Government Accountability Committee

February 26, 2018
2:00 PM—5:00 PM
Morris Hall (17 HOB)

Meeting Packet

Richard Corcoran
Speaker

Matt Caldwell
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Government Accountability Committee

Start Date and Time:	Monday, February 26, 2018 02:00 pm
End Date and Time:	Monday, February 26, 2018 05:00 pm
Location:	Morris Hall (17 HOB)
Duration:	3.00 hrs

Consideration of the following bill(s):

CS/CS/HB 145 Nonnative Animals by Agriculture & Natural Resources Appropriations Subcommittee, Natural Resources & Public Lands Subcommittee, Beshears
CS/CS/HB 227 Workers' Compensation Benefits for First Responders by Government Operations & Technology Appropriations Subcommittee, Oversight, Transparency & Administration Subcommittee, Willhite, Plasencia
CS/HB 521 Tree, Timber, and Vegetation Trimming and Removal by Local, Federal & Veterans Affairs Subcommittee, Edwards-Walpole
CS/HB 595 Motor Vehicle Dealers by Transportation & Infrastructure Subcommittee, Rommel
CS/HB 1017 Seminole County by Local, Federal & Veterans Affairs Subcommittee, Cortes, B., Plakon
HB 1281 Garcon Point Bridge by Williamson
CS/CS/HB 1359 License Plates by Transportation & Tourism Appropriations Subcommittee, Transportation & Infrastructure Subcommittee, Grant, J., Mariano
CS/HB 1383 Tax Deed Sales by Ways & Means Committee, Latvala

Consideration of the following proposed committee bill(s):

PCB GAC 18-06 -- OGSR/Citizens Property Insurance Corporation
PCB GAC 18-07 -- OGSR/Local Government Electric Utility

Consideration of the following bill(s) with proposed committee substitute(s):

PCS for HB 79 -- Public Meetings
PCS for HB 1393 -- City of Tampa, Hillsborough County

NOTICE FINALIZED on 02/25/2018 4:22PM by Larson.Lisa

PCS for HB 79

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 79 Public Meetings
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 192

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be noticed and open to the public.

The "Government in the Sunshine Law" further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings. Minutes of a public meeting must be promptly recorded and be open to public inspection.

The bill defines "de facto meeting" as the use of board or commission staff or third parties, acting as intermediaries, to facilitate a discussion of public business between or among board or commission members. The bill clarifies that de facto meetings are subject to the Sunshine Law.

The bill specifies that members of the same board or commission may participate in fact-finding exercises or excursions to research public business, and may participate in meetings with a member of the Legislature, if:

- The board or commission provides reasonable notice;
- The exercise, excursion, or meeting is open to the public;
- A vote, an official act, or an agreement regarding an action at a future meeting does not occur;
- There is no discussion of "public business" that occurs; and
- There are appropriate records, minutes, audio recordings, or video recordings made and retained as a public record.

The bill does not appear to have a fiscal impact on the state or local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Meetings Law

Article I, s. 24(b) of the State Constitution sets forth the state's public policy regarding access to government meetings. It requires all meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, to be noticed and open to the public.

Public policy regarding access to government meetings is also addressed in the Florida Statutes. Section 286.011, F.S., known as the "Government in the Sunshine Law" or "Sunshine Law," further requires all meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken to be open to the public at all times. The board or commission must provide reasonable notice of all public meetings.[1] Minutes of a public meeting must be promptly recorded and be open to public inspection.[2]

No resolution, rule, or formal action is considered binding, unless action is taken or made at a public meeting.[3] Acts taken by a board or commission in violation of this requirement are considered void,[4] though a failure to comply with open meeting requirements may be cured by independent final action by the board or commission fully in compliance with public meeting requirements.[5]

The Sunshine Law applies to "[m]embers-elect of boards, commissions, agencies, etc." as soon as they are elected, even if they have not yet been sworn into office.[6] Any assemblage of members-elect or elected members of a collegial body who "discuss matters on which foreseeable action may be taken by that board or commission" constitutes a meeting subject to the Sunshine Law.[7]

Definition of "Meeting"

The Legislature has not defined the term "meeting" within the context of the Sunshine Law. However, the courts provide a definition. In *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, the Florida Supreme Court stated:

> [M]eetings within the meaning of the Sunshine Law include any gathering, formal or informal, of two or more members of the same board or commission where the members deal with some matter on which foreseeable action will be taken by the Board.[8]

[1] Section 286.011(1), F.S.
[2] Section 286.011(2), F.S.
[3] Section 286.011(1), F.S.
[4] *See Grapski v. City of Alachua*, 31 So. 3d 193 (Fla. 1st DCA 2010).
[5] *See Finch v. Seminole County School Board*, 995 So. 2d 1068 (Fla. 5th DCA 2008).
[6] *Hough v. Stembridge*, 278 So. 2d 288, 289 (Fla. 3d DCA 1973).
[7] *Id.*
[8] *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 764 (Fla. 2010).

The Court has also interpreted the intent of the Sunshine Law in relation to the types of assemblages that constitute a "meeting":

> The obvious intent of the Government in the Sunshine Law, supra, was to cover any gathering of some of the members of a public board where those members discuss some matters on which foreseeable action may be taken by the board.[9]

A meeting, within the meaning of the Sunshine Law, can occur even if the members of a collegial body do not speak to each other about a topic where foreseeable action may take place. Courts have ruled that the *opportunity* to make a decision was sufficient to make a gathering of school officials a public meeting.[10] In one case, school board members, two school board candidates, a superintendent and his deputy, and members of the press, toured new school bus routes on a school bus. The school board members sat several rows away from each other as a precaution and none of the members discussed preferences, expressed opinions, or voted on the bus trip.[11] Despite taking those precautions, the court opined that the school board "had ultimate decision-making authority," gathered in a confined space, and had "the opportunity at that time to make decisions outside of the public scrutiny." Therefore, the court held that the bus ride was a meeting that violated the Sunshine Law.[12]

A "sunshine meeting" may also occur even if the members of a board do not assemble or share information through an intermediary. In this case, a superintendent met individual school board members in succession to discuss redistricting, but denied acting as a "go-between" or sharing the opinions of one board member with another one.[13] Although board members did not exchange information or otherwise congregate, the court, in finding a violation of the Sunshine Law, held:

> The scheduling of six sessions of secret discussions, repetitive in content, in rapid-fire seriatim and of such obvious official portent, resulted in de facto meetings by two or more members of the board at which official action was taken.[14]

Any meeting when public officials meet to avoid being seen or heard by the public violates the Sunshine Law, regardless of whether that meeting is formal or informal.[15] The judiciary has advised, "[i]f a public official is unable to know whether by convening two or more officials he is violating the law, he should leave the meeting forthwith."[16]

Not all meetings of government officials are subject to the Sunshine Law, and the presence of two government officials alone is not sufficient to require a public meeting.[17] In addition to the exemptions listed in statute, staff meetings and fact-finding meetings are exceptions to the Sunshine Law and there is no requirement that these meetings be open and noticed to the public.

Officials may also meet alone with their staff or employees for "fact-finding" purposes in order to execute their duties without violating the Sunshine Law.[18] In addition, case law states that as long as they do not have decision-making authority, "fact-finding" committees are not subject to the Sunshine Law.[19] The Florida Supreme Court ruled that "[w]hen a committee has been established for and

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[9] *See Bd. of Pub. Instruction v. Doran*, 224 So. 2d 693, 698 (Fla. 1969).
[10] *See Finch v. Seminole County Sch. Bd.*, 995 So. 2d 1068 (Fla. 5th DCA 2008).
[11] *Id.*
[12] *Id.* at 1072-73
[13] *See Blackford v. Sch. Bd.*, 375 So. 2d 578, 580 (Fla. 5th DCA 1979).
[14] *Id.*
[15] *Miami Beach v. Berns*, 245 So. 2d 38, 41 (Fla. 1971).
[16] *Id.*
[17] *City of Sunrise v. News and Sun-Sentinel Co.*, 542 So. 2d 1354, 1355 (Fla. 4th DCA 1989).
[18] *See Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755 (Fla. 2010). *See also Bennett v. Warden*, 333 So. 2d 97 (Fla. Dist. Ct. App. 1976).
[19] *See Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-63 (Fla. 2010).

conducts only information gathering and reporting, the activities of that committee are not subject to § 286.011, Fla. Stat."[20]

Effect of the Bill

The bill creates the following definitions:

- "De facto meeting" means the use of board or commission staff or third parties, acting as intermediaries, to facilitate a discussion of public business between or among board or commission members.
- "Discussion" means a conversation between or among board or commission members regardless of whether through oral, written, electronic, or any other form of communication.
- "Meeting" means a gathering, whether formal or informal, of two or more members elected to or of the same board or commission, even if they have not yet taken office.
- "Official act" means the adoption of a resolution or rule or other formal action being taken by the board or commission.
- "Public business" means any matter before, or foreseeably expected to come before, the board or commission.

The bill clarifies that de facto meetings are subject to the Sunshine Law.

The bill also specifies that members of the same board or commission may participate in fact-finding exercises or excursions to research public business, and may participate in meetings with a member of the Legislature, if:

- The board or commission provides reasonable notice;
- The exercise, excursion, or meeting is open to the public;
- A vote, an official act, or an agreement regarding an action at a future meeting does not occur;
- There is no discussion of "public business" that occurs; and
- There are appropriate records, minutes, audio recordings, or video recordings made and retained as a public record.

B. SECTION DIRECTORY:

Section 1 amends s. 286.011, F.S., relating to public meetings and public records; public inspection; criminal and civil penalties.

Section 2 provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

[20] *Id.* at 757.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to public meetings; amending s. 286.011, F.S.; defining terms; specifying conditions under which members of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision may participate in fact-finding exercises or excursions; providing an effective date.

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

Section 1. Subsection (1) of section 286.011, Florida Statutes, is amended to read:

286.011 Public meetings and records; public inspection; criminal and civil penalties.—

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

1. "De facto meeting" means the use of board or commission staff or third parties, acting as intermediaries, to facilitate a discussion of public business between or among board or commission members.

2. "Discussion" means a conversation between or among board or commission members regardless of whether through oral, written, electronic, or any other form of communication.

3. "Meeting" means a gathering, whether formal or informal, of two or more members elected to or of the same board

or commission, even if they have not yet taken office.

4. "Official act" means the adoption of a resolution or rule or other formal action being taken by the board or commission.

5. "Public business" means any matter before, or foreseeably expected to come before, the board or commission.

(b) Except as otherwise provided in the State Constitution, all meetings or de facto meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision at which official acts are to be taken or public business is to be transacted or discussed are declared to be public meetings open to the public.~~, except as otherwise provided in the Constitution, including meetings with or attended by any person elected to such board or commission, but who has not yet taken office, at which official acts are to be taken are declared to be public meetings open to the public at all times, and~~

(c) Members of the same board or commission may participate in fact-finding exercises or excursions to research public business, and may participate in meetings with a member of the Legislature, if:

1. The board or commission provides reasonable notice;

2. The exercise, excursion, or meeting is open to the public;

3. A vote, an official act, or an agreement regarding an action at a future meeting does not occur;

4. A discussion of public business, as those terms are defined in paragraph (a), does not occur; and

5. Appropriate records, minutes, audio recordings, or video recordings are made and retained as a public record.

(d) A ~~no~~ resolution, rule, or formal action is not ~~shall be~~ considered binding unless ~~except as~~ taken or made at a public ~~such~~ meeting. The board or commission must provide reasonable notice of all such meetings.

Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 145 Nonnative Animals
SPONSOR(S): Agriculture & Natural Resources Appropriations Subcommittee; Natural Resources & Public Lands Subcommittee; Beshears
TIED BILLS: **IDEN./SIM. BILLS:** SB 168

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	13 Y, 0 N, As CS	Gregory	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N, As CS	White	Pigott
3) Government Accountability Committee		Gregory	Williamson

SUMMARY ANALYSIS

Nonnative species are animals living outside of captivity that did not historically inhabit Florida. Humans introduced most nonnative species to Florida, while some nonnative species migrated to Florida through natural range expansion. Nonnative species may become invasive species soon after introduction or years after they expand their range. These species may cause ecological problems, cause economic damage, create nuisances, or harm infrastructure. Currently, the Fish and Wildlife Conservation Commission (FWC) undertakes several statewide efforts to restrict the introduction and spread of nonnative species. This includes providing public education, pet amnesty days to surrender exotic pets to pre-qualified adopters, restricting or prohibiting the possession of certain nonnative species, undertaking nonnative species eradication programs, and encouraging hunting and fishing of nonnative species.

The bill specifically addresses concerns with the following priority invasive species:

- Tegu lizards;
- Lionfish; and
- Conditional nonnative lizards and snakes, which are Burmese or Indian pythons, reticulated pythons, Northern African pythons, Southern African pythons, Amethystine or scrub pythons, Green Anacondas, and Nile monitors.

The bill requires FWC to establish a pilot program to mitigate the impacts of priority invasive species by authorizing FWC to enter into competitively bid contracts with individuals and entities to capture and destroy the priority invasive species found on public lands and public waters. The bill requires FWC to:

- Ensure that each animal captured and killed is documented, photographed, and the geographic location is recorded for research purposes;
- Direct the disposal of all animals captured and not destroyed; and
- Submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representative by January 1, 2021.

The bill has an insignificant negative fiscal impact on the FWC that can be handled within existing resources. See *Fiscal Analysis & Economic Impact Statement.*

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Nonnative Species

Nonnative species (or exotic species) are animals living outside of captivity that did not historically inhabit Florida. Humans introduced most nonnative species to Florida, while some nonnative species migrated to Florida through natural range expansion. Common examples of nonnative species include coyotes, armadillos, parrots, feral hogs, and different species of insects. Only a handful of escaped or released nonnative species survive. The majority of those who do survive likely will not cause a negative effect on native wildlife. The Fish and Wildlife Conservation Commission (FWC) maintains a list of nonnative species on its website.[1]

Nonnative species may become invasive species soon after introduction or years after they expand their range. These species may cause ecological problems, cause economic damage, create nuisances, or harm infrastructure.[2]

FWC undertakes several statewide efforts to restrict the introduction and spread of nonnative species. This includes providing public education, pet amnesty days to surrender exotic pets to pre-qualified adopters,[3] restricting or prohibiting the possession of certain nonnative species, undertaking nonnative species eradication programs, and encouraging hunting and fishing of nonnative species.

Individuals may not transport into the state, introduce, or possess, for any purpose that might reasonably be expected to result in liberation into the state, any nonnative species without a permit from FWC.[4] Individuals who possess these species must meet requirements set by FWC including certain captivity requirements to prevent escape, identification requirements, record keeping requirements, inspection requirements, transportation requirements, disaster incident plans, and detailed research plans.[5]

Individuals may hunt and fish all nonnative freshwater aquatic life and animal life throughout the year, without restriction, unless otherwise specified in FWC rules.[6]

Tegus

Argentine black and white tegus (tegus) are large lizards native to South America. Tegus are black and white with banding along the tail. Tegus may reach up to four feet in length. These lizards spend most of their time on land, though they can swim and may submerge themselves for long periods. Tegus are primarily active during the day and will burrow or hide overnight. Their diet includes fruits, eggs, insects, and small animals, such as lizards and rodents.[7]

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[1] FWC, *What is a nonnative species?*, http://myfwc.com/wildlifehabitats/nonnatives/what-are-nonnatives/ (last visited January 23, 2018); FWC, *Exotic Information*, http://myfwc.com/wildlifehabitats/nonnatives/exotic-information/ (last visited January 23, 2018).
[2] FWC, *Invasive Species*, http://myfwc.com/wildlifehabitats/nonnatives/invasive-species/ (last visited January 23, 2018); FWC, *Exotic Information*, http://myfwc.com/wildlifehabitats/nonnatives/exotic-information/ (last visited January 23, 2018).
[3] FWC, *Exotic Pet Amnesty Day Events*, http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/events/ (last visited January 23, 2018); r. 68-5.004, F.A.C.
[4] Section 379.231(1), F.S.; r. 68-5.001(1), F.A.C. Four specific species are exempt from these prohibitions.
[5] Rules 68-5.001(3) and (4), F.A.C.
[6] Rule 68-5.001(2), F.A.C.
[7] FWC, *Argentine black and white tegu*, http://myfwc.com/wildlifehabitats/nonnatives/reptiles/argentine-black-and-white-tegu/ (last visited January 23, 2018).

FWC has identified tegus in several areas of Florida. Two breeding populations of tegus are known to exist in Hillsborough and Miami-Dade Counties.[8] These nonnative lizards present a concern because they compete with and prey on native wildlife, including threatened species. Individuals must possess a permit from FWC to sell tegus.[9] Currently, FWC works with other agencies and organizations to assess the threat of tegus and develop management strategies, including targeted trapping and removal. The goal of these partnerships is to minimize the impact of tegus on native wildlife and natural areas.[10] FWC encourages individuals who see tegus to report their location.[11] FWC's cooperative efforts have removed over 5000 tegus from Florida.[12]

Lionfish

Lionfish are a marine species identifiable by their red, brown, and white striped zebra-like appearance and 18 venomous spines. Lionfish may grow to 18 inches in length where they are not indigenous. These marine predators use their spines defensively against larger predators.[13]

Lionfish stalk their prey and corral them into corners. A lionfish diet may include yellowtail snapper, Nassau grouper, parrotfish, banded coral shrimp, and cleaner species. Once lionfish find suitable habitat as an adult, they tend to stay and can reach densities of more than 200 adults per acre.[14]

Lionfish were first reported in Florida waters near Dania Beach in 1985. By 2014, lionfish spread throughout the southern Atlantic, Gulf Coast, and Caribbean.[15] Lionfish pose problems for the marine environment because they eat native fish, eliminate species that serve important ecological roles such as keeping algae in check on reefs, and compete for food with native predatory fish like grouper and snapper.[16]

FWC places several restrictions on the possession of lionfish. Individuals may not import live lionfish, hybrids, or eggs.[17] Wholesale and retail dealers may only possess lionfish harvested from Florida waters or adjacent federal waters.[18] Common carriers or employees of carriers may not carry, knowingly receive for carriage, or permit the carriage of any live lionfish, including their hybrids or eggs, except for lionfish lawfully harvested from Florida waters or adjacent federal waters.[19] Individuals may only possess lionfish for the purpose of destruction, unless permitted by FWC.[20] Further, individuals may not breed lionfish or cultivate their larvae or eggs, unless permitted by FWC.[21]

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[8] FWC presentation on Bears, Lionfish, Tegus, and Pythons, p. 23, Agriculture and Natural Resources Appropriations Subcommittee, February 15, 2017, available at: http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2893&Session=2017&DocumentType=Meeting Packets&FileName=anr 2-15-17.pdf.
[9] Section 379.3761, F.S.
[10] FWC, *Tegus in Florida*, http://myfwc.com/media/2380549/Tegu-brochure.pdf (last visited January 23, 2018).
[11] *Id.*
[12] FWC presentation on Nonnative Fish and Wildlife Update, p. 10, FWC Meeting, December 5, 2017, available at: http://myfwc.com/media/4339787/4A-NonnativePresentation.pdf.
[13] FWC, *Lionfish – Pterois volitans*, http://myfwc.com/wildlifehabitats/nonnatives/marine-species/lionfish/ (last visited January 23, 2018).
[14] *Id.*
[15] *Id.*
[16] *Id.*
[17] Rules 68-5.005(2) and 68B-5.006(5), F.A.C.
[18] Rule 68-5.005(4), F.A.C.
[19] Rule 68-5.005(5), F.A.C.
[20] Rules 68-5.005(7) and 68B-5.006(7), F.A.C.
[21] Rules 68-5.005(8) and 68B-5.006(6), F.A.C.

FWC undertakes many activities to control the lionfish population, including:

- Partnering with dive shops to train divers to confidentially and safely harvest lionfish;[22]
- Encouraging lionfish excursions and derbies;[23]
- Performing research to assess lionfish populations and develop management plans;[24]
- Undertaking a lionfish summit in 2013 to develop a collaborative framework for partnering on future lionfish management that includes identification of research priorities, management actions and outreach initiatives;[25] and
- Encouraging individuals to report lionfish sightings.[26]

Further, FWC provides exceptions to certain marine fishing regulations to encourage fishing for lionfish, including:

- Exempting divers who harvest lionfish from the recreational fishing license requirements if they use certain gear;[27]
- Allowing recreational divers to harvest an unlimited amount of lionfish;[28]
- Allowing recreational divers to use rebreathers when harvesting lionfish;[29] and
- Allowing the take of lionfish in John Pennekamp State Park.[30]

Since May 2016, FWC's cooperative efforts have removed 110,786 lionfish from Florida water.[31]

Conditional Nonnative Snakes and Lizards

Individuals and businesses may not keep, possess, import into the state, sell, barter, trade, or breed the following snakes and lizards listed in s. 379.372(2)(a), F.S., for personal use or for sale for personal use: Burmese or Indian python, reticulated python, Northern African python, Southern African python, amethystine or scrub python, green anaconda, or Nile monitor.[32]

Reptile dealers, public exhibitors, researchers, or nuisance trappers may apply for a permit to import or possess conditional nonnative snakes and lizards.[33] Those who possess conditional nonnative snakes and lizards must keep them indoors or in outdoor enclosures with a fixed roof and a permanent passive integrated transponder (PIT) tag, also known as a microchip.[34] Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to the commission and must maintain records of their inventory.[35]

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[22] FWC, *Lionfish Derby and Event Calendar*, http://myfwc.com/fishing/saltwater/recreational/lionfish/events/ (last visited January 23, 2018).
[23] *Id.*
[24] FWC, *Fish and Wildlife Research Institute*, http://myfwc.com/research/saltwater/fish/lionfish/ (last visited January 23, 2018).
[25] FWC, *FWC Lionfish Summit Summary Report*, https://www.mbara.org/pdf/REPORT%202013%20Florida%20Fish%20and%20Wildlife%20Conservation%20Commission%20LionfiLi%20Summit.pdf (last visited January 23, 2018).
[26] FWC, *Report Lionfish*, http://myfwc.com/media/4039504/LionfishBrochure.pdf (last visited January 23, 2018).
[27] Rule 68B-5.006(2), F.A.C.
[28] Rule 68B-5.006(3), F.A.C.
[29] Rules 68B-4.012 and 68B-5.006(4), F.A.C.
[30] Rule 68B-5.002(2)(h), F.A.C.
[31] FWC presentation on Bears, Lionfish, Tegus, and Pythons, p. 18, Agriculture and Natural Resources Appropriations Subcommittee, February 15, 2017, available at: http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2893&Session=2017&DocumentType=Meeting Packets&FileName=anr 2-15-17.pdf.
[32] Rule 68-5.002(4), F.A.C.
[33] Rules 68-5.001 and 68-5.002, F.A.C.; FWC, *Conditional Snakes and Lizards*, http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/ (last visited January 23, 2018).
[34] Rule 68-5.001(3)(e), F.A.C.; FWC, *Conditional Snakes and Lizards*, http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/ (last visited January 23, 2018).
[35] *Id.*

These conditional nonnative lizards and snakes are native to Africa and Asia. They prey on a variety of birds, mammals, and reptiles, including alligators. Each species of snake or lizard has been observed throughout Florida, but concentrate mainly in south Florida.[36]

Because of their large size as adults, conditional nonnative snakes and lizards living in Florida have few predators. While they may prey upon other nonnative species, they also prey upon native species and may reduce local native populations. Further, some conditional nonnative snakes and lizards may pose a threat to human and pet safety.[37]

FWC undertakes many activities to control the population of conditional snakes and lizards, including:
- Encouraging individuals to report sightings;[38]
- Managing a Burmese Python Removal Program that allows the capture of all conditional reptile species;[39]
- Authorizing python hunting within wildlife management areas;[40] and
- Hosting Python Challenges in 2013 and 2016 that offered rewards for harvesting pythons.[41]

FWC's cooperative efforts have removed over 5,000 pythons from Florida.[42]

EFFECT OF THE PROPOSED CHANGES

The bill creates s. 379.2311, F.S., to require FWC to establish a pilot program to mitigate the impacts of priority invasive species on the public lands and waters of the state. The bill defines the term "priority invasive species" to include:
- Lizards of the genus *Tupinambis*, also known as tegu lizards;
- Conditional nonnative snakes and lizards identified in s. 379.372(2), F.S.;[43]
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.

The bill finds that priority invasive species continue to expand their range and to decimate the fauna and flora of the Everglades and other natural areas, waters, and ecosystems of this state at an accelerating rate. The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of the priority invasive species and to contain and eradicate these species from Florida.

The bill authorizes FWC to enter competitively bid contracts with individuals and entities to capture and destroy priority invasive species on public lands and public waters. The bill requires that:
- Any private contracted work performed on public land or in waters of the state not owned or managed by FWC have the consent of the owner;
- FWC ensure that each priority invasive species captured and disposed is documented, photographed, and the geographic location is recorded for research purposes;
- FWC direct the disposal of all animals captured and not destroyed in removal efforts; and

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[36] FWC, *Nonnatives - Burmese Python,* http://myfwc.com/wildlifehabitats/nonnatives/reptiles/burmese-python/ (last visited January 23, 2018); FWC, *Nonnatives - Nile Monitor,* http://myfwc.com/wildlifehabitats/nonnatives/reptiles/nile-monitor/ (last visited January 23, 2018); FWC, *Northern African Python,* http://myfwc.com/wildlifehabitats/nonnatives/reptiles/northern-african-python/ (last visited January 23, 2018).
[37] *Id.*
[38] *Id.*
[39] FWC, *Python Removal Program*, http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/ (last visited January 23, 2018).
[40] *Id.*
[41] FWC, *2016 Python Challenge*, http://pythonchallenge.org/ (last visited January 23, 2018).
[42] FWC presentation on Nonnative Fish and Wildlife Update, p. 4, FWC Meeting, December 5, 2017, available at: http://myfwc.com/media/4339787/4A-NonnativePresentation.pdf.
[43] Section 379.372(2)(a), F.S.; r. 68-5.002(4), F.A.C.

- FWC submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representative by January 1, 2021.

B. SECTION DIRECTORY:

Section 1. Creates s. 379.2311, F.S., relating to nonnative animal management.

Section 2. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   FWC currently has $2.4 million appropriated in its recurring base budget for nonnative species management. There is also an additional $1 million in nonrecurring funds for lionfish management appropriated in the House Proposed General Appropriations Act (HB 5001). FWC can use existing resources for the pilot program and report.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on entities or individuals in the business of capturing or destroying species by authorizing FWC to contract with these entities or individuals to capture or destroy priority invasive species on public lands and public waters. The bill may further have an indeterminate positive fiscal impact on individuals or entities in the business of selling or fishing of the species threatened by these priority invasive species.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Natural Resources and Public Lands Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the definition for "pet dealer" and removed the requirement that pet dealers implant a passive integrated transponder (PIT) tag in all nonnative animals identified by FWC that threaten the state's wildlife habitat before selling, reselling, or offering for sale such animals. The amendment also removed the requirement for FWC to adopt rules to identify such animals and adopt standards for the type of PIT tag that pet dealers must use and the method used to implant the tags.

On February 6, 2018, the Agriculture & Natural Resources Appropriations Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment removed the appropriations from the bill.

The bill analysis is drafted to the committee substitute as passed by the Agriculture & Natural Resources Appropriations Subcommittee.

A bill to be entitled

An act relating to nonnative animals; creating s. 379.2311, F.S.; defining the term "priority invasive species"; providing legislative findings; requiring the Fish and Wildlife Conservation Commission to establish a pilot program for the eradication of priority invasive species; providing the goal of the pilot program; authorizing the commission to enter into specified contracts; specifying parameters for the implementation of the pilot program; specifying procedures for the capture and disposal of animals that belong to priority invasive species; requiring the commission to submit a report to the Governor and the Legislature by a specified date; providing an effective date.

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

Section 1. Section 379.2311, Florida Statutes, is created to read:

379.2311 Nonnative animal management.—

(1) As used in this section, the term "priority invasive species" means the following:

(a) Lizards of the genus *Tupinambis*, also known as tegu lizards;

(b) Species identified in s. 379.372(2)(a);

(c) *Pterois volitans*, also known as red lionfish; and

(d) *Pterois miles*, also known as the common lionfish or devil firefish.

(2) The Legislature finds that priority invasive species continue to expand their range and to decimate the fauna and flora of the Everglades and other natural areas and ecosystems in the southern and central parts of the state at an accelerating rate. Therefore, the commission shall establish a pilot program to mitigate the impact of priority invasive species on the public lands or waters of this state.

(a) The goal of the pilot program is to examine the benefits of using strategically deployed, trained private contractors to slow the advance of priority invasive species, contain their populations, and eradicate them from this state.

(b) In implementing the pilot program, the commission may enter into contracts in accordance with chapter 287 with entities or individuals to capture or destroy animals belonging to priority invasive species found on public lands or in the waters of this state. Any private contracted work to be performed on public land or in the waters of the state not owned or managed by the commission must have the consent of the owner.

(c) The commission shall ensure that all captures and disposals of animals that belong to these priority invasive species are documented and photographed and that the geographic

location of the take is recorded for research purposes. The commission shall direct the disposal of all animals captured and not destroyed in removal efforts.

(d) The commission shall submit a report of findings and recommendations regarding its implementation of the pilot program to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2021.

Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 227 Workers' Compensation Benefits for First Responders
SPONSOR(S): Government Operations & Technology Appropriations Subcommittee; Oversight, Transparency & Administration Subcommittee; Willhite; Plasencia and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Oversight, Transparency & Administration Subcommittee	12 Y, 0 N, As CS	Moore	Harrington
2) Government Operations & Technology Appropriations Subcommittee	11 Y, 0 N, As CS	Helpling	Topp
3) Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

Workers' compensation laws require employers to pay medical and wage replacement (i.e., indemnity payments) benefits if an employee suffers an accidental injury or death arising out of work performed in the course and the scope of their employment. Current law establishes the conditions under which a mental or nervous injury is compensated. Generally, mental or nervous injuries without an accompanying physical injury requiring medical treatment are not compensable. However, Florida law provides that medical benefits for first responders who experience a mental or nervous injury without an accompanying physical injury are compensable. While medical treatment is covered, first responders without an accompanying physical injury may not receive wage replacement benefits for mental or nervous injuries.

The bill provides workers' compensation wage replacement benefits in specified circumstances for post-traumatic stress disorder (PTSD) suffered by a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic regardless of whether the individual's PTSD is accompanied by a physical injury requiring medical treatment. First responder PTSD-related wage replacement benefits, in addition to currently available medical benefits, must be paid under certain circumstances.

The first responder must be diagnosed by a psychiatrist with PTSD following certain specified death-related events that were experienced while acting in the course and scope of his or her employment. These death-related events include working a call involving the death of a child, a homicide, or the death, including suicide, of a person who suffered grievous bodily harm. The circumstances include seeing the decedent, seeing or hearing the injury or death, and participating in the treatment or transport of those who die in these events.

Eligible PTSD claims are not subject to benefit limitations generally applicable to mental and nervous injuries, apportionment, or contribution. Such PTSD claims must be filed within 30 days of the death-related event or manifestation of the PTSD, but no later than one year after the event. Each qualifying death-related event that the first responder experiences will carry its own timely reporting deadline.

The bill also requires an employing agency of a first responder, including volunteer first responders, to provide educational training related to mental health awareness, prevention, mitigation, and treatment.

