.011. However, this exemption does not affect the right of any person to review an examination as provided in subsection (3).

(6) For examinations developed by the department, a contracted vendor or the board may provide licensure examinations in an applicant's native language. Applicants for examination or reexamination pursuant to this subsection bear the full cost for the department's development, preparation, administration, grading, and evaluation of any examination in a language other than English or Spanish. Requests for translated examinations, except for those in Spanish, must be on file in the board office at least 6 months before the scheduled

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examination. When determining whether it is in the public interest to allow the examination to be translated into a language other than English or Spanish, the board shall consider the percentage of the population who speak the applicant's native language.

(7) In addition to meeting any other requirements for licensure by examination or by endorsement, an applicant may be required by the board to pass an examination pertaining to state laws and rules applicable to the practice of surveying and mapping.

(8) Notwithstanding any other law to the contrary, the department may use a professional testing service to prepare, administer, grade, and evaluate any computerized examination, when that service is available and approved by the board.

Section 11. Section 472.0132, Florida Statutes, is created to read:

472.0132 Penalty for theft or reproduction of an examination.—In addition to, or in lieu of, any other discipline imposed pursuant to s. 472.033, a person who wrongfully takes an examination in whole or in part or reproduces or copies an examination administered by the department, whether such examination is reproduced or copied in part or in whole and by any means, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 12. Section 472.0135, Florida Statutes, is created to read:

472.0135 Education; substituting demonstration of competency for clock-hour requirements; accreditation; consultation.—

(1) If the board requires a student to complete a specific number of clock hours of classroom instruction for initial

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620 licensure purposes, the board shall establish the minimal
621 competencies that such student must demonstrate in order to be
622 licensed. The demonstration of such competencies may be
623 substituted for specific classroom clock-hour requirements
624 established in statute or rule which are related to
625 instructional programs for licensure purposes. Student
626 demonstration of the established minimum competencies shall be
627 certified by the educational institution.

628 (2) Notwithstanding any other law, educational programs and
629 institutions which are required by statute to be accredited, but
630 which were accredited by an agency that has since ceased to
631 perform an accrediting function, shall be recognized until such
632 programs and institutions are accredited by a qualified
633 successor to the original accrediting agency, an accrediting
634 agency recognized by the United States Department of Education,
635 or an accrediting agency recognized by the board.

636 (3) The board shall consult with the Commission for
637 Independent Education, the Board of Governors of the State
638 University System, and the State Board of Education prior to
639 adopting any changes to training requirements relating to entry
640 into the profession. This consultation must allow the
641 educational board to provide advice regarding the impact of the
642 proposed changes in terms of the length of time necessary to
643 complete the training program and the fiscal impact of the
644 changes. The educational board must be consulted only when an
645 institution offering the training program falls under its
646 jurisdiction.

647 Section 13, Section 472.015, Florida Statutes, is amended
648 to read:

649 472.015 Licensure.--

650 (1) Notwithstanding any other law, the department is the

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651 sole authority for determining the contents of any documents to
652 be submitted for initial licensure and licensure renewal. Such
653 documents may contain information including, as appropriate:
654 demographics, education, work history, personal background,
655 criminal history, finances, business information, complaints,
656 inspections, investigations, discipline, bonding, signature
657 notarization, photographs, performance periods, reciprocity,
658 local government approvals, supporting documentation, periodic
659 reporting requirements, continuing education requirements, and
660 ongoing education monitoring. The application may be
661 supplemented as needed to reflect any material change in any
662 circumstance or condition stated in the application which takes
663 place between the initial filing of the application and the
664 final grant or denial of the license and which might affect the
665 decision of the department.

666 (2) ~~44~~ The department shall license any applicant who the
667 board certifies is qualified to practice surveying and mapping.

668 (3) Before the issuance of any license, the department may
669 charge an initial license fee as determined by rule of the
670 board. Upon receipt of the appropriate license fee, except as
671 provided in subsection (6), the department shall issue a license
672 to any person certified by the board, or its designee, as having
673 met the applicable requirements imposed by law or rule. However,
674 an applicant who is not otherwise qualified for licensure is not
675 entitled to licensure solely based on a passing score on a
676 required examination.

677 ~~(4) 44~~ The board shall certify for licensure any applicant
678 who satisfies the requirements of s. 472.013 and who has passed
679 the licensing examination. The board may refuse to certify any
680 applicant who has violated any of the provisions of s. 472.031.

681 ~~(5) 44~~ (a) The board shall certify as qualified for a

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682 license by endorsement an applicant who:
683
684 1. Holds a valid license to practice surveying and mapping
685 issued prior to July 1, 1999, by another state or territory of
686 the United States; has passed a national, regional, state, or
687 territorial licensing examination that is substantially
688 equivalent to the examination required by s. 472.013; and has a
689 specific experience record of at least 8 years as a subordinate
690 to a registered surveyor and mapper in the active practice of
691 surveying and mapping, 6 years of which must be of a nature
692 indicating that the applicant was in responsible charge of the
693 accuracy and correctness of the surveying and mapping work
694 performed;
695
696 2. Holds a valid license to practice surveying and mapping
697 issued by another state or territory of the United States if the
698 criteria for issuance of the license were substantially the same
699 as the licensure criteria that existed in Florida at the time
700 the license was issued; or
701
702 3. Is a practicing photogrammetrist who holds the Certified
703 Photogrammetrist designation of the American Society for
704 Photogrammetry and Remote Sensing and held such designation on
705 or before July 1, 2005; is a graduate of a 4-year course of
706 study at an accredited college or university; and has a specific
707 experience record of 6 or more years as a subordinate to a
708 Certified Photogrammetrist of the American Society for
709 Photogrammetry and Remote Sensing in the active practice of
710 surveying and mapping, 5 years of which shall be of a nature
711 indicating that the applicant was in responsible charge of the
712 accuracy and correctness of the surveying and mapping work
713 performed. The course of study must have included not fewer than
714 32 semester hours of study or its academic equivalent. The
715 applicant must have completed a minimum of 25 semester hours

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713 from a college or university approved by the board in surveying
714 and mapping subjects or in any combination of courses in civil
715 engineering, surveying, mapping, mathematics, photogrammetry,
716 forestry, or land law and the physical sciences. Any of the
717 required 25 semester hours of study completed not as a part of
718 the 4-year course of study shall be approved at the discretion
719 of the board. Work experience acquired as a part of the
720 education requirement shall not be construed as experience in
721 responsible charge. The applicant must have applied to the
722 department for licensure on or before July 1, 2007.

(b) All applicants for licensure by endorsement must pass
723 the Florida law and rules portion of the examination prior to
724 licensure.
725

(6) (a) The board may refuse to issue an initial license to
726 any applicant who is under investigation or prosecution in any
727 jurisdiction for an action that would constitute a violation of
728 this chapter until such time as the investigation or prosecution
729 is complete.
730

(b) ~~44~~ The department shall not issue a license by
731 endorsement to any applicant who is under investigation in
732 another state for any act that would constitute a violation of
733 ss. 472.001-472.037 or chapter 455 until such time as the
734 investigation is complete and disciplinary proceedings have been
735 terminated.
736

(7) When any administrative law judge conducts a hearing
737 pursuant to chapter 120 with respect to the issuance of a
738 license by the department, the administrative law judge shall
739 submit his or her recommended order to the board, which shall
740 thereupon issue a final order. The applicant for a license may
741 appeal the final order of the board in accordance with the
742 provisions of chapter 120.
743

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744 (9) A privilege against civil liability is hereby granted
745 to any witness for any information furnished by the witness in
746 any proceeding pursuant to this section, unless the witness
747 acted in bad faith or with malice in providing such information.
748 (9) Notwithstanding anything to the contrary, any elected
749 official who is licensed under this chapter may hold employment
750 for compensation with any public agency concurrent with such
751 public service. Such dual service must be disclosed according to
752 any disclosure required by applicable law.

753 (10) In any instance in which a licensee or applicant to
754 the department is required to be in compliance with a particular
755 provision by, on, or before a certain date, and if that date
756 occurs on a Saturday, Sunday, or a legal holiday, the licensee
757 or applicant is deemed to be in compliance with the specific
758 date requirement if the required action occurs on the first
759 succeeding day that is not a Saturday, Sunday, or legal holiday.

760 (11) Any submission required to be in writing may otherwise
761 be required by the department to be made by electronic means.

762 (12) (45) A licensee or business entity that meets the
763 requirements of this section or s. 472.021 must carry
764 professional liability insurance or provide notice to any person
765 or entity to which surveying and mapping services are offered
766 that the licensee or business entity does not carry professional
767 liability insurance. The notice must consist of a sign
768 prominently displayed in the reception area and written
769 statements provided in a form and frequency as required by rule
770 of the Board of Professional Surveyors and Mappers.

771 (13) (46) The department may revoke the license of a licensee
772 or business entity that fails to pay a final judgment in
773 connection with the provision of, or failure to provide,
774 services under this chapter.