The bill may have a significant negative fiscal impact on the state and local governments. *See* Fiscal Analysis & Economic Impact Statement section.

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Workers' Compensation System

Employers are required to provide medical and wage replacement (i.e., indemnity payments) benefits that are required under ch. 440, F.S., if an employee suffers an accidental injury or death arising out of work performed in the course and the scope of the employment.[1] Generally, employers may secure coverage from an authorized carrier, qualify as a self-insurer,[2] or purchase coverage from the Workers' Compensation Joint Underwriting Association, the insurer of last resort.[3] The Department of Financial Services (DFS) administers the workers' compensation system.

Workers' compensation is the injured employee's remedy for "compensable" workplace injuries.[4] A work-related accident must be the major contributing cause of any resulting injury or illness, meaning that the cause must be more than 50 percent responsible for the injury as compared to all other causes combined, as demonstrated by medical evidence only.[5]

General Compensability for Mental or Nervous Injuries

Section 440.093, F.S., establishes the conditions under which a mental or nervous injury is compensated under workers' compensation laws. Generally, mental or nervous injuries without an accompanying physical injury requiring medical treatment are not compensable. In addition, a mental or nervous injury occurring as a manifestation of a compensable physical injury must be demonstrated by clear and convincing medical evidence. The compensable physical injury must be the major contributing cause of the mental or nervous injury. The law also limits the duration of temporary indemnity benefits for a compensable mental or nervous injury to no more than six months after the employee reaches maximum medical improvement.[6] If the six-month cap on temporary benefits is reached and the injured worker has reached maximum medical improvement (MMI) or if MMI is reached before reaching the cap, permanent indemnity benefits will be due if the employee is permanently and totally disabled or if he or she has a permanent impairment.[7]

Injured workers are entitled to receive all medically necessary remedial treatment, care, and attendance, including medications, medical supplies, durable medical equipment, and prosthetics, for as long as the nature of the injury and process of recovery requires.[8]

Indemnity benefits only become payable to employees who are disabled for at least eight days due to a compensable workplace injury.[9] These benefits are generally payable at 66 2/3 percent of the

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[1] Section 440.09(1), F.S.

[2] Section 440.38, F.S.

[3] Section 627.311(5)(a), F.S.

[4] "Compensable" means a determination by a carrier or judge of compensation claims that a condition suffered by an employee results from an injury arising out of and in the course of employment. Section 440.13(1)(d), F.S.

[5] Section 440.09(1), F.S.

[6] Temporary indemnity benefits, known as temporary total disability and temporary partial disability benefits, are paid while an injured worker has not yet reached maximum medical improvement and is either unable to earn a wage or unable to earn the same or greater wage as prior to the compensable injury. Following maximum medical improvement, permanent total disability or permanent impairment benefits may be paid. Section 440.15, F.S.

[7] However, in 2016, the Florida Supreme Court and the First District Court of Appeal in two cases found the general limitation on temporary indemnity benefits unconstitutional in circumstances where the injured worker had reached the 104-week limit on benefits, but was unable to return to work. The courts invalidated the 104-week limitation and replaced it with the previous statutory limit of 260 weeks. *Westphal v. City of St. Petersburg*, 194 So. 3d 311 (Fla. 2016); *Jones v. Food Lion, Inc.*, 202 So. 3d 964 (Fla. 1st DCA 2016). While no court has issued an opinion applying these cases to the six-month cap on compensable mental and nervous injuries, it is reasonable to believe that this limitation may be unconstitutional as well.

[8] Section 440.13(2)(a), F.S.

[9] Section 440.12(1), F.S.

employee's average weekly wage,[10] up to the maximum weekly benefit established by law.[11] Indemnity benefits fall into one of four categories: temporary partial disability, temporary total disability, permanent partial disability, or permanent total disability and are payable as follows:

- Temporary partial disability and temporary total disability benefits are payable for up to a combined total of 260 weeks.[12]
- Permanent partial disability benefits are payable as impairment income benefits that are provided for a variable number of weeks depending upon the value of the injured worker's permanent impairment rating pursuant to a statutory formula.[13]
- Permanent total disability benefits are payable until the age of 75, unless the work-related accident occurs after the worker's 70th birthday, in which case the benefit is paid for no more than five years.[14]

Compensability for Mental or Nervous Injuries of First Responders

In 2007, the Legislature enacted significant changes in workers' compensation benefits for first responders that provide benefits and standards for determining benefits for employment-related accidents and injuries of first responders. The term "first responder" is defined as a law enforcement officer,[15] a firefighter,[16] or an emergency medical technician or paramedic[17] employed by state or local government.[18] Further, a volunteer law enforcement officer, firefighter, or emergency medical technician or paramedic engaged by the state or a local government is considered a first responder of the state or local government.[19]

Although mental or nervous injuries are generally not compensable under workers' compensation laws, Florida law provides that medical benefits for first responders who experience a mental or nervous injury without an accompanying physical injury are compensable. However, while medical treatment is covered, first responders without an accompanying physical injury may not receive indemnity benefits.[20]

Compensability of Occupational Diseases of First Responders

The workers' compensation law provides medical and wage replacement benefits for workers who were accidentally injured while acting in the course and scope of their employment. This typically involves a physical injury, e.g., cuts, abrasions, broken bones, and soft-tissue damage; however, the law also provides benefits for workers who develop occupational diseases due to their employment.[21] Occupational diseases generally do not involve a traumatic event that causes obvious disruption to the body requiring immediate medical attention. Lung disease, hypertension, hearing loss, dermatitis, and

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[10] An injured workers' average weekly wage is an amount equal to one-thirteenth of the total amount of wages earned during the 13 weeks immediately preceding the compensable accident pursuant to s. 440.14(1), F.S.

[11] Section 440.15(1)-(4), F.S.

[12] *See supra* note 7.

[13] Section 440.15(3), F.S.

[14] Section 440.15(1), F.S.

[15] The term "law enforcement officer" means any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The term includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency. Section 943.10, F.S.

[16] The term "firefighter" means an individual who holds a current and valid Firefighter Certificate of Compliance or Special Certificate of Compliance issued by the Division of State Fire Marshal within the Department of Financial Services. Section 633.102, F.S.

[17] The term "emergency medical technician" means a person who is certified by the Department of Health to perform basic life support. The term "paramedic" means a person who is certified by the Department of Health to perform basic and advanced life support. Section 401.23, F.S.

[18] Chapter 2007-1, L.O.F.

[19] Section 112.1815, F.S.

[20] Section 112.1815(2)(a)3., F.S. The outcomes in *Westphal* and *Jones* imply that this limitation may be unconstitutional.

[21] Section 440.151, F.S.

certain communicable diseases, such as hepatitis, are examples of occupational diseases that may be compensable if certain conditions are met. These diseases develop due to exposure to airborne particles, severe physical stress, excessive noise, irritants, or pathogens in the workplace.

For the purposes of the workers' compensation law, the term "occupational disease" means only a disease that is due to causes and conditions that are characteristic of and peculiar to a particular trade, occupation, process, or employment, and excludes all ordinary diseases of life to which the general public is exposed, unless the incidence of the disease is substantially higher in the particular trade, occupation, process, or employment than in the general public. Such diseases are compensable if there are epidemiological studies showing that exposure to the specific substance involved, at the levels to which the employee was exposed, may cause the precise disease sustained by the employee.

Because occupational diseases differ from the more common types of workers' compensation claims, there are special provisions governing occupational disease claims. These include the following:

- The disease must result from the nature of the employment[22] while engaged in such employment.
- The nature of the employment must be the major contributing cause[23] of the disease and the disease must be the major contributing cause of the need for treatment, each of which must be shown by medical evidence only based on physical examination and diagnostic testing.
- Causation, including sufficient exposure to a specific harmful substance shown to be present in the workplace, must be proven by clear and convincing evidence.
- If the occupational disease is aggravated by a non-compensable disease or infirmity, then the wage replacement benefits must be reduced in proportion to the percentage of aggravation.
- Death benefits are only available to surviving spouses and living and unborn dependent children, if their relationship to the decedent existed prior to or when an injured worker became disabled (i.e., became unable to earn the wages being received at the time of last exposure).[24]
- Only the employer and its insurer, if the employer is not self-insured, at the time of last exposure is liable for benefits for an occupational disease (i.e., no other employer or insurer is required to contribute to funding the claim costs).[25]
- The timely filing of occupational disease claims are limited in the following ways:
    - The notice of injury or death must be filed within 90 days of the injurious exposure or manifestation of the illness, rather than the general 30-day notice requirement;[26] and
    - The claim must be filed within 350 weeks (6.73 years) of the last exposure.
- If the employer asked, at the time of hiring, whether the employee had a history of disability, lay-offs, or being compensated in damages or otherwise because of the claimed occupational disease, and the employee falsely represented himself or herself in writing about such history, then wage replacement benefits due to the disease are prohibited.

For firefighters, law enforcement officers, correctional officers, and correctional probation officers, tuberculosis, heart disease, and hypertension resulting in disability or death are presumed to be compensable, unless shown otherwise by competent evidence.[27] This presumption only applies to claims filed within 180 days of terminating employment.

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[22] "Nature of the employment" means that in the occupation in which the employee was so engaged there is attached a particular hazard of such disease that distinguishes it from the usual run of occupations, or the incidence of such disease is substantially higher in the occupation in which the employee was so engaged than in the usual run of occupations. Section 440.151(1), F.S.

[23] The "major contributing cause" is the one cause that is more than 50 percent responsible for the injury as compared to all other causes combined for which treatment or benefits are sought. Section 440.09(1), F.S.

[24] "Disability" means incapacity because of the injury to earn in the same or any other employment the wages that the employee was receiving at the time of the injury. Section 440.02(13), F.S. This definition also applies to the terms "disabled" and "disablement."

[25] In the case of dust exposure-related diseases, the liable employer is the one that last exposed the worker to dust for at least 60 days. Section 440.151(5), F.S.

[26] Section 440.185(1), F.S.

[27] Section 112.18, F.S. After July 1, 2010, law enforcement officers, correctional officers, and correctional probation officers may lose the presumption if they depart from the prescribed course of treatment in a manner that significantly aggravates the disease during treatment of a current or previous compensable claim for tuberculosis, heart disease, or hypertension.

In some circumstances, certain communicable diseases are also presumed to be compensable.[28] For emergency rescue or public safety workers who require medical treatment due to hepatitis, meningococcal meningitis, or tuberculosis, such workers are presumed to have a compensable disability. This presumption is lost, however, if claimants: do not verify in writing that they have no known exposures outside of their employment, based on specified criteria; refused required immunization for such diseases; or cannot document the absence of hepatitis or tuberculosis. Employers are allowed to test for hepatitis and tuberculosis at a pre-employment physical examination.

For purposes of determining compensability for exposure to toxic substances involving a first responder, an injury or disease caused by the exposure to a toxic substance is not compensable, unless a preponderance of the evidence establishes that exposure to the specific substance involved, at the levels to which the first responder was exposed, can cause the injury or disease.[29] Further, for cases involving occupational disease, both causation and sufficient exposure to a specific harmful substance shown to be present in the workplace must be proven by a preponderance of the evidence.

Post-Traumatic Stress Disorder

The American Psychiatric Association provides diagnostic criteria for mental disorders, including post-traumatic stress disorder (PTSD) in its *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (*DSM-5).[30] PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war, combat, rape, or other violent personal assault.[31] A diagnosis of PTSD requires exposure to an upsetting traumatic event. However, exposure could be indirect rather than first hand.[32] Symptoms generally begin within the first three months after the trauma, although there may be a delay of months or even years before the criteria for the diagnosis are met.[33]

The DSM-5 estimates approximately 8.7 percent of the United States population will develop PTSD in their lifetime.[34] Nationwide, the proportion of adults reporting symptoms of PTSD in a year is approximately 3.5 percent.[35] Although estimates vary across occupations and the general population, some studies indicate that first responders and other professionals who are exposed to potentially traumatic events in their workplace are four to five times more likely to develop PTSD compared to the general population.[36] A 2016 report estimated 20 percent of firefighters and paramedics had PTSD.[37] Preexisting mental health conditions may be exacerbated and new mental health conditions may occur due to extremely emotionally and physically demanding working conditions.[38] A 2015 survey of 4,000 first responders found that 6.6 percent had attempted suicide, which is more than 10 times the rate in the general population.[39]

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[28] Section 112.181, F.S.

[29] Section 112.1815, F.S.

[30] American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders*, 5th edition (2013). Commonly referred to as DSM-5.

[31] American Psychiatric Association, *What is Posttraumatic Stress Disorder?*, https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd (last visited Feb. 23, 2017).

[32] *Id.*

[33] DSM-5, *supra,* note 30 at 276.

[34] DSM-5, *supra,* note 30, at 276.

[35] This is commonly referred to as a 12-month prevalence period. https://www.nimh.nih.gov/health/statistics/what-is-prevalence.shtml (last visited Feb. 23, 2018).

[36] *Psychological Trauma: Theory, Practice, and Policy* 2015, Vol. 7, No. 5, 500-506.

[37] Fauzeya Rahman, *New study estimates 20 percent of firefighters and paramedics have PTSD*, EMS1.COM NEWS Aug. 17, 2016, *available at* https://www.ems1.com/health-and-wellness/articles/117387048-New-study-estimates-20-percent-of-firefighters-paramedics-have-PTSD/.

[38] Johns Hopkins Public Health Preparedness Programs, *First Responders, Mental Health Services, and the Law*, Apr. 25, 2013, *available at* https://www.jhsph.edu/research/centers-and-institutes/center-for-law-and-the-publics-health/research/FirstResp_MHSvcs.pdf.

[39] Wes Venteicher, *Increasing suicide rates among first responders spark concerns*, FIRERESCUE NEWS, Mar. 19, 2017, *available at* https://www.firerescue1.com/fire-ems/articles/222673018-Increasing-suicide-rates-among-first-responders-spark-concern/.

Effect of the Bill

The bill allows wage replacement benefits for a law enforcement officer, a firefighter, an emergency medical technician, or a paramedic (first responders) with PTSD without requiring a link to a compensable physical injury. These benefits are provided in addition to the medical benefits currently allowed for mental and nervous injuries for claims where no physical injury has occurred. The first responder will qualify for PTSD-related wage replacement benefits if the first responder:

- Was acting within the course and scope of employment; and
- Is diagnosed, following an examination by the employer's or carrier's authorized treating psychiatrist, with PTSD due to:
    - Seeing a deceased minor;
    - Directly witnessing the death of a minor or an injury to a minor who subsequently died prior to or upon arrival at a hospital emergency department;
    - Participating in the physical treatment of or manually transporting an injured minor who subsequently died prior to or upon arrival at a hospital emergency department;
    - Seeing someone who died due to grievous bodily harm (DFS to specify such harm by rule);
    - Directly witnessing a death due to:
        - Grievous bodily harm, including suicide; or
        - Homicide, including murder, mass killing, manslaughter, self-defense, misadventure, or negligence;
    - Directly witnessing an injury, including an attempted suicide, to a person who suffered grievous bodily harm if the injured person subsequently died prior to or upon arrival at a hospital emergency department;
    - Participating in the physical treatment of an injury, including an attempted suicide, to a person who suffered grievous bodily harm if the injured person subsequently died prior to or upon arrival at a hospital emergency department;
    - Manually transporting a person who was injured, including by attempted suicide, and suffered grievous bodily harm if the injured person subsequently died prior to or upon arrival at a hospital emergency department.

The bill provides the following definitions:

- "Directly witnessing" means to see or hear for oneself.
- "Manually transporting" means performing physical labor to move the body of a wounded person for his or her safety or medical treatment.

The bill requires medical and indemnity benefits for a first responder's PTSD to be paid:

- If the PTSD is proven by clear and convincing medical evidence;
- Regardless of whether a physical injury occurred to the first responder;
- Without "apportionment" due to preexisting PTSD;
- Without limitation to the 1 percent cap on permanent psychiatric impairment benefits; and
- Provided, the first notice of injury is filed with their employer or carrier within 30 days of the qualifying event or manifestation of the PTSD; however, the claim is barred if not filed within one year of the qualifying event that supports the claim.

The bill deems first responder PTSD an "occupational disease," which means that:

- Stand-alone first responder PTSD is treated and compensated as a workers' compensation injury (i.e., the first responder is entitled to medical and indemnity benefits);
- All practices and procedures of ch. 440, F.S., apply to the claim, except as otherwise provided;
    - Current law applies regarding the "major contributing cause," which must be shown by medical evidence only, based on physical examination findings and diagnostic testing; and "disablement," which is a reduced earning capacity due to a compensable injury;
    - The first responder's spouse and living and unborn dependents at the time of the first responder's disablement may receive death and other allowed benefits; however, death

benefits are limited to deaths occurring within 350 weeks (6.73 years) of last witnessing a qualifying event causing the PTSD;

- There is no "contribution" of claim costs among current and former employers (i.e., only the employer at the time of the last qualifying event that caused or aggravated the PTSD is liable); and
- No benefits are due if, upon employment, the first responder falsely represented himself or herself in writing as not being previously disabled, laid off, or compensated because of PTSD.

The bill also requires an employing agency of a first responder, including volunteer first responders, to provide educational training related to mental health awareness, prevention, mitigation, and treatment.

B. SECTION DIRECTORY:

Section 1. amends s. 112.1815, F.S., relating to firefighters, paramedics, emergency medical technicians, and law enforcement officers; special provisions for employment-related accidents and injuries.

Section 2. provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will likely have a significant negative fiscal impact to the state. However, the amount is indeterminate. The fiscal impact will vary depending on the number of claims meeting the requirements of the bill that are submitted, the number of claims that are awarded, and the legal fees associated with increased claims. The National Council on Compensation estimates that the average cost for each indemnity claim in Florida is $15,378.[40] Based on an estimate of state-employed first responders in Florida and the average indemnity cost per claim, below are estimates of potential increased costs to the state. The cost varies based on the percentage of first responder employees who are awarded claims. These estimates do not include local government first responders.

Estimated Average Indemnity Cost, Based on Varying Percentage of Awarded Claims[41]

	State First Responders	Percent awarded claims	Number receiving benefit	Average Florida Indemnity Cost for all Claims	Total Cost (rounded to nearest dollar)
Firefighters - State Government	619	0.25%	1.548	$ 15,378	$ 23,805
State Law Enforcement	4,285	0.25%	10.713	$ 15,378	$ 164,745
University System Law Enforcement	418	0.25%	1.045	$ 15,378	$ 16,070
				TOTAL	**$ 204,620**

[40] Florida Department of Financial Services, Agency Analysis of 2018 House Bill 227, p. 2 (Nov. 2, 2017).

[41] This table represents estimates for the 5,322 first responders employed by state government. The approximate total number of first responders statewide is 177,724 persons. According to the Florida Department of Law Enforcement, there were 46,309 law enforcement officers, as of June 15, 2017. http://www.fdle.state.fl.us/CJSTC/Documents/Quarterly-Update_Summer-2017_small.aspx (last visited Feb. 23, 2018). According to the Florida Department of Health, Division of Medical Quality Assurance, there were 32,074

Estimated Average Indemnity Cost, Based on Varying Percentage of Awarded Claims[41]					
	State First Responders	Percent awarded claims	Number receiving benefit	Average Florida Indemnity Cost for all Claims	Total Cost (rounded to nearest dollar)
Firefighters - State Government	619	0.50%	3.095	$ 15,378	$ 47,595
State Law Enforcement	4,285	0.50%	21.425	$ 15,378	$ 329,474
University System Law Enforcement	418	0.50%	2.090	$ 15,378	$ 32,140
				TOTAL	**$ 409,209**
Firefighters - State Government	619	0.75%	4.643	$ 15,378	$ 71,400
State Law Enforcement	4,285	0.75%	32.138	$ 15,378	$ 494,218
University System Law Enforcement	418	0.75%	3.135	$ 15,378	$ 48,210
				TOTAL	**$ 613,828**
Firefighters - State Government	619	1.00%	6.190	$ 15,378	$ 95,190
State Law Enforcement	4,285	1.00%	42.850	$ 15,378	$ 658,947
University System Law Enforcement	418	1.00%	4.180	$ 15,378	$ 64,280
				TOTAL	**$ 818,417**

In addition to indemnity costs, the National Council on Compensation Insurance notes that modifications to workers' compensation related to PTSD could result in increased litigation costs related to the confirmation of a PTSD diagnosis and the determination of whether the PTSD arose out of an activity performed within the course of employment.[42]

Recent case law[43] has resulted in a significant increase in workers' compensation-related attorney fees. According to the Office of the Judges of Compensation Claims,[44] from fiscal year 2015-2016 to fiscal year 2016-2017, there was a:

- Thirty-six percent ($49 million) increase in total injured worker attorney fees.
- Five percent increase in reported defense attorney fees.
- One hundred ninety-one percent increase in total hourly attorney fees.
- One hundred nine percent increase in total attorney hours reported.
- Thirty-nine percent increase in overall average hourly attorney rates.

Attorney fees, generally, and recent increases in them are not included in the average indemnity cost used to calculate the estimated fiscal impact of the change proposed by the bill. Additionally, until the interpretation of a statutory revision is well settled by judicial opinions, a significant amount of litigation should be expected to test the limits of the law change. There will be an indeterminate, but significant, negative fiscal impact due to attorney fee costs associated with the bill.

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active emergency medical technicians and 29,242 paramedics, in fiscal year 2016-2017. http://mqawebteam.com/annualreports/1617/ (last visited Feb. 23, 2018). According to the Department of Financial Services, Division of State Fire Marshal, there were 46,322 certified firefighters and 23,777 certified volunteer firefighters, as of December 2017. Email from B.G. Murphy, Director of Legislative Affairs, Department of Financial Services, Re: HB 227 Question (Feb. 6, 2018).

[42] NCCI, *Analysis of SB 376* (Oct. 19, 2017) (on file with Government Operations & Technology Appropriations Subcommittee).

[43] *Castellanos v. Next Door Company*, 192 So. 3d 431 (Fla. 2016) and *Miles v. City of Edgewater Police Department*, 190 So. 3d 171 (Fla. 1st DCA 2016).

[44] Email from David Langham, Deputy Chief Judge, Office of the Judges of Compensation Claims, Re: report and updated figures (Nov. 9, 2017).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill will likely have a significant negative fiscal impact to local governments. However, the amount is indeterminate. The fiscal impact will vary depending on the number of claims meeting the requirements of the bill that are submitted, the number of claims that are awarded, and the legal fees associated with increased claims. In its analysis of SB 376, which provides for a greater likelihood of increased claims than this bill, the National Council on Compensation Insurance estimates that the overall impact to the workers' compensation system will be minimal.[45] A minimal impact in this context is defined as an impact on overall system costs of less than 0.2 percent, or approximately $7 million.[46]

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on the private sector as a result of higher costs in some workers' compensation claims. However, this impact should be minimal, as the bill would only apply to first responders employed in the public sector.

D. FISCAL COMMENTS:

The Division of Risk Management, within DFS, provides workers' compensation coverage for state employees. The division, through the State Risk Management Trust Fund, pays compensable workers' compensation claims including indemnity and medical costs.

The December 21, 2017, Revenue Estimating Conference projected that the State Risk Management Trust Fund will be in a deficit of $18.8 million for fiscal year 2018-19. The deficit is related to the costs associated with hurricane damage to state property, which is also paid for by the trust fund. The House General Appropriations Act, Specific Appropriation 1971A, provides a $20 million transfer from the General Revenue Fund to the State Risk Management Trust Fund to offset the projected deficit. The bill will likely result in additional workers' compensation claims and increased legal costs covered by the State Risk Management Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, s. 18 of the Florida Constitution may apply because this bill requires workers' compensation indemnity benefits to be paid to first responders for a mental or nervous injury; however, an exemption may apply if the fiscal impact of the bill is insignificant. In addition, an exception may apply because all similarly situated state and local government employers of first responders are required to provide the indemnity benefits. However, for this exception to apply, the bill must declare that it fulfills an important state interest.

2. Other:

None.

[45] *Id.*

[46] NCCI correspondence (Dec. 4, 2017) (on file with Government Operations & Technology Appropriations Subcommittee).

B. RULE-MAKING AUTHORITY:

The bill requires DFS to adopt rules specifying injuries qualifying as grievous bodily harm.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Effective Date
The bill provides an effective date of July 1, 2018. The majority of first responders are employed by local governments, which generally operate on fiscal year that begins October 1st. Workers' compensation coverage agreements typically coincide with the local government's fiscal year. If the bill goes into effect during the in-force period of a coverage agreement, an unfunded liability may result.

Incorrect Cross-reference
On line 84, the cross-reference to s. 440.185(1), F.S., should be to s. 440.151(6), F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2018, the Oversight, Transparency & Administration Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided indemnity benefits to a law enforcement officer, firefighter, emergency medical technician, or paramedic (first responder) who treated or transported a deceased child or the victim of a murder, suicide, or fatal injury;
- Required an employing agency of a first responder to provide educational training related to mental health awareness, prevention, mitigation, and treatment;
- Required a first responder hired on or after July 1, 2018, to pass a pre-employment mental health examination that failed to reveal a diagnosis of PTSD, if such examination is provided by the prospective employer, in order to receive benefits;
- Required a first responder to receive a diagnosis of PTSD within two years of when the first responder witnessed a murder, suicide, fatal injury, child death, or mass killing, or treated or transported a deceased child or the victim of a murder, suicide, or fatal injury; and
- Prohibited a first responder from filing a claim for benefits more than 180 days after he or she leaves employment.

On February 13, 2018, the Government Operations & Technology Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment maintained the intent of the current version of the bill and made the following modifications and clarifications:

- Restored current law to continue to allow medical-only benefits for mental and nervous injuries to first responders, if the injury does not meet the requirements of PTSD.
- Defined PTSD as a compensable occupational disease among first responders. This includes first responder PTSD into an existing provision of the workers' compensation law that allows the application of law governing workers' compensation injuries in general, which should limit the need to litigate claims.
- Clarified the specific traumatic events and the nature of the exposure to such events that may qualify a first responder for wage replacement and medical benefits.
- Provided for payment of these benefits by the entity that employs the first responder at the time of the qualifying event without apportionment or contribution.
- Provided that a claim for such benefits must be made within one year of the qualifying event.

This analysis is drafted to the committee substitute as approved by the Government Operations & Technology Appropriations Subcommittee.

A bill to be entitled

An act relating to workers' compensation benefits for first responders; amending s. 112.1815, F.S.; providing that first responders are entitled to workers' compensation benefits for posttraumatic stress disorder in specified circumstances; providing a standard of proof of such disorder; providing requirements relating to such benefits; providing a time for notice of injury or death; providing definitions; requiring the Department of Financial Services to adopt certain rules; requiring an employing agency to provide specified mental health training; providing an effective date.

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

Section 1. Subsections (5) and (6) are added to section 112.1815, Florida Statutes, to read:

112.1815 Firefighters, paramedics, emergency medical technicians, and law enforcement officers; special provisions for employment-related accidents and injuries.—

(5)(a) For the purposes of this section and ch. 440, and notwithstanding sub-subparagraph (2)(a)3., s. 440.093, and s. 440.151(2), posttraumatic stress disorder, as described in the Diagnostic and Statistical Manual of Mental Disorders, Fifth

Edition, published by the American Psychiatric Association, suffered by a first responder is a compensable occupational disease within the meaning of subsection (4) and s. 440.151 if:

1. The posttraumatic stress disorder resulted from the first responder acting within the course of his or her employment as provided in s. 440.091; and

2. The first responder is examined and subsequently diagnosed with such disorder by a licensed psychiatrist who is an authorized treating physician as provided in ch. 440 due to one of the following events:

a. Seeing a deceased minor;

b. Directly witnessing the death of a minor;

c. Directly witnessing an injury to a minor who subsequently died before or upon arrival at a hospital emergency department;

d. Participating in the physical treatment of an injured minor who subsequently died before or upon arrival at a hospital emergency department;

e. Manually transporting an injured minor who subsequently died before or upon arrival at a hospital emergency department;

f. Seeing a decedent whose death involved grievous bodily harm of a nature that shocks the conscience;

g. Directly witnessing a death, including suicide, that involved grievous bodily harm of a nature that shocks the conscience;

h. Directly witnessing a homicide regardless of whether the homicide was criminal or excusable, including murder, mass killing as defined in 28 U.S.C. s. 530C, manslaughter, self-defense, misadventure, and negligence;

i. Directly witnessing an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience;

j. Participating in the physical treatment of an injury, including an attempted suicide, to a person who subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience; or

k. Manually transporting a person who was injured, including by attempted suicide, and subsequently died before or upon arrival at a hospital emergency department if the person was injured by grievous bodily harm of a nature that shocks the conscience.

(b) Such disorder must be demonstrated by clear and convincing medical evidence.

(c) Benefits for a first responder under this subsection:

1. Do not require a physical injury to the first responder; and

2. Are not subject to:

a. Apportionment due to a preexisting posttraumatic stress disorder;

b. Any limitation on temporary benefits under s. 440.093; or

c. The 1-percent limitation on permanent psychiatric impairment benefits under s. 440.15(3).

(d) The time for notice of injury or death in cases of compensable posttraumatic stress disorder under this subsection is the same as in s. 440.185(1) and is measured from one of the qualifying events listed in subparagraph (a)2. or the manifestation of the disorder, whichever is later. A claim under this subsection must be properly noticed within 52 weeks after the qualifying event.

(e) As used in this subsection, the term:

1. "Directly witnessing" means to see or hear for oneself.

2. "Manually transporting" means to perform physical labor to move the body of a wounded person for his or her safety or medical treatment.

3. "Minor" has the same meaning as in s. 1.01(13).

(f) The Department of Financial Services shall adopt rules specifying injuries qualifying as grievous bodily harm of a nature that shocks the conscience for the purposes of this subsection.

(6) An employing agency of a first responder, including volunteer first responders, must provide educational training

related to mental health awareness, prevention, mitigation, and treatment.

Section 2. This act shall take effect July 1, 2018.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Willhite offered the following:

Amendment (with title amendment)

Remove lines 84-103 and insert:

is the same as in s. 440.151(6) and is measured from one of the qualifying events listed in subparagraph (a)2. or the manifestation of the disorder, whichever is later. A claim under this subsection must be properly noticed within 52 weeks after the qualifying event.

(e) As used in this subsection, the term:

1. "Directly witnessing" means to see or hear for oneself.

2. "Manually transporting" means to perform physical labor to move the body of a wounded person for his or her safety or medical treatment.

3. "Minor" has the same meaning as in s. 1.01(13).

(f) The Department of Financial Services shall adopt rules specifying injuries qualifying as grievous bodily harm of a nature that shocks the conscience for the purposes of this subsection.

(6) An employing agency of a first responder, including volunteer first responders, must provide educational training related to mental health awareness, prevention, mitigation, and treatment.

Section 2. The Legislature finds that this act fulfills an important state interest relating to the public interest for the prompt and adequate provision of workers' compensation benefits to first responders employed by state or local government.

Section 3. This act shall take effect October 1, 2018.