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775 (14) A person may not be disqualified from practicing
776 surveying or mapping as regulated by the state solely because he
777 or she is not a United States citizen.

778 Section 14, Section 472.016, Florida Statutes, is created
779 to read:

780 472.016 Members of Armed Forces in good standing with the
781 board.--

782 (1) Any member of the Armed Forces of the United States who
783 is now or in the future on active duty and who, at the time of
784 becoming such a member of the Armed Forces, was in good standing
785 with the board and entitled to practice or engage in surveying
786 and mapping in the state shall be kept in good standing by the
787 board, without registering, paying dues or fees, or performing
788 any other act on his or her part to be performed, as long as he
789 or she is a member of the Armed Forces of the United States on
790 active duty and for a period of 6 months after discharge from
791 active duty, provided that he or she is not engaged the practice
792 of surveying or mapping in the private sector for profit.

793 (2) The board shall adopt rules exempting the spouses of
794 members of the Armed Forces of the United States from licensure
795 renewal provisions, but only in cases of absence from the state
796 because of their spouses' duties with the Armed Forces.

797 Section 15, Section 472.0165, Florida Statutes, is created
798 to read:

799 472.0165 Qualification of immigrants for examination to
800 practice a licensed profession or occupation.--

801 (1) It is the declared purpose of this section to encourage
802 the use of foreign-speaking residents of this state duly
803 qualified to become licensed surveyors and mappers so that all
804 Florida citizens may receive better services.

805 (2) Any person who has successfully completed, or is

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806 currently enrolled in, an approved course of study created
807 pursuant to chapters 74.105 and 75-177, Laws of Florida, shall
808 be deemed qualified for an examination or reexamination for a
809 license which shall be administered in the English language
810 unless 15 or more such applicants request that the reexamination
811 be administered in their native language. If a reexamination is
812 administered in a foreign language, the full cost to the board
813 of preparing and administering the examination must be borne by
814 the applicants.

815 (3) The board shall adopt and implement programs designed
816 to qualify for examination all persons who were resident
817 nationals of the Republic of Cuba and who, on July 1, 1977, were
818 residents of this state.

819 Section 16. Section 472.018, Florida Statutes, is amended
820 to read:

821 472.018 Continuing education. The department may not renew
822 a license until the licensee submits proof satisfactory to the
823 board that during the 2 years prior to her or his application
824 for renewal the licensee has completed at least 24 hours of
825 continuing education. ~~Criteria and course content shall be~~
826 ~~approved by the board by rule.~~

827 (1) The board shall adopt rules to establish the criteria
828 and course content for continuing education courses. The rules
829 may provide that up to a maximum of 25 percent of the required
830 continuing education hours can be fulfilled by the performance
831 of pro bono services to the indigent or to underserved
832 populations or in areas of critical need within the state where
833 the licensee practices. The board must require that any pro bono
834 services be approved in advance in order to receive credit for
835 continuing education under this section. The standard for
836 determining indigency shall be that recognized by the Federal

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837 Poverty Income Guidelines produced by the United States
838 Department of Health and Human Services. The rules may provide
839 for approval by the board that a part of the continuing
840 education hours can be fulfilled by performing research in
841 critical need areas or for training leading to advanced
842 professional certification. The board, or the department when
843 there is no board, may make rules to define underserved and
844 critical need areas. The department shall adopt rules for the
845 administration of continuing education requirements adopted by
846 the boards or the department when there is no board.

847 (2) The board may provide by rule that distance learning
848 may be used to satisfy continuing education requirements.

849 (3) The board may prorate the required continuing education
850 hours in the following circumstances:

851 (a) For new licensees:

852 1. By requiring half of the required continuing education
853 hours for any applicant who becomes licensed with more than half
854 the renewal period remaining and no continuing education for any
855 applicant who becomes licensed with half or less than half of
856 the renewal period remaining; or

857 2. Requiring no continuing education hours until the first
858 full renewal cycle of the licensee.

859 (b) When the number of hours required is increased by law
860 or the board.

861 (4) Upon the request of a licensee, the provider must also
862 furnish to the department information regarding courses
863 completed by the licensee, in an electronic format required by
864 rule of the department.

865 (5) Each continuing education provider shall retain all
866 records relating to a licensee's completion of continuing
867 education courses for at least 4 years after completion of a

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868 course.
869 (6) A continuing education provider may not be approved,
870 and the approval may not be renewed, unless the provider agrees
871 in writing to provide such cooperation under this section as
872 required by the department.

873 (7) For the purpose of determining which persons or
874 entities must meet the reporting, recordkeeping, and access
875 provisions of this section, the board by rule shall adopt a
876 definition of the term "continuing education provider"
877 applicable to the profession's continuing education
878 requirements. The intent of the rule is to ensure that all
879 records and information necessary to carry out the requirements
880 of this section are maintained and transmitted accordingly and
881 to minimize disputes as to what person or entity is responsible
882 for maintaining and reporting such records and information.

883 (8) The board shall approve the providers of continuing
884 education. The approval of continuing education providers and
885 courses must be for a specified period of time, not to exceed 4
886 years. An approval that does not include such a time limitation
887 may remain in effect under this chapter or the rules adopted
888 under this chapter.

889 (9) The department may fine, suspend, or revoke approval of
890 any continuing education provider that fails to comply with its
891 duties under this section. The fine may not exceed \$500 per
892 violation. Investigations and prosecutions of a provider's
893 failure to comply with its duties under this section shall be
894 conducted pursuant to s. 472.033.

895 (10) The board shall issue an order requiring a person or
896 entity to cease and desist from offering any continuing
897 education programs for licensees, and fining, suspending, or
898 revoking any approval of the provider previously granted by the

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899 board if the board determines that the person or entity failed
900 to provide appropriate continuing education services that
901 conform to approved course material. The fine may not exceed
902 \$500 per violation. Investigations and prosecutions of a
903 provider's failure to comply with its duties under this section
904 shall be conducted under s. 472.033.

905 (11) The board may establish, by rule, a fee not to exceed
906 \$250 for anyone seeking approval to provide continuing education
907 courses and may establish, by rule, a biennial fee not to exceed
908 \$250 for the renewal of providership of such courses. Such
909 postlicensure education courses are subject to the reporting,
910 monitoring, and compliance provisions of this section.

911 (12) The department and the board may adopt rules under ss.
912 120.536(1) and 120.54 to administer this section.

913 Section 17, Section 472.0201, Florida Statutes, is created
914 to read:

915 472.0201 Public inspection of information required from
916 applicants; exceptions; examination hearing.--

917 (1) All information required by the department of any
918 applicant shall be a public record and shall be open to public
919 inspection pursuant to s. 119.07, except financial information,
920 medical information, school transcripts, examination questions,
921 answers, papers, grades, and grading keys, which are
922 confidential and exempt from s. 119.07(1) and shall not be
923 discussed with or made accessible to anyone except members of
924 the board, the department, and staff thereof, who have a bona
925 fide need to know such information. Any information supplied to
926 the department by any other agency which is exempt from the
927 provisions of chapter 119 or is confidential shall remain exempt
928 or confidential pursuant to applicable law while in the custody
929 of the department.

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930 (2) The department shall establish by rule the procedure by
931 which an applicant, and the applicant's attorney, may review
932 examination questions and answers. Examination questions and
933 answers are not subject to discovery but may be introduced into
934 evidence and considered only in camera in any administrative
935 proceeding under chapter 120. If an administrative hearing is
936 held, the department shall provide challenged examination
937 questions and answers to the administrative law judge. The
938 examination questions and answers provided at the hearing are
939 confidential and exempt from s. 119.07(1), unless invalidated by
940 the administrative law judge.

941 (3) Unless an applicant notifies the department at least 5
942 days before an examination hearing of the applicant's inability
943 to attend, or unless an applicant can demonstrate an extreme
944 emergency for failing to attend, the department may require an
945 applicant who fails to attend to pay reasonable attorney's fees,
946 costs, and court costs of the department for the examination
947 hearing.

948 Section 18. Section 472.02011, Florida Statutes, is created
949 to read:

950 472.02011 Disclosure of confidential information.—

951 (1) An officer, employee, or person under contract with the
952 department or the board, or any subject of an investigation may
953 not convey knowledge or information to any person who is not
954 lawfully entitled to such knowledge or information about any
955 public meeting or public record, which at the time such
956 knowledge or information is conveyed is exempt from the
957 provisions of s. 119.01, s. 119.07(1), or s. 286.011.

958 (2) Any person who willfully violates this section commits
959 a misdemeanor of the first degree, punishable as provided in s.
960 775.082 or s. 775.083, and may be subject to discipline pursuant

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961 to s. 472.033, and, if applicable, shall be removed from office,
962 employment, or the contractual relationship.

963 Section 19. Section 472.0202, Florida Statutes, is created
964 to read:

965 472.0202 Inactive and delinquent status.—

966 (1) A licensee may practice a profession only if the
967 licensee has an active status license. A licensee who practices
968 a profession without an active status license is in violation of
969 this section and s. 472.033, and the board may impose discipline
970 on the licensee.