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

Remove line 13 and insert:

training; providing a declaration of important state interest; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 521 Tree and Timber Trimming, Removal, and Harvesting
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee; Edwards-Walpole and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 574

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	11 Y, 1 N, As CS	Renner	Miller
2) Government Accountability Committee		Renner	Williamson

SUMMARY ANALYSIS

Currently, in Florida there are 67 counties and 413 municipalities. Local governments often have tree ordinances that specify the species that must be used in a given area depending on the land use. Some local governments require a permit prior to trimming certain trees. Local governments may also afford certain trees protection because they are considered an important community resource. The terms used to describe such trees may include heritage, historic, landmark, legacy, special interest, significant, or specimen trees.

In certain instances, such as the right-of-way for any electrical transmission or distribution line, local governments are prohibited from requiring a permit or other approval for vegetation management and tree pruning or trimming.

The bill provides that the Legislature finds that uncontrolled growth of trees within rights-of-way owned or managed by the state, water management districts, water control districts, neighborhood improvement districts, independent special districts, or community development districts interferes with the operation and maintenance of flood protection and drainage infrastructure, including, but not limited to canals, which are critical to the protection of the health, safety, and general welfare of the public.

The bill provides that when the aforementioned governmental entities have a duty to maintain any right-of-way, no municipality, county, or other political subdivision of the state may prohibit, restrict, or condition, or require a permit, a fee, or mitigation for, the trimming or removal of trees, timber, or vegetation.

The bill does not prohibit the licensing and regulation by municipalities or counties of persons engaged in tree, timber, or vegetation trimming or removal.

The bill does not appear to have a fiscal impact on state government. The bill may have an indeterminate, insignificant negative fiscal impact on local governments that assess environmental impact fees on the trimming or removal of trees, timber, or vegetation.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Currently, in Florida there are 67 counties and 413 municipalities.[1] Local governments often have tree ordinances that specify the species that must be used in a given area depending on the land use. Some local governments require a permit prior to trimming certain trees. Local governments may also afford certain trees protection because they are considered an important community resource. The terms used to describe such trees may include heritage, historic, landmark, legacy, special interest, significant, or specimen trees.

For example, in Broward County the removal of any historical tree[2] without first obtaining approval from the Board of County Commissioners is prohibited, as is the removal of any tree without first obtaining a tree removal license from the Environmental Protection and Growth Management Department.[3] Furthermore, municipalities within Broward County are authorized to adopt and enforce their own tree preservation regulations in addition to Broward County's regulation of trees.[4] However, Broward County specifically retains the authority to enforce tree preservation regulations regarding the following:

- Properties owned or controlled by Broward County, including, but not limited to, facilities, road rights-of-way, and parks;
- Properties owned or controlled by the Broward County School Board;
- Any site designated by the Board as a Local Area of Particular Concern, Urban Wilderness Inventory Area, Natural Resource Area, or Environmentally Sensitive Lands or Historic Tree; and
- Tree abuse committed by licensed or unlicensed tree trimmers that have not otherwise been enforced by the certified municipality.[5]

Authority to Maintain Rights-of-Way

The following governmental entities have comprehensive authority to maintain rights-of-way:

Department of Transportation (DOT)

DOT is authorized to designate transportation facilities and rights-of-way and to establish lanes. DOT may locate and designate transportation facilities as part of the State Highway System and use DOT funds to construct and maintain the transportation facilities.[6] Additionally, DOT may survey and locate the line or route of a transportation facility[7] and establish standards for lanes on the State Highway System.[8] Additionally, DOT must provide written permission to remove trees or vegetation from the rights-of-ways of roads located on the State Highway System, except when tree trimming is performed

[1] *See* ch. 7, F.S.; *The Local Government Formation Manual 2017-2018*, Appx. B, available at http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2911&Session=2018&DocumentType=General Publications&FileName=2017-2018 Local Government Formation Manual Final Pub.pdf (last accessed 1/24/2018).

[2] Broward County Code of Ordinances, Ch. 27, Art. XIV, s. 404 defines a "historical tree" as a particular tree or group of trees, which has historical value because of its unique relationship to the history of the region, state, nation or world as designated by the Board of County Commissioners.

[3] *Id.* at s. 405

[4] *Id* at s. 407

[5] *Id.*

[6] Section 335.02(1), F.S.

[7] Section 335.02(2), F.S.

[8] Section 335.02(3), F.S.

within the provisions of its utility accommodations guide.[9] The penalty for violating this provision is a misdemeanor of the second degree.[10]

Water Management Districts (WMD)

A WMD and the governing board is authorized to maintain and regulate natural and artificial waterways as deemed necessary. The board will adopt the works of the district.[11]

Community Development District (CDD)

A CDD and the governing board of the CDD is authorized to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, and maintain systems, facilities, and basic infrastructures for:

- Water management;
- Sewer and wastewater management;
- Bridges;
- District Roads;
- Investigation of environmental contamination;
- Conservation areas; and
- Other projects as required.[12]

Water Control Districts

The board of supervisors of the district has power and authority to construct, complete, operate, maintain, repair, and replace works and improvements necessary to execute the water control plan. In doing so, the board of supervisors may:

- Employ persons and purchase machinery;
- Make changes to any canal, ditch, drain, river, watercourse, or natural stream in or adjacent to the district;
- Build any improvements deemed necessary to preserve and maintain the works in or out of said district;
- Purchase pumping stations, electric lines, and power;
- Construct bridges;
- Hold, control, and acquire any land easement to be used in maintaining said works for the district water control plan;
- Condemn or acquire land for the use of the district;
- Adopt resolutions and policies;
- Assess and collect reasonable fees for the connection of the district;
- Implement and authorize the comprehensive water control activities;
- Control the spread of agricultural pests and diseases; and
- Construct recreational facilities.[13]

[9] Section 337.405(1), F.S.
[10] Section 337.405(2), F.S.
[11] Section 373.086(2), F.S.
[12] Section 190.012(1), F.S.
[13] Section 298.22, F.S.

Independent Special Districts

Any construction, expansion, or alteration of a public facility, which affects the public facility's level of service, must be consistent with the local government comprehensive plan. However, the local government comprehensive plan may not:

- Require an independent special district to construct, expand, or perform a major alteration of any public facility; or
- Require a special district to construct, expand, or perform a major alteration of any public facility resulting in an impairment of covenants and agreements relating to bonds validated or issued by the special district.[14]

An independent special district has the right to construct, modify, operate, or maintain public facilities authorized by a development order.[15] This does not apply to water management districts, regional water supply authorities, or to Federal Government spoil disposal sites,[16] but it does apply to ports in compliance with a port master plan.[17] Local governments and special districts may provide public facilities or services to a particular geographic area,[18] and any independent district may provide housing and housing assistance for certain employed personnel.[19]

Neighborhood Improvement Districts

The board of a neighborhood improvement district is empowered to:

- Acquire, own, convey, or otherwise dispose of, lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type to which it holds title and grant and acquire licenses, easements, and options with respect thereto; and
- Improve street lighting, parks, streets, drainage, utilities, swales, and open areas, and provide safe access to mass transportation facilities in the district.[20]

Community Planning Act

Pursuant to the Community Planning Act, once a utility and local government establish a right-of-way for an electric transmission or distribution line, the utility no longer needs to apply for a permit related to vegetation maintenance and tree pruning within the established right-of-way. However, this policy does not apply for the removal of trees outside the right-of-way. Prior to conducting scheduled routine vegetation maintenance and tree pruning activities within an established right-of-way, the utility must provide the designated local government official with a minimum of five business days' advance notice. Such advance notice is not required for vegetation maintenance and tree pruning to restore electric service or to avoid an imminent vegetation-caused outage.[21]

Effect of the Bill

The bill provides that the Legislature finds that uncontrolled growth of trees within rights-of-way owned or managed by the state, water management districts, water control districts, neighborhood improvement districts, independent special districts, or community development districts interferes with the operation and maintenance of flood protection and drainage infrastructure, including, but not limited to canals, which are critical to the protection of the health, safety, and general welfare of the public.

[14] Section 189.081(1), F.S.
[15] Section 189.081(2), F.S.
[16] Section 189.081(3), F.S.
[17] Section 189.081(4), F.S.
[18] Section 189.081(5), F.S.
[19] Section 189.081(6), F.S.
[20] Section 163.514, F.S.
[21] Section 163.3209, F.S.

The bill provides that when an aforementioned governmental entity has a duty to maintain any right-of-way, no municipality, county, or other political subdivision of the state may prohibit, restrict, condition, or require a permit, fee, or mitigation for the trimming or removal of trees, timber, or vegetation.

The bill does not prohibit the licensing and regulation by municipalities or counties of persons engaged in tree, timber, or vegetation trimming or removal.

B. SECTION DIRECTORY:

Section 1 creates s. 589.37, F.S., providing legislative findings; prohibiting the regulation of the tree, timber, and vegetation trimming and removal performed by certain governmental entities; providing applicability.

Section 2 provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have an impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate insignificant negative fiscal impact on local governments that assess environmental impact fees.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Prohibiting certain local governments from prohibiting, regulating, or requiring permits or fees for the trimming or removal of trees, timber, and vegetation within rights-of-way for which water management districts or other governmental entities are responsible may simplify the regulatory process and thereby reduce the cost of compliance for private firms.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 29, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted a proposed committee substitute (PCS) and reported the bill favorably as a committee substitute. The PCS differs from the bill as originally filed in that the original bill preempts to the state the regulation of the trimming, removal, or harvesting of trees and timber on private property and prohibits certain local governmental actions relating to the trimming or removal of trees or timber. The PCS provides that the Legislature finds that uncontrolled growth of trees and vegetation in rights-of-way maintained by state or certain governmental agencies interferes with infrastructure that protects the public from flooding. Furthermore, the PCS prohibits local governments from requiring a permit, attempting to regulate, or interfering with certain governmental entities from trimming or removing trees or vegetation where that entity has a duty to maintain any right-of-way.

This analysis is drafted to the committee substitute as approved by the Local, Federal & Veterans Affairs Subcommittee.

A bill to be entitled

An act relating to tree, timber, and vegetation trimming and removal; creating s. 589.37, F.S.; providing legislative findings; prohibiting the regulation of tree, timber, and vegetation trimming and removal performed by certain governmental entities; providing applicability; providing an effective date.

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

Section 1. Section 589.37, Florida Statutes, is created to read:

589.37 Regulation of tree, timber, and vegetation trimming and removal performed by certain governmental entities prohibited.—

(1) The Legislature finds that uncontrolled growth of trees or vegetation within rights-of-way owned or managed by the state, water management districts, water control districts, neighborhood improvement districts, independent special districts, or community development districts interferes with the operation and maintenance of flood protection and drainage infrastructure, including, but not limited to, canals, which are critical to the protection of the health, safety, and general welfare of the public.

(2) Where the state or a water management district, a water control district created under chapter 298, a neighborhood improvement district created under chapter 163, an independent special district, or a community development district created under chapter 190, has a duty to maintain any rights-of-way, a municipality, county, or other political subdivision of the state may not prohibit, restrict, or condition, or require a permit, a fee, or mitigation for, the trimming or removal of trees, timber, or vegetation.

(3) This section does not prohibit the licensing and regulation by municipalities or counties of persons engaged in tree, timber, or vegetation trimming or removal.

Section 2. This act shall take effect July 1, 2018.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Edwards-Walpole offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 589.37, Florida Statutes, is created to read:

589.37 Tree and vegetation maintenance within established flood and drainage rights-of-way.—

(1) Water management districts, water control districts, and special districts authorized to exercise powers under ch. 298 establish and manage public rights-of-way for the purpose of flood protection and drainage control. Uncontrolled growth of trees and vegetation within rights-of-way established for these purposes may compromise their function and, left unaddressed,

adversely impact public health and safety, and other adjacent jurisdictions.

(2) After a right-of-way for flood protection or drainage control has been established and constructed by a water management district, a water control district, or a special district authorized to exercise powers under ch. 298, no local government shall require any permits or other approvals for vegetation maintenance and tree pruning or trimming within the established right-of-way. The term "vegetation maintenance and tree pruning or trimming" means the mowing of vegetation within the right-of-way, removal of trees or brush within the right-of-way, and selective removal of tree branches that extend within the right-of-way. The provisions of this section do not include the removal of trees or vegetation outside the right-of-way, which may be authorized in accordance with applicable local ordinances.

(3) Prior to conducting scheduled routine vegetation and tree maintenance activities within an established right-of-way, a water management district, water control district, or special district authorized to exercise powers under ch. 298 shall provide the official designated by the local government with a minimum of 5 business days' advanced notice. Such advanced notice is not required when maintenance is necessary to avoid imminent threat to public safety.

(4) This section does not limit the licensing and regulation by local governments of persons engaged in vegetation maintenance and tree pruning or trimming.

(5) This section does not prohibit a water management district, water control district, or special district authorized to exercise powers under ch. 298 from entering into agreements with local governments to perform maintenance services for the water management district, water control district, or special district authorized to exercise powers under ch. 298.

(6) This section does not apply to the exercise of specifically delegated authority for mangrove protection pursuant to ss. 403.9321 through 403.9333.

Section 2. This act shall take effect July 1, 2018.

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

Remove everything before the enacting clause and insert: An act relating to tree and vegetation maintenance within established flood and drainage rights-of-way; creating s. 589.37, F.S.; providing legislative findings; prohibiting local governments from requiring any permits or other approvals for vegetation maintenance and tree pruning or trimming within the established right-of-way managed by a water management district, water control district, or special district exercising ch. 298 powers; requiring water management districts, water control

districts, and special districts exercising ch. 298 powers to provide notice prior to vegetation maintenance; providing legislative intent; providing exemptions; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 595 Motor Vehicle Dealers
SPONSOR(S): Transportation & Infrastructure Subcommittee; Rommel
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 616

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	10 Y, 0 N, As CS	Roth	Vickers
2) Transportation & Tourism Appropriations Subcommittee	10 Y, 0 N	Cobb	Davis
3) Government Accountability Committee		Roth	Williamson

SUMMARY ANALYSIS

Current law regulates motor vehicle dealers and requires such dealers to obtain a license from the Department of Highway Safety and Motor Vehicles (DHSMV) in order to conduct business in Florida.

The bill amends various provisions of the motor vehicle dealer licensing law. In summary, the bill:

- Revises the definition of "motor vehicle dealer" by including a list of activities, such as leasing motor vehicles, which if performed, qualify a person as a motor vehicle dealer.
- Amends the definitions of "franchised motor vehicle dealer," "independent motor vehicle dealer," and "wholesale motor vehicle dealer" to remove the term "dealing in" motor vehicles.
- Provides that the following are not considered motor vehicle dealers:
  - Persons whose sole dealing in motor vehicles is owning or hosting a publication or website that displays motor vehicles for sale by licensed dealers; and
  - Persons primarily engaged in the business of short-term rentals of motor vehicles (rental terms that do not exceed 12 months), who are not involved in the retail sale of vehicles.
- Removes from the definition of "motor vehicle dealer" persons offering to sell a motor vehicle service agreement at the time of sale or lease of the motor vehicle.
- Amends the definition of "motor vehicle broker" by inserting that any advertisement or solicitation by a motor vehicle broker include notice that the broker is receiving a fee and is not a licensed motor vehicle dealer.
- Provides that a licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.
- Requires motor vehicle brokers to be licensed by DHSMV in order to conduct business in Florida, which includes meeting application requirements, paying licensing fees, and following laws and rules related to licensure.
- Provides an exception for obtaining a license to persons who advertise for sale a motor vehicle belonging to another party by contract with a motor vehicle dealer.
- Removes the initial license application training requirements for all applicants and rather, requires training for only franchise and independent motor vehicle dealers.
- Revises training requirements for franchise motor vehicle dealers.

The bill will have an indeterminate positive fiscal impact on DHSMV and the Florida Department of Law Enforcement revenues, and a negative, insignificant fiscal impact to DHSMV expenditures. The bill will likely have a negative fiscal impact on motor vehicle brokers and licensed dealer training schools. *See* fiscal comments for additional discussion.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 320.27, F.S., regulates motor vehicle dealers. The term "motor vehicle dealer" means any person engaged in the business of buying, selling, or dealing in motor vehicles or offering or displaying motor vehicles for sale at wholesale or retail, or who may service and repair vehicles pursuant to a franchise agreement.[1] A person who buys, sells, leases, or who offers for sale, displays for sale or leases three or more motor vehicles in any 12-month period is presumed to be a motor vehicle dealer.[2]

The term "motor vehicle dealer" does not include:[3]

- Persons not engaged in the purpose or sale of motor vehicles as a business who are disposing of vehicles acquired for their own personal or business use, or acquired by foreclosure or operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding dealer licensing provisions;
- Persons engaged in the business of manufacturing, selling, or offering or displaying for sale no more than 25 trailers in a 12-month period;
- Public officers performing their official duties;
- Receivers, trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgement or order of, any court;
- Banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business;
- Motor vehicle rental and leasing companies that sell motor vehicles to licensed dealers; or
- Motor vehicle brokers.

"Motor vehicle broker" is defined as any person engaged in the business of offering to procure or procuring motor vehicles for the general public, including through solicitation or advertisement, but who does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle. A motor vehicle broker is not required to obtain a motor vehicle dealer license.[4]

Motor Vehicle Dealer Licenses

In order to conduct business, motor vehicle dealers must obtain a license from the Department of Highway Safety and Motor Vehicles (DHSMV). There are six types of motor vehicle dealer licenses:[5]

- Independent Dealer: for persons dealing in used motor vehicles only;
- Franchise Dealer: for a licensee who sells new vehicles under an agreement with a manufacturer;[6]
- Service Facility: for dealerships that perform maintenance or repairs of motor vehicles pursuant to a motor vehicle warranty;
- Wholesale Dealer: for licensees who may only buy from, sell to, and deal at wholesale with licensed dealers;

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[1] As defined in s. 320.60(1), F.S., an "agreement" or "franchise agreement" means a contract, franchise, new motor vehicle franchise, sales and service agreement, or dealer agreement or any other terminology used to describe the contractual relationship between a manufacturer, factory branch, distributor, or importer, and a motor vehicle dealer, pursuant to which the motor vehicle dealer is authorized to transact business pertaining to motor vehicles of a particular line-make.

[2] Section 320.27(1)(c), F.S.

[3] Section 320.27(1)(c), F.S.

[4] Section 320.27(1)(d), F.S.

[5] Department of Highway Safety and Motor Vehicles, *Licensing Requirements for Motor Vehicle Dealers* (2011), available at http://www.flhsmv.gov/dmv/dealer.html (last visited January 5, 2018).

[6] Section 320.3202(7), F.S., defines "manufacturer" as any person, firm, corporation, or business entity that engages in the manufacturing of recreational vehicles.

- Auction Dealer: for those licensed to sell vehicles to licensed dealers through the bid process; and
- Salvage Dealer: for licensees who deal in salvage or wrecked vehicles.

Number of Actively Licensed Motor Vehicle, Mobile Home, and Recreational Dealers in Florida[7]

Type of License	Actively Licensed as of 1/2/2018
Franchised motor vehicle dealer	1,539
Franchised motor vehicle service facility	5
Independent motor vehicle dealer	10,953
Wholesale motor vehicle dealer	96
Motor vehicle auction	58
Salvage motor vehicle dealer	551
Mobile home dealer	1,046
Mobile home broker	140
Recreational vehicle dealer	141
Used Recreational vehicle dealer	243
Manufacturers of motor vehicles	124
Distributors of motor vehicles	78
Importers of motor vehicles	19
Mobile home manufacturers	40
Recreational vehicle manufacturers	115
Recreational vehicle distributors	2
Recreational vehicle importers	0
Installer License for Mobile Homes	265
Dealer Installer License for Mobile Homes	19
GRAND TOTAL	15,794

A person can advertise for sale, vehicles on his or her own behalf. However, a person cannot advertise for sale, a motor vehicle on behalf of another person, without obtaining the appropriate license. The only exceptions are transactions with motor vehicle auctions or sales or as a direct result of a bona fide legal proceeding, court order, settlement of an estate, or by operation of law. Aside from the licensee,[8] only a bona fide employee of the licensee, acting on the licensee's behalf, may conduct motor vehicle sale transactions as a motor vehicle dealer under the license.[9]

Motor Vehicle Dealer License Application and Fee Requirements[10]

To become a motor vehicle dealer, an applicant must get a site approved by a DHSMV Regional Office Compliance Examiner. Once the site is approved, the person must complete an application[11] for a license as a motor vehicle dealer and pay DHSMV a fee of $300 for each main location. The applicant must certify that the business location is not a residence, provides an adequately equipped office, affords sufficient unoccupied space to store motor vehicles offered and displayed for sale, and is suitable for keeping and maintaining books, records, and files necessary to conduct such business,

[7] Email from Kevin Jacobs, Deputy Legislative Affairs Director, Department of Highway Safety and Motor Vehicles, RE: HB 595 (January 2, 2018).
[8] Sections 320.60(8), F.S., defines "licensee" as any person licensed or required to be licensed under s. 320.61.
[9] Section 320.27(2), F.S.
[10] *See* s. 320.27(3), F.S., Rule 15C-7.003, F.A.C., and *Supra* FN 5.
[11] Department of Highway Safety and Motor Vehicles, *Application for a License as a Motor Vehicle, Mobile Home, or Recreational Vehicle Dealer*, available at https://www.flhsmv.gov/pdf/forms/86056.pdf (last visited January 5, 2018).

which must be available at all reasonable hours to inspection by DHSMV. The applicant also must certify that the business of a motor vehicle dealer is the principal business and will be conducted at that location.

Additionally the applicant must provide proof of:

- An original $25,000 surety bond or a letter of credit;
- A copy of the business location's lease or proof of ownership;
- A copy of the pre-licensing dealer training course completion certificate;
- A garage liability insurance certificate, or a general liability insurance policy coupled with a business automobile policy;
- A copy of registration of business with Florida's Secretary of State, Division of Corporations;
- A copy of specified corporate papers;
- A sales tax number and Federal Employer Identification number; and
- Fingerprints of the applicants to be submitted to the Florida Department of Law Enforcement for state processing, and then forwarded to the Federal Bureau of Investigation for federal processing.

An applicant for renewal must pay DHSMV $75 for a one-year renewal or $150 for a two-year renewal, in addition to any other fees required by law. If an applicant applies for a change of location, he or she must pay a $50 fee in addition to any other fees required by law.

Dealer Training and Continuing Education Requirements

Each initial license application must be accompanied with verification that, within the preceding six months, the applicant (or designated employee) has attended a training and information seminar conducted by a licensed motor vehicle dealer training school.[12] The seminar must review statutory dealer requirements, including required bookkeeping and recordkeeping procedures, and requirements for the collection of sales and use taxes. Any applicant who continuously held a valid motor vehicle dealer's license within the past two years and who remains in good standing with DHSMV is exempt from such pre-licensing requirements.[13]

Applicants applying for an independent motor vehicle dealer license are required to submit verification to DHSMV that, within the preceding six months, the applicant, which includes an owner, a partner, an officer, a director of the applicant, or a full-time, management-level employee of the applicant, has successfully completed[14] training conducted by a motor vehicle dealer training school. Such training includes:

- Training in titling and registration of motor vehicles;
- Training in laws relating to financing, and unfair and deceptive trade practices; and
- Training in other information that DHSMV feels will promote good business practices.[15]

Upon renewal of the motor vehicle dealer license (once every two years), an independent motor vehicle dealer must submit certification to DHSMV that the dealer (owner, partner, officer, or director of the licensee, or full-time employee of the licensee that holds a responsible management-level position) has completed eight hours of continuing education. The education must include at least two hours of legal or legislative issues, one hour of DHSMV issues, and five hours of relevant motor vehicle industry topics.[16]

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[12] A list of licensed dealer training schools is available on DHSMV's website. *See Licensed Dealer Training Schools* (October 29, 2017), https://www.flhsmv.gov/pdf/dealerservices/l_dealer_trng_sch.pdf (last visited January 5, 2018).

[13] Section 320.27(4)(a), F.S.

[14] Section 320.27(4)(b), F.S., provides that "successful completion" of the training is determined by an exam administered at the end of the course and attendance of no less than 90 percent of the total hours required by the school.

[15] Section 320.27(4)(b), F.S.

[16] Section 320.27(4)(a), F.S.

Denial, Suspension or Revocation of Motor Vehicle License

Section 320.27, F.S., provides requirements for motor vehicle dealers to maintain their licensed status, as well as conduct for which DHSMV may deny, suspend, or revoke a license. DHSMV may deny, suspend, or revoke such license upon proof that an applicant or licensee has committed fraud or willful misrepresentation in obtaining a license, has been convicted of a felony, or has failed to provide payment to DHSMV.[17] Additionally, DHSMV may deny, suspend, or revoke a license upon proof that a licensee has committed certain acts with sufficient frequency to establish a pattern of wrongdoing on the part of the licensee.[18]

Motor vehicle dealers are required to follow numerous state laws and procedures in order to maintain their dealer license. Any person who violates these license requirements can be found guilty of a second-degree misdemeanor[19], and could be liable under civil law in violation of Florida's Deceptive and Unfair Trade Practices Act.[20]

Proposed Changes

Motor Vehicle Dealer and Broker Definitions

The bill amends the definition of "motor vehicle dealer." Specifically, the bill adds that the term "motor vehicle dealer" also includes any person who:

- Engages in the business of buying, selling, displaying for sale, or leasing three or more motor vehicles in any 12-month period;
- Engages in possessing, storing, or displaying motor vehicles for retail sale or lease;
- Advertises motor vehicles in inventory for retail sale or lease;
- Compensates customers for vehicles at wholesale or retail (trade-ins);
- Negotiates with customers regarding the terms of sale or lease for a motor vehicle;
- Provides test drives of motor vehicles offered for sale or lease; or
- Delivers or arranges for delivery a motor vehicle in conjunction with the sale or lease of such motor vehicle.

The bill clarifies that a person is not a motor vehicle dealer if his or her sole dealing in motor vehicles is owning a publication or hosting a website that displays vehicles for sale by licensed motor vehicle dealers, and allows persons (other than licensed motor vehicle dealers) to advertise vehicles for sale belonging to another party if such person contracts with a motor vehicle dealer.

The bill amends the definition of the term "motor vehicle broker," by defining it as any person engaged in the business of, or who holds himself out as being in the business of, assisting the general public in purchasing or leasing a motor vehicle from a licensed dealer, but does not store, display, or take ownership of any vehicle for the purpose of selling the vehicle. The bill requires any advertisement or solicitation by a motor vehicle broker to include notice that the broker is receiving a fee and clearly state that the broker is not a licensed motor vehicle dealer. Additionally, a licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.

The bill also amends the definitions of "franchised motor vehicle dealer," "independent motor vehicle dealer," and "wholesale motor vehicle dealer" to remove the term "dealing in" motor vehicles. The bill adds that the definition of "franchised motor vehicle dealer" and "independent motor vehicle dealer" includes persons in the business of leasing motor vehicles, but exempts from the term "motor vehicle dealer" persons primarily engaged in the business of short-term vehicle rentals (which do not exceed 12 months) who are not involved in the retail sale of motor vehicles.

[17] Section 320.27(9)(a), F.S.
[18] Section 320.27(9)(b), F.S.
[19] Section 320.27(8), F.S.
[20] Part II, ch. 501, F.S.

Motor Vehicle Broker Licensing Requirements
The bill amends s. 320.27(2), F.S., requiring motor vehicle brokers to be licensed to engage in business in the state. Motor vehicle brokers will be required to apply for a license with DHSMV, pay licensing fees, and follow other requirements of licensees provided in law.

It is uncertain how DHSMV will implement the bill's new broker licensing requirements, as some requirements for motor vehicle dealers may not be appropriate for motor vehicle brokers.

Pre-licensing Dealer Training and Continuing Education Requirements
The bill removes the requirement that each initial license applicant provide verification to DHSMV that the applicant (or designated employee) attended a training and information seminar conducted by a licensed motor vehicle dealer training school.

The bill continues to require initial independent motor vehicle license applicants to submit verification regarding a training and information seminar conducted by a licensed motor vehicle dealer training school. However, the bill removes the existing requirement that the seminar must be successfully completed by the applicant, which includes an owner, partner, officer, director of the applicant, or full-time, management-level employee of the applicant. Instead, the bill requires an applicant or an applicant's designated employee to attend such seminar.

The bill creates s. 320.27(4)(c)2., F.S., requiring each franchised motor vehicle dealer to certify, every two years, that the dealer operator, owner, partner, director, or general manager of the licensee has completed eight hours of industry certification on legal and legislative issues. The certification must be provided by a Florida-based, non-profit, dealer-owned, statewide industry association of franchised motor vehicle dealers with state and federal compliance credentials approved by DHSMV. Such association may charge a fee for providing the industry certification. For licensees belonging to a dealership group,[21] certification may be satisfied for all licensees by one designated owner, officer, director, or manager of the group. Certification is required in a classroom setting in a convenient location within Florida. Designated individuals will receive certificates of completion that must be filed with their license renewal form.

B. SECTION DIRECTORY:

Section 1: Amends s. 320.27, F.S., relating to motor vehicle dealers.

Section 2: Provides an effective date of January 1, 2019.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill will likely result in an indeterminate positive fiscal impact on DHSMV revenues from the motor vehicle broker initial license fee of $300 and the renewal fee of $75.

Additionally, the bill will result in an indeterminate positive fiscal impact on Florida Department of Law Enforcement (FDLE) revenues from the motor vehicle brokers' payment for the state and national criminal history check. The record check is $36, of which $24 goes into FDLE's Operating Trust Fund.

[21] The bill defines "dealership group" as "two or more licensed franchise motor vehicle dealers with a common owner which has legal or equitable title of at least 80 percent of each dealer in the group."

2. Expenditures:

   DHSMV estimates that 133.5 hours, or approximately $4,672.50 in FTE and contracted resources will be required in order to implement the bill. This cost can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a negative fiscal impact on motor vehicle brokers who are not currently required to be licensed or pay the $300 initial licensing fee, $75 renewal fee, and $36 state and national criminal history check.

Dealer training schools that offer pre-licensing certification will likely see a negative fiscal impact because of the elimination of pre-licensing requirements for each initial license applicant.

Florida-based, non-profit, dealer-owned, statewide industry association of franchised motor vehicle dealers that provide certification for franchised motor vehicle dealers will likely see a positive fiscal impact.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DHSMV to adopt rules necessary to establish motor vehicle training curriculum.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 9, 2018, the Transportation & Infrastructure Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment:

- Added that a person who leases three or more vehicles in any 12-month period shall be presumed to be a motor vehicle dealer, and adds references to leasing throughout the "motor vehicle dealer" definition.

- Provided that persons primarily engaged in the business of short-term rentals of motor vehicles (rental terms that do not exceed 12 months), who are not involved in the retail sale of vehicles, are not considered motor vehicle dealers:
- Removed from the definition of "motor vehicle dealer" persons offering to sell a motor vehicle service agreement at the time of sale or lease of the motor vehicle.
- Removed language from s. 320.27(1)(c), F.S., requiring a vehicle to be titled as a used vehicle when a motor vehicle dealer transferring the motor vehicle does not meet certain qualifications.
- Included in the definition of "independent motor vehicle dealer" persons in the business of leasing motor vehicles.
- Reinserted language previously removed by the bill, which provides that a motor vehicle broker does not store, display, or take ownership of any vehicle for the purpose of selling such vehicles.
- Added that a licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.
- Included additional requirements for pre-licensing training for independent motor vehicle dealers that were removed by the bill and are currently required of all motor vehicle dealer applicants.
- Added that the franchised motor vehicle dealer industry certification be provided by a statewide industry association of franchised motor vehicles dealers, and such association may charge a fee for providing industry certification.
- Provided industry certification requirements for licensees in dealership groups, and defines the term "dealership group" for purposes of s. 320.27, F.S.
- Changed the effective date to January 1, 2019.