971 (2) The board shall permit a licensee to choose, at the
972 time of licensure renewal, an active or inactive status.

973 However, a licensee who changes from inactive to active status
974 is not eligible to return to inactive status until the licensee
975 thereafter completes a licensure cycle on active status.

976 (3) The board, by rule, shall impose a fee for an inactive
977 status license which is no greater than the fee for an active
978 status license.

979 (4) An inactive status licensee may change to active status
980 at any time, provided the licensee meets all requirements for
981 active status, pays any additional licensure fees necessary to
982 equal those imposed on an active status licensee, pays any
983 applicable reactivation fees as set by the board, and meets all
984 continuing education requirements as specified in this section.

985 (5) A licensee shall apply with a complete application, as
986 defined by rule of the board, to renew an active or inactive
987 status license before the license expires. Failure of a licensee
988 to renew before the license expires shall cause the license to
989 become delinquent in the license cycle following expiration.

990 (6)(a) A delinquent status licensee must affirmatively
991 apply with a complete application, as defined by rule of the

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992 board, for active or inactive status during the licensure cycle
993 in which a licensee becomes delinquent. Failure by a delinquent
994 status licensee to become active or inactive before the
995 expiration of the current licensure cycle shall render the
996 license void without any further action by the board or the
997 department.

998 (b) Notwithstanding this chapter, the board may, at its
999 discretion, reinstate the license of an individual whose license
1000 has become void if the board determines that the individual has
1001 made a good faith effort to comply with this section but has
1002 failed to comply because of illness or unusual hardship. The
1003 individual must apply to the board for reinstatement in a manner
1004 prescribed by rules of the board and shall pay an applicable fee
1005 in an amount determined by rule. The board shall require that
1006 such individual meet all continuing education requirements
1007 prescribed by law, pay appropriate licensing fees, and otherwise
1008 be eligible for renewal of licensure under this chapter.

1009 (7) The board, by rule, shall impose an additional
1010 delinquency fee, not to exceed the biennial renewal fee for an
1011 active status licensee, on a delinquent status licensee when such
1012 licensee applies for active or inactive status.

1013 (8) The board, by rule, shall impose an additional fee, not
1014 to exceed the biennial renewal fee for an active status licensee,
1015 for processing a licensee's request to change licensure status
1016 at any time other than at the beginning of a licensure cycle.

1017 (9) The board, by rule, may impose reasonable conditions,
1018 excluding full reexamination but including part of a national
1019 examination or a special purpose examination to assess current
1020 competency, necessary to ensure that a licensee who has been on
1021 inactive status for more than two consecutive biennial licensure
1022 cycles and who applies for active status can practice with the

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1023 care and skill sufficient to protect the health, safety, and
1024 welfare of the public. Reactivation requirements may differ
1025 depending on the length of time licensees are inactive. The
1026 costs to meet reactivation requirements shall be borne by
1027 licensees requesting reactivation.

1028 (10) Before reactivation, an inactive or delinquent
1029 licensee shall meet the same continuing education requirements,
1030 if any, imposed on an active status licensee for all biennial
1031 licensure periods in which the licensee was inactive or
1032 delinquent.

1033 (11) The status or a change in status of a licensee does
1034 not alter the board's right to impose discipline or to enforce
1035 discipline previously imposed on a licensee for acts or
1036 omissions committed by the licensee while holding a license,
1037 whether active, inactive, or delinquent.

1038 Section 20. Section 472.0203, Florida Statutes, is created
1039 to read:

472.0203 Renewal and cancellation notices.--

1040 (1) At least 90 days before the end of a licensure cycle,
1041 the department shall:

1042 (a) Forward a licensure renewal notification to an active
1043 or inactive licensee at the licensee's last known address of
1044 record with the department.

1045 (b) Forward a notice of pending cancellation of licensure
1046 to a delinquent status licensee at the licensee's last known
1047 address of record with the department.

1048 (2) Each licensure renewal notification and each notice of
1049 pending cancellation of licensure must state conspicuously that
1050 a licensee who remains on inactive status for more than two
1051 consecutive biennial licensure cycles and who wishes to
1052 reactivate the license may be required to demonstrate the
1053

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1054 competency to resume active practice by sitting for a special
1055 purpose examination or by completing other reactivation
1056 requirements, as defined by rule of the board.
1057 Section 21. Section 472.0204, Florida Statutes, is created
1058 to read:
1059 472.0204 Address of record.--
1060 (1) Each licensee of the department is solely responsible
1061 for notifying the department in writing of the licensee's
1062 current mailing address and place of practice, as defined by
1063 rule of the board. A licensee's failure to notify the department
1064 of a change of address constitutes a violation of this section,
1065 and the licensee may be disciplined by the board.
1066 (2) Notwithstanding any other provision of law, service by
1067 regular mail to a licensee's last known address of record with
1068 the department constitutes adequate and sufficient notice to the
1069 licensee for any official communication to the licensee by the
1070 board or the department except when other service is required
1071 pursuant to s. 472.033.
1072 Section 22. Section 472.033, Florida Statutes, is amended
1073 to read:
1074 472.033 Disciplinary proceedings.--Disciplinary proceedings
1075 for the board shall be within the jurisdiction of the
1076 department.
1077 (1)(a) The department shall investigate any complaint that
1078 is filed before it if the complaint is in writing, signed by the
1079 complainant, and legally sufficient. A complaint is legally
1080 sufficient if it contains ultimate facts that show that a
1081 violation of this chapter or of any rule adopted by the
1082 department or the board has occurred. In order to determine
1083 legal sufficiency, the department may require supporting
1084 information or documentation. The department may investigate,

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1085 and the department or the board may take appropriate final
1086 action on, a complaint even though the original complainant
1087 withdraws it or otherwise indicates a desire not to cause the
1088 complaint to be investigated or prosecuted to completion. The
1089 department may investigate an anonymous complaint if the
1090 complaint is in writing and is legally sufficient, if the
1091 alleged violation of law or rules is substantial, and if the
1092 department has reason to believe, after preliminary inquiry,
1093 that the violations alleged in the complaint are true. The
1094 department may investigate a complaint made by a confidential
1095 informant if the complaint is legally sufficient, if the alleged
1096 violation of law or rule is substantial, and if the department
1097 has reason to believe, after preliminary inquiry, that the
1098 allegations of the complainant are true. The department may
1099 initiate an investigation if it has reasonable cause to believe
1100 that a licensee or a group of licensees has violated a Florida
1101 statute, a rule of the department, or a rule of the board.
1102 (b) If an investigation of any subject is undertaken, the
1103 department shall promptly furnish to the subject or the
1104 subject's attorney a copy of the complaint or document that
1105 resulted in the initiation of the investigation. The subject may
1106 submit a written response to the information contained in such
1107 complaint or document within 20 days after service to the
1108 subject of the complaint or document. The subject's written
1109 response shall be considered by the probable cause panel. The
1110 right to respond does not prohibit the issuance of a summary
1111 emergency order if necessary to protect the public. However, if
1112 the commissioner, or the commissioner's designee, and the chair
1113 of the respective board or the chair of its probable cause panel
1114 agree in writing that such notification would be detrimental to
1115 the investigation, the department may withhold notification. The

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1116 department may conduct an investigation without notification to
1117 any subject if the act under investigation is a criminal
1118 offense.

1119 (2) The department shall allocate sufficient and adequately
1120 trained staff to expeditiously and thoroughly determine legal
1121 sufficiency and investigate all legally sufficient complaints.
1122 When its investigation is complete and legally sufficient, the
1123 department shall prepare and submit to the probable cause panel
1124 of the board the investigative report of the department. The
1125 report shall contain the investigative findings and the
1126 recommendations of the department concerning the existence of
1127 probable cause. At any time after legal sufficiency is found,
1128 the department may dismiss any case, or any part thereof, if the
1129 department determines that there is insufficient evidence to
1130 support the prosecution of allegations contained therein. The
1131 department shall provide a detailed report to the appropriate
1132 probable cause panel before dismissing any case or part thereof,
1133 and to the subject of the complaint after dismissal of any case
1134 or part thereof, under this section. For cases dismissed before
1135 a finding of probable cause, such report is confidential and
1136 exempt from s. 119.07(1). The probable cause panel shall have
1137 access, upon request, to the investigative files pertaining to a
1138 case before dismissing the case.

1139 (3)(a) As an alternative to subsections (1) and (2), if a
1140 complaint is received, the department may provide a licensee
1141 with a notice of noncompliance for an initial offense of a minor
1142 violation. A violation is a minor violation if it does not
1143 demonstrate a serious inability to practice the profession,
1144 result in economic or physical harm to a person, or adversely
1145 affect the public health, safety, or welfare or create a
1146 significant threat of such harm. The board shall establish by

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1147 rule those violations which are minor violations under this
1148 provision. Failure of a licensee to take action in correcting
1149 the violation within 15 days after notice may result in the
1150 institution of regular disciplinary proceedings.