This analysis is written to the committee substitute as reported favorably by the Transportation & Infrastructure Subcommittee.

A bill to be entitled

An act relating to motor vehicle dealers; amending s. 320.27, F.S.; revising the definitions of the terms "motor vehicle dealer," "franchised motor vehicle dealer," "independent motor vehicle dealer," "wholesale motor vehicle dealer," and "motor vehicle broker"; prohibiting persons from engaging in business as, serving in the capacity of, or acting as a motor vehicle broker in this state without first obtaining a certain license; adding an exception to the prohibition on persons other than a licensed motor vehicle dealer from advertising for sale or lease any motor vehicle belonging to another party; requiring any person acting in violation of specified licensing requirements to be deemed to have committed an unfair and deceptive trade practice in violation of specified provisions; requiring an initial license certificate to be issued by the Department of Highway Safety and Motor Vehicles in accordance with an application when the application is regular in form and in compliance with specified provisions; providing for expiration of a license issued to a motor vehicle broker; deleting provisions relating to renewal forms, license certificates, and initial license applications; requiring each initial application for licensure as an

independent motor vehicle dealer received by the department to be accompanied by certain verification of attending a training and information seminar; providing seminar and training requirements; providing an exemption; authorizing the department to adopt certain rules; providing that the curriculum for certain subjects is approved by any and all other regulatory agencies having jurisdiction over the specific subject matters; requiring that the overall administration of the licensing of dealer schools and their instructors remains with the department; authorizing the schools to charge a fee for training; requiring the department to deliver or mail to each licensee the necessary renewal forms within a specified period; requiring independent motor vehicle dealers to complete certain certification relating to continuing education, subject to certain requirements; defining the term "dealer"; providing requirements for continuing education; requiring dealer schools to provide certificates of completion to the department and customer; authorizing such schools to charge a fee for providing continuing education; requiring franchised motor vehicle dealers to complete certain industry certification, subject to certain requirements; authorizing a certain association to

charge a fee for providing such certification; authorizing such certification to be accomplished by a certain designated person under certain circumstances; providing certification requirements; requiring designated individuals to receive certificates of completion; requiring a licensee who seeks to satisfy the certification through a dealership group to provide the department with certain evidence at the time of filing the certificate of completion; requiring licensees who do not file their application and any other requisite documents with, and pay the fees to, the department within a specified period to cease engaging in business; providing fees for a renewal or new application filed with the department within specified periods after the expiration date; authorizing a license certificate to be modified to show a change in the name of the licensee, subject to certain requirements; requiring a specified fee for such modification; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Paragraphs (c) and (d) of subsection (1) and subsections (2), (3), and (4) of section 320.27, Florida

Statutes, are amended to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or leasing ~~dealing in~~ motor vehicles or offering or displaying motor vehicles for sale or lease at wholesale or retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or leases ~~deals in~~ three or more motor vehicles in any 12-month period or who offers or displays for sale or lease three or more motor vehicles in any 12-month period shall be prima facie presumed to be a motor vehicle dealer. Any person who engages in any of the following activities shall be deemed to be a motor vehicle dealer: possessing, storing, or displaying motor vehicles which such person offers for retail sale or lease; advertising motor vehicles held in inventory which such person offers for retail sale or lease; compensating customers for vehicles at wholesale or retail, also known as trade-ins; negotiating with customers regarding the terms of sale or lease for a motor vehicle; providing test drives of motor vehicles which such person offers for retail sale or lease; or delivering or arranging for the

delivery of a motor vehicle in conjunction with the retail sale or lease of the motor vehicle ~~engaged in such business. The terms "selling" and "sale" include lease-purchase transactions~~. A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle as described in s. 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale or lease of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to s. 320.771. ~~A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d), using a manufacturer's statement of origin as permitted by s. 319.23(1), only if such dealer is authorized by a franchised agreement as defined in s. 320.60(1), to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle; provided this limitation shall not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis. The transfer of a motor vehicle by a dealer not meeting these qualifications shall be titled as a used vehicle.~~ The classifications of motor vehicle dealers are defined as follows:

1. "Franchised motor vehicle dealer" means any person who

engages in the business of repairing, servicing, buying, selling, or leasing ~~dealing in~~ motor vehicles pursuant to an agreement as defined in s. 320.60(1). A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), or (d) or s. 320.08(3)(a), (b), or (c), using a manufacturer's statement of origin as required by s. 319.23(1), only if such dealer is authorized by a franchise agreement as defined in s. 320.60(1) to buy, sell, or deal in such vehicles and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle. This limitation does not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis.

2. "Independent motor vehicle dealer" means any person other than a franchised or wholesale motor vehicle dealer who engages in the business of buying, selling, or leasing ~~dealing in~~ motor vehicles, and who may service and repair motor vehicles.

3. "Wholesale motor vehicle dealer" means any person who engages exclusively in the business of buying or~~,~~ selling~~, or dealing in~~ motor vehicles at wholesale or with motor vehicle auctions. Such person shall be licensed to do business in this state, shall not sell or auction a vehicle to any person who is not a licensed dealer, and shall not have the privilege of the

use of dealer license plates. Any person who buys, sells, or deals in motor vehicles at wholesale or with motor vehicle auctions on behalf of a licensed motor vehicle dealer and as a bona fide employee of such licensed motor vehicle dealer is not required to be licensed as a wholesale motor vehicle dealer. In such cases it shall be prima facie presumed that a bona fide employer-employee relationship exists. A wholesale motor vehicle dealer shall be exempt from the display provisions of this section but shall maintain an office wherein records are kept in order that those records may be inspected.

4. "Motor vehicle auction" means any person offering motor vehicles or recreational vehicles for sale to the highest bidder where buyers are licensed motor vehicle dealers. Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

5. "Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.

Notwithstanding anything in this subsection to the contrary, the term "motor vehicle dealer" does not include persons not engaged in the purchase or sale or lease of motor vehicles as a business who are disposing of vehicles acquired for their own use or for use in their business or acquired by foreclosure or by operation of law, provided such vehicles are acquired and sold in good

faith and not for the purpose of avoiding the provisions of this law; persons engaged in the business of manufacturing, selling, or offering or displaying for sale or lease at wholesale or retail no more than 25 trailers in a 12-month period; public officers while performing their official duties; receivers; trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court; banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business; motor vehicle brokers; persons whose sole dealing in motor vehicles is owning a publication in, or hosting a website on, which licensed motor vehicle dealers display vehicles for sale; persons primarily engaged in the business of the short-term rental of motor vehicles, which rental term may not exceed 12 months, who are not also involved in the retail sale of motor vehicles; and motor vehicle rental and leasing companies that sell motor vehicles only to motor vehicle dealers licensed under this section. Vehicles owned under circumstances described in this paragraph may be disposed of at retail, wholesale, or auction, unless otherwise restricted. A manufacturer of fire trucks, ambulances, or school buses may sell such vehicles directly to governmental agencies or to persons who contract to perform or provide firefighting, ambulance, or school transportation services exclusively to governmental agencies without processing such sales through dealers if such fire

trucks, ambulances, school buses, or similar vehicles are not presently available through motor vehicle dealers licensed by the department.

(d) "Motor vehicle broker" means any person engaged in the business of, or who holds himself or herself out through solicitation, advertisement, or other means as being in the business of, assisting ~~offering to procure or procuring motor vehicles for~~ the general public in purchasing or leasing a motor vehicle from a licensed motor vehicle dealer~~, or who holds himself or herself out through solicitation, advertisement, or otherwise as one who offers to procure or procures motor vehicles for the general public,~~ and who does not store, display, or take ownership of any vehicles for the purpose of selling such vehicles. Any advertisement or solicitation by a motor vehicle broker must include notice that the broker is receiving a fee and must clearly state that the broker is not a licensed motor vehicle dealer. A licensed manufacturer, distributor, or importer is not considered a motor vehicle broker.

(2) LICENSE REQUIRED.—No person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer or motor vehicle broker in this state without first obtaining a license therefor in the appropriate classification as provided in this section. With the exception of transactions with motor vehicle auctions, no person other than a licensed motor vehicle

dealer may advertise for sale or lease any motor vehicle belonging to another party unless as a direct result of a bona fide legal proceeding, court order, or settlement of an estate, ~~or~~ by contract with a motor vehicle dealer, or by operation of law. However, owners of motor vehicles titled in their names may advertise and offer vehicles for sale on their own behalf. It shall be unlawful for a licensed motor vehicle dealer to allow any person other than a bona fide employee to use the motor vehicle dealer license for the purpose of acting in the capacity of or conducting motor vehicle sales transactions as a motor vehicle dealer. Any person acting ~~selling or offering a motor vehicle for sale~~ in violation of the licensing requirements of this subsection, or who misrepresents to any person its relationship with any manufacturer, importer, or distributor, in addition to the penalties provided herein, shall be deemed to have committed ~~guilty of~~ an unfair and deceptive trade practice ~~as defined~~ in violation of part II of chapter 501 and shall be subject to the provisions of subsections (8) and (9).

(3) APPLICATION AND FEE.—The application for the license shall be in such form as may be prescribed by the department and shall be subject to such rules with respect thereto as may be so prescribed by it. Such application shall be verified by oath or affirmation and shall contain a full statement of the name and birth date of the person or persons applying therefor; the name of the firm or copartnership, with the names and places of

residence of all members thereof, if such applicant is a firm or copartnership; the names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body; the name of the state under whose laws the corporation is organized; the present and former place or places of residence of the applicant; and prior business in which the applicant has been engaged and the location thereof. Such application shall describe the exact location of the place of business and shall state whether the place of business is owned by the applicant and when acquired, or, if leased, a true copy of the lease shall be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a residence; that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale; and that the location is a suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which shall be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. The applicant shall certify that the business of a motor vehicle dealer is the principal business which shall be conducted at that location. The application shall contain a statement that the applicant is: either franchised by a manufacturer of motor vehicles, in which case the name of each

motor vehicle that the applicant is franchised to sell shall be included;~~, or~~ an independent (nonfranchised) motor vehicle dealer; or a motor vehicle broker. The application shall contain other relevant information as may be required by the department, including evidence that the applicant is insured under a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, $25,000 combined single-limit liability coverage including bodily injury and property damage protection and $10,000 personal injury protection. However, a salvage motor vehicle dealer as defined in subparagraph (1)(c)5. is exempt from the requirements for garage liability insurance and personal injury protection insurance on those vehicles that cannot be legally operated on roads, highways, or streets in this state. Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy. Such policy shall be for the license period, and evidence of a new or continued policy shall be delivered to the department at the beginning of each license period. Upon making initial application, the applicant shall pay to the department a fee of $300 in addition to any other fees required by law. Applicants may choose to extend the licensure period for 1 additional year for a total of 2 years. An initial applicant shall pay to the

department a fee of $300 for the first year and $75 for the second year, in addition to any other fees required by law. An applicant for renewal shall pay to the department $75 for a 1-year renewal or $150 for a 2-year renewal, in addition to any other fees required by law. Upon making an application for a change of location, the person shall pay a fee of $50 in addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of state and federal processing shall be borne by the applicant and is in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

(4) LICENSE CERTIFICATE.—

(a) An initial ~~A~~ license certificate shall be issued by

the department in accordance with such application when the application is regular in form and in compliance with the provisions of this section. The license certificate may be in the form of a document or a computerized card as determined by the department. The actual cost of each original, additional, or replacement computerized card shall be borne by the licensee and is in addition to the fee for licensure. Such license, when so issued, entitles the licensee to carry on and conduct the business of a motor vehicle dealer or motor vehicle broker. Each license issued to a franchise motor vehicle dealer or motor vehicle broker expires on December 31 of the year of its expiration unless revoked or suspended prior to that date. Each license issued to an independent or wholesale dealer or auction expires on April 30 of the year of its expiration unless revoked or suspended prior to that date. ~~At least 60 days before the license expiration date, the department shall deliver or mail to each licensee the necessary renewal forms. Each independent dealer shall certify that the dealer (owner, partner, officer, or director of the licensee, or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuing education prior to filing the renewal forms with the department. Such certification shall be filed once every 2 years. The continuing education shall include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle~~

~~industry topics. Continuing education shall be provided by dealer schools licensed under paragraph (b) either in a classroom setting or by correspondence. Such schools shall provide certificates of completion to the department and the customer which shall be filed with the license renewal form, and such schools may charge a fee for providing continuing education. Any licensee who does not file his or her application and fees and any other requisite documents, as required by law, with the department at least 30 days prior to the license expiration date shall cease to engage in business as a motor vehicle dealer on the license expiration date. A renewal filed with the department within 45 days after the expiration date shall be accompanied by a delinquent fee of $100. Thereafter, a new application is required, accompanied by the initial license fee. A license certificate duly issued by the department may be modified by endorsement to show a change in the name of the licensee, provided, as shown by affidavit of the licensee, the majority ownership interest of the licensee has not changed or the name of the person appearing as franchisee on the sales and service agreement has not changed. Modification of a license certificate to show any name change as herein provided shall not require initial licensure or reissuance of dealer tags; however, any dealer obtaining a name change shall transact all business in and be properly identified by that name. All documents relative to licensure shall reflect the new name. In the case of~~

~~a franchise dealer, the name change shall be approved by the manufacturer, distributor, or importer. A licensee applying for a name change endorsement shall pay a fee of $25 which fee shall apply to the change in the name of a main location and all additional locations licensed under the provisions of subsection (5). Each initial license application received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant, or one or more of his or her designated employees, has attended a training and information seminar conducted by a licensed motor vehicle dealer training school. Any applicant for a new franchised motor vehicle dealer license who has held a valid franchised motor vehicle dealer license continuously for the past 2 years and who remains in good standing with the department is exempt from the prelicensing training requirement. Such seminar shall include, but is not limited to, statutory dealer requirements, which requirements include required bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and such other information that in the opinion of the department will promote good business practices. No seminar may exceed 8 hours in length.~~

~~(b) Each initial license application received by the department for licensure under subparagraph (1)(c)2. shall be accompanied by verification that, within the preceding 6 months, the applicant (owner, partner, officer, or director of the~~

~~applicant, or a full-time employee of the applicant that holds a responsible management-level position) has successfully completed training conducted by a licensed motor vehicle dealer training school. Such training must include training in titling and registration of motor vehicles, laws relating to unfair and deceptive trade practices, laws relating to financing with regard to buy-here, pay-here operations, and such other information that in the opinion of the department will promote good business practices. Successful completion of this training shall be determined by examination administered at the end of the course and attendance of no less than 90 percent of the total hours required by such school. Any applicant who had held a valid motor vehicle dealer's license continuously within the past 2 years and who remains in good standing with the department is exempt from the prelicensing requirements of this section. The department shall have the authority to adopt any rule necessary for establishing the training curriculum; length of training, which shall not exceed 8 hours for required department topics and shall not exceed an additional 24 hours for topics related to other regulatory agencies' instructor qualifications; and any other requirements under this section. The curriculum for other subjects shall be approved by any and all other regulatory agencies having jurisdiction over specific subject matters; however, the overall administration of the licensing of these dealer schools and their instructors shall~~

~~remain with the department. Such schools are authorized to charge a fee.~~

(b) Each application for initial licensure as an independent motor vehicle dealer received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant or one or more of his or her designated employees has attended a training and information seminar conducted by a licensed motor vehicle dealer training school. Such seminar must include, but need not be limited to, statutory dealer requirements, which include required bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and any other information that, in the opinion of the department, will promote good business practices. A seminar may not exceed 8 hours in length. Such training must include instruction in titling and registration of motor vehicles, laws relating to unfair and deceptive trade practices, laws relating to financing with regard to buy-here, pay-here operations, and any other information that, in the opinion of the department, will promote good business practices. Successful completion of this training shall be determined by examination administered at the end of the seminar and attendance of no less than 90 percent of the total hours required by such school. Any applicant for an independent dealer license who had held a valid motor vehicle dealer license continuously within the past 2 years and who remains in good standing with the department is

exempt from the prelicensing requirements of this section. The department may adopt any rule necessary for establishing the training curriculum; length of training, which shall not exceed 8 hours for required department topics and shall not exceed an additional 24 hours for topics related to other regulatory agencies' instructor qualifications; and any other requirements under this section. The curriculum for other subjects shall be approved by any and all other regulatory agencies having jurisdiction over the specific subject matters; however, the overall administration of the licensing of these dealer schools and their instructors shall remain with the department. Such schools are authorized to charge a fee for training.

(c) At least 60 days before the license expiration date, the department shall deliver or mail to each licensee the necessary renewal forms.

1. Each independent motor vehicle dealer must certify that the dealer has completed 8 hours of continuing education before filing the renewal forms with the department. For purposes of this subparagraph, the term "dealer" means an owner, partner, officer, or director of the licensee, or a full-time employee of the licensee that holds a responsible management-level position. Such certification must be filed once every 2 years. The continuing education shall include at least 2 hours of instruction in legal or legislative issues, 1 hour of instruction in department issues, and 5 hours of instruction in

relevant motor vehicle industry topics. Continuing education shall be provided by dealer schools licensed under paragraph (b) either in a classroom setting or by correspondence. Such schools shall provide certificates of completion to the department and the customer which must be filed with the license renewal form, and such schools may charge a fee for providing continuing education.

2. Each franchised motor vehicle dealer shall certify that the dealer, operator, owner, partner, director, or general manager of the licensee has completed 8 hours of industry certification on legal and legislative issues every 2 years provided by a Florida-based, nonprofit, dealer-owned, statewide industry association of franchised motor vehicle dealers with state and federal compliance credentials approved by the department. Such association may charge a fee for providing the industry certification. In the case of licensees belonging to a dealership group, the required certification may be satisfied for all licensees in the dealership group through completion of the industry certification by one designated owner, officer, director, or manager of the dealership group. For purposes of this section, a dealership group is two or more licensed franchised motor vehicle dealers with a common owner which has legal or equitable title of at least 80 percent of each dealer in the group. Certification shall be required in a classroom setting in a convenient location within the state and designated

individuals shall receive certificates of completion from the organization which must be filed with their license renewal form. A licensee who seeks to satisfy the required certification through a dealership group must provide the department with evidence of the required common ownership at the time of filing the certificate of completion.

3. Any licensee who does not file his or her application and any other requisite documents with, and pay the fees to, as required by law, the department at least 30 days before the license expiration date must cease to engage in business as a motor vehicle dealer no later than the license expiration date. A renewal filed with the department within 45 days after the expiration date must be accompanied by a delinquent fee of $100. Thereafter, a new application is required, accompanied by the initial license fee.

(d) A license certificate duly issued by the department may be modified by endorsement to show a change in the name of the licensee, provided, as shown by affidavit of the licensee, the majority ownership interest of the licensee has not changed or the name of the person appearing as franchisee on the sales and service agreement has not changed. Modification of a license certificate to show any name change as provided in this paragraph does not require initial licensure or reissuance of dealer tags; however, any dealer obtaining a name change shall transact all business in and be properly identified by that

name. All documents relative to licensure shall reflect the new name. In the case of a franchised motor vehicle dealer, the name change shall be approved by the manufacturer, distributor, or importer. A licensee applying for a name change endorsement shall pay a fee of $25 which shall apply to the change in the name of a main location and all additional locations licensed under subsection (5).

Section 2. This act shall take effect January 1, 2019.

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Rommel offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraphs (c) and (d) of subsection (1) and subsections (2), (3), and (4) of section 320.27, Florida Statutes, are amended to read:

320.27 Motor vehicle dealers.—

(1) DEFINITIONS.—The following words, terms, and phrases when used in this section have the meanings respectively ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(c) "Motor vehicle dealer" means any person engaged in the business of buying, selling, or leasing ~~dealing in~~ motor

vehicles or offering or displaying motor vehicles for sale or lease at wholesale, excluding sales from a manufacturer, factory branch, distributor, or importer licensed pursuant to s. 320.61 to a franchised motor vehicle dealer licensed pursuant to this section, or at retail, or who may service and repair motor vehicles pursuant to an agreement as defined in s. 320.60(1). Any person who buys, sells, or leases ~~deals in~~ three or more motor vehicles in any 12-month period or who offers or displays for sale or lease three or more motor vehicles in any 12-month period is ~~shall be~~ prima facie presumed to be a motor vehicle dealer. Any person who engages in any of the following activities is deemed to be a motor vehicle dealer: possessing, storing, advertising, or displaying motor vehicles that such person offers for retail sale or lease; compensating customers for vehicles at wholesale or retail, also known as trade-ins; negotiating with customers regarding the terms of sale or lease for a motor vehicle offered for retail sale or lease by such person; providing test drives of motor vehicles that such person offers for retail sale or lease; or delivering or arranging for the delivery of a motor vehicle in conjunction with the retail sale or lease of the motor vehicle by such person ~~engaged in such business~~. ~~The terms "selling" and "sale" include lease-purchase transactions.~~ A motor vehicle dealer may, at retail or wholesale, sell a recreational vehicle as described in s. 320.01(1)(b)1.-6. and 8., acquired in exchange for the sale or

lease of a motor vehicle, provided such acquisition is incidental to the principal business of being a motor vehicle dealer. However, a motor vehicle dealer may not buy a recreational vehicle for the purpose of resale unless licensed as a recreational vehicle dealer pursuant to s. 320.771. ~~A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d), using a manufacturer's statement of origin as permitted by s. 319.23(1), only if such dealer is authorized by a franchised agreement as defined in s. 320.60(1), to buy, sell, or deal in such vehicle and is authorized by such agreement to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle; provided this limitation shall not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis. The transfer of a motor vehicle by a dealer not meeting these qualifications shall be titled as a used vehicle.~~ The classifications of motor vehicle dealers are defined as follows:

1. "Franchised motor vehicle dealer" means any person who engages in the business of repairing, servicing, buying, selling, or leasing ~~dealing in~~ motor vehicles pursuant to an agreement as defined in s. 320.60(1). A motor vehicle dealer may apply for a certificate of title to a motor vehicle required to be registered under s. 320.08(2)(b), (c), and (d) or s. 320.08(3)(a), (b), or (c), using a manufacturer's statement of

origin as permitted by s. 319.23(1), only if such dealer is authorized by a franchise agreement as defined in s. 320.60(1) to buy, sell, or lease such vehicles and to perform delivery and preparation obligations and warranty defect adjustments on the motor vehicle. This limitation does not apply to recreational vehicles, van conversions, or any other motor vehicle manufactured on a truck chassis. A motor vehicle dealer may not transfer a manufacturer's statement of origin for a motor vehicle to any person who intends to sell such motor vehicle in this state unless such person is a licensed motor vehicle dealer authorized by a franchise agreement to buy, sell, or lease such vehicles.

2. "Independent motor vehicle dealer" means any person other than a franchised or wholesale motor vehicle dealer who engages in the business of buying, selling, or leasing ~~dealing in~~ motor vehicles, and who may service and repair motor vehicles.

3. "Wholesale motor vehicle dealer" means any person who engages exclusively in the business of buying or~~,~~ selling~~, or dealing in~~ motor vehicles at wholesale or with motor vehicle auctions. Such person shall be licensed to do business in this state, shall not sell or auction a vehicle to any person who is not a licensed dealer, and shall not have the privilege of the use of dealer license plates. Any person who buys, sells, or deals in motor vehicles at wholesale or with motor vehicle

auctions on behalf of a licensed motor vehicle dealer and as a bona fide employee of such licensed motor vehicle dealer is not required to be licensed as a wholesale motor vehicle dealer. In such cases it shall be prima facie presumed that a bona fide employer-employee relationship exists. A wholesale motor vehicle dealer shall be exempt from the display provisions of this section but shall maintain an office wherein records are kept in order that those records may be inspected.

4. "Motor vehicle auction" means any person offering motor vehicles or recreational vehicles for sale to the highest bidder where buyers are licensed motor vehicle dealers. Such person shall not sell a vehicle to anyone other than a licensed motor vehicle dealer.

5. "Salvage motor vehicle dealer" means any person who engages in the business of acquiring salvaged or wrecked motor vehicles for the purpose of reselling them and their parts.

Notwithstanding anything in this subsection to the contrary, the term "motor vehicle dealer" does not include persons not engaged in the purchase, ~~or~~ sale, or lease of motor vehicles as a business who are disposing of vehicles acquired for their own use or for use in their business or acquired by foreclosure or by operation of law, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding the provisions of this law; persons engaged in the business of

manufacturing, selling, or offering or displaying for sale or lease at wholesale or retail no more than 25 trailers in a 12-month period; public officers while performing their official duties; receivers; trustees, administrators, executors, guardians, or other persons appointed by, or acting under the judgment or order of, any court; banks, finance companies, or other loan agencies that acquire motor vehicles as an incident to their regular business; persons whose sole dealing in motor vehicles is owning a publication in which, or hosting a website on which, licensed motor vehicle dealers display vehicles for sale or lease; persons primarily engaged in the business of the short-term rental of motor vehicles, which rental term may not exceed 12 months, who are not involved in the retail sale or lease of motor vehicles ~~motor vehicle brokers~~; and motor vehicle rental and leasing companies that sell motor vehicles only to motor vehicle dealers licensed under this section. Vehicles owned under circumstances described in this paragraph may be disposed of at retail, wholesale, or auction, unless otherwise restricted. A manufacturer of fire trucks, ambulances, or school buses may sell such vehicles directly to governmental agencies or to persons who contract to perform or provide firefighting, ambulance, or school transportation services exclusively to governmental agencies without processing such sales through dealers if such fire trucks, ambulances, school buses, or

similar vehicles are not presently available through motor vehicle dealers licensed by the department.

~~(d) "Motor vehicle broker" means any person engaged in the business of offering to procure or procuring motor vehicles for the general public, or who holds himself or herself out through solicitation, advertisement, or otherwise as one who offers to procure or procures motor vehicles for the general public, and who does not store, display, or take ownership of any vehicles for the purpose of selling such vehicles.~~

(2) LICENSE REQUIRED.—No person shall engage in business as, serve in the capacity of, or act as a motor vehicle dealer in this state without first obtaining a license therefor in the appropriate classification as provided in this section. With the exception of transactions with motor vehicle auctions, no person other than a licensed motor vehicle dealer may advertise for sale or lease any motor vehicle belonging to another party unless as a direct result of a bona fide legal proceeding, court order, or settlement of an estate; by persons whose sole dealing in motor vehicles is owning a publication in which, or hosting a website on which, licensed motor vehicle dealers display vehicles for sale or lease;~~,~~ or by operation of law. However, owners of motor vehicles titled in their names may advertise and offer motor vehicles for sale on their own behalf, provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding the requirements of this section ~~behalf~~. It

shall be unlawful for a licensed motor vehicle dealer to allow any person other than its ~~a~~ bona fide employee to use the motor vehicle dealer license for the purpose of acting in the capacity of or conducting motor vehicle sales or lease transactions as a motor vehicle dealer. Any person acting ~~selling or offering a motor vehicle for sale~~ in violation of the licensing requirements of this subsection, or who misrepresents to any person his or her ~~its~~ relationship with any manufacturer, importer, ~~or~~ distributor, or motor vehicle dealer, in addition to the penalties provided herein, shall be deemed to have committed ~~guilty of~~ an unfair and deceptive trade practice ~~as defined~~ in violation of part II of chapter 501 and shall be subject to the provisions of subsections (8) and (9).

(3) APPLICATION AND FEE.—The application for the license shall be in such form as may be prescribed by the department and shall be subject to such rules with respect thereto as may be so prescribed by it. Such application shall be verified by oath or affirmation and shall contain a full statement of the name and birth date of the person or persons applying therefor; the name of the firm or copartnership, with the names and places of residence of all members thereof, if such applicant is a firm or copartnership; the names and places of residence of the principal officers, if the applicant is a body corporate or other artificial body; the name of the state under whose laws the corporation is organized; the present and former place or

places of residence of the applicant; and prior business in which the applicant has been engaged and the location thereof. Such application shall describe the exact location of the place of business and shall state whether the place of business is owned by the applicant and when acquired, or, if leased, a true copy of the lease shall be attached to the application. The applicant shall certify that the location provides an adequately equipped office and is not a residence; that the location affords sufficient unoccupied space upon and within which adequately to store all motor vehicles offered and displayed for sale; and that the location is a suitable place where the applicant can in good faith carry on such business and keep and maintain books, records, and files necessary to conduct such business, which shall be available at all reasonable hours to inspection by the department or any of its inspectors or other employees. The applicant shall certify that the business of a motor vehicle dealer is the principal business which shall be conducted at that location. The application shall contain a statement that the applicant is ~~either~~ franchised by a manufacturer of motor vehicles, in which case the name of each motor vehicle that the applicant is franchised to sell shall be included, or an independent (nonfranchised) motor vehicle dealer. The application shall contain other relevant information as may be required by the department, including evidence that the applicant is insured under a garage liability insurance

policy or a general liability insurance policy coupled with a business automobile policy, which shall include, at a minimum, $25,000 combined single-limit liability coverage including bodily injury and property damage protection and $10,000 personal injury protection. However, a salvage motor vehicle dealer as defined in subparagraph (1)(c)5. is exempt from the requirements for garage liability insurance and personal injury protection insurance on those vehicles that cannot be legally operated on roads, highways, or streets in this state. Franchise dealers must submit a garage liability insurance policy, and all other dealers must submit a garage liability insurance policy or a general liability insurance policy coupled with a business automobile policy. Such policy shall be for the license period, and evidence of a new or continued policy shall be delivered to the department at the beginning of each license period. Upon making initial application, the applicant shall pay to the department a fee of $300 in addition to any other fees required by law. Applicants may choose to extend the licensure period for 1 additional year for a total of 2 years. An initial applicant shall pay to the department a fee of $300 for the first year and $75 for the second year, in addition to any other fees required by law. An applicant for renewal shall pay to the department $75 for a 1-year renewal or $150 for a 2-year renewal, in addition to any other fees required by law. Upon making an application for a change of location, the person shall pay a fee of $50 in

addition to any other fees now required by law. The department shall, in the case of every application for initial licensure, verify whether certain facts set forth in the application are true. Each applicant, general partner in the case of a partnership, or corporate officer and director in the case of a corporate applicant, must file a set of fingerprints with the department for the purpose of determining any prior criminal record or any outstanding warrants. The department shall submit the fingerprints to the Department of Law Enforcement for state processing and forwarding to the Federal Bureau of Investigation for federal processing. The actual cost of state and federal processing shall be borne by the applicant and is in addition to the fee for licensure. The department may issue a license to an applicant pending the results of the fingerprint investigation, which license is fully revocable if the department subsequently determines that any facts set forth in the application are not true or correctly represented.