1151 (b) The department may issue a notice of noncompliance for
1152 an initial offense of a minor violation, notwithstanding the
1153 board's failure to designate a particular minor violation by
1154 rule as provided in paragraph (a).

1155 (4) The determination as to whether probable cause exists
1156 shall be made by majority vote of a probable cause panel of the
1157 board, or by the department, as appropriate. The board shall
1158 provide by rule that the determination of probable cause shall
1159 be made by a panel of its members or by the department. The
1160 board may provide by rule for multiple probable cause panels
1161 composed of at least two members. The board may provide by rule
1162 that one or more members of the panel or panels may be a former
1163 board member. The length of term or repetition of service of any
1164 such former board member on a probable cause panel may vary
1165 according to the direction of the board when authorized by board
1166 rule. Any probable cause panel must include one of the board's
1167 former or present consumer members, if one is available, willing
1168 to serve, and is authorized to do so by the board chair. Any
1169 probable cause panel must include a present board member. Any
1170 probable cause panel must include a former or present
1171 professional board member. However, any former professional
1172 board member serving on the probable cause panel must hold an
1173 active valid license for that profession. All proceedings of the
1174 panel are exempt from s. 286.011 until 10 days after probable
1175 cause has been found to exist by the panel or until the subject
1176 of the investigation waives his or her privilege of
1177 confidentiality. The probable cause panel may make a reasonable

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1178 request, and upon such request the department shall provide such
1179 additional investigative information as is necessary to the
1180 determination of probable cause. A request for additional
1181 investigative information shall be made within 15 days from the
1182 date of receipt by the probable cause panel of the investigative
1183 report of the department. The probable cause panel or the
1184 department, as may be appropriate, shall make its determination
1185 of probable cause within 30 days after receipt by it of the
1186 final investigative report of the department. The commissioner
1187 or the commissioner's designee may grant extensions of the 15-
1188 day and the 30-day time limits. In lieu of a finding of probable
1189 cause, the probable cause panel may issue a letter of guidance
1190 to the subject. If, within the 30-day time limit, as may be
1191 extended, the probable cause panel does not make a determination
1192 regarding the existence of probable cause or does not issue a
1193 letter of guidance in lieu of a finding of probable cause, the
1194 department, for disciplinary cases under its jurisdiction, must
1195 make a determination regarding the existence of probable cause
1196 within 10 days after the expiration of the time limit. If the
1197 probable cause panel finds that probable cause exists, it shall
1198 direct the department to file a formal complaint against the
1199 licensee. The department shall follow the directions of the
1200 probable cause panel regarding the filing of a formal complaint.
1201 If directed to do so, the department shall file a formal
1202 complaint against the subject of the investigation and prosecute
1203 that complaint pursuant to chapter 120. However, the department
1204 may decide not to prosecute the complaint if it finds that
1205 probable cause had been impossibly found by the panel. In
1206 such cases, the department shall refer the matter to the board.
1207 The board may then file a formal complaint and prosecute the
1208 complaint pursuant to chapter 120. The department shall also

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1209 refer to the board any investigation or disciplinary proceeding
1210 not before the Division of Administrative Hearings pursuant to
1211 chapter 120 or otherwise completed by the department within 1
1212 year after the filing of a complaint. The department, for
1213 disciplinary cases under its jurisdiction, must establish a
1214 uniform reporting system to quarterly refer to the board the
1215 status of any investigation or disciplinary proceeding that is
1216 not before the Division of Administrative Hearings or otherwise
1217 completed by the department within 1 year after the filing of
1218 the complaint. All proceedings of the probable cause panel are
1219 exempt from s. 120.525.
1220 (5) A formal hearing before an administrative law judge
1221 from the Division of Administrative Hearings shall be held
1222 pursuant to chapter 120 if there are any disputed issues of
1223 material fact. The administrative law judge shall issue a
1224 recommended order pursuant to chapter 120. If any party raises
1225 an issue of disputed fact during an informal hearing, the
1226 hearing shall be terminated and a formal hearing pursuant to
1227 chapter 120 shall be held.
1228 (6) The board, with those members of the panel, if any, who
1229 reviewed the investigation pursuant to subsection (4) being
1230 excused, shall determine and issue the final order in each
1231 disciplinary case. Such order shall constitute final agency
1232 action. Any consent order or agreed settlement shall be subject
1233 to the approval of the department.
1234 (7) The department has standing to seek judicial review of
1235 any final order of the board, pursuant to s. 120.58.
1236 (8) Any proceeding for the purpose of summary suspension of
1237 a license, or for the restriction of the license, of a licensee
1238 pursuant to s. 120.60(6) shall be conducted by the commissioner
1239 or the commissioner's designee, who shall issue the final

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1240 summary order.

1241 (9) The department shall periodically notify the person who

1242 filed the complaint of the status of the investigation, whether

1243 probable cause has been found, and the status of any civil

1244 action or administrative proceeding or appeal.

1245 (10) The complaint and all information obtained pursuant to

1246 the investigation by the department are confidential and exempt

1247 from s. 119.07(1) until 10 days after probable cause has been

1248 found to exist by the probable cause panel or by the department,

1249 or until the regulated professional or subject of the

1250 investigation waives his or her privilege of confidentiality,

1251 whichever occurs first. However, this exemption does not apply

1252 to actions against unlicensed persons pursuant to s. 472.036.

1253 Upon completion of the investigation and pursuant to a written

1254 request by the subject, the department shall provide the subject

1255 an opportunity to inspect the investigative file or, at the

1256 subject's expense, forward to the subject a copy of the

1257 investigative file. The subject may file a written response to

1258 the information contained in the investigative file. Such

1259 response must be filed within 20 days, unless an extension of

1260 time has been granted by the department. This subsection does

1261 not prohibit the department from providing such information to

1262 any law enforcement agency or to any other regulatory agency.

1263 (11) A privilege against civil liability is granted to any

1264 complainant or any witness with regard to information furnished

1265 with respect to any investigation or proceeding pursuant to this

1266 section, unless the complainant or witness acted in bad faith or

1267 with malice in providing such information.

1268 (1) The following acts constitute grounds for which the

1269 disciplinary actions in subsection (2) may be taken:

1270 (a) Violation of any provision of s. 472.031 or s.

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1271 455.227(1):

1272 (b) Attempting to procure a license to practice surveying

1273 and mapping by bribery or fraudulent misrepresentation;

1274 (c) Having a license to practice surveying and mapping

1275 revoked, suspended, or otherwise acted against, including the

1276 denial of licensure, by the licensing authority of another

1277 state, territory, or country;

1278 (d) Being convicted or found guilty of, or entering a plea

1279 of not contendere to, regardless of adjudication, a crime in

1280 any jurisdiction which directly relates to the practice of

1281 surveying and mapping or the ability to practice surveying and

1282 mapping;

1283 (e) Making or filing a report or record that the licensee

1284 knows to be false, willfully failing to file a report or record

1285 required by state or federal law, willfully impeding or

1286 obstructing such filing, or inducing another person to impede or

1287 obstruct such filing. Such reports or records shall include only

1288 those that are signed in the capacity of a registered surveyor

1289 and mapper;

1290 (f) Advertising goods or services in a manner that is

1291 fraudulent, false, deceptive, or misleading in form or content;

1292 (g) Upon proof that the licensee is guilty of fraud or

1293 deceit, or of negligence, incompetency, or misconduct, in the

1294 practice of surveying and mapping;

1295 (h) Failing to perform any statutory or legal obligation

1296 placed upon a licensed surveyor and mapper, violating any

1297 provision of this chapter, a rule of the board or department, or

1298 a lawful order of the board or department previously entered in

1299 a disciplinary hearing, or failing to comply with a lawfully

1300 issued subpoena of the department, or

1301 (i) Practicing on a revoked, suspended, inactive, or

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1320 delinquent licensee.
1321 (2) When the board finds any surveyor and mapper guilty of
1322 any of the grounds set forth in subsection (1), it may enter an
1323 order imposing one or more of the following penalties:
1324 (a) Denial of an application for licensure;
1325 (b) Revocation or suspension of a licensee;
1326 (c) Imposition of an administrative fine not to exceed
1327 \$1,000 for each count or separate offense;
1328 (d) Issuance of a reprimand;
1329 (e) Placement of the surveyor and mapper on probation for a
1330 period of time and subject to such conditions as the board may
1331 specify;
1332 (f) Restriction of the authorized scope of practice by the
1333 surveyor and mapper;
1334 (3) The department shall reissue the license of a
1335 disqualified surveyor and mapper upon certification by the board
1336 that he or she has complied with all of the terms and conditions
1337 set forth in the final order.
1338 Section 23. Section 472.0335, Florida Statutes, is created
1339 to read:
1340 472.0335 Classification of disciplinary actions.—
1341 (1) A licensee may petition the department to review a
1342 disciplinary incident to determine whether the specific
1343 violation meets the standard of a minor violation as set forth
1344 in s. 472.033(3). If the circumstances of the violation meet
1345 that standard and 2 years have passed since the issuance of a
1346 final order imposing discipline, the department shall reclassify
1347 that violation as inactive if the licensee has not been
1348 disciplined for any subsequent minor violation of the same
1349 nature. After the department has reclassified the violation as
1350 inactive, it is no longer considered to be part of the