(4) LICENSE CERTIFICATE.—

(a) A license certificate shall be issued by the department in accordance with such application when the application is regular in form and in compliance with the provisions of this section. The license certificate may be in the form of a document or a computerized card as determined by the department. The actual cost of each original, additional, or replacement computerized card shall be borne by the licensee and

is in addition to the fee for licensure. Such license, when so issued, entitles the licensee to carry on and conduct the business of a motor vehicle dealer. Each license issued to a franchise motor vehicle dealer expires on December 31 of the year of its expiration unless revoked or suspended before ~~prior to~~ that date. Each license issued to an independent or wholesale dealer or auction expires on April 30 of the year of its expiration unless revoked or suspended before ~~prior to~~ that date. At least 60 days before the license expiration date, the department shall deliver or mail to each licensee the necessary renewal forms along with a statement that the licensee is required to complete any applicable continuing education or industry certification requirements. ~~Each independent dealer shall certify that the dealer (owner, partner, officer, or director of the licensee, or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuing education prior to filing the renewal forms with the department. Such certification shall be filed once every 2 years. The continuing education shall include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle industry topics. Continuing education shall be provided by dealer schools licensed under paragraph (b) either in a classroom setting or by correspondence. Such schools shall provide certificates of completion to the department and the~~

~~customer which shall be filed with the license renewal form, and such schools may charge a fee for providing continuing education.~~ Any licensee who does not file his or her application and fees and any other requisite documents, as required by law, before ~~with the department at least 30 days prior to~~ the license expiration date shall cease to engage in business as a motor vehicle dealer on the license expiration date. A renewal filed with the department within 45 days after the expiration date shall be accompanied by a delinquent fee of $100. Thereafter, a new application is required, accompanied by the initial license fee. A license certificate duly issued by the department may be modified by endorsement to show a change in the name of the licensee, provided, as shown by affidavit of the licensee, the majority ownership interest of the licensee has not changed or the name of the person appearing as franchisee on the sales and service agreement has not changed. Modification of a license certificate to show any name change as herein provided shall not require initial licensure or reissuance of dealer tags; however, any dealer obtaining a name change shall transact all business in and be properly identified by that name. All documents relative to licensure shall reflect the new name. In the case of a franchise dealer, the name change shall be approved by the manufacturer, distributor, or importer. A licensee applying for a name change endorsement shall pay a fee of $25 which fee shall apply to the change in the name of a main location and all

additional locations licensed under the provisions of subsection (5). Each initial license application received by the department shall be accompanied by verification that, within the preceding 6 months, the applicant, or one or more of his or her designated employees, has attended a training and information seminar conducted by a licensed motor vehicle dealer training school. Any applicant for a new franchised motor vehicle dealer license who has held a valid franchised motor vehicle dealer license continuously for the past 2 years and who remains in good standing with the department is exempt from the prelicensing training requirement. Such seminar shall include, but is not limited to, statutory dealer requirements, which requirements include required bookkeeping and recordkeeping procedures, requirements for the collection of sales and use taxes, and such other information that in the opinion of the department will promote good business practices. No seminar may exceed 8 hours in length.

(b) Each initial license application received by the department for licensure under subparagraph (1)(c)2. shall be accompanied by verification that, within the preceding 6 months, the applicant (owner, partner, officer, or director of the applicant, or a full-time employee of the applicant that holds a responsible management-level position) has successfully completed training conducted by a licensed motor vehicle dealer training school. Such training must include training in titling

and registration of motor vehicles, laws relating to unfair and deceptive trade practices, laws relating to financing with regard to buy-here, pay-here operations, and such other information that in the opinion of the department will promote good business practices. Successful completion of this training shall be determined by examination administered at the end of the course and attendance of no less than 90 percent of the total hours required by such school. Any applicant who had held a valid motor vehicle dealer's license continuously within the past 2 years and who remains in good standing with the department is exempt from the prelicensing requirements of this section. The department shall have the authority to adopt any rule necessary for establishing the training curriculum; length of training, which shall not exceed 8 hours for required department topics and shall not exceed an additional 24 hours for topics related to other regulatory agencies' instructor qualifications; and any other requirements under this section. The curriculum for other subjects shall be approved by any and all other regulatory agencies having jurisdiction over specific subject matters; however, the overall administration of the licensing of these dealer schools and their instructors shall remain with the department. Such schools are authorized to charge a fee.

(c) Each application received by the department for renewal of a license defined under subparagraph (1)(c)2. must

certify that the dealer (owner, partner, officer, or director of the licensee, or a full-time employee of the licensee that holds a responsible management-level position) has completed 8 hours of continuing education before filing the renewal forms with the department. Such certification must be filed once every 2 years. The continuing education must include at least 2 hours of legal or legislative issues, 1 hour of department issues, and 5 hours of relevant motor vehicle industry topics. Continuing education shall be provided by dealer schools licensed under paragraph (b) either in a classroom setting or by correspondence. Such schools shall provide certificates of completion to the department and the customer which shall be filed with the license renewal form, and such schools may charge a fee for providing continuing education.

(d) Each application received by the department for renewal of a license defined under subparagraph (1)(c)1. must certify that the dealer (dealer operator, owner, partner, officer, director, or general manager of the licensee) has completed 4 hours of industry certification on legal and legislative issues each year before filing the renewal forms with the department. Industry certification shall be provided by a Florida-based, nonprofit, dealer-owned, statewide industry association of franchised motor vehicle dealers with state and federal compliance credentials approved by the department, and shall be in a classroom setting in convenient locations within

the state. Such association shall provide certificates of completion to the department and the customer which shall be filed with the license renewal form. An application for renewal of a license previously issued for 1 year must be accompanied by a certificate establishing completion of 4 hours of industry certification during the prior year. An application for renewal of a license previously issued for 2 years must be accompanied by certificates establishing completion of 8 hours of industry certification, except that renewal of a 2-year license that expires on December 31, 2019, must be accompanied by a certificate establishing completion of 4 hours of industry certification. An association may charge a fee of no more than $500 per 4 hours for providing the industry certification. In 2020, and for each subsequent year, the maximum fee of $500 per 4 hours shall be increased by a percentage equal to the annual Consumer Price Index for All Urban Consumers calculated for the previous year by the United States Bureau of Labor Statistics. In the case of licensees belonging to a dealership group, the required industry certification may be satisfied for all licensees in the dealership group through completion of the industry certification by a single designated owner, officer, director, or manager of the dealership group. For purposes of this section, a dealership group is two or more licensed franchised motor vehicle dealers with at least one common officer or with common owners having legal or equitable title of

at least 50 percent of each dealer in the group. A licensee who seeks to satisfy the required industry certification through a dealership group must provide the department with evidence of the required common ownership at the time of filing the certificate of completion.

Section 2. This act shall take effect January 1, 2019.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to motor vehicle dealers; amending s. 320.27, F.S.; revising the definitions of the terms "motor vehicle dealer," "franchised motor vehicle dealer," "independent motor vehicle dealer," and "wholesale motor vehicle dealer"; deleting the definition of the term "motor vehicle broker"; adding an exception to the prohibition on persons other than a licensed motor vehicle dealer from advertising for sale or lease any motor vehicle belonging to another party; authorizing owners of motor vehicles titled in their names to advertise and offer motor vehicles for sale on their own behalves provided such vehicles are acquired and sold in good faith and not for the purpose of avoiding specified requirements;

prohibiting a licensed motor vehicle dealer from allowing any person other than its bona fide employee to use its motor vehicle dealer license for the purpose of acting in the capacity of or conducting motor vehicle lease transactions as a motor vehicle dealer; providing that any person acting in violation of specified licensing requirements or misrepresenting to any person his or her relationship with any motor vehicle dealer is deemed to have committed an unfair and deceptive trade practice in violation of specified provisions; requiring, within a specified timeframe, the Department of Highway Safety and Motor Vehicles to deliver or mail to each licensee the necessary renewal forms along with a statement that the licensee is required to complete any applicable continuing education or industry certification requirements; deleting certain continuing education and certification requirements; requiring applications received by the department for renewal of independent motor vehicle dealer licenses to certify that the dealer has completed continuing education before filing the renewal forms with the department, subject to certain requirements; providing requirements for continuing education and dealer schools; authorizing such schools to charge a fee for providing continuing

education; requiring applications received by the department for renewal of franchised motor vehicle dealer licenses to certify that the dealer has completed certain industry certification before filing the renewal forms with the department, subject to certain requirements; providing requirements for industry certification and certain statewide industry associations of franchised motor vehicle dealers; authorizing an association to charge a fee for providing the industry certification; authorizing industry certification for licensees belonging to a certain dealership group to be accomplished by a certain designated person; requiring a licensee who seeks to satisfy the certification through a dealership group to provide the department with certain evidence at the time of filing the certificate of completion; providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 595 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Santiago offered the following:

Amendment to Amendment (030883) by Representative Rommel (with title amendment)

Remove line 142 of the amendment and insert:

vehicle dealers licensed by the department. A manufacturer licensed pursuant to s. 320.61, which does not have a franchise agreement with any person in this state, as defined by s. 320.60(1) may advertise motor vehicles it manufactures, including demonstrations of those motor vehicles to consumers, provided that the sale or lease of such a motor vehicle in this state may only occur through a licensed motor vehicle dealer.

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

Remove line 431 of the amendment and insert:

"wholesale motor vehicle dealer"; providing that manufacturers without franchise agreements may advertise and demonstrate motor vehicles under certain circumstances; deleting the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 595 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Santiago offered the following:

Amendment to Amendment (030883) by Representative Rommel (with title amendment)

Remove line 142 of the amendment and insert:

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

Remove line 431 of the amendment and insert:
"wholesale motor vehicle dealer"; providing that manufacturers without franchise agreements may advertise and demonstrate motor vehicles under certain circumstances; deleting the

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Santiago offered the following:

Amendment to Amendment (030883) by Representative Rommel (with directory and title amendments)

Remove lines 258-420 of the amendment

D I R E C T O R Y A M E N D M E N T

Remove line 8 of the amendment and insert:

subsections (2) and (3) of section 320.27, Florida

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

Remove lines 457-482 of the amendment and insert:

providing an effective date.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1017 Seminole County
SPONSOR(S): Local, Federal & Veterans Affairs Subcommittee, Cortes, B.
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	14 Y, 0 N, As CS	Miller	Miller
2) Tourism & Gaming Control Subcommittee	8 Y, 5 N	Bowen	Barry
3) Government Accountability Committee		Miller	Williamson

SUMMARY ANALYSIS

Florida generally prohibits gambling, with limited exceptions set forth in state law. One such exception is the authorization for pari-mutuel facilities (horse tracks, dog tracks, and jai alai frontons) to operate a cardroom at the pari-mutuel facility. The games authorized for play in a cardroom are pari-mutuel-style games (i.e., poker). The pari-mutuel permitholder must apply for a separate license to operate a cardroom.

In addition to the other prerequisites the applicant must meet before qualifying for a cardroom license, an applicant must submit proof that the local government has approved the operation of a cardroom by the pari-mutuel facility. The local approval requirement contemplates a majority vote of the governing body of the municipality where the pari-mutuel facility is located or, if the facility is not located within a municipality, a majority vote by the county commission.

The bill creates an exception to general law by providing that the local government approval required to be eligible for a cardroom license in Seminole County may only be obtained from the Seminole County Commission in accordance with the referendum procedures for approval of casino gambling under the Seminole County Home Rule Charter, regardless of whether the facility is located in a municipality. Solely for purposes of this act, the bill deems the term "casino gambling" to include cardroom activities authorized or conducted according to statute.

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since the bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Florida law generally prohibits gambling, defined as a game of chance played in any place by any device for money.[1] Exceptions to the general prohibition include the Florida Lottery,[2] pari-mutuel wagering[3] on three types of horseracing,[4] greyhound dog racing,[5] and jai alai,[6] slot machines at certain pari-mutuel facilities,[7] authorized cardrooms,[8] and specified gaming at certain tribal facilities.[9]

Only a licensed pari-mutuel permitholder may apply to operate a cardroom.[10] Upon issuance of a cardroom license by the Department of Business and Professional Regulation, Division of Pari-Mutuel Wagering (Division), the pari-mutuel permitholder may operate a cardroom at the same facility where the permitholder is authorized to conduct its pari-mutuel activities.[11] Authorized cardroom games[12] are limited to pari-mutuel-style games where the participants play against each other instead of against the house (i.e., poker).[13]

In order to qualify for a cardroom license, the requirements include providing proof that the governing body of the local government where the pari-mutuel facility of the applicant is located has approved by majority vote the operation of a cardroom by the pari-mutuel facility. If the facility is not located within a municipality, then a majority vote of the governing body of the county is required.[14] Currently, a countywide referendum is required only if the cardroom licensee seeks to change the location of the cardroom to a different facility.[15]

Seminole County

Seminole County currently has three pari-mutuel permitholders operating at two facilities and none has a valid license to operate a cardroom. [16] The three permitholders are:

- SOKC, LLC, authorized to conduct greyhound racing at Sanford Orlando Kennel Club located in Sanford, Florida. PMW license number 152 (2017-2018).
- Penn Sanford, LLC, authorized to conduct greyhound at Sanford Orlando Kennel Club located in Sanford, Florida. PMW license number 158 (2017-2018).

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[1] Section 849.08, F.S. The statute was first codified as Revised Statutes 2651, s. 1, ch. 4514 (1895).
[2] The Department of the Lottery is authorized by art. X, s. 15, Florida Constitution. Section 24.102, F.S., creates the Department of the Lottery.
[3] "Pari-mutuel" means a system of betting on races or games in which the winners divide the total amount bet, after deducting management expenses and taxes, in proportion to the sums they have wagered individually and with regard to the odds assigned to particular outcomes. Section 550.002(22), F.S.
[4] The definition of "horserace permitholder" specifies thoroughbred racing, harness racing, and quarter horse racing. Section 550.002(15), F.S.
[5] *See* s. 550.002(29), F.S.
[6] A ball game of Spanish origin played on a court with three walls. Section 550.002(18), F.S.
[7] *See* art. X, s. 23, Fla. Const.; ch. 551, F.S.
[8] Section 849.086, F.S.
[9] Sections 285.710 and 285.712, F.S.
[10] Section 849.086(2)(f), (5)(a), F.S.
[11] Section 849.086(5)(a), (7)(a), F.S.
[12] (A) "game or series of games of poker or dominoes which are played in a nonbanking manner." Section 849.086(2)(a), F.S.
[13] Section 849.086(1), F.S.
[14] Section 849.086(16), F.S.
[15] Section 849.086(17), F.S.
[16] Seminole County is the only county in Florida with one or more pari-mutuel facilities that has not approved cardrooms.

- RB Jai Alai, LLC, authorized to conduct jai alai games at Orlando Live Events located in Fern Park, an unincorporated area of Seminole County, Florida. PMW license number 270 (2017-2018).[17]

The Seminole County Home Rule Charter specifically prohibits any form of casino gambling in the County unless "first authorized by an approving vote of a majority of the qualified electors residing in the County and voting on the question at a referendum separate and apart from any other referendum, statewide or otherwise, on the question."[18] The charter defines casino gambling as "playing or engaging in any game of chance for money or any other thing of value, regardless of how such game is named, labeled or otherwise characterized, which game was unlawful under the Constitution or laws of the State of Florida as of July 1, 1996."[19] Cardrooms were unlawful in Florida until January 1, 1997, when the Legislature authorized them at eligible pari-mutuel facilities through the enactment of s. 849.086, F.S.[20]

Effect of the Bill

The bill creates an exception to general law by prescribing that the process for obtaining the required local approval for operation of a cardroom in Seminole County is the referendum process set forth in article V, s. 5.1 of the Seminole County Home Rule Charter. The charter process requires first the approval of the operation of a cardroom by the Seminole County electors voting in a referendum. If so approved, the Seminole County Commission may then determine whether to approve the operation of a cardroom. For purposes of the act only, the term "casino gambling" in the Seminole County Home Rule Charter is deemed to include all activities authorized by or conducted under s. 849.086, F.S.[21]

B. SECTION DIRECTORY:

Section 1: Creates an exception to s. 849.086(16), F.S., by providing that a countywide referendum followed by a majority vote of the Seminole County Commission, in accordance with article V, s. 5.1 of the Seminole County Home Rule Charter, is the sole method for obtaining the required local approval of a proposed cardroom necessary for the Division to issue a cardroom license to a pari-mutuel permitholder in Seminole County.

Section 2: Provides that the act takes effect upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [X] No []

IF YES, WHEN? November 13, 2017

WHERE? Orlando Sentinel, published in Orange County and generally circulated in Seminole County

B. REFERENDUM(S) REQUIRED? Yes [] No [X]

IF YES, WHEN?

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[17] *See* pari-mutuel licensing information, http://www.myfloridalicense.com/dbpr/pmw/documents/CurrentPermitholdersList.pdf (accessed 2/2/2018).

[18] Seminole County Home Rule Charter, art. V, s. 5.1.A., *available at* https://www.seminolecountyfl.gov/_resources/pdf/seminolecountyhomerulecharter.pdf (accessed 2/2/2018).

[19] *Id.* at s. 5.1.B.

[20] Ch. 96-364, s. 20, Laws of Fla.; Article V went into effect on Nov. 6, 1996. *See* art. V, s. 5.1.A, Seminole County Home Rule Charter.

[21] Section 849.086, F.S.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. Since the bill creates an exemption to general law, the provisions of House Rule 5.5(b) apply.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 10, 2018, the Local, Federal & Veterans Affairs Subcommittee adopted one amendment and approved the bill as a committee substitute. The amendment clarified that the local approval required for the Department of Business and Professional Regulation to issue a cardroom license to a pari-mutuel facility in Seminole County may only be obtained from the Seminole County Commission pursuant to the process established in art. V, s. 5.1 of the Seminole County Home Rule Charter (Charter). For purposes of the act only, the term "casino gambling" in the Charter is deemed to include all activities authorized or conducted under s. 849.086, F.S.

A bill to be entitled

An act relating to Seminole County; providing an exception to general law; providing for approval of cardroom gaming within Seminole County under the requirements of the county charter; providing definitions; providing an effective date.

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

Section 1. Notwithstanding s. 849.086(16), Florida Statutes, before the Division of Pari-mutuel Wagering may issue any initial license for a pari-mutuel facility in Seminole County to operate a cardroom, the required local government approval shall be granted with respect to such pari-mutuel facility only by the Board of County Commissioners of Seminole County pursuant to the requirements of article V, section 5.1 of the Seminole County Home Rule Charter, in effect as of January 1, 2018. For purposes of this act only, the term "casino gambling" as defined in article V, subsection 5.1.B of the Seminole County Home Rule Charter is deemed to include all activities authorized by or conducted pursuant to s. 849.086, Florida Statutes.

Section 2. This act shall take effect upon becoming a law.

HB 1281

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1281 Garcon Point Bridge
SPONSOR(S): Williamson
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1436

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	11 Y, 0 N	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	13 Y, 1 N	Davis	Davis
3) Government Accountability Committee		Johnson	Williamson

SUMMARY ANALYSIS

The Santa Rosa Bay Bridge Authority (SRBBA) owns the Garcon Point Bridge (bridge) in Santa Rosa County. The bridge failed to meet its traffic and revenue projections and its bonds are currently in default. Additionally, SRBBA does not have a functioning governing board. Pursuant to a 1996 lease-purchase agreement, the Department of Transportation (DOT) has assumed responsibility for the operation and maintenance of the bridge. Florida's Turnpike Enterprise (Turnpike) provides toll operations and maintenance functions are performed by DOT.

The bill authorizes DOT, subject to the verification of economic feasibility, to acquire the Garcon Point Bridge and purchase, as part of the acquisition, SRBBA's bonds. Following the acquisition, the bridge will become part of the Turnpike System.

The bill provides that the acquisition price must first be used to settle all claims of SRBBA bondholders. Additionally, the bill provides that the bridge's toll may not be increased in connection with the acquisition of the bridge. However, following the acquisition, tolls may be increased as required by law or to meet bond covenants.

The bill stipulates that DOT and the state may not incur any financial obligation for acquiring the bridge in excess of its forecasted gross revenues. Therefore, the total acquisition price may not exceed anticipated toll revenues, calculated without any increase in the toll rate, anticipated to be collected from the operation of the bridge between the date of purchase and the projected remaining useful life of the bridge.

Upon the acquisition of the bridge, the lease-purchase agreement between SRBBA and DOT is terminated and the Santa Rosa Bay Bridge Authority Act is repealed.

The fiscal impact of the bill is indeterminate, but likely to be significant. *See* fiscal analysis for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

The Santa Rosa Bay Bridge Authority (SRBBA) is an agency of the state located in Santa Rosa County. SRBBA was created to acquire, hold, construct, maintain, operate, own, and lease all or any part of the Santa Rosa Bay Bridge System, consisting of the Garcon Point Bridge (bridge) and its related infrastructure.[1] Bridge construction began in December 1996 and the bridge opened to traffic in May 1999.[2]

Toll Facility Revolving Trust Fund Loans

The Toll Facilities Revolving Trust Fund was a loan program used to develop and enhance the financial feasibility of revenue-producing road projects. The trust fund provided interest free loans to pay the toll facility's initial project development costs. Loans of greater than $1.5 million required specific legislative appropriation. In 2012, the Legislature repealed the Toll Facilities Revolving Trust Fund.[3]

Between 1989 and 1994, SRBBA received $8.5 million in Toll Facilities Revolving Trust Fund loans. SRBBA used the loan proceeds to pay preliminary expenditures related to the bridge. Toll Facilities Revolving Trust Fund loan repayment is subordinate to the SRBBA's debt service and administrative costs. As of June 30, 2016, SRBBA owed the Department of Transportation (DOT) $7.9 million in Toll Facilities Revolving Trust Fund loans and has not made any loan payments since August 1999.[4]

In January 2001, SRBBA requested an additional loan of over $2.9 million, anticipated to be sufficient to cover revenue shortfalls in Fiscal Years 2001 and 2002. SRBBA's request was reduced to $1.4 million after updated revenue estimates decreased its anticipated revenue shortfall. In May 2001, the Legislature approved SRBBA's loan request;[5] however, Governor Bush vetoed the loan.[6]

Following the veto, SRBBA used its operating reserves to cover the revenue shortfall for its July 1, 2001, debt service payment. This temporarily allowed SRBBA to delay drawing on its $9.2 million debt service reserve fund. This also left SRBBA without funds for its day-to-day operations. By mid-2001, SRBBA was using all available toll revenues for debt service, leaving it without operating funds. By the end of 2001, due to lack of funds, SRBBA closed its office and ceased all administration services. DOT agreed to take possession of all SRBBA's records and provide administrative support for SRBBA's future board meetings.[7]

Financing and Construction

In October 1996, SRBBA issued $95 million in revenue bonds, with a final maturity in July 2028, to finance bridge construction. SRBBA's bonds are secured by the bridge's gross toll revenues and a Debt Service Reserve Fund funded with $9.2 million from bond proceeds. SRBBA was able to pledge its gross toll revenues due to its lease-purchase agreement with DOT.[8]

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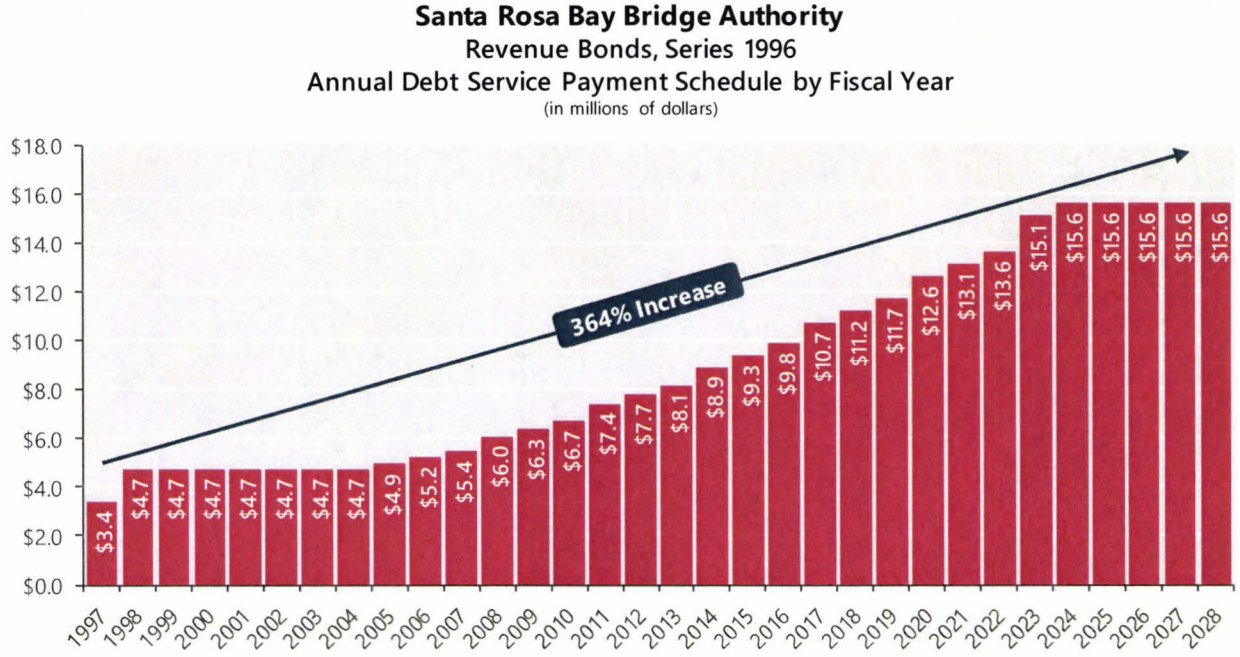
[1] Department of Transportation/Division of Bond Finance; *Economic Feasibility Study: State Acquisition of the Garcon Point Bridge.* December 2017 (Economic Feasibility Study) p. 11.
[2] *Id.* at B-2
[3] Chapter 2012-128, L.O.F.
[4] Economic Feasibility Study, p. 11.
[5] Chapter 2001-253, L.O.F.
[6] Economic Feasibility Study, p. B-3.
[7] *Id.* at B-3 - B-4.
[8] *Id.*



Source: Economic Feasibility Study, p. 12

Of SRBBA's $95 million in bonds, $75.5 million are fixed-rate current-interest bonds. Fixed-rate current-interest bonds pay interest at a set rate on a periodic basis. At maturity, the final interest payment and the original principal amount is paid to the bondholder. This is the conventional debt structure in the municipal bond market and is utilized for the vast majority of the state's debt transactions.[9]

The remaining $19.5 million in bonds are Capital Appreciation Bonds. Capital Appreciation Bonds do not make periodic interest payments and instead increase in value at a compounded rate. At maturity, bondholders receive a single payment equal to their original principal and all compounded interest. The total or amount due at maturity of SRBBA's in Capital Appreciation Bonds issued is $73.8 million. Since Capital Appreciation Bonds only pay at maturity, they are used to avoid periodic interest payments.[10]

Lease-Purchase Agreement

In October 1996, SRBBA and DOT entered into a lease-purchase agreement,[11] granting DOT exclusive possession and use of the bridge. Under the agreement, DOT pays the costs of operating, maintaining, repairing, and insuring the bridge. The agreement requires DOT to collect the tolls on the bridge and remit the revenues to the bond trustee as lease payments. The agreement's terms extends through the date upon which all of the bonds have been repaid and all amounts due to DOT, including the Toll Facilities Revolving Trust Fund loans and all operations and maintenance costs paid by DOT, have been repaid.[12]

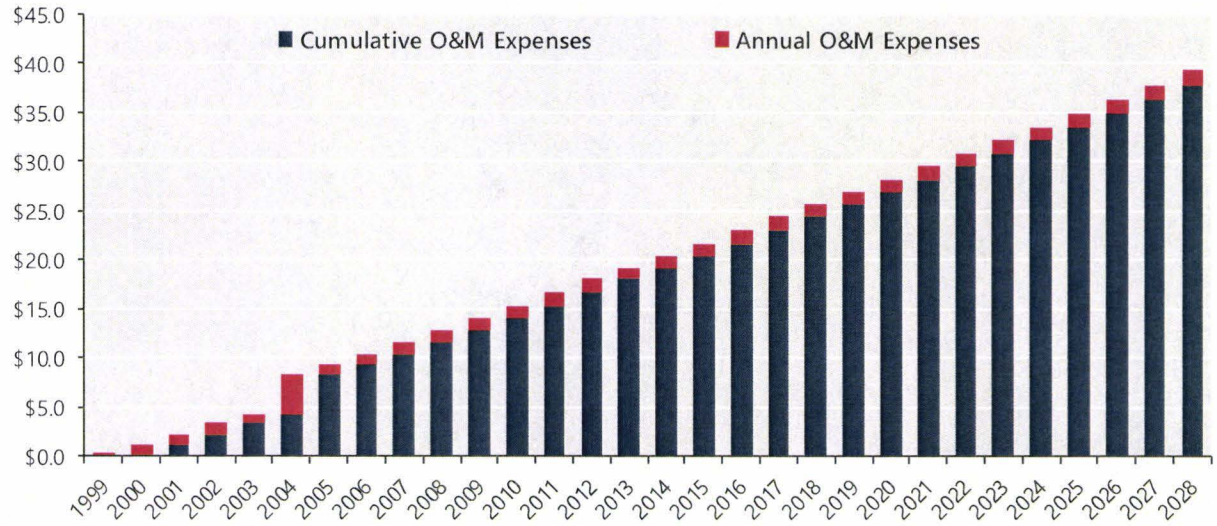
The agreement was a mechanism for the state to provide credit support in connection with financing the bridge. With the state paying the operation and maintenance expenses, SRBBA was able to pledge its gross toll revenues as security for the bonds. The state's credit support reduced the financial risk to bondholders and was essential for the marketability of the bonds given the bridge's questionable financial feasibility.[13]

Under the agreement, SRBBA must reimburse DOT for all of the bridge's direct and indirect operations and maintenance costs. This liability is subordinate to all debt service, administrative costs, and

[9] *Id.*
[10] *Id.*
[11] DOT's authority to enter into lease-purchase agreements with SRBBA and similar authorities was repealed in 2011.
[12] Economic Feasibility Study, p. 14
[13] *Id.*

repayment of the Toll Facilities Revolving Trust Fund loans. SRBBA has not reimbursed any of the operations and maintenance costs that DOT has incurred in relation to the bridge. As of June 30, 2017, the long-term liability owed to DOT under the agreement was $25.3 million. DOT projects that it will incur an additional $16.2 million in operations and maintenance costs over the next 11 years resulting in a total long-term liability of $41.5 million in 2028, the agreement's original termination date. However, DOT is committed to pay operations and maintenance expenses through the final payoff of the bonds, which is anticipated to extend beyond 2028. In January 2009, the agreement was amended with DOT agreeing to pay certain administrative expenses of the SRBBA. The amended agreement stipulates that SRBBA will reimburse DOT for all administrative expenses in the same manner that it is required to reimburse its accrued operations and maintenance expenses. Set forth below is an illustration of the annual operations and maintenance costs and cumulative costs expected to be paid by DOT pursuant to the agreement through 2028.[14]

Santa Rosa Bay Bridge Authority
FDOT's Annual & Cumulative O&M Expenses
Actuals for FY 1999-2016 & Projected for FY 2017-2028
(in millions of dollars)



Source: Economic Feasibility Study, p. 15.