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1333 licensee's disciplinary record, and the licensee may lawfully
1334 deny or fail to acknowledge the incident as a disciplinary
1335 action.
1336 (2) The department may establish a schedule classifying
1337 violations according to the severity of the violation. After the
1338 expiration of set periods of time, the department may provide
1339 for such disciplinary records to become inactive, according to
1340 their classification. After the disciplinary record has become
1341 inactive, the department may clear the violation from the
1342 disciplinary record and the subject person or business may
1343 lawfully deny or fail to acknowledge such disciplinary actions.
1344 The department may adopt rules to administer this subsection.
1345 Section 24. Section 472.034, Florida Statutes, is created
1346 to read:
1347 472.034 Mediation.—
1348 (1) Notwithstanding s. 472.033, the board shall adopt rules
1349 to designate which violations of this chapter are appropriate
1350 for mediation. The board may designate as mediation offenses
1351 those complaints where harm caused by the licensee is economic
1352 in nature or can be remedied by the licensee.
1353 (2) After the department determines a complaint is legally
1354 sufficient and the alleged violations are defined as mediation
1355 offenses, the department or any agent of the department may
1356 conduct informal mediation to resolve the complaint. If the
1357 complainant and the subject of the complaint agree to a
1358 resolution of a complaint within 14 days after contact by the
1359 mediator, the mediator shall notify the department of the terms
1360 of the resolution. The department or board shall take no further
1361 action unless the complainant and the subject each fail to
1362 record with the department an acknowledgment of satisfaction of
1363 the terms of mediation within 60 days of the mediator's

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1364 notification to the department. In the event the complainant and
1365 subject fail to reach settlement terms or to record the required
1366 acknowledgment, the department shall process the complaint
1367 according to the provisions of s. 472.033.

1368 (3) Conduct or statements made during mediation are
1369 inadmissible in any proceeding pursuant to s. 472.033. Further,
1370 any information relating to the mediation of a case shall be
1371 subject to the confidentiality provisions of s. 472.033.

1372 (4) A licensee may not go through the mediation process
1373 more than three times without approval of the department. The
1374 department may consider the subject and dates of the earlier
1375 complaints in rendering its decision. The decision is not final
1376 agency action for purposes of chapter 120.

1377 (5) The board has the continuing authority to amend its
1378 rules adopted pursuant to this section.

1379 Section 25. Section 472.0345, Florida Statutes, is created
1380 to read:

1381 472.0345 Authority to issue citations.--

1382 (1) Notwithstanding s. 472.033, the board or the department
1383 shall adopt rules to permit the issuance of citations. The
1384 citation shall be issued to the subject and shall contain the
1385 subject's name and address, the subject's license number if
1386 applicable, a brief factual statement, the sections of the law
1387 allegedly violated, and the penalty imposed. The citation must
1388 clearly state that the subject may choose, in lieu of accepting
1389 the citation, to follow the procedure under s. 472.033. If the
1390 subject disputes the matter in the citation, the procedures set
1391 forth in s. 472.033 must be followed. However, if the subject
1392 does not dispute the matter in the citation with the department
1393 within 30 days after the citation is served, the citation
1394 becomes a final order and constitutes discipline. The penalty

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1395 shall be a fine or other conditions as established by rule.

1396 (2) The board shall adopt rules designating violations for
1397 which a citation may be issued. Such rules shall designate as
1398 citation violations those violations for which there is no
1399 substantial threat to the public health, safety, and welfare.

1400 (3) The department shall be entitled to recover the costs
1401 of investigation, in addition to any penalty provided according
1402 to board or department rule, as part of the penalty levied
1403 pursuant to the citation.

1404 (4) A citation must be issued within 6 months after the
1405 filing of the complaint that is the basis for the citation.

1406 (5) Service of a citation may be made by personal service
1407 or certified mail, restricted delivery, to the subject at the
1408 subject's last known address.

1409 (6) The board has continuous authority to amend its rules
1410 adopted pursuant to this section.

1411 Section 26. Section 472.0351, Florida Statutes, is created
1412 to read:

1413 472.0351 Grounds for discipline; penalties; enforcement.--

1414 (1) The following acts shall constitute grounds for which
1415 the disciplinary actions specified in subsection (2) may be
1416 taken:

1417 (a) Violation of any provision of s. 472.031;

1418 (b) Attempting to procure a license to practice surveying
1419 and mapping by bribery or fraudulent misrepresentations;

1420 (c) Having a license to practice surveying and mapping
1421 revoked, suspended, or otherwise acted against, including the
1422 denial of licensure, by the licensing authority of another
1423 state, territory, or country;

1424 (d) Being convicted or found guilty of, or entering a plea
1425 of nolo contendere to, regardless of adjudication, a crime in

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1426 any jurisdiction which directly relates to the practice of
1427 surveying and mapping or the ability to practice surveying and
1428 mapping;
1429 (e) Making or filing a report or record that the licensee
1430 knows to be false, willfully failing to file a report or record
1431 required by state or federal law, willfully impeding or
1432 obstructing such filing, or inducing another person to impede or
1433 obstruct such filing. Such reports or records shall include only
1434 those that are signed in the capacity of a registered surveyor
1435 and mapper;
1436 (f) Advertising goods or services in a manner that is
1437 fraudulent, false, deceptive, or misleading in form or content;
1438 (g) Upon proof that the licensee is guilty of fraud or
1439 deceit, or of negligence, incompetency, or misconduct, in the
1440 practice of surveying and mapping;
1441 (h) Failing to perform any statutory or legal obligation
1442 placed upon a licensed surveyor and mapper; violating any
1443 provision of this chapter, a rule of the board or department, or
1444 a lawful order of the board or department previously entered in
1445 a disciplinary hearing; or failing to comply with a lawfully
1446 issued subpoena of the department;
1447 (i) Practicing on a revoked, suspended, inactive, or
1448 delinquent license;
1449 (j) Making misleading, deceptive, or fraudulent
1450 representations in or related to the practice of the licensee's
1451 profession;
1452 (k) Intentionally violating any rule adopted by the board
1453 or the department, as appropriate;
1454 (l) Having a license or the authority to practice the
1455 regulated profession revoked, suspended, or otherwise acted
1456 against, including the denial of licensure, by the licensing

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1457 authority of any jurisdiction, including its agencies or
1458 subdivisions, for a violation that would constitute a violation
1459 under Florida law;
1460 (m) Having been found liable in a civil proceeding for
1461 knowingly filing a false report or complaint with the department
1462 against another licensee;
1463 (n) Failing to report to the department any person who the
1464 licensee knows is in violation of this chapter or the rules of
1465 the department or the board;
1466 (o) Aiding, assisting, procuring, employing, or advising
1467 any unlicensed person or entity to practice surveying and
1468 mapping contrary to this chapter or the rules of the department
1469 or the board;
1470 (p) Making deceptive, untrue, or fraudulent representations
1471 in or related to the practice of a profession or employing a
1472 trick or scheme in or related to the practice of a profession;
1473 (q) Exercising influence on the client for the purpose of
1474 financial gain of the licensee or a third party;
1475 (r) Practicing or offering to practice beyond the scope
1476 permitted by law or accepting and performing professional
1477 responsibilities the licensee knows, or has reason to know, the
1478 licensee is not competent to perform;
1479 (s) Delegating or contracting for the performance of
1480 professional responsibilities by a person when the licensee
1481 delegating or contracting for performance of such
1482 responsibilities knows, or has reason to know, such person is
1483 not qualified by training, experience, and authorization when
1484 required to perform them;
1485 (t) Violating this chapter, the applicable professional
1486 practice act, a rule of the department or the board, or a lawful
1487 order of the department or the board, or failing to comply with

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1488 a lawfully issued subpoena of the department; or
1489 (u) Improperly interfering with an investigation or
1490 inspection authorized by statute, or with any disciplinary
1491 proceeding.
1492 (2) When the board finds any surveyor or mapper guilty of
1493 any of the grounds set forth in subsection (1), it may enter an
1494 order imposing one or more of the following penalties:
1495 (a) Denial of an application for licensure.
1496 (b) Revocation or suspension of a license.
1497 (c) Imposition of an administrative fine not to exceed
1498 \$1,000 for each count or separate offense.
1499 (d) Issuance of a reprimand.
1500 (e) Placement of the surveyor or mapper on probation for a
1501 period of time and subject to such conditions as the board may
1502 specify. Those conditions may include, but are not limited to,
1503 requiring the licensee to undergo treatment, attend continuing
1504 education courses, submit to be reexamined, work under the
1505 supervision of another licensee, or satisfy any terms which are
1506 reasonably tailored to the violations found.
1507 (f) Restriction of the authorized scope of practice by the
1508 surveyor or mapper.
1509 (3) The department shall reissue the license of a
1510 disciplined surveyor or mapper upon certification by the board
1511 that he or she has complied with all of the terms and conditions
1512 set forth in the final order.
1513 (4)(a) In addition to any other discipline imposed pursuant
1514 to this section, the board may assess costs and attorneys fees
1515 related to the investigation and prosecution of the case.
1516 (b) In any case where the board or the department imposes a
1517 fine or assessment and the fine or assessment is not paid within
1518 a reasonable time, such reasonable time to be prescribed in the