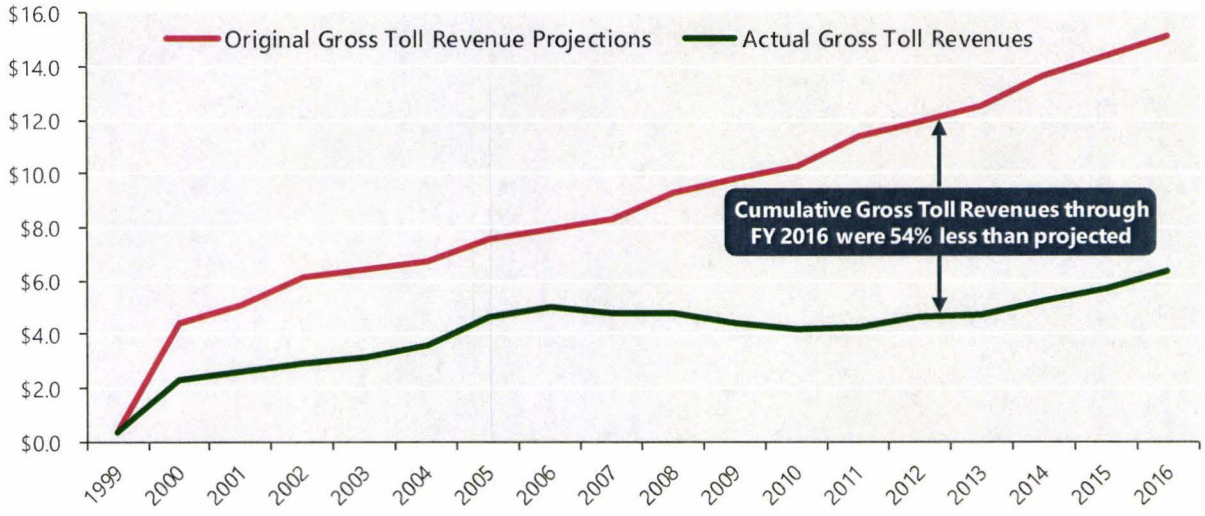
Revenue Shortfalls, Toll Increases, and Debt Default

Immediately after the bridge opened to traffic, the bridge's traffic and gross toll revenues began to come in well below the estimates used to justify the project and structure the financing. By the end of Fiscal Year 2000, the average annual daily traffic was approximately 42 percent of the projected levels and total annual toll revenues were approximately 54 percent of the original projections[15]

By June 30, 2000, it had become clear that the traffic consultant and SRBBA had significantly overestimated the bridge's traffic demand.

[14] *Id.*
[15] *Id.*

Santa Rosa Bay Bridge Authority
Original Gross Toll Revenue Projections vs Actual Gross Toll Revenues by Fiscal Year
(in millions of dollars)



	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Annual Shortfall	$0.0	$2.0	$2.5	$3.2	$3.3	$3.1	$3.0	$2.9	$3.5	$4.5	$5.4	$6.1	$7.1	$7.3	$7.8	$8.4	$8.8	$8.8
Cumulative Shortfall	$0.0	$2.1	$4.6	$7.8	$11.1	$14.2	$17.2	$20.1	$23.6	$28.2	$33.6	$39.6	$46.7	$54.0	$61.8	$70.2	$79.0	$87.8

Source: Economic Feasibility Study, p. 16.

In August 2000, SRBBA received updated estimates showing that toll revenues for Fiscal Year 2001 would not be sufficient to meet the bond covenants. In the bond covenants, SRBBA agreed that if gross toll revenues were expected to be less than 120 percent of the current year's debt service, it would engage its traffic consultants to make recommendations regarding toll increases or other revenue enhancing strategies. If SRBBA failed to comply with the traffic consultant's recommendations, the bonds would be in technical default. SRBBA engaged a traffic consultant, and its recommendations were provided in 2001.[16]

In April 2001, SRBBA adopted a schedule of toll rate increases designed to maximize the bridge's toll revenues. The toll rate plan was developed because of its anticipated failure to meet its toll rate covenant in Fiscal Year 2001 and by accepting and implementing the plan, SRBBA was able to avoid a technical default on its bonds. The schedule called for a toll increase on July 1, 2001, with incremental toll increases every three years from Fiscal Years 2002 to 2020.[17]

GARCON POINT BRIDGE PROPOSED TOLL RATES[18]

Fiscal Year	Toll Rate
1999	$2.00
2002	$2.50
2005	$3.00
2008	$3.50
2011	$3.75 (This is the current toll rate)
2014	$4.00
2017	$4.25
2020	$4.50

[16] *Id.* at 16
[17] *Id* at 17
[18] *Id.*

The proposed toll increases in 2002, 2005, and 2008 went into effect as planned, while the 2011 increase went into effect on January 1, 2011, following a six-month delay due to the Deepwater Horizon oil spill. However, SRBBA has not implemented the proposed toll increases for Fiscal Years 2014 and 2017 since there is no governing board or administrative body to authorize or implement the toll rate increase. The bridge's toll is currently $3.75.[19]

Draws on the Debt Service Reserve Fund and Bond Default

In January 2002, SRBBA used its debt service reserve fund for the first time to make an interest payment. Funded with bond proceeds, the debt service reserve fund provides additional security to bondholders and protects against revenue shortfalls. While using the debt service reserve fund did not constitute a technical default, the bond resolution required SRBBA to replenish any draws. However, replenishing the debt service reserve fund is subordinate to paying debt service. Given that toll revenues were insufficient to cover all of the required debt service, SRBBA was unable to replenish the debt service reserve fund. As a result, in February 2002, SRBBA's bonds entered into a technical default.

Through the first half of Fiscal Year 2005, SRBBA continued to draw on its debt service reserve fund to make its annual debt service payments, reducing the funds balance to $6.2 million.[20]

From Fiscal Year 2007 to 2010, gross toll revenues suffered annual declines coinciding with the economic recession. At the same time, the bond's annual debt service due grew each year due to the ascending debt service structure. By Fiscal Year 2011, its annual debt service was $2.6 million higher than its gross toll revenues, with that deficit continuing to grow.

In June 2011, the bond trustee filed a material event notice indicating SRBBA did not have sufficient funds to make its July 1, 2011, debt service payment. As a result, the trustee withheld all funds and did not make the debt service payment. The notice also indicated that the trustee expected the payment default to continue indefinitely. On July 1, 2011, there was a payment default on the bonds.[21]

In March 2012, the trustee disbursed the debt service reserve fund's remaining $2.2 million, making a pro-rata payment on interest that was due on July 1, 2011. While the trustee used the remaining debt service reserve fund to make this payment, it had not been utilizing the gross toll revenues to make any payments on interest or principal coming due, and the trustee did not make the next three payments. Following those missed payments, the trustee received a request for acceleration from a majority of bondholders and the entire outstanding principal of the bonds was declared immediately due and payable on January 1, 2013. Following acceleration, the trustee has used all available gross toll revenues to make partial payments on each debt service payment date.[22]

Toll Increase Demand

In 2014, the bond trustee hired a consultant to determine the optimal toll rates that would generate the highest revenues for bondholders. The consultant concluded that a toll increase would increase revenues, and proposed increasing cash tolls from $3.75 to $5.00 and SunPass[23] tolls from $3.75 to $4.00. It also recommended decreasing the SunPass discount for the bridge's frequent users from 50 percent to 25 percent. In November 2014, the bond trustee demanded that SRBBA's board raise tolls.[24]

In March 2015, with no board in place to authorize the toll increases, the trustee demanded that DOT immediately implement a toll increase in the amounts recommended by the trustee's consultant. In September 2015, following DOT's refusal to implement the requested toll increase, the bond trustee filed a notice stating it would sue DOT to force the toll increase if a majority of bondholders agreed to

[19] *Id.*
[20] *Id.* at 18
[21] *Id.*
[22] *Id.* at 18-19
[23] SunPass is the Turnpike Enterprise's electronic toll collection system.
[24] Economic Feasibility Study, p. 19.

cover potential litigation costs. The bond trustee never filed suit, and in August 2016, the trustee was replaced. To date, the new trustee has not filed suit.[25]

Analysis of Potential Acquisition

As previously described, the bridge's traffic and revenues have significantly underperformed the original estimates. As a result, SRBBA is currently insolvent, with unpaid liabilities due to both bondholders and the state.[26] In 2017, the Legislature required DOT, in consultation with the Division of Bond Finance to prepare an economic feasibility study related to a potential acquisition of the bridge by the Turnpike.[27]

Summary of SRBBA's Liabilities[28]

Liability Amount	Liability
$7.9 Million	Outstanding Toll Facilities Revolving Trust Fund Loan as of June 30, 2017
$25.3 Million	Outstanding Operations and Maintenance Costs as of June 30, 2017
$33.2 Million	**Total Owed to DOT**
$135.2 Million	Total Amount Due to Bondholders as of July 1, 2017
$168.4 Million	**Total Long-term Liabilities**

The Economic Feasibility Study identified three options for legislative consideration: maintain the status quo, tender a bond offer, or direct acquisition of the bridge by the Turnpike.

Status Quo

Under the status quo scenario, DOT continues paying the bridge's operations and maintenance expenses under the lease-purchase agreement. All available gross toll revenues would continue to be transferred to the bond trustee, who would use the funds to pay as much of the debt service due on the bonds as possible. DOT is responsible for all of the bridge's operations and maintenance costs until the bonds are fully paid. Currently, DOT annually pays approximately $1.5 million in these expenses with DOT estimating that it will grow to approximately $1.8 million per year by Fiscal Year 2027. This projection does not include amounts for capital renovations and repairs, which may be necessary as the bridge ages.[29]

DOT would see a growing annual financial obligation because it is not clear when or if toll revenues will be sufficient to fully pay the bonds. Assuming toll revenues grow at one percent annually, the Division of Bond Finance estimates that the bonds would not be fully paid until Fiscal Year 2050. Assuming DOT's operations and maintenance expenses grow at two percent annually, DOT will accrue approximately $94 million in operation and maintenance costs by 2050. However, this may understate DOT's costs since the lease purchase agreement requires DOT to make all necessary and proper repairs, renewals, and replacements so that the bridge remains operational.[30]

Bond Tender Offer

A bond tender offer is when a firm makes an offer to its bondholders to repurchase a predetermined number of bonds at a specified price and during a set period of time.[31] Options for a bond tender offer include engaging a broker-dealer to purchase bonds on the secondary market, purchasing bonds directly from bondholders, or a formal published offer to purchase all outstanding bonds. However, a

[25] *Id.*
[26] Economic Feasibility Study, p. 21
[27] Chapter 2017-42, L O.F.
[28] *Id.*
[29] *Id.* at 22
[30] *Id.* at 22
[31] *Id.*

bond tender offer is not likely to produce the lowest price and optimal result for the state and puts the state in a weak bargaining position. Additionally, it is unlikely that the state could purchase 100 percent of the bonds.[32]

Direct Acquisition of the Bridge
The Legislature could authorize the Turnpike to issue revenue bonds to purchase the bridge directly from bondholders at a negotiated price. With this option, the state would attempt to negotiate an agreeable purchase price limited to what the bridge's current revenues could support.[33]

The Legislature may also desire the state to take precautions to insulate the state from financial liability. The Turnpike could base its offer on the proceeds that could be generated by issuing Turnpike bonds backed solely by the bridge's toll revenues. This would shield the Turnpike from the risk that future toll revenue growth would be lower than projected.[34]

The Turnpike would issue fixed-rate, current interest bonds with a traditional 10-year par call provision. One required exception to the State's Debt Management Policies would be to extend the bond's final maturity. When refinancing debt, the state usually has the final maturity of the new debt the same as the final maturity of the old debt. However, given the extraordinary circumstances, the Turnpike would need to issue new bonds with a 30-year final maturity. Depending on the acquisition's final timing, this would extend the final maturity by approximately 20 years. Prior to any acquisition, DOT would need to verify that the new final maturity does not extend beyond the bridge's anticipated useful life.[35]

Turnpike bonds proceeds will not be sufficient to pay off all of the outstanding bonds. The Turnpike bonds would likely generate between $75 million and $100 million in gross proceeds.[36] The balance of the bonds currently due and payable is $135.2 million. This means the state's offer represents a discount to bondholders of approximately $35.2 million to $60.2 million. Further, the $75 million to $100 million of proceeds is based on a bond issue sized using the bridge's gross toll revenues. Meaning that the state would also be committing to continue to incur the bridge's ongoing operations and maintenance costs.[37]

In order to pay off the remaining amount due to bondholders, the Turnpike could issue subordinate limited obligation bonds, exclusively secured by the bridge's excess toll revenues, to the extent any excess toll revenues are available after payment of debt service on the senior Turnpike acquisition bonds. The subordinated limited obligation bonds essentially would be non-recourse, and if there are no residual revenues available, there would be no payment and neither the Turnpike nor the state would be obligated to make a payment. Failure to make a payment on subordinate limited obligation bond because of inadequate residual revenues does not constitute a default.[38]

Subordinate limited obligation bonds compensate existing bondholders for, and insulate the Turnpike from, the financial risks associated with the bridge. The subordinate bonds preserve the bondholder's position by requiring all tolls collected to be applied to their payment. If, in future years, the bridge's toll revenues see strong growth, the bondholders have the right to all of those increased revenues until they have been made whole. After bondholders receive a sufficient amount of residual revenues, the subordinate limited obligation bonds would be extinguished, and any further residual revenues could then be used to help cover ongoing operations and maintenance costs, reimburse DOT for previous operations and maintenance costs, and repay the outstanding Toll Facilities Revolving Trust Fund loans. However, there is no assurance that the residual revenues will be sufficient to pay off the subordinate limited obligation bonds, reimburse operations and maintenance costs, and repay the

[32] *Id.* at 23
[33] *Id.*
[34] Economic Feasibility Study, p. 23
[35] *Id.* at 23-24
[36] This is based on DBF's October 2017 estimates.
[37] Economic Feasibility Study, p. 24.
[38] *Id.*

balance of the Toll Facilities Revolving Trust Fund loans prior to the exhaustion of the bridge's useful life. This means that the bondholders and the state may never be fully repaid.[39]

Economic Feasibility

For Turnpike projects, s. 338.221(8), F.S., defines the term "economic feasibility" to mean:

- For a proposed turnpike project, that, as determined by DOT before the issuance of revenue bonds for the project, the estimated net revenues of the proposed turnpike project, excluding feeder roads and turnpike improvements, will be sufficient to pay at least 50 percent of the annual debt service on the bonds associated with the project by the end of the 12th year of operation and to pay at least 100 percent of the debt service on the bonds by the end of the 30th year of operation. In implementing this provision, up to 50 percent of the adopted work program costs of the project may be funded from turnpike revenues.
- For turnpike projects, except for feeder roads and turnpike improvements, financed from revenues of the turnpike system, such project, or such group of projects, originally financed from revenues of the turnpike system, that the project is expected to generate sufficient revenues to amortize project costs within 15 years of opening to traffic.

Effect of Proposed Changes

The bill authorizes, subject to verification of economic feasibility, DOT to acquire the Garcon Point Bridge, including related assets, and as part of the acquisition may purchase outstanding SRBBA bonds. DOT may enter into any agreements necessary to implement the acquisition, including the purchase of SRBBA bonds, and may specify the terms and conditions thereof. Upon acquisition, the Garcon Point Bridge will become a part of the Turnpike System. Pursuant to s. 11(f), Art. VII of the State Constitution,[40] the issuance of revenue bonds to finance DOT's acquisition of the Garcon Point Bridge is approved.

As with all Turnpike bonds, these bonds would be issued pursuant to the State Bond Act.[41] DOT would request that the Division of Bond Finance issue the bonds. A resolution authorizing the issuance of the bonds would then need to be approved by the Governor and Cabinet, sitting as the Division of Bond Finance's Governing Board. The fiscal sufficiency of the bonds would also need to be approved by the State Board of Administration. Division staff would then prepare the documents relating to the sale of the bonds and the bonds would be sold via competitive sale, all in accordance with the Division of Bond Finance's normal execution protocols and policies.[42]

DOT's purchase price must first be used to settle all claims of bondholders of the Santa Rosa Bay Bridge Authority Revenue Bonds, Series 1996.

SRBBA, DOT, or the bond trustees may not impose a toll rate increase in connection with DOT acquiring the bridge. Following any acquisition by DOT, toll increases are not permitted except as required by law[43] or as required to comply with bond covenants.

Neither DOT nor the state may incur any financial obligation for the acquisition of the Garcon Point Bridge exceeding the forecasted gross revenues from the bridge's operation. Therefore, DOT's total acquisition price may not exceed the present value of the gross revenues, calculated without any increase in the toll rate, anticipated to be collected from the operation of the bridge between the date of

[39] *Id.*

[40] Section 11(f), Article VII of the State Constitution requires each project, building, or facility finance with revenue bonds to obtain legislative approval.

[41] Section 215.58 through 215.83, F.S.

[42] Email from Ben Watkins, Director, Division of Bond Finance, January 17, 2018. Copy on file with Transportation & Infrastructure Subcommittee.

[43] Section 338.165(3), F.S., requires DOT, including the Turnpike, to increase tolls to the Consumer Price Index at least once every five years.

a purchase agreement and the end of the anticipated remaining useful life of the bridge as it exists as of the date of the purchase agreement.

Upon acquisition of the Garcon Point Bridge, the bill terminates the lease-purchase agreement between SRBBA and DOT dated October 23, 1996, as amended, and repeals the SRBBA Act in Part IV of Ch. 348, F.S.

B. SECTION DIRECTORY:

Section 1 provides for the acquisition of the Garcon Point Bridge by DOT.

Section 2 provides for the repeal of the SRBBA.

Section 3 provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See fiscal comments.

2. Expenditures:

   See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See fiscal comments.

D. FISCAL COMMENTS:

The bill, upon a finding of economic feasibility, authorizes DOT, through the Turnpike, to acquire the Garcon Point Bridge and purchase SRBBA's bonds. If the transaction comes to fruition, it will be a complex transaction where the state could issue millions in revenue bonds. Not knowing the details of the transaction, actual costs to the state are indeterminate and likely significant. However, as previously stated, the value of the bonds that may be issued is estimated to be between $75 million and $100 million based on a bond issue sized using the bridge's gross toll revenues.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill repeals the Santa Rosa Bay Bridge Authority upon the Turnpike's acquisition of the Garcon Point Bridge. However, there is nothing in the bill to indicate that the acquisition has taken place and the repeal is in effect.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the Garcon Point Bridge; authorizing the Department of Transportation to acquire the Garcon Point Bridge under certain circumstances; authorizing the purchase of bonds; authorizing certain agreements; approving the issuance of revenue bonds; requiring settlement of claims of certain bondholders; prohibiting certain toll rate increases; prohibiting the department and the state from incurring certain financial obligations; providing for the termination of a lease-purchase agreement; providing for the repeal of part IV of ch. 348, F.S., under certain circumstances; providing an effective date.

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

Section 1. Acquisition of Garcon Point Bridge by Department of Transportation.—

(1) Subject to the verification of economic feasibility by the Department of Transportation in accordance with s. 338.221(8), Florida Statutes, the department may acquire the Garcon Point Bridge, including related assets, and as part of such acquisition may purchase outstanding Santa Rosa Bay Bridge Authority bonds. The department may enter into any agreements

necessary to implement the acquisition, including the purchase of Santa Rosa Bay Bridge Authority bonds, and may specify the terms and conditions thereof. Upon acquisition, the Garcon Point Bridge shall become a part of the Florida Turnpike System. Pursuant to s. 11(f), Article VII of the State Constitution, the issuance of revenue bonds to finance the department's acquisition of the Garcon Point Bridge is approved.

(2) The acquisition price paid by the department must first be used to settle all claims of bondholders of the Santa Rosa Bay Bridge Authority Revenue Bonds, Series 1996.

(3) A toll rate increase may not be imposed on the Garcon Point Bridge by the authority, the department, or the trustee for bondholders in connection with the acquisition of the bridge by the department. Following any acquisition by the department, an increase in tolls for use of the bridge shall not be permitted except as required by law or as required to comply with the covenants contained in any resolution under which bonds have been issued.

(4) The department or the state shall not incur any financial obligation for the acquisition of the Garcon Point Bridge in excess of forecasted gross revenues from the operation of the bridge. Therefore, the total acquisition price paid by the department may not exceed the present value of the gross revenues, calculated without any increase in the toll rate, anticipated to be collected from the operation of the bridge

between the date of a purchase agreement in accordance with this section and the end of the anticipated remaining useful life of the bridge as it exists as of the date of the purchase agreement.

(5) Upon acquisition of the Garcon Point Bridge as authorized by this section, the lease-purchase agreement between the authority and the department dated October 23, 1996, as amended, is terminated.

Section 2. Upon acquisition of the Garcon Point Bridge as authorized by section 1 of this act, part IV of chapter 348, Florida Statutes, consisting of ss. 348.965-348.9781, Florida Statutes, is repealed.

Section 3. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1281 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Williamson offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Section 339.94, Florida Statutes, is created to read:

339.94 Garcon Point Bridge; acquisition by the department.—

(1) The department may acquire the Garcon Point Bridge, including related assets, and, as part of such acquisition, may purchase or retire outstanding Santa Rosa Bay Bridge Authority bonds. The department may enter into agreements necessary to implement the acquisition.

(2) The department is authorized to acquire the Garcon

Point Bridge at 50 percent of the total amount owed to the bondholders as of July 1, 2017, less the amount owed to the department pursuant to the lease-purchase agreement and its Toll-Facilities Revolving Trust Fund loan.

(3) The acquisition price paid by the department shall settle all claims of the bondholders of Santa Rosa Bay Bridge Authority Revenue Bonds, Series 1996, and shall cover all claims by the bondholders against the department and the Santa Rosa Bay Bridge Authority.

(4) Upon acquisition of the Garcon Point Bridge, the lease-purchase agreement dated October 23, 1996, between the Santa Rosa Bay Bridge Authority and the department, as amended, is terminated.

(5)(a) Upon acquisition of the Garcon Point Bridge, the department shall reset tolls on the Garcon Point Bridge to $2 per two axle vehicle. Twenty-four months after the department resets the toll, the department may hold a public hearing in the county where the bridge is located, regarding tolls on the Garcon Point Bridge and following the public hearing, may increase the toll to no more than $2.50 per two axle vehicle for a minimum of 24 months.

(b) Following the toll increase authorized in paragraph (a), tolls on the Garcon Point Bridge may not increase by more than 25 cents per two axle vehicle in any 24-month period and prior to any toll increase, the department shall hold a public

hearing in the county where the bridge is located.

(6) For the 2018-2019 fiscal year only, funding for the acquisition of the Garcon Point Bridge shall be appropriated to the department in the Fiscal Year 2018-2019 General Appropriations Act through the work program as developed pursuant to s. 339.135. Notwithstanding s. 339.135(4) and 339.135(5), funds necessary for the acquisition of the Garcon Point Bridge shall be taken from the first available revenues in the State Transportation Trust Fund and not be counted against any district disproportionately. The authorization in this subsection is contingent upon an acquisition finalized by December 31, 2018.

(7) Following the acquisition of the bridge, all toll revenues collected on this toll facility in excess of those required to fund its operation and maintenance shall be deposited into the State Transportation Trust Fund.

(8) The powers conferred by this section are in addition and supplemental to the existing powers of the department. This section does not repeal any of the provisions of any other law, general, special, or local, and does not supersede, repeal, rescind, or modify any other law or laws relating to the department. However, this section supersedes any law or laws that are inconsistent with the provisions of this section.

Section 2. Upon acquisition of the Garcon Point Bridge by the Department of Transportation, part IV of chapter 348,

Florida Statutes, consisting of ss. 348.965-348.9781, Florida Statutes, is repealed. The department shall notify the Division of Law Revision and Information upon the completion of the acquisition of the Garcon Point Bridge.

Section 3. This act shall take effect upon becoming a law.

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

Remove everything before the enacting clause and insert: An act relating to the Garcon Point Bridge; creating s. 339.94, F.S.; authorizing the Department of Transportation to acquire the Garcon Point Bridge; providing a maximum price the department is authorized to pay for the bridge; requiring the settlement of claims of certain bondholders; reducing the toll on the bridge; providing limitations on toll rate increases; requiring certain public hearings; providing certain appropriations authority; requiring the deposit of certain funds into the State Transportation Trust Fund; provides that certain powers are in addition to and supplemental to existing powers; providing for repeal of part IV of ch. 348, F.S., under certain circumstances; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1359 License Plates
SPONSOR(S): Transportation & Tourism Appropriations Subcommittee; Transportation & Infrastructure Subcommittee; Grant, Mariano and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Infrastructure Subcommittee	12 Y, 1 N, As CS	Johnson	Vickers
2) Transportation & Tourism Appropriations Subcommittee	9 Y, 4 N, As CS	Cobb	Davis
3) Government Accountability Committee		Johnson	Williamson

SUMMARY ANALYSIS

There are over 120 specialty license plates available to any motor vehicle owner or lessee who is willing to pay the annual use fee for such plate. The collected fees are distributed by the Department of Highway Safety and Motor Vehicles (DHSMV) to statutorily designated organizations in support of a particular cause or charity. DHSMV must discontinue the issuance of an approved specialty license plate if it fails to meet certain requirements.

The bill establishes a cap at 125 specialty license plates and provides a process for the discontinuation of low performing plates and the addition of new plates. It provides direction to DHSMV on the discontinuance of specialty license plates and establishes a timeframe of 180 days to distribute the remaining annual use fees held or collected by DHSMV. Also, the bill authorizes a person with a discontinued specialty license plate to keep the plate for the remainder of the 10-year license plate replacement period.

Effective July 1, 2021, the bill requires DHSMV to discontinue the issuance of any specialty license plate where the number of valid registrations falls below 3,000, instead of the current 1,000 plate threshold. The bill also provides additional exceptions to the policy.

The bill requires DHSMV to conduct an audit, every three years, of specialty license plate recipient organizations that are not subject to the Florida Single Audit Act.

The bill authorizes DHSMV to issue specialty license plates for fleet vehicles and motor vehicle dealer vehicles.

The bill authorizes the establishment of a specialty license plate for Auburn University and authorizes revenues from such plates to be expended outside of Florida. The bill creates the following new specialty license plates: Donate Life Florida, Florida State Beekeepers Association, Rotary, Beat Childhood Cancer, Florida Bay Forever, and Bonefish and Tarpon Trust. The bill amends certain provisions regarding the following existing specialty license plates: University of Central Florida, Special Olympics Florida, Invest in Children, and Fallen Law Enforcement Officer.

The bill discontinues the following specialty license plates: American Red Cross, Donate Organs-Pass It On, St. Johns River, and Hispanic Achievers.

The bill creates the Purple Heart Motorcycle and Bronze Star special license plates.

According to DHSMV, the bill will likely have a negative, but insignificant fiscal impact on its expenditures which can be absorbed within existing resources. The bill may also have a positive fiscal impact on state trust fund revenues. This impact is indeterminate and cannot be quantified at this time. See Fiscal Analysis section for details.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Specialty License Plates in General

The first Florida specialty license plates were enacted in 1986 and included the creation of the Challenger plate and 10 Florida collegiate plates. Today, there are over 120 specialty license plates available to any owner or lessee of a motor vehicle who is willing to pay the additional use fee for the privilege, typically $25 annually.[1] There is currently no limit on the number of specialty license plates that the Department of Highway Safety and Motor Vehicles (DHSMV) may issue nor the number of specialty license plates that the Legislature may approve.

Fleet/Dealer Specialty License Plates

Current Situation
Section 320.06, F.S., provides for motor vehicle registration certificates, license plates, and validation stickers. Section 320.06(3)(a), F.S., provides requirements for the design of various license plates. The statute requires dealer license plates to be imprinted with "Florida" at the top and "Dealer" at the bottom.

Section 320.0657, F.S., provides for permanent registration for fleet license plates. The term "fleet" means nonapportioned motor vehicles owned or leased by a company and used for business purposes.[2] According to DHSMV, in order to participate in the fleet vehicle program the company must have a minimum of 200 vehicles or a minimum of 25 trailers or semitrailers used exclusively to haul agricultural products.[3]

The owner or lessee of a fleet of motor vehicles must, upon application in the manner and at the time prescribed and upon DHSMV approval and payment of the appropriate license tax be issued permanent fleet license plates. All vehicles with a fleet license plate must have the company's name or logo and unit number displayed so that they are readily identifiable.[4]

Fleet license plates must have the word "Fleet" appearing at the bottom and the word "Florida" appearing at the top. The plates must conform in all respects to Ch. 320, F.S., except as specified.[5]

Section 320.08, F.S., provides the license taxes for various types of motor vehicles, and provides that the fee for a dealer license plate is $17.[6]

Proposed Changes
The bill authorizes "Dealer" and "Fleet" specialty license plates.

The bill amends s. 320.06(3)(a), F.S., providing that a dealer license plate is not required to say "dealer" at the bottom if it is a specialty license plate.

The bill amends s. 320.0657(2)(b), F.S., authorizing fleet specialty license plates. The bill provides that for the additional annual use fee for the specific specialty license plate, fleet companies may purchase

[1] Florida Department of Highway Safety and Motor Vehicles, *Specialty License Plates Index,* http://www.flhsmv.gov/dmv/specialtytags/ (last visited January 11, 2018).
[2] Section 320.0657(1), F.S.
[3] Email from DHSMV, January 23, 2018 (Copy on file with Transportation & Infrastructure Subcommittee.
[4] Section 320.0657(2)(a), F.S.
[5] Section 320.0657(2)(b), F.S.
[6] Section 320.08(12), F.S.

specialty license plates in lieu of the standard fleet license plates. Fleet companies are responsible for all costs associated with the specialty license plates, including all annual use fees, processing fees, fees associated with switching license plate types, and other applicable fees. The bill amends s. 320.08(12), F.S., providing similar requirements regarding dealer specialty license plates.

The bill creates s. 320.08056(2)(b), F.S., providing that DHSMV may authorize dealer and fleet specialty license plates. With the permission of the sponsoring specialty license plate organization, a dealer or fleet company may purchase specialty license plates to be used on dealer or fleet vehicles.

Notwithstanding s. 320.08058, F.S., a dealer or fleet specialty license plate must include the letters "DLR" or "FLT" on the right side of the license plate. Dealer and fleet specialty license plates must be ordered directly through DHSMV.

Requirements for Establishing Specialty License Plates

Current Situation

Section 320.08053, F.S., provides the statutory requirements to establish a specialty license plate. If a specialty license plate requested by an organization is approved by law, the organization submits its proposed art design to DHSMV as soon as practicable, but no later than 60 days after the act approving such plate becomes a law.[7]

Within 120 days following the specialty license plate becoming law, DHSMV establishes a method to issue a specialty license plate voucher allowing for the presale of such plate. The $5 processing fee,[8] the service charge and branch fee,[9] and the annual use fee for the specialty license plate[10] are charged for the voucher. All other applicable fees are charged at the time the license plate is issued.[11]

Within 24 months after establishing a presale specialty license plate voucher, the approved specialty license plate organization must record with DHSMV a minimum of 1,000 voucher sales before manufacture of the license plate may commence. If, at the conclusion of the 24-month presale period, the minimum sales requirement is not met, the specialty plate is deauthorized and DHSMV discontinues the plate's development and the issuance of the presale vouchers. Upon deauthorization of the license plate, a purchaser of the license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply for a refund on a DHSMV-prescribed form.[12]

Proposed Changes

The bill creates s. 320.08053(3)(a), F.S., providing that if the Legislature has approved 125 or more specialty license plates, DHSMV may not make any new specialty license plates available for design, presale, or issuance until a sufficient number of plates are discontinued[13] such that the number of plates being issued is reduced to fewer than 125.

The bill creates s. 320.08053(3)(b), F.S., providing that new specialty license plates that have been approved by law but are awaiting issuance are issued in the order they appear in s. 320.08056(4), F.S.,[14] provided that the plates have met the presale requirement and all other provisions of s. 320.08053, F.S. If the next awaiting specialty license plate has not met the presale requirement, DHSMV must proceed in the order provided in s. 320.08056(4), F.S., to identify the next qualified specialty license plate that has met the presale requirement. DHSMV must cycle through the list in statutory order.

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[7] Section 320.08053(1), F.S.
[8] The processing fee is prescribed in s. 320.08056, F.S.
[9] Service charges and branch fees are prescribed in s. 320.04, F.S.
[10] The annual use fees for each specialty license plate are prescribed in s. 320.8056, F.S.
[11] Section 320.08053(2)(a), F.S.
[12] Section 320.08053(2)(b), F.S.
[13] Specialty license plates will be discontinued pursuant to s. 320.08056(8), F.S.
[14] Section 320.08056(4), F.S., lists specific specialty license plates and their annual use fees.

Specialty License Plates

Current Situation

Section 320.08056, F.S., relates to specialty license plates. DHSMV is responsible for developing the specialty license plates authorized in s. 320.08053, F.S.[15]

DHSMV may issue a specialty license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates,[16] or a truck tractor, upon request and payment of the appropriate license tax and fees.[17]

Each request for a specialty license plate must annually be made to DHSMV or its authorized agent[18] accompanied by the following tax and fees the vehicle's required license tax,[19] a processing fee of $5,[20] a license plate fee,[21] and a license plate annual use fee as required for the specialty license plate.[22]

A request for a specialty license plate may be made any time during a vehicle's registration period. If a request is made for a specialty license plate to replace a current valid license plate, the specialty license plate must be issued with the appropriate decals attached at no license tax for the plate, however, all fees and service charges must be paid. If a request is made for a specialty license plate at the beginning of the registration period, the tax, together with all applicable fees and service charges, must be paid.

If a vehicle owner or lessee to whom DHSMV has issued a specialty license plate acquires a replacement vehicle within the owner's registration period, DHSMV authorizes a transfer of the specialty license plate to the replacement vehicle.[23] The annual use fee or processing fee may not be refunded.[24]

Specialty license plates must bear the design required by law for the appropriate specialty license plate, and must conform to DHSMV's design specifications. All specialty license plates must be otherwise of the same material and size as standard license plates issued for any registration period. A specialty license plate may bear an appropriate slogan, emblem, or logo in a size and placement that conforms to DHSMV's design specifications.[25]

DHSMV annually retains from the first proceeds derived from the annual use fees collected an amount sufficient to defray each specialty license plate's pro rata share of DHSMV's costs directly related to the specialty license plate program. Such costs include inventory costs, distribution costs, direct costs to DHSMV, costs associated with reviewing each organization's compliance with audit and attestation requirements,[26] and any applicable increased costs of manufacturing the specialty license plate. The Department of Management Services must verify any cost increase to DHSMV related to actual cost of the plate, including a reasonable vendor profit. The balance of the proceeds from the annual use fees collected for that specialty license plate are distributed as provided by law.[27]

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[15] Section 320.08056(1), F.S.
[16] Section 320.0706, F.S., requires certain commercial trucks to display two license plates.
[17] Section 320.08056(2), F.S.
[18] DHSMV's authorized agents are the county tax collectors.
[19] Motor vehicle license taxes are set forth in s. 320.08, F.S.
[20] The $5 processing fee is deposited into the Highway Safety Operating Trust Fund.
[21] Section 320.06(1)(b), F.S., provides for a $2.80 annual license plate replacement fee to defray the cost of replacing the license plate every 10 years.
[22] Section 320.08056(3), F.S.
[23] This is in accordance with s. 320.0609, F.S.
[24] Section 320.08056(5), F.S.
[25] Section 320.08056(6), F.S.
[26] Specialty license plate audit and attestations requirements are in s. 320.08062, F.S.
[27] Section 320.08056(7), F.S.

DHSMV must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is mailed to the sponsoring organization following the first month in which the total number of valid specialty license plate registrations falls below 1,000 plates. This does not apply to collegiate license plates.[28, 29]

DHSMV may discontinue the issuance of a specialty license plate and distribution of associated annual use fee proceeds if the organization no longer exists, if the organization has stopped providing services that are authorized to be funded from the annual use fee proceeds, if the organization does not meet the presale requirements,[30] or pursuant to an organizational recipient's request. Organizations must notify DHSMV immediately to stop all warrants for plate sales if any of these conditions exist and must meet the requirements of s. 320.08062, F.S.,[31] for any period of operation during a fiscal year.[32]

The organization that requested the specialty license plate may not redesign the specialty license plate unless the inventory of those plates has been depleted. However, the organization may purchase the remaining inventory of the specialty license plates from DHSMV at cost.[33]

A specialty license plate annual use fee collected and distributed, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058, F.S., or to pay the cost of the audit or report required by s. 320.08062(1), F.S. The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates.[34]

The term "administrative expenses" means those expenditures that are considered direct operating costs of the organization, and include, but are not limited to, the following:

- Administrative salaries of employees and officers of the organization who do not or cannot prove, via detailed daily time sheets, that they actively participate in program activities.
- Bookkeeping and support services of the organization.
- Office supplies and equipment not directly utilized for the specified program.
- Travel time, per diem, mileage reimbursement, and lodging expenses not directly associated with a specified program purpose.
- Paper, printing, envelopes, and postage not directly associated with a specified program purpose.
- Miscellaneous expenses such as food, beverage, entertainment, and conventions.[35]

The annual use fee from the sale of specialty license plates, the interest earned from those fees, or any fees received by an agency as a result of the sale of specialty license plates may not be used for the purpose of marketing to or lobbying, entertaining, or rewarding an employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or an elected member or employee of the Legislature.[36]

The application form for a specialty license plate must provide the applicant the option to instruct DHSMV to provide his or her name, address, and renewal date to the sponsoring organization.[37]

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[28] Collegiate license plates are established under s. 320.08058(3), F.S.
[29] Section 320.08056(8)(a), F.S.
[30] Presale requirements are prescribed in s. 320.08053, F.S.
[31] Section 320.08062, F.S., requires audits and attestations for specialty license plates.
[32] Section 320.08056(8)(b), F.S.
[33] Section 320.08056(9), F.S.
[34] Section 320.08056(10)(a), F.S.
[35] Section 320.08056(10)(b), F.S.
[36] Section 320.08056(11), F.S
[37] Section 320.08056(12), F.S.

Proposed Changes
The bill creates s. 320.08056(8)(c), F.S., providing that a vehicle owner or lessee issued a specialty license plate that has been discontinued by DHSMV may keep the discontinued specialty license plate for the remainder of the 10-year license plate replacement period and must pay all other applicable registration fees. However, the owner or lessee is exempt from paying the applicable specialty license plate fee for the remainder of the 10-year license plate replacement period.

The bill creates s. 320.08056(8)(d), F.S., providing that if DHSMV discontinues issuance of a specialty license plate, all annual use fees held or collected by DHSMV must be distributed within 180 days after the date the specialty license plate is discontinued. Of those fees, DHSMV must retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuing the plate. The remaining funds are to be distributed to the appropriate organization or organizations.[38]

The bill creates s. 320.08056(8)(e), F.S., providing that if an organization that is the intended recipient of specialty license plate funds no longer exists, DHSMV must deposit any undistributed funds into the Highway Safety Operating Trust Fund.

The bill creates s. 320.08056(8)(f), F.S., providing that on January 1 of each year, DHSMV must discontinue the specialty license plate with the fewest number of plates in circulation. DHSMV must mail a warning letter to the sponsoring organization of the 10 percent of specialty license plates with the lowest number of valid, active registrations as of December 1 of each year.

The bill amends s. 320.08056(8)(a), F.S., providing that effective October 1, 2021, DHSMV must discontinue the issuance of approved specialty license plates if the number of valid registrations falls below 3,000 plates for 12 consecutive months, instead of the current 1,000 plate threshold. In addition to the existing exemption from this requirement for collegiate license plates, the bill provides exceptions for institutions in and entities of the State University System, specialty license plates with statutory eligibility limitations for purchase, or Florida Professional Sports Team license plates.[39]

The bill amends s. 320.08056(10)(a), F.S., authorizing specialty license plate fees for out of state college or university specialty license plates.

Discontinued Specialty License Plates

Current Situation
As previously stated, specialty license plates may be discontinued if the plate does not meet the 1,000 plate minimum sales threshold, the recipient organization ceases to exist, or it does not meet its statutorily required presale requirements.

Proposed Changes
The bill removes the American Red Cross plate, Donate Organs Pass It On plate, St. Johns River plate, and Hispanic Achievers plate from law as these plates have been discontinued.

Changes to Existing Specialty License Plates

Collegiate License Plates

Current Situation
Section 320.08058(3), F.S., creates the collegiate specialty license plates with an annual use fee of $25. DHSMV must develop a collegiate license plate for state and independent universities domiciled in

[38] Distributions to organizations are pursuant to s. 320.08058, F.S.
[39] Florida Professional Sports Team license plates are established in s. 320.08058(9), F.S.

this state. However, any collegiate license plate created or established after October 1, 2002, must comply with s. 320.08053, F.S.,[40] and be specifically authorized by an act of the Legislature. Collegiate license plates must bear DHSMV approved colors and design as appropriate for each state and independent university. The word "Florida" is stamped across the bottom of the plate in small letters.[41]

The funds from collegiate license plates may only be used for academic enhancement, including scholarships and private fundraising activities.[42]

Proposed Changes
The bill requires the University of Central Florida specialty license plate to have "2017 National Champions" stamped across the bottom of the plate.

Special Olympics Florida License Plate

Current Situation
Section 320.08058(7), F.S., creates the Special Olympics Florida license plate with an annual use fee of $15. The plate contains the official Special Olympics Florida logo with "Florida" centered at the bottom of the plate, and "Everyone Wins" centered at the top of the plate.[43]

Proposed Changes
The bill redesigns the Special Olympics Florida specialty license plate with "Florida" centered at the top of the plate and "Be a Fan" centered at the bottom of the plate.

Invest in Children License Plate

Current Situation
Section 320.08058(11), F.S., creates the Invest in Children license plate with an annual use fee of $20.[44] The proceeds of the Invest in Children license plate annual use fee are deposited into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice (DJJ). Based on the recommendations of the juvenile justice councils, DJJ uses the proceeds to fund programs and services designed to prevent juvenile delinquency. DJJ must allocate moneys for programs and services within each county based on that county's proportionate share of the license plate annual use fee collected in that county.[45]

According to DJJ, specialty license plate proceeds collected by counties range from $20 to $30,000, and the statute requires funds to provide service within the county based upon the county's proportionate share of proceeds. When funds are available, counties apply for funding in a manner similar to grant distributions. Due to this distribution formula, much of the funding cannot be distributed despite a statewide need.[46]

Proposed Changes
The bill removes the requirement for DJJ to allocate specialty license plate moneys for programs and services within each county based on that county's proportionate share of license plate annual use fees collected in that county. This will allow DJJ to collectively use these funds in a way to address prevention programming needs across the state regardless of a particular county's proportional share of the specialty license plate revenues.[47]

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[40] Section 320.08053, F.S., provides the statutory requirements for creating a specialty license plate.
[41] Section 320.08058(3)(a), F.S.
[42] Section 320.08058(3)(b), F.S.
[43] Section 320.08058(7)(a), F.S.
[44] Section 320.08058(11)(a), F.S.
[45] Section 320.08058(11)(b), F.S.
[46] Department of Juvenile Justice Modify Invest In Children Disbursement. (Copy on file with Transportation & Infrastructure Subcommittee).
[47] *Id.*

Fallen Law Enforcement Officer License Plate

Current Situation
Section 320.08058(80), F.S., creates the Fallen Law Enforcement Officers license plate with an annual use fee of $25. The annual use fees are distributed to the Police and Kids Foundation, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plate. The remainder of the proceeds must be used by the Police and Kids Foundation, Inc., to invest and reinvest and the interest earnings must be used for the operation of the Police and Kids Foundation, Inc.

Based in Brooksville, Florida, the Police and Kids Foundation, Inc., is a non-profit corporation with the objective of providing funding for responding police officers to help a child in need. This assistance may include items such as food, clothing, and the replacement of lost or damaged property. The foundation also created a scholarship for at least one senior student at the Pinellas Park High School Criminal Justice Academy.[48]

Proposed Changes
The bill clarifies the distribution of the proceeds from the Fallen Law Enforcement Officer specialty license plate. The bill keeps the maximum of 10 percent of the proceeds for marketing the license plate. It provides that the remaining proceeds are to be used for the operations, activities, programs, and projects of the Police and Kids Foundation, Inc.

New Specialty License Plates

Auburn University License Plate

Current Situation
Florida has not authorized a specialty license plate for any college or university located outside of Florida.

The Tampa Bay Auburn Club is an officially chartered group of Auburn University Alumni and Friends. Its stated mission is to encourage more top Tampa Bay area students to attend Auburn University and to foster the spirit of Auburn University throughout the Tampa Bay Area.[49]

Proposed Changes
The bill creates the Auburn University specialty license plate with a fee of $50. The license plate must bear a DHSMV approved color and design. The word "Florida" will appear at the top of the plate and "War Eagle" will appear at the bottom of the plate.

The bill provides that the Tampa Bay Auburn Club is the lead club on behalf of the state's Auburn clubs. The annual use fees are distributed to the Tampa Bay Auburn Club, along with statistics on sales of the license plate tabulated by county. The Tampa Bay Auburn Club must distribute to each of the state's Auburn clubs on a pro-rata basis the proceeds received for sales in the regions within the respective club's area for the purpose of awarding scholarships to Florida residents attending Auburn University. Students receiving these scholarships are required to be eligible for the Florida Bright Futures Scholarship Program[50] and are required to use the scholarship funds for tuition and other expenses related to attending Auburn University.

[48] http://www.policeandkids.com/about/ (Last visited January 12, 2018).
[49] http://tampabayauburnclub.com/ (Last visited January 12, 2018).
[50] The Florida Bright Futures Scholarship Program is created pursuant to s. 1009.531, F.S.

Donate Life Florida License Plate

Current Situation
Donate Life Florida is a non-profit organization contracted by the State of Florida, Agency for Health Care Administration to create the state's organ, tissue, and eye donor registry.[51]

Proposed Changes
The bill creates the Donate Life Florida license plate with an annual use fee of $25. The license plate must bear DHSMV approved colors and design. The word "Florida" will appear at the top of the plate, and "Donors Save Lives" will appear at the bottom of the plate.

The annual use fees from the Donate Life Florida license plate are distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs associated with the plate. The remainder of the proceeds must be used by Donate Life Florida to educate Florida residents on the importance of organ, tissue, and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry.

Florida State Beekeepers Association License Plate

Current Situation
The Florida State Beekeepers Association is dedicated to keeping Florida apiculture strong and healthy and is the major voice for the state's beekeeping industry. Its mission is to:

- Provide resources for the improvement of beekeeping by using proven techniques and procedures in the management of honey bees and shares this knowledge with everyone interested in the art of beekeeping.
- Promote the development of practical beekeeping methods in the state of Florida.
- Act in the interest of Florida beekeepers in advocating for and carrying on statewide beekeeping affairs.
- Act as a medium for and to aid in cooperative and mutual beekeeping methods.
- Act as the representative of the Florida beekeepers in state and national beekeeping affairs.[52]

Proposed Changes
The bill creates the Florida State Beekeepers specialty license plate with a fee of $25. The license plate must bear DHSMV approved colors and design. The word "Florida" will appear at the top of the plate and "Save the Bees" will appear at the bottom of the plate.

The annual use fees from the sale of the Florida State Beekeepers license plate are to be distributed to the Florida States Beekeepers Association, which may use up to 10 percent of the annual use fees for administrative, promotional, and marketing cost of the plate. The remainder of the funds must be used to fund outreach and education to raise awareness of the importance of beekeeping to Florida agriculture, and to fund honeybee research and husbandry. The association's board of managers must approve and is accountable for all such expenditures.

Rotary License Plate

Current Situation
Rotary is a global network of 1.2 million neighbors, friends, leaders, and problem-solvers who come together to make positive, lasting change in communities at home and abroad.[53]

Founded in 1990, the Community Foundation of Tampa Bay is dedicated to helping individuals in Hillsborough, Pinellas, Pasco, and Hernando counties. The Foundation functions as a partnership

[51] https://www.donatelifeflorida.org/content/about/ (Last visited January 12, 2018).
[52] http://www.floridabeekeepers.org/ (Last visited January 12, 2018).
[53] https://www.rotary.org/en/about-rotary (Last visited January 12, 2018).

between donors, nonprofits, community and business leaders, professional advisors, volunteers, and the residents of its four-county region.[54]

Proposed Changes
The bill creates the Rotary license plate with an annual use fee of $25. The license plate must contain DHSMV approved colors and design. The word "Florida" will be displayed the top of the plate and "Rotary" at the bottom of the plate. The license plate will also bear the Rotary International wheel emblem.

The annual use fees from the sale of the Rotary license plate are distributed to the Community Foundation of Tampa Bay, Inc., to be distributed as follows:

- Up to 10 percent for administrative costs and for marketing the plate;
- Ten percent to Rotary's Camp Florida for direct support to all programs and services provided to special needs children who attend the camp; and
- The remainder is distributed, proportionally based on sales, to each Rotary district in the state to support Rotary youth programs in Florida.

Beat Childhood Cancer License Plate

Current Situation
Neuroblastoma (nb) is a cancer that affects children. It is among the most common childhood tumors, and typically affects children under five years old. It is not usually diagnosed until the tumor grows and presents symptoms. The majority of childhood neuroblastoma cases are aggressive, showing survival rates of less than 60 percent with standard chemotherapy, and a 50 percent relapse rate. Once relapsed, there is currently no curative treatment, and for those under five years old, the survival rate is less than 10 percent.[55] The mission of Beat Nb is to drive neuroblastoma cancer research and to raise awareness of the disease.[56] The Beat Nb Cancer Foundation, Inc., is an active corporation with the Department of State.

Proposed Changes
The bill creates the Beat Childhood Cancer specialty license plate with a fee of $25. The license plate must bear DHSMV approved colors and design. The word "Florida" will appear at the top of the plate and "Beat Childhood Cancer" will appear at the bottom of the plate.

The annual use fees from the Beat Childhood Cancer license plate are to be distributed to Beat Nb, Inc., which may use a maximum of 10 percent of the proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the specialty license plate. The remaining proceeds are to be used by the corporation to fund pediatric cancer treatment and research.

Florida Bay Forever License Plate

Current Situation
The Florida National Parks Association, Inc. (FNPA) is the official not for profit entity of Everglades National Park, Biscayne National Park, Dry Tortugas National Park, and Big Cypress National Preserve. The purpose of the FNPA is to generate additional revenues to help supplement the park service's budget as well as support educational, interpretive, and historical and scientific research. The FNPA also operates the book stores within the Parks to help generate revenues as well as providing a visitor information services function on behalf of the National Park Service.[57]

[54] https://www.cftampabay.org/about-2/ (Last visited January 12, 2018).
[55] https://beatnb.org/neuroblastoma/ (Last visited January 12, 2018).
[56] https://beatnb.org/about-us/ (Last visited January 12, 2018).
[57] Proposal for Florida Bay Forever Specialty License Plate. (Copy on file with Transportation & Infrastructure Subcommittee).

Proposed Changes
The bill directs DHSMV to develop a Florida Bay Forever license plate. The plate must bear DHSMV approved colors and design. The word "Florida" must appear at the top of the plate and "Florida Bay Forever" must appear at the bottom of the plate.

The annual use fees from the sale of the Florida Bay Forever license plate are distributed to the Florida National Parks Association, Inc., which may use up to 10 percent of the funds for administrative costs and marketing the plate. The remainder of the funds must be used to supplement the Everglades National Park's budget and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.

Bonefish and Tarpon Trust License Plate

Current Situation
The Bonefish and Tarpon Trust's (BTT) mission is to conserve and restore bonefish and tarpon fisheries and habitats through research, stewardship, education, and advocacy.[58]

Proposed Changes
The bill directs DHSMV to develop a Bonefish and Tarpon Trust license plate with an annual use fee of $25. The plate must bear DHSMV approved colors and designs. The word "Florida" must appear at the top of the plate, and "Bonefish and Tarpon Trust" must appear at the bottom of the plate.

The annual use fees from the sale of the Bonefish and Tarpon Trust license plate are distributed to the Bonefish and Tarpon Trust, which may use up to 10 percent of the proceeds to promote and market the license plate. The remainder of the proceeds must be used to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments through stewardship, research, education, and advocacy.

Audits and Attestations

Current Situation
All organizations receiving annual use fee proceeds from DHSMV are responsible for ensuring that proceeds are used in accordance with state law.[59] Any organization not subject to audit pursuant to the Florida Single Audit Act[60]must annually attest, under penalties of perjury, that such proceeds were used in compliance with applicable state laws.[61]

Any organization subject to audit pursuant to the Florida Single Audit Act must submit an audit report in accordance with the Auditor General's rules. The annual attestation must be submitted to DHSMV for review within nine months after the end of the organization's fiscal year.[62]

Within 120 days after receiving an organization's audit or attestation, DHSMV must determine which recipients of revenues from specialty license plate annual use fees have not complied with the appropriate statutory provisions. In determining compliance, DHSMV may commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations.[63]

DHSMV must discontinue the distribution of revenues to any organization failing to submit the required documentation, but may resume distribution of the revenues upon receipt of the required information.[64]

[58] https://www.bonefishtarpontrust.org/btt-mission (Last visited January 11, 2018).
[59] Section 320.08062(1)(a), F.S.
[60] Section 215.97, F.S.
[61] Section 320.08062(1)(b), F.S.
[62] Section 320.08062(1)(c), F.S.
[63] Section 320.08062(2)(a), F.S.
[64] Section 320.08062(2)(b), F.S.

If DHSMV or its designee determines that an organization has not complied with or has failed to use the revenues in accordance with applicable law, DHSMV must discontinue the distribution of the revenues to the organization. DHSMV must notify the organization of its findings and direct the organization to make the changes necessary in order to comply. If the officers of the organization sign an affidavit under penalties of perjury stating they acknowledge the findings of DHSMV and attest they have taken corrective action and that the organization will submit to a follow-up review by DHSMV, then the department may resume the distribution of revenues.[65]

If an organization fails to comply with DHSMV's recommendations and corrective actions as outlined above, the revenue distributions must be discontinued until completion of the next regular session of the Legislature. DHSMV must notify the President of the Senate and the Speaker of the House of Representatives by the first day of the next regular session of any organization whose revenues have been withheld. If the Legislature does not provide direction to the organization and DHSMV regarding the status of the undistributed revenues, DHSMV must deauthorize the plate and the undistributed revenues are immediately deposited into the Highway Safety Operating Trust Fund.[66]

DHSMV or its designee has the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.[67]

Proposed Changes
The bill amends s. 320.08062(1)(b), F.S., requiring DHSMV to audit any specialty license plate revenue recipient every three years if the organization is not subject to the Florida Single Audit Act. The purpose of this audit is to ensure that specialty license plate proceeds have been used in compliance with Florida Statutes.

Preserve Vision

Current Situation
Preserve Vision Florida, formerly Prevent Blindness Florida, is a non-profit organization offering vision education and services to Florida's children and adults. Its focus is promoting a lifetime of healthy vision care through advocacy, education, screening and research. Its mission is to promote healthy vision through vision awareness and education, vision screening, assistance to receive medical eye care, and advocacy for vision and medical eye care health service.[68] In May 2016, the organization Prevent Blindness Florida changed its name to Preserve Vision Florida.[69]

Section 320.08068, F.S., creates a motorcycle specialty license plate with an annual use fee of $20. The annual use fee is distributed to The Able Trust as custodial agent. After paying administrative costs, the Able Trust distributes 20 percent of the proceeds to Prevent Blindness Florida.[70]

Proposed Changes
The bill amends s. 320.08068(4)(b), F.S., changing the statutory reference from "Prevent Blindness Florida" to "Preserve Vision Florida" to reflect the change in the organization's name.

[65] Section 320.08062(2)(c), F.S.
[66] Section 320.08062(2)(d), F.S.
[67] Section 320.08062(3), F.S.
[68] http://pvfla.org/about-us/ (Last visited January 13, 2018).
[69] Department of State, Division of Corporations – Sunbiz.org, *Preserve Vision Florida, Inc.* (May 4, 2016), http://search.sunbiz.org/Inquiry/CorporationSearch/ConvertTiffToPDF?storagePath=COR%5C2016%5C0509%5C84865905.Tif&documentNumber=706503 (last visited January 23, 2018).
[70] Section 320.08068(4), F.S.

Purple Heart Motorcycle Special License Plate

Current Situation
There are currently 21 special use license plates for motor vehicles authorized in s. 320.089, F.S. These special license plates are available to military service members or veterans for various types of service. There are currently no special license plates authorized for motorcycles.

The Purple Heart is awarded to members of the U.S. Armed Forces who are wounded by an instrument of war in the hands of the enemy and posthumously to the next of kin in the name of those who are killed in action or die of wounds received in action.[71]

Proposed Changes
The bill creates s. 320.0875, F.S., creating the Purple Heart motorcycle special license plate. Upon application to DHSMV and payment of the motorcycle license tax,[72] a resident who owns or leases a motorcycle that is not used for-hire or commercial use is to be issued a Purple Heart motorcycle license plate if he or she provides documentation acceptable to DHSMV that he or she is a recipient of the Purple Heart medal.

The Purple Heart motorcycle special license plate will be stamped with the term "Combat-wounded Veteran." The license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart Medal stamped on the license plate.

Bronze Star Special License Plate

Current Situation
Currently, s. 320.089, F.S., authorizes 21 special license plates available to military service members or veterans for certain types of military service. Examples of service include Veteran of the U.S. Armed Forces, World War II Veteran, and Woman Veteran. While anyone who pays the appropriate fees may purchase most specialty license plates, one must provide proof of eligibility to obtain a special license plate.

Special license plates are each stamped with words consistent with the type of special license plate issued. A likeness of the related campaign medal or badge appears on the plate followed by the license plate serial number.

Applicants for special license plates are required to pay the annual license tax[73] with the exception of certain disabled veterans who qualify for the Pearl Harbor, Purple Heart, or Prisoner of War plate, to whom such plates are issued at no cost.[74] The first $100,000 of the revenue generated annually from the issuance of special use plates is deposited into the Grants and Donations Trust Fund under the Veterans' Nursing Homes of Florida Act.[75] Any additional revenue is deposited into the State Homes for Veterans Trust Fund and used to construct, operate, and maintain domiciliary and nursing homes for veterans.[76]

The Bronze Star Medal is awarded to any person who, after December 6, 1941, while serving in any capacity with the U.S. Armed Forces, distinguishes himself or herself by heroic or meritorious achievement or service not involving participation in aerial flight.[77]

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[71] http://www.purpleheart.org/HistoryOrder.aspx (Last visited January 28, 2018).
[72] The license tax is provided in s. 320.08, F.S.,
[73] The annual license tax is provided in s. 320.08, F.S.
[74] Section 320.089(2)(a), F.S.
[75] Section 320.089(1)(b), F.S.
[76] *Id.*
[77] https://www.thebalance.com/bronze-star-medal-3344939 (Last visited January 12, 2018).

Proposed Change

The bill amends s. 320.089, F.S., authorizing DHSMV to create the Bronze Star special use license plate for recipients of the Bronze Star medal who provide proof of their qualification. The license plate will be stamped with the term "Bronze Star" and a likeness of the related campaign medal. Revenue generated from the sale of the Bronze Star special use license plate will be administered the same as the existing special use license plates, and deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund to support the State Veterans Homes Program.

B. SECTION DIRECTORY:

Section 1 amends s. 320.06, F.S., relating to registration certificates, license plates, and validation stickers.

Section 2 amends s. 320.0657, F.S., relating to permanent registration for fleet license plates.

Section 3 amends s. 320.08, F.S., relating to license taxes.

Section 4 amends s. 320.08053, F.S., relating to the establishment of specialty license plates.

Section 5 amends s. 320.08056, F.S., relating to specialty license plates.

Section 6 amends s. 320.08056, F.S., relating to specialty license plates.

Section 7 amends s. 320.08058, F.S., relating to specialty license plates.

Section 8 amends s. 320.08062, F.S., relating to audits and attestations required; annual use fees of specialty license plates.

Section 9 amends s. 320.08068, F.S., relating to motorcycle specialty license plates.

Section 10 creates s. 320.0875, F.S., creating the purple heart special motorcycle license plate.

Section 11 amends s. 320.089, F.S., relating to special license plates.

Section 12 provides that except as otherwise expressly provided, the bill has an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Revenues from the sale of the Purple Heart Motorcycle plate and Bronze Star plate will be deposited into the Grants and Donations Trust Fund and the State Homes for Veterans Trust Fund within the Department of Veterans Affairs; to the extent that eligible individuals choose to purchase these plates, there may be an indeterminate, positive fiscal impact on the aforementioned trust funds.

2. Expenditures:

   DHSMV estimates that 1,264.5 programming hours, or the equivalent of $68,078 in FTE and contracted resources will be required to implement the provisions related to creation,

discontinuation, and other related costs associated with special license plates and specialty license plates. This cost can be absorbed within existing resources.[78]

Additionally, DHSMV states the cost to perform an audit every three years of each specialty license plate may result in an insignificant workload impact that can be absorbed within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Organizations receiving specialty license plate revenue may see additional revenues associated with the sale of specialty license plates.

D. FISCAL COMMENTS:

Current law prohibits the redesign of a specialty license plate unless the inventory of the license plate has been depleted. However, the organization may purchase the remaining inventory of the specialty license plate from DHSMV at DHSMV's cost.[79] The University of Central Florida and Special Olympics Florida may be required to purchase the remaining inventory of its specialty license plate at DHSMV's cost prior to the authorized redesign of these license plates.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 23, 2018, the Transportation & Infrastructure Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Authorized fleet and dealer specialty license plates.
- Provided that a specific provision related to replacement license plates does not apply to vehicles registered under the International Registration Plan.
- Revised provisions regarding the order in which new specialty license plates are created.

[78] Email from DHSMV dated February 1, 2018, on file with the Transportation and Tourism Appropriations Subcommittee.
[79] Section 320.08056(9), F.S.

- Revised provisions regarding notification that a specialty license plate may be discontinued.
- Removed the creation of the Florida Lineman specialty license plate.
- Made technical changes to other specialty license plates being created.
- Revised the period of time for audits of specialty license plate recipient organizations.
- Changed "Prevent Blindness" to "Preserve Vision" as a recipient organization of the motorcycle specialty license plate.
- Created a Purple Heart Motorcycle special license plate.

On February 6, 2018, the Transportation & Tourism Appropriations Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment removed the section of the bill pertaining to license plate replacement fee exemptions for commercial motor vehicles.

This analysis is drafted to the committee substitute as reported favorably by the Transportation & Tourism Appropriations Subcommittee.