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1519 rules of the board or in the order assessing such fines or
1520 costs, the department or the Department of Legal Affairs may
1521 contract for the collection of, or bring a civil action to
1522 recover, the fine or assessment.
1523 (5) In addition to, or in lieu of, any other remedy or
1524 criminal prosecution, the department may file a proceeding in
1525 the name of the state seeking issuance of an injunction or a
1526 writ of mandamus against any person who violates any of the
1527 provisions of this chapter, or any provision of law with respect
1528 to professions regulated by the department, or any board
1529 therein, or the rules adopted pursuant thereto.
1530 (6) If the board determines that revocation of a license is
1531 the appropriate penalty, the revocation shall be permanent.
1532 However, the board may establish, by rule, requirements for
1533 reapplication by applicants whose licenses have been permanently
1534 revoked. Such requirements may include, but shall not be limited
1535 to, satisfying current requirements for an initial license.
1536 Section 27, Section 472.0355, Florida Statutes, is created
1537 to read:
1538 472.0355 Disciplinary guidelines.--
1539 (1) The board by rule shall adopt and periodically review
1540 the disciplinary guidelines applicable to each ground for
1541 disciplinary action which may be imposed by the board pursuant
1542 to this chapter and any rule of the board or department.
1543 (2) The disciplinary guidelines shall specify a meaningful
1544 range of designated penalties based upon the severity and
1545 repetition of specific offenses, it being the legislative intent
1546 that minor violations be distinguished from those which endanger
1547 the public health, safety, or welfare; that such guidelines
1548 provide reasonable and meaningful notice to the public of likely
1549 penalties which may be imposed for proscribed conduct; and that

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such penalties be consistently applied by the board.

(3) A specific finding of mitigating or aggravating circumstances shall allow the board to impose a penalty other than that provided for in such guidelines. If applicable, the board shall adopt by rule disciplinary guidelines to designate possible mitigating and aggravating circumstances and the variation and range of penalties permitted for such circumstances.

(4) The department must review such disciplinary guidelines for compliance with the legislative intent as set forth herein to determine whether the guidelines establish a meaningful range of penalties and may also challenge such rules pursuant to s. 120.56.

(5) The administrative law judge, in recommending penalties in any recommended order, must follow the penalty guidelines established by the board or department and must state in writing the mitigating or aggravating circumstances upon which the recommended penalty is based.

Section 28, Section 472.036, Florida Statutes, is created to read:

472.036 Unlicensed practice of professional surveying and mapping; cease and desist notice; civil penalty; enforcement; citations; allocation of moneys collected.-

(1) When the department has probable cause to believe that any person not licensed by the department or the board has violated any provision of this chapter, or any rule adopted pursuant to this chapter, the department may issue and deliver to such person a notice to cease and desist from such violation. In addition, the department may issue and deliver a notice to cease and desist to any person who aids and abets the unlicensed practice of surveying and mapping by employing such unlicensed

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person. The issuance of a notice to cease and desist shall not constitute agency action for which a hearing under ss. 120.569 and 120.57 may be sought. For the purpose of enforcing a cease and desist order, the department may file a proceeding in the name of the state seeking issuance of an injunction or a writ of mandamus against any person who violates any provisions of such order. In addition to the foregoing remedies, the department may impose an administrative penalty not to exceed \$5,000 per incident pursuant to the provisions of chapter 120 or may issue a citation pursuant to the provisions of subsection (3). If the department is required to seek enforcement of the order for a penalty pursuant to s. 120.569, it shall be entitled to collect its attorney's fees and costs, together with any cost of collection.

(2) In addition to or in lieu of any remedy provided in subsection (1), the department may seek the imposition of a civil penalty through the circuit court for any violation for which the department may issue a notice to cease and desist under subsection (1). The civil penalty shall be no less than \$500 and no more than \$5,000 for each offense. The court may also award to the prevailing party court costs and reasonable attorney fees and, in the event the department prevails, may also award reasonable costs of investigation.

(3) (a) Notwithstanding the provisions of s. 472.033, the department shall adopt rules to permit the issuance of citations for unlicensed practice of a profession. The citation shall be issued to the subject and shall contain the subject's name and any other information the department determines to be necessary to identify the subject, a brief factual statement, the sections of the law allegedly violated, and the penalty imposed. The citation must clearly state that the subject may choose, in lieu

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1612 of accepting the citation, to follow the procedure under s.
1613 472.033. If the subject disputes the matter in the citation, the
1614 procedures set forth in s. 472.033 must be followed. However, if
1615 the subject does not dispute the matter in the citation with the
1616 department within 30 days after the citation is served, the
1617 citation shall become a final order of the department upon
1618 filing with the agency clerk. The penalty shall be a fine of not
1619 less than \$500 or more than \$5,000 or other conditions as
1620 established by rule.

1621 (b) Each day that the unlicensed practice continues after
1622 issuance of a citation constitutes a separate violation.

1623 (c) The department shall be entitled to recover the costs
1624 of investigation, in addition to any penalty provided according
1625 to department rule as part of the penalty levied pursuant to the
1626 citation.

1627 (d) Service of a citation may be made by personal service
1628 or certified mail, restricted delivery, to the subject at the
1629 subject's last known address.

1630 (4) All fines, fees, and costs collected through the
1631 procedures set forth in this section shall be deposited in the
1632 General Inspection Trust Fund.

1633 (5) The provisions of this section apply only to the
1634 provisions of this chapter.

1635 Section 29. Section 472.0365, Florida Statutes, is created
1636 to read:

1637 472.0365 Unlicensed activities; fees; disposition.--In order
1638 to protect the public and to ensure a consumer-oriented
1639 department, it is the intent of the Legislature that vigorous
1640 enforcement of regulation for professional surveying and mapping
1641 activities is a state priority. All enforcement costs under this
1642 chapter should be covered by the profession. Therefore, the

Senate #1 - Department of Agriculture and Consumer Services/
Department of Business and Professional Regulation

Board of Surveyors and Mappers

1643 department shall impose, upon initial licensure and each renewal
1644 thereof, a special fee of \$5 per licensee. Such fee shall be in
1645 addition to all other fees collected from each licensee and
1646 shall fund efforts to combat unlicensed activity. The board with
1647 concurrence of the department may earmark \$5 of the current
1648 licensure fee for this purpose, if the board is not in a deficit
1649 and has a reasonable cash balance. The board with the
1650 concurrence of the department may authorize the transfer of
1651 funds from the operating fund account to the unlicensed activity
1652 account if the operating fund account is not in a deficit and
1653 has a reasonable cash balance. The department shall include all
1654 financial and statistical data resulting from unlicensed
1655 activity enforcement as a separate category in the quarterly
1656 management report provided for in s. 472.011. For the unlicensed
1657 activity account, a balance which remains at the end of a
1658 renewal cycle may, with concurrence of the board and the
1659 department, be transferred to the operating fund account of the
1660 profession.

1661 Section 30. The following provisions are adopted to
1662 minimize any interruption of service or function which may
1663 result from implementing the type two transfer provided in this
1664 act:

1665 (1) The Department of Agriculture and Consumer Services and
1666 Department of Business and Professional Regulation shall
1667 cooperate fully to complete this type two transfer not later
1668 than October 1, 2009.

1669 (2) The Department of Business and Professional Regulation
1670 shall transfer to the Department of Agriculture and Consumer
1671 Services the unexpended balances of appropriations, allocations,
1672 and all other funds applicable to the licensing and regulation
1673 of Professional Surveyors and Mappers outstanding as of October

Senate #1 - Department of Agriculture and Consumer Services/
Department of Business and Professional Regulation

Board of Surveyors and Mappers

1674 1. 2009.
1675 (3) This type two transfer will require a full transfer of
1676 all data and processing information necessary for complete
1677 operation of the licensing and regulatory program under chapter
1678 472, Florida Statutes, from the data processing system operated
1679 by the Department of Business and Professional Regulation to the
1680 data processing system operated by the Department of Agriculture
1681 and Consumer Services. This transfer must be completed without
1682 loss of relevant data or functionality required for the program.
1683 In the event this necessary transfer of data processing
1684 functionality cannot be completed before October 1, 2009, the
1685 Department of Agriculture and Consumer Services may continue
1686 operating some or all data processing functions required under
1687 chapter 472, Florida Statutes, through the data processing
1688 system operated by the Department of Business and Professional
1689 Regulation. For this continued use of its data processing
1690 system, the Department of Business and Professional Regulation
1691 shall be reimbursed by the Department of Agriculture and
1692 Consumer Services at the rate of \$2,000 per month; the monthly
1693 fee shall be prorated by day for each partial month of continued
1694 use. This authority for use and compensation shall terminate
1695 upon the complete transfer of all data processing functions to
1696 the separate data processing system operated by the Department
1697 of Agriculture and Consumer Services.
1698 (4) The transfer of regulatory authority under chapter 472,
1699 Florida Statutes, provided by this act shall not affect the
1700 validity of any judicial or administrative action pending as of
1701 11:59 p.m. on the day before October 1, 2009, to which action
1702 the Board of Professional Surveyors and Mappers, or the
1703 Department of Business and Professional Regulation in relation
1704 to the Board of Professional Surveyors and Mappers, are at that

Senate #1 - Department of Agriculture and Consumer Services/
Department of Business and Professional Regulation

Board of Surveyors and Mappers

1705 time parties, and the Board of Professional Surveyors and
1706 Mappers or the Department of Agriculture and Consumer Services,
1707 as appropriate, shall be substituted as a party in interest in
1708 any such action.
1709 (5) All lawful orders issued by the Board of Professional
1710 Surveyors and Mappers, or by the Department of Business and
1711 Professional Regulation, implementing or enforcing or otherwise
1712 in regard to any provision of chapter 472, Florida Statutes,
1713 issued prior to October 1, 2009, shall remain in effect and be
1714 enforceable after October 1, 2009, unless thereafter modified in
1715 accordance with law.
1716 (6) The rules of the Board of Professional Surveyors and
1717 Mappers and of the Department of Business and Professional
1718 Regulation relating to the Board of Professional Surveyors and
1719 Mappers or implementation of chapter 472, Florida Statutes,
1720 which were in effect at 11:59 p.m. on the day prior to October
1721 1, 2009, shall become rules of the Department of Agriculture and
1722 Consumer Services and the Board of Professional Surveyors and
1723 Mappers and shall remain in effect until amended or repealed in
1724 the manner provided by law.
1725 (7) (a) Notwithstanding the transfer of regulatory authority
1726 over chapter 472, Florida Statutes, provided by this act,
1727 persons and entities holding in good standing any license under
1728 chapter 472, Florida Statutes, as of 11:59 p.m. on the day prior
1729 to October 1, 2009, shall be deemed to hold in good standing a
1730 license in the same capacity under chapter 472, Florida
1731 Statutes, as of October 1, 2009.
1732 (b) Notwithstanding the transfer of regulatory authority
1733 over chapter 472, Florida Statutes, provided by this act,
1734 persons and entities holding in good standing any registration
1735 under chapter 472, Florida Statutes, as of 11:59 p.m. on the day

Senate #1 - Department of Agriculture and Consumer Services/
Department of Business and Professional Regulation

Board of Surveyors and Mappers

1736 prior to October 1, 2009, shall as of October 1, 2009, be deemed
1737 to be licensed in the same capacity in which they were formerly
1738 registered, and their registration shall thereafter be deemed a
1739 license for purposes of chapter 472, Florida Statutes.

1740 (8) No later than July 1, 2009, the Department of
1741 Agriculture and Consumer Services and the Department of Business
1742 and Professional Regulation shall cooperate in making available
1743 all personnel and information necessary for a prompt and
1744 complete transition of pending disciplinary matters, including
1745 coordinating meetings of attorneys and investigators.

1746 (9) The Department of Agriculture and Consumer Services may
1747 contract with the Department of Business and Professional
1748 Regulation for the development, preparation, administration,
1749 scoring, score reporting, and evaluation of examinations
1750 currently scheduled to be conducted after October 1, 2009. Any
1751 such contract shall be entered into only with the prior advice
1752 and approval of the Board of Professional Surveyors and Mappers
1753 and shall become effective on or after October 1, 2009. The
1754 Department of Agriculture and Consumer Services and the
1755 Department of Business and Professional Regulation shall confer
1756 promptly with the board to determine at the earliest possible
1757 time the need for the services described in this subsection.
1758 Section 31. This act shall take effect October 1, 2009.

Senate #1 - Department of Agriculture and Consumer Services

Board of Surveyors and Mappers (proviso)

Of the funds in Specific Appropriation XXXX, \$642,642 from the General Inspection Trust Fund is contingent upon SB 1744 or similar legislation, relating to the transfer of the Board of Surveyors and Mappers from the Department of Business and Professional Regulation to the Department of Agriculture and Consumer Services.

Senate #2 - Department of Agriculture and Consumer Services

Florida Agriculture Promotion Campaign

In order to implement Specific Appropriation XXXX of the 2009-2010 General Appropriations Act, and notwithstanding section 287.057, Florida Statutes, the Department of Agriculture and Consumer Services, at its discretion, is authorized to extend, revise, and renew current contracts or agreements created or entered into, pursuant to chapter 2006-25, Laws of Florida, in order to provide consistency and continuity in agriculture promotion throughout the state. This section expires July 1, 2010.

Senate #3 - Department of Agriculture and Consumer Services

Food Banks

Funds in Specific Appropriation XXXX are provided for the Florida Association of Food Banks.

Senate #4 - Department of Agriculture and Consumer Services

CS/SB 1744 - Weights and Measures

Section 6. Section 531.63, Florida Statutes, is created to read:

531.63 Maximum permit fees.--The commercial use permit fees established for weights or measures instruments or devices shall be in an amount necessary to administer this chapter but may not exceed the amounts provided in this section.

(1) For weighing devices, the fees must be based on the manufacturer's rated capacity or the device's design and use and whether measuring by inch or pounds or the metric equivalent:

(a) For weighing devices of up to and including the 100-pound capacity which are used during any portion of the period covered by the permit, the maximum annual fees per retail establishment may not exceed the following:

<u>Number of devices</u>	<u>Maximum Fee</u>
<u>in a single retail</u>	
<u>establishment</u>	
<u>1 to 5</u>	<u>\$60</u>
<u>6 to 10</u>	<u>\$150</u>
<u>11 to 30</u>	<u>\$200</u>
<u>More than 30</u>	<u>\$300</u>

Section 10. Sections 531.60, 531.61, 531.62, 531.63, 531.64, 531.65, and 531.66, Florida Statutes, as created by this act, shall expire July 1, 2014.

Senate #5 – Department of Environmental Protection

State Land Leases

From the funds in Specific Appropriations 1604 through 1608, the department shall review and provide a report on leases of state-owned lands identifying sub-leases to non-state entities, the type of use, and the terms of the sub-lease. The report shall be submitted to the President of the Senate and the Speaker of the House of Representatives by December 1, 2009.

Senate #6 – Department of Environmental Protection

Federal Stimulus Distribution Report

The Department of Environmental Protection shall provide a quarterly report ^{on} of the distribution of funds provided in Specific Appropriation XXXX. The report shall be provided to the Executive Office of the Governor, the President of the Senate, and the Speaker of the House of Representatives beginning October 1, 2009, and continuing until all funds have been distributed.

Senate #7 – Department of Environmental Protection

Debt Service

Funds provided in Specific Appropriation 1616 are for Fiscal Year 2009-2010 debt service on outstanding bonds authorized prior to July 1, 20089, including unissued bonds which were authorized in Specific Appropriation 1656 of chapter 2008-152, Laws of Florida. These funds may be used to refinance any or all series if it is in the best interest of the state as determined by the Division of Bond Finance. If the debt service varies due to a change in the interest rate, timing of issuance, or other circumstances, there is hereby appropriated from the Land Acquisition Trust Fund an amount sufficient to pay such debt service.

Senate #8 – Department of Environmental Protection

Class I Landfills

Section XX. Section 23 of chapter 2008-150, Laws of Florida, is repealed.

HOUSE #1

**Septics Amendment for 2009 Regular Session – Option 2 – Budget
Language that applies to any state agency**

Until such time as the necessary future phases of the project for cost-effective nitrogen reduction strategies as outlined in line item 1682 of the GAA for FY2008-2009 of the regular 2008 legislative session are adequately funded and implemented as contemplated in that line item and proviso thereto, and the project is complete, no state agency shall expend any money adopting or implementing any regulation that mandates or establishes new nitrogen reduction limits that apply to existing or new onsite sewage treatment systems, that has the effect of requiring the use of performance-based treatment systems or that increases the cost of treatment for nitrogen reduction from onsite systems.

 **DRAFT**

Senate Offer #1

SP 11 04/29/2009 15:42 PAGE: 1
TEXT & PROVISO COMPARISON REPORT
DIFFERENCES ONLY

SENATE & HOUSE BUDGET PROVISO COMPARISON

FTPCLP61 LAS/FBS SYSTEM
BUDGET PERIOD: 1999-2010
STATE OF FLORIDA

KEY CODES

HOUSE BILLS (5001, 5101)

SB 2600 1E

Senate

05 42000000 000000 5000

AGRIC/CONSUMER SVCS/CONMR

In order to achieve cost savings and efficiencies, the Department of Agriculture and Consumer Services shall relocate offices in the Bob Crawford Building located in Bartow, Florida, to the Florida Citrus Building (Mayo) located in Winter Haven, Florida. The department shall develop a plan for implementing office consolidations in conjunction with the relocation of the Florida Department of Citrus to the Bob Crawford Building. The department is authorized to submit a budget amendment for review and approval pursuant to chapter 216, Florida Statutes, for the expenditures related to this purpose.

PGM: COMMISSIONER/ADMIN
AGRIC WATER POLICY COORD
BEST MGT PRACT/COST SHARE

House

05 42010200 104128 5000

From the funds in Specific Appropriation *****, \$50,000 from the General Inspection Trust Fund is provided for the Association of Florida Conservation Districts contract for support services to all Florida's Soil and Water Conservation Districts.

PGM: FOREST/RES PROTECTION
LAND MANAGEMENT
SALARIES AND BENEFITS

Of the funds in Specific Appropriation *****, \$400,000 from the Incidental Trust fund is contingent upon Senate Bill 1744 or similar legislation, relating to the state forestry receipt distribution, becoming a law.

Senate

05 42110100 010000 5000

PGM: CONSUMER PROTECTION
AGRICULTURAL ENVIRON SVCS
MOSQUITO CONTROL PROGRAM

From the funds provided in Specific Appropriation *****, \$250,000 from the General Inspection Trust Fund shall be used for research into practical methods of control to be used by local mosquito control agencies. The research shall be conducted by the Institute of Food and Agricultural Sciences (IFAS)/Florida Medical Entomology Laboratory and the Florida Agriculture and Mechanical University (FAMU)/Mulrennan Research Laboratory.

Identical

05 42160100 050896 5000

PTCELP01 LAS/PBS SYSTEM
BUDGET PERIOD: 1999-2010
STATE OF FLORIDA

SB 2600 1E

HOUSE BILLS (5001, 5101)

KEY CODES

ENVIR PROTECTION, DEPT OF
PCM: STATE LANDS
LAND ADMINISTRATION
DEBT SERVICE

Funds provided in Specific Appropriation ***** are for Fiscal Year 2009-2010 debt service on outstanding bonds authorized prior to July 1, 2008. These funds may be used to refinance any or all series if it is in the best interest of the state as determined by the Division of Bond Finance. If the debt service varies due to a change in the interest rate, timing of issuance, or other circumstances, there is hereby appropriated from the Land Acquisition Trust Fund an amount sufficient to pay such debt service.

DEBT SERVICE-SAVE EVERG

Funds provided in Specific Appropriation ***** are for Fiscal Year 2009-2010 debt service on bonds authorized pursuant to section 215.619, Florida Statutes. Including any other continuing payments necessary or incidental to the repayment of the bonds, such as remarketing agent fees, tender agent fees, liquidity facility provider fees and similar fees and expenses. These funds may be used to refinance any or all series if it is in the best interest of the state as determined by the Division of Bond Finance. If the debt service varies due to a change in the interest rate, timing of issuance, or other circumstances, there is hereby appropriated from the Save Our Everglades Trust Fund an amount sufficient to pay such debt service.

PCM: DISTRICT OFFICES
WATER RES PROT/RESTORATION
SALARIES AND BENEFITS

Of the funds in Specific Appropriation ***** from the Internal Improvement Trust Fund, \$1,000,000 is contingent upon Senate Bill 1012 or similar legislation related to submerged land lease fees becoming a law.

PCM: ENVIRON ASSESS/RESTOR
WATER SCIENCE/LAB SERVICES
TOTAL MAX DAILY LOADS

Funds in Specific Appropriation ***** from the Internal Improvement Trust Fund are contingent upon Senate Bill 1012 or similar legislation related to submerged land lease fees becoming a law.

Senate

05 37100200 089070 5000

Senate

05 37100200 089080 5000

House

05 37150100 010000 5000

House

05 37300100 088964 5000

SB 2600 1E

HOUSE BILLS (5001, 5101)

KEY CODES

TR/IFAS-LAKEWATCH

Funds in Specific Appropriation ***** from the Internal Improvement Trust Fund are contingent upon Senate Bill 1012 or similar legislation related to submerged land lease fees becoming a law.

FCM: WATER RESOURCE MGT

BEACH MANAGEMENT

BEACH PROJECTS - STW

Funds in Specific Appropriation ***** are provided to fund, in accordance with section 161.101, Florida Statutes, the Department of Environmental Protection Beach Management Funding Assistance Program according to the Priority Projects List and Alternate Projects List for the 2009-2010 fiscal year.

House
05 37350100 140126 5000

As part of the Department's Beach Management Assistance Program, funds in Specific Appropriation ***** shall be allocated to those projects on the 2009-10 Priority Projects List with a federal cost share, according to their readiness to proceed and in such a manner as to maximize the federal dollars leveraged. Further, pursuant to s. 161.143 (5) (a), the top three projects on DEP's Inlet Management List shall be funded accordingly. Remaining appropriated funds shall be used for post-construction monitoring. To the extent state matching funds for monitoring requirements are not available, such unrealized state dollars may be considered as a local government cost credit toward future beach management projects or activities.

Pursuant to Chapter 2008-152, Laws of Florida, Specific Appropriation 1748, the proviso report submitted to the President of the Senate and Speaker of the House, the Department shall implement those recommendations pertaining to the project management provisions addressing funding, and accountability and transparency, for the 2009-10 Fiscal Year.

WATER RES PROT/RESTORATION

DRINK WATER FAC CONSTR-SRL

Of the funds in Specific Appropriation ***** from the Internal Improvement Trust Fund, \$7,358,400 is contingent upon Senate Bill 1012 or similar legislation, related to submerged land lease fees becoming a law.

House
05 37350200 140129 5000

WASTEWATER TREAT FAC CONST

Of the funds in Specific Appropriation ***** from the Internal Improvement Trust Fund, \$6,000,000 is contingent upon Senate Bill 1012 or similar legislation, related to submerged land lease fees becoming a law.

House
05 37350200 140131 5000

HOUSE BILLS (5001, 5101)

SR 2600 1E

KEY CODES

FISH/WILDLIFE CONSERV COMM
PGM: EXEC DIR & ADM SVCS
OFF/EXEC DIR/ADMIN SUPPORT

The Florida Fish and Wildlife Conservation Commission shall submit a plan by October 1, 2009, to the Southwest Shared Resource Center (SSRC), Agency for Enterprise Information Technology, Executive Office of the Governor, the chair of the Senate Policy and Steering Committee on Ways and Means, and the Chair of the House Full Appropriations Council on General Government and Health Care, providing for the efficient transfer of all data center service resources allocated to data center functions within the department to the SSRC, pursuant to section 17, chapter 2008-116, Laws of Florida.

PGM: LAW ENFORCEMENT
FISH/WILDLIFE/BOAT ENFORCEMENT
TR/DMS/HR SVCS/STW CONTRCT

Of the funds in Specific Appropriations 1890, 1902, and 1906, \$850,675 from the Marine Resources Conservation Trust Fund is contingent upon Senate Bill 1742 or similar legislation, related to the repeal of the shoreline exemption, becoming a law.

PGM: RESEARCH
FISH/WILDLIFE RESRCH INST
TR/DMS/HR SVCS/STW CONTRCT

Of the funds in Specific Appropriations 1972 through 1975, 1981, and 1983, \$1,090,934 from the Marine Resources Conservation Trust Fund is contingent upon Senate Bill 1742 or similar legislation, related to the repeal of the shoreline exemption, becoming a law.

Senate

05 77100700 000000 5000

Senate

05 77200100 107040 5000

Senate

05 77650200 107040 5000

SB 2600 1E

HOUSE BILLS (5001, 5101)

KEY CODES

CITRUS, DEPT OF

In order to achieve cost savings and efficiencies, the Department of Citrus, currently located in the Florida Department of Citrus headquarters building in Lakeland, Florida, shall relocate to the Bob Crawford Building, located in Bartow, Florida. The department shall develop a plan in conjunction with the Department of Agriculture and Consumer Services for implementing this relocation, and is authorized to submit a budget amendment for review and approval pursuant to chapter 216, Florida Statutes, for expenditures related to this purpose.

The Board of Trustees of the Internal Improvement Trust Fund in conjunction with the Department of Management Services shall surplus the Florida Department of Citrus headquarters building and land located at 1115 East Memorial Boulevard, Lakeland, Florida, pursuant to the requirements of s. 253.025, Florida Statutes. Proceeds from the sale shall be deposited in the Citrus Advertising Trust Fund.

AGRIC PRODUCTS MARKETING
EXPENSES

From the funds provided in Specific Appropriation *****, the Department of Citrus may contract to reimburse the Florida Commission on Tourism/Florida Tourism Industry Marketing Corporation for an amount not to exceed \$240,000 for the cost of citrus juice dispensed at the Florida Welcome Stations.

Senate

06 57000000 000000 5000

Senate

06 57030000 040000 5000