A bill to be entitled

An act relating to license plates; amending s. 320.06, F.S.; providing an exception to the design of dealer license plates; amending s. 320.0657, F.S.; providing an exception to the design of fleet license plates; authorizing fleet companies to purchase specialty license plates in lieu of standard fleet license plates; requiring fleet companies to be responsible for certain costs; amending s. 320.08, F.S.; authorizing dealers to purchase specialty license plates in lieu of standard graphic dealer license plates; requiring dealers to be responsible for certain costs; amending s. 320.08053, F.S.; revising presale requirements for issuance of a specialty license plate; amending s. 320.08056, F.S.; allowing the Department of Highway Safety and Motor Vehicles to authorize dealer and fleet specialty license plates; providing requirements for such plates; deleting certain specialty license plates; establishing an annual use fee for certain specialty license plates; revising provisions for discontinuing issuance of a specialty license plate; revising applicability; amending s. 320.08058, F.S.; revising the design of certain specialty license plates; deleting certain specialty license plates; revising the distribution of

annual use fees for certain specialty license plates; directing the department to develop certain specialty license plates; providing for distribution and use of fees collected from the sale of the plates; amending s. 320.08062, F.S.; directing the department to audit certain organizations that receive funds from the sale of specialty license plates; amending s. 320.08068, F.S.; requiring distribution of a specified percentage of motorcycle specialty license plate annual use fees to Preserve Vision Florida; creating s. 320.0875, F.S.; providing for a special motorcycle license plate to be issued to a recipient of the Purple Heart; providing requirements for the plate; amending s. 320.089, F.S.; providing for a special license plate to be issued to a recipient of the Bronze Star; providing effective dates.

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

Section 1. Paragraph (a) of subsection (3) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(3)(a) Registration license plates must be made of metal specially treated with a retroreflection material, as specified

by the department. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers must also be treated with a retroreflection material, must be of such size as specified by the department, and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom. Apportioned license plates must have the word "Apportioned" at the bottom and license plates issued for vehicles taxed under s. 320.08(3)(d), (4)(m) or (n), (5)(b) or (c), or (14) must have the word "Restricted" at the bottom. License plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Dealer" at the bottom unless the license plate is a specialty license plate as authorized in s. 320.08056. Manufacturer license plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Manufacturer" at the bottom. License plates issued for vehicles taxed under s.

320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at the bottom. Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. The state motto or the words "Sunshine State" shall be printed in lieu thereof. A license plate issued for a vehicle taxed under s. 320.08(6) may not be assigned a registration license number, or be issued with any other distinctive character or designation, that distinguishes the motor vehicle as a for-hire motor vehicle.

Section 2. Paragraph (b) of subsection (2) of section 320.0657, Florida Statutes, is amended to read:

320.0657 Permanent registration; fleet license plates.—

(2)

(b) The plates, which shall be of a distinctive color, shall have the word "Fleet" appearing at the bottom and the word "Florida" appearing at the top unless the license plate is a specialty license plate as authorized in s. 320.08056. The plates shall conform in all respects to the provisions of this chapter, except as specified herein. For additional fees as set forth in s. 320.08056, fleet companies may purchase specialty license plates in lieu of the standard fleet license plates. Fleet companies shall be responsible for all costs associated with the specialty license plate, including all annual use fees, processing fees, fees associated with switching license plate types, and any other applicable fees.

Section 3. Subsection (12) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(3), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer and manufacturer license plate: $17 flat, of which $4.50 shall be deposited into the General Revenue Fund. For additional fees as set forth in s. 320.08056, dealers may purchase specialty license plates in lieu of the standard graphic dealer license plates. Dealers shall be responsible for all costs associated with the specialty license plate, including all annual use fees, processing fees, fees associated with switching license plate types, and any other applicable fees.

Section 4. Section 320.08053, Florida Statutes, is amended to read:

320.08053 Establishment of ~~Requirements for requests to establish~~ specialty license plates.—

(1) If a specialty license plate requested by an

organization is approved by law, the organization must submit the proposed art design for the specialty license plate to the department, in a medium prescribed by the department, as soon as practicable, but no later than 60 days after the act approving the specialty license plate becomes a law.

(2)(a) Within 120 days after ~~following~~ the specialty license plate becomes ~~becoming~~ law, the department shall establish a method to issue a specialty license plate voucher to allow for the presale of the specialty license plate. The processing fee as prescribed in s. 320.08056, the service charge and branch fee as prescribed in s. 320.04, and the annual use fee as prescribed in s. 320.08056 shall be charged for the voucher. All other applicable fees shall be charged at the time of issuance of the license plates.

(b) Within 24 months after the presale specialty license plate voucher is established, the approved specialty license plate organization must record with the department a minimum of 3,000 ~~1,000~~ voucher sales before manufacture of the license plate may begin ~~commence~~. If, at the conclusion of the 24-month presale period, the minimum sales requirement has ~~requirements have~~ not been met, the specialty plate is deauthorized and the department shall discontinue development of the plate and discontinue issuance of the presale vouchers. Upon deauthorization of the license plate, a purchaser of the license plate voucher may use the annual use fee collected as a credit

towards any other specialty license plate or apply for a refund on a form prescribed by the department.

(3)(a) If the Legislature has approved 125 or more specialty license plates, the department may not make any new specialty license plates available for design, presale, or issuance until a sufficient number of plates are discontinued pursuant to s. 320.08056(8) such that the number of plates being issued is reduced to fewer than 125.

(b) New specialty license plates that have been approved by law but are awaiting issuance under paragraph (a) shall be issued in the order they appear in s. 320.08056(4) provided that they have met the presale requirement. All other provisions of this section must also be met before a plate is issued. If the next awaiting specialty license plate has not met the presale requirement, the department shall proceed in the order provided in s. 320.08056(4) to identify the next qualified specialty license plate that has met the presale requirement. The department shall cycle through the list in statutory order.

Section 5. Subsection (2) of section 320.08056, Florida Statutes, is amended, paragraphs (ff) through (ddd), (fff) through (ppp), and (sss) through (eeee) of subsection (4) of that section are redesignated as paragraphs (ee) through (ccc), (ddd) through (nnn), and (ooo) through (aaaa), respectively, present paragraphs (ee), (eee), (qqq), and (rrr) of that subsection are amended, new paragraphs (bbbb) through (hhhh) are

added to that subsection, paragraphs (c) through (f) are added to subsection (8), and paragraph (a) of subsection (10) of that section is amended, to read:

320.08056 Specialty license plates.—

(2)(a) The department shall issue a specialty license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates pursuant to s. 320.0706, or a truck tractor, upon request and payment of the appropriate license tax and fees.

(b) The department may authorize dealer and fleet specialty license plates. With the permission of the sponsoring specialty license plate organization, a dealer or fleet company may purchase specialty license plates to be used on dealer and fleet vehicles.

(c) Notwithstanding s. 320.08058, a dealer or fleet specialty license plate must include the letters "DLR" or "FLT" on the right side of the license plate. Dealer and fleet specialty license plates must be ordered directly through the department.

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, $25.~~

~~(eee) Donate Organs-Pass It On license plate, $25.~~

~~(qqq) St. Johns River license plate, $25.~~

~~(rrr) Hispanic Achievers license plate, $25.~~

(bbbb) Auburn University license plate, $50.

(cccc) Donate Life Florida license plate, $25.

(dddd) Florida State Beekeepers Association license plate, $25.

(eeee) Rotary license plate, $25.

(ffff) Beat Childhood Cancer license plate, $25.

(gggg) Florida Bay Forever license plate, $25.

(hhhh) Bonefish and Tarpon Trust license plate, $25.

(8)

(c) A vehicle owner or lessee issued a specialty license plate that has been discontinued by the department may keep the discontinued specialty license plate for the remainder of the 10-year license plate replacement period and must pay all other applicable registration fees. However, such owner or lessee is exempt from paying the applicable specialty license plate fee under subsection (4) for the remainder of the 10-year license plate replacement period.

(d) If the department discontinues issuance of a specialty license plate, all annual use fees held or collected by the department shall be distributed within 180 days after the date the specialty license plate is discontinued. Of those fees, the department shall retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuance of the plate. The remaining funds

shall be distributed to the appropriate organization or organizations pursuant to s. 320.08058.

(e) If an organization that is the intended recipient of the funds pursuant to s. 320.08058 no longer exists, the department shall deposit any undisbursed funds into the Highway Safety Operating Trust Fund.

(f) Notwithstanding paragraph (a), on January 1 of each year, the department shall discontinue the specialty license plate with the fewest number of plates in circulation. A warning letter shall be mailed to the sponsoring organizations of the 10 percent of specialty license plates with the lowest number of valid, active registrations as of December 1 of each year.

(10)(a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891 or out-of-state college or university license plates pursuant to paragraph (4)(bbbb).

Section 6. Effective October 1, 2021, paragraph (a) of subsection (8) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(8)(a) The department must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 3,000 ~~1,000 plates~~ for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000 ~~1,000 plates~~. This paragraph does not apply to collegiate license plates established under s. 320.08058(3), license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, or Florida Professional Sports Team license plates established under s. 320.08058(9).

Section 7. Subsections (32) through (56), (58) through (68), and (71) through (83) of section 320.08058, Florida Statutes, are renumbered as subsections (31) through (55), (56) through (66), and (67) through (79), respectively, paragraph (a) of subsection (3), paragraph (a) of subsection (7), paragraph (b) of subsection (11), present subsections (31), (57), (69), and (70), and paragraph (b) of present subsection (80) are amended, and new subsections (80) through (86) are added to that section, to read:

320.08058 Specialty license plates.—

(3) COLLEGIATE LICENSE PLATES.—

(a) The department shall develop a collegiate license plate as provided in this section for state and independent universities domiciled in this state. However, any collegiate license plate created or established after October 1, 2002, must comply with the requirements of s. 320.08053 and be specifically authorized by an act of the Legislature. Collegiate license plates must bear the colors and design approved by the department as appropriate for each state and independent university. The word "Florida" must be stamped across the bottom of the plate in small letters, except for the University of Central Florida specialty license plate, which shall have "2017 National Champions" stamped across the bottom of the plate.

(7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

(a) Special Olympics Florida license plates must contain the official Special Olympics Florida logo and must bear the colors and ~~a~~ design ~~and colors that are~~ approved by the department. The word "Florida" must be centered at the top ~~bottom~~ of the plate, and the words "Be a Fan" ~~"Everyone Wins"~~ must be centered at the bottom ~~top~~ of the plate.

(11) INVEST IN CHILDREN LICENSE PLATES.—

(b) The proceeds of the Invest in Children license plate annual use fee must be deposited into the Juvenile Crime Prevention and Early Intervention Trust Fund within the

Department of Juvenile Justice. Based on the recommendations of the juvenile justice councils, the Department of Juvenile Justice shall use the proceeds of the fee to fund programs and services that are designed to prevent juvenile delinquency. ~~The department shall allocate moneys for programs and services within each county based on that county's proportionate share of the license plate annual use fee collected by the county.~~

~~(31) AMERICAN RED CROSS LICENSE PLATES.~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control~~

~~centers for purposes of combating bioterrorism and other poison-related purposes.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

~~(69) ST. JOHNS RIVER LICENSE PLATES.~~

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual~~

~~use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first $60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.~~

~~3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs~~

~~conservation.~~

~~(70) HISPANIC ACHIEVERS LICENSE PLATES.~~

~~(a) Notwithstanding the requirements of s. 320.08053, the department shall develop a Hispanic Achievers license plate as provided in this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., shall also establish a Hispanic Achievers License Plate Fund. Moneys in the fund shall be used by the grant council as provided in this paragraph. All funds received under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain all proceeds from the annual use fee until documented~~

~~startup costs for developing and establishing the plate have been recovered. Thereafter, the proceeds from the annual use fee shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost of administration of the Hispanic Achievers License Plate Fund, the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the Hispanic Corporate Achievers, Inc., located in Seminole County, for grants.~~

~~5. The remaining proceeds shall be available to the Hispanic Achievers Grant Council to award grants for services, programs, or scholarships for Hispanic and minority individuals and organizations throughout Florida. All grant recipients must provide to the Hispanic Achievers Grant Council an annual program and financial report regarding the use of grant funds. Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc., shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to~~

~~July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

(76)~~(80)~~ FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.—

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to ~~a maximum of~~ 10 percent of the proceeds for marketing ~~to promote and market~~ the plate. All remaining ~~The remainder of the~~ proceeds shall be distributed to and used by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects ~~to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc~~.

(80) AUBURN UNIVERSITY LICENSE PLATES.—

(a) The department shall develop an Auburn University license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "War Eagle" must appear at the bottom of the plate.

(b) The Tampa Bay Auburn Club is the lead club on behalf

of the Auburn clubs in this state. The annual use fees from the sale of the plate shall be distributed to the Tampa Bay Auburn Club, together with statistics on sales of the license plates tabulated by county. The Tampa Bay Auburn Club must distribute to each of the state's Auburn clubs on a pro rata basis the moneys received from sales in the regions within the respective club's area for the purpose of awarding scholarships to Florida residents attending Auburn University. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program pursuant to s. 1009.531 and shall use the scholarship funds for tuition and other expenses related to attending Auburn University.

(81) DONATE LIFE FLORIDA LICENSE PLATES.—

(a) The department shall develop a Donate Life Florida license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Donors Save Lives" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remaining proceeds of the annual use fees shall be used by Donate Life Florida to educate Florida residents on the importance of organ, tissue, and eye donation and for the

continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry.

(82) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.—

(a) The department shall develop a Florida State Beekeepers Association license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Save the Bees" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Florida State Beekeepers Association, a Florida nonprofit corporation. The Florida State Beekeepers Association may use up to 10 percent of the annual use fees for administrative, promotional, and marketing costs of the license plate.

(c) The remaining funds shall be distributed to the Florida State Beekeepers Association and shall be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all such expenditures.

(83) ROTARY LICENSE PLATES.—

(a) The department shall develop a Rotary license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word

"Florida" must appear at the top of the plate, and the word "Rotary" must appear on the bottom of the plate. The license plate must bear the Rotary International wheel emblem.

(b) The annual use fees shall be distributed to the Community Foundation of Tampa Bay, Inc., to be used as follows:

1. Up to 10 percent may be used for administrative costs and for marketing of the plate.

2. Ten percent shall be distributed to Rotary's Camp Florida for direct support to all programs and services provided to children with special needs who attend the camp.

3. The remainder shall be distributed, proportionally based on sales, to each Rotary district in the state in support of Rotary youth programs in Florida.

(84) BEAT CHILDHOOD CANCER LICENSE PLATES.—

(a) The department shall develop a Beat Childhood Cancer license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Beat Childhood Cancer" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Beat Nb, Inc., which may use up to 10 percent of the proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the plate. The remaining proceeds shall be used by the

corporation to fund pediatric cancer treatment and research.

(85) FLORIDA BAY FOREVER LICENSE PLATES.—

(a) The department shall develop a Florida Bay Forever license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Florida Bay Forever" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Florida National Park Association, Inc., which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The remainder of the funds shall be used to supplement the Everglades National Park's budgets and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.

(86) BONEFISH AND TARPON TRUST LICENSE PLATES.—

(a) The department shall develop a Bonefish and Tarpon Trust license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Bonefish and Tarpon Trust" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Bonefish and Tarpon Trust, which may use

up to 10 percent of the proceeds to promote and market the license plate. The remainder of the proceeds shall be used to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments through stewardship, research, education, and advocacy.

Section 8. Section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits and attestations required; annual use fees of specialty license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

(b) Any organization not subject to audit pursuant to s. 215.97 shall annually attest, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department. In addition, the department shall audit any such organization every 3 years to ensure proceeds have been used in compliance with ss. 320.08056 and 320.08058.

(c) Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General. The annual attestation shall be submitted to the department for review within 9 months after

the end of the organization's fiscal year.

(2)(a) Within 120 days after receiving an organization's audit or attestation, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). In determining compliance, the department may commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations.

(b) The department must discontinue the distribution of revenues to any organization failing to submit the required documentation as required in subsection (1), but may resume distribution of the revenues upon receipt of the required information.

(c) If the department or its designee determines that an organization has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, the department must discontinue the distribution of the revenues to the organization. The department shall notify the organization of its findings and direct the organization to make the changes necessary in order to comply with this chapter. If the officers of the organization sign an affidavit under penalties of perjury stating that they acknowledge the findings of the department and attest that they have taken corrective action and that the organization will submit to a followup review by the department,

the department may resume the distribution of revenues.

(d) If an organization fails to comply with the department's recommendations and corrective actions as outlined in paragraph (c), the revenue distributions shall be discontinued until completion of the next regular session of the Legislature. The department shall notify the President of the Senate and the Speaker of the House of Representatives by the first day of the next regular session of any organization whose revenues have been withheld as a result of this paragraph. If the Legislature does not provide direction to the organization and the department regarding the status of the undistributed revenues, the department shall deauthorize the plate and the undistributed revenues shall be immediately deposited into the Highway Safety Operating Trust Fund.

(3) The department or its designee has the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 9. Paragraph (b) of subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of $20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed as follows:

(b) Twenty percent to Preserve Vision ~~Prevent Blindness~~ Florida.

Section 10. Section 320.0875, Florida Statutes, is created to read:

320.0875 Purple Heart special motorcycle license plate.—

(1) Upon application to the department and payment of the license tax for the motorcycle as provided in s. 320.08, a resident of the state who owns or leases a motorcycle that is not used for hire or commercial use shall be issued a Purple Heart special motorcycle license plate if he or she provides documentation acceptable to the department that he or she is a recipient of the Purple Heart medal.

(2) The Purple Heart special motorcycle license plate shall be stamped with the term "Combat-wounded Veteran" followed by the serial number of the license plate. The Purple Heart special motorcycle license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 11. Paragraph (a) of subsection (1) of section 320.089, Florida Statutes, is amended to read:

320.089 Veterans of the United States Armed Forces; members of National Guard; survivors of Pearl Harbor; Purple Heart medal recipients; Bronze Star recipients; active or retired United States Armed Forces reservists; Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge recipients; Combat Action Ribbon recipients; Air Force Combat Action Medal recipients; Distinguished Flying Cross recipients; former

prisoners of war; Korean War Veterans; Vietnam War Veterans; Operation Desert Shield Veterans; Operation Desert Storm Veterans; Operation Enduring Freedom Veterans; Operation Iraqi Freedom Veterans; Women Veterans; World War II Veterans; and Navy Submariners; special license plates; fee.—

(1)(a) Each owner or lessee of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and a veteran of the United States Armed Forces, a Woman Veteran, a World War II Veteran, a Navy Submariner, an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, a recipient of the Bronze Star, an active or retired member of any branch of the United States Armed Forces Reserve, or a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, or Distinguished Flying Cross, upon application to the department, accompanied by proof of release or discharge from any branch of the United States Armed Forces, proof of active membership or retired status in the Florida National Guard, proof of membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, proof of being a Bronze Star recipient, proof of active or retired membership in any

branch of the United States Armed Forces Reserve, or proof of membership in the Combat Infantrymen's Association, Inc., proof of being a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, or Distinguished Flying Cross, and upon payment of the license tax for the vehicle as provided in s. 320.08, shall be issued a license plate as provided by s. 320.06 which, in lieu of the serial numbers prescribed by s. 320.06, is stamped with the words "Veteran," "Woman Veteran," "WWII Veteran," "Navy Submariner," "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," "Bronze Star," "U.S. Reserve," "Combat Infantry Badge," "Combat Medical Badge," "Combat Action Badge," "Combat Action Ribbon," "Air Force Combat Action Medal," or "Distinguished Flying Cross," as appropriate, and a likeness of the related campaign medal or badge, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 12. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2018.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Grant, J. offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraph (a) of subsection (3) of section 320.06, Florida Statutes, is amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(3)(a) Registration license plates must be made of metal specially treated with a retroreflection material, as specified by the department. The registration license plate is designed to increase nighttime visibility and legibility and must be at least 6 inches wide and not less than 12 inches in length, unless a plate with reduced dimensions is deemed necessary by

the department to accommodate motorcycles, mopeds, or similar smaller vehicles. Validation stickers must also be treated with a retroreflection material, must be of such size as specified by the department, and must adhere to the license plate. The registration license plate must be imprinted with a combination of bold letters and numerals or numerals, not to exceed seven digits, to identify the registration license plate number. The license plate must be imprinted with the word "Florida" at the top and the name of the county in which it is sold, the state motto, or the words "Sunshine State" at the bottom. Apportioned license plates must have the word "Apportioned" at the bottom and license plates issued for vehicles taxed under s. 320.08(3)(d), (4)(m) or (n), (5)(b) or (c), or (14) must have the word "Restricted" at the bottom. License plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Dealer" at the bottom unless the license plate is a specialty license plate as authorized in s. 320.08056. Manufacturer license plates issued for vehicles taxed under s. 320.08(12) must be imprinted with the word "Florida" at the top and the word "Manufacturer" at the bottom. License plates issued for vehicles taxed under s. 320.08(5)(d) or (e) must be imprinted with the word "Wrecker" at the bottom. Any county may, upon majority vote of the county commission, elect to have the county name removed from the license plates sold in that county. The state motto or the words

"Sunshine State" shall be printed in lieu thereof. A license plate issued for a vehicle taxed under s. 320.08(6) may not be assigned a registration license number, or be issued with any other distinctive character or designation, that distinguishes the motor vehicle as a for-hire motor vehicle.

Section 2. Subsection (1) of section 320.0605, Florida Statutes, is amended to read:

320.0605 Certificate of registration; possession required; exception.—

(1)(a) The registration certificate or an official copy thereof, including an electronic copy in a format authorized by the department, a true copy of rental or lease documentation issued for a motor vehicle or issued for a replacement vehicle in the same registration period, a temporary receipt printed upon self-initiated electronic renewal of a registration via the Internet, or a cab card issued for a vehicle registered under the International Registration Plan shall, at all times while the vehicle is being used or operated on the roads of this state, be in the possession of the operator thereof or be carried in the vehicle for which issued and shall be exhibited upon demand of any authorized law enforcement officer or any agent of the department, except for a vehicle registered under s. 320.0657. ~~The provisions of~~ This section does ~~do~~ not apply during the first 30 days after purchase of a replacement vehicle. A violation of this section is a noncriminal traffic

infraction, punishable as a nonmoving violation as provided in chapter 318.

(b)1. The act of presenting to a law enforcement officer or agent of the department an electronic device displaying a department-authorized electronic copy of a registration certificate does not constitute consent for the officer or agent to access any information on the device other than the displayed registration certificate.

2. The person who presents the device to the officer or agent assumes the liability for any resulting damage to the device.

Section 3. Paragraph (b) of subsection (2) of section 320.0657, Florida Statutes, is amended to read:

320.0657 Permanent registration; fleet license plates.—

(2)

(b) The plates, which shall be of a distinctive color, shall have the word "Fleet" appearing at the bottom and the word "Florida" appearing at the top unless the license plate is a specialty license plate as authorized in s. 320.08056. The plates shall conform in all respects to the provisions of this chapter, except as specified herein. For additional fees as set forth in s. 320.08056, fleet companies may purchase specialty license plates in lieu of the standard fleet license plates. Fleet companies shall be responsible for all costs associated with the specialty license plate, including all annual use fees,

processing fees, fees associated with switching license plate types, and any other applicable fees.

Section 4. Subsection (12) of section 320.08, Florida Statutes, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(3), tri-vehicles as defined in s. 316.003, and mobile homes as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(12) DEALER AND MANUFACTURER LICENSE PLATES.—A franchised motor vehicle dealer, independent motor vehicle dealer, marine boat trailer dealer, or mobile home dealer and manufacturer license plate: $17 flat, of which $4.50 shall be deposited into the General Revenue Fund. For additional fees as set forth in s. 320.08056, dealers may purchase specialty license plates in lieu of the standard graphic dealer license plates. Dealers shall be responsible for all costs associated with the specialty license plate, including all annual use fees, processing fees, fees associated with switching license plate types, and any other applicable fees.

Section 5. Section 320.08053, Florida Statutes, is amended to read:

320.08053 Establishment of ~~Requirements for requests to establish~~ specialty license plates.—

(1) If a specialty license plate requested by an organization is approved by law, the organization must submit the proposed art design for the specialty license plate to the department, in a medium prescribed by the department, as soon as practicable, but no later than 60 days after the act approving the specialty license plate becomes a law.

(2)(a) Within 120 days after ~~following~~ the specialty license plate becomes ~~becoming~~ law, the department shall establish a method to issue a specialty license plate voucher to allow for the presale of the specialty license plate. The processing fee as prescribed in s. 320.08056, the service charge and branch fee as prescribed in s. 320.04, and the annual use fee as prescribed in s. 320.08056 shall be charged for the voucher. All other applicable fees shall be charged at the time of issuance of the license plates.

(b) Within 24 months after the presale specialty license plate voucher is established, the approved specialty license plate organization must record with the department a minimum of 3,000 ~~1,000~~ voucher sales, or in the case of an out-of-state college or university license plate, 4,000 voucher sales, before manufacture of the license plate may begin ~~commence~~. If, at the conclusion of the 24-month presale period, the minimum sales requirement has ~~requirements have~~ not been met, the specialty

plate is deauthorized and the department shall discontinue development of the plate and discontinue issuance of the presale vouchers. Upon deauthorization of the license plate, a purchaser of the license plate voucher may use the annual use fee collected as a credit towards any other specialty license plate or apply for a refund on a form prescribed by the department.

(3)(a) If the Legislature has approved 125 or more specialty license plates, the department may not make any new specialty license plates available for design, presale, or issuance until a sufficient number of plates are discontinued pursuant to s. 320.08056(8) such that the number of plates being issued is reduced to fewer than 125.

(b) New specialty license plates that have been approved by law but are awaiting issuance under paragraph (a) shall be issued in the order they appear in s. 320.08056(4) provided that they have met the presale requirement. All other provisions of this section must also be met before a plate is issued. If the next awaiting specialty license plate has not met the presale requirement, the department shall proceed in the order provided in s. 320.08056(4) to identify the next qualified specialty license plate that has met the presale requirement. The department shall cycle through the list in statutory order.

Section 6. Subsection (2) of section 320.08056, Florida Statutes, is amended, paragraphs (ff) through (ddd), (fff) through (ppp), and (sss) through (eeee) of subsection (4) are

redesignated as paragraphs (ee) through (ccc), (ddd) through (nnn), and (ooo) through (aaaa), respectively, present paragraphs (ee), (eee), (qqq), and (rrr) of that subsection are amended, new paragraphs (bbbb) through (mmmm) are added to that subsection, paragraphs (c) through (f) are added to subsection (8), paragraph (a) of subsection (10) and subsection (11) are amended, subsection (12) is renumbered as subsection (13), and a new subsection (12) is added to that section, to read:

320.08056 Specialty license plates.—

(2)(a) The department shall issue a specialty license plate to the owner or lessee of any motor vehicle, except a vehicle registered under the International Registration Plan, a commercial truck required to display two license plates pursuant to s. 320.0706, or a truck tractor, upon request and payment of the appropriate license tax and fees.

(b) The department may authorize dealer and fleet specialty license plates. With the permission of the sponsoring specialty license plate organization, a dealer or fleet company may purchase specialty license plates to be used on dealer and fleet vehicles.

(c) Notwithstanding s. 320.08058, a dealer or fleet specialty license plate must include the letters "DLR" or "FLT" on the right side of the license plate. Dealer and fleet specialty license plates must be ordered directly through the department.

(4) The following license plate annual use fees shall be collected for the appropriate specialty license plates:

~~(ee) American Red Cross license plate, $25.~~

~~(eee) Donate Organs-Pass It On license plate, $25.~~

~~(qqq) St. Johns River license plate, $25.~~

~~(rrr) Hispanic Achievers license plate, $25.~~

(bbbb) Auburn University license plate, $50.

(cccc) Donate Life Florida license plate, $25.

(dddd) Florida State Beekeepers Association license plate, $25.

(eeee) Rotary license plate, $25.

(ffff) Beat Childhood Cancer license plate, $25.

(gggg) Florida Bay Forever license plate, $25.

(hhhh) Bonefish and Tarpon Trust license plate, $25.

(iiii) Medical Professionals Who Care license plate, $25.

(jjjj) University of Georgia license plate, $50.

(kkkk) Highwaymen license plate, $25.

(llll) Ducks Unlimited license plate, $25.

(mmmm) Dan Marino Campus license plate, $25.

(8)

(c) A vehicle owner or lessee issued a specialty license plate that has been discontinued by the department may keep the discontinued specialty license plate for the remainder of the 10-year license plate replacement period and must pay all other applicable registration fees. However, such owner or lessee is

exempt from paying the applicable specialty license plate fee under subsection (4) for the remainder of the 10-year license plate replacement period.

(d) If the department discontinues issuance of a specialty license plate, all annual use fees held or collected by the department shall be distributed within 180 days after the date the specialty license plate is discontinued. Of those fees, the department shall retain an amount sufficient to defray the applicable administrative and inventory closeout costs associated with discontinuance of the plate. The remaining funds shall be distributed to the appropriate organization or organizations pursuant to s. 320.08058.

(e) If an organization that is the intended recipient of the funds pursuant to s. 320.08058 no longer exists, the department shall deposit any undisbursed funds into the Highway Safety Operating Trust Fund.

(f) Notwithstanding paragraph (a), on January 1 of each year, the department shall discontinue the specialty license plate with the fewest number of plates in circulation. A warning letter shall be mailed to the sponsoring organizations of the 10 percent of specialty license plates with the lowest number of valid, active registrations as of December 1 of each year.

(10)(a) A specialty license plate annual use fee collected and distributed under this chapter, or any interest earned from those fees, may not be used for commercial or for-profit

activities nor for general or administrative expenses, except as authorized by s. 320.08058 or to pay the cost of the audit or report required by s. 320.08062(1). The fees and any interest earned from the fees may be expended only for use in this state unless the annual use fee is derived from the sale of United States Armed Forces and veterans-related specialty license plates pursuant to paragraphs (4)(d), (bb), (kk), (iii), and (uuu) ~~(ll), (kkk), and (yyy)~~ and s. 320.0891 or out-of-state college or university license plates pursuant to paragraphs (4)(bbbb) and (jjjj).

(11) The annual use fee from the sale of specialty license plates, the interest earned from those fees, or any fees received by any entity ~~an agency~~ as a result of the sale of specialty license plates may not be used for the purpose of marketing to, or lobbying, entertaining, or rewarding, an employee of a governmental agency that is responsible for the sale and distribution of specialty license plates, or an elected member or employee of the Legislature.

(12) For out-of-state college or university license plates created pursuant to this section, the recipient organization shall have established an endowment, based in this state, for the purpose of providing scholarships to Florida residents meeting the requirements of this part.

Section 7. Effective October 1, 2021, paragraph (a) of subsection (8) of section 320.08056, Florida Statutes, is amended to read:

320.08056 Specialty license plates.—

(8)(a) The department must discontinue the issuance of an approved specialty license plate if the number of valid specialty plate registrations falls below 3,000, or in the case of an out-of-state college or university license plate, 4,000, ~~1,000 plates~~ for at least 12 consecutive months. A warning letter shall be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 3,000, or in the case of an out-of-state college or university license plate, 4,000 ~~1,000 plates~~. This paragraph does not apply to in-state collegiate license plates established under s. 320.08058(3), license plates of institutions in and entities of the State University System, specialty license plates that have statutory eligibility limitations for purchase, or Florida Professional Sports Team license plates established under s. 320.08058(9).

Section 8. Subsections (32) through (56), (58) through (68), and (71) through (83) of section 320.08058, Florida Statutes, are renumbered as subsections (31) through (55), (56) through (66), and (67) through (79), respectively, paragraph (a) of subsection (3), paragraph (a) of subsection (7), paragraph (b) of subsection (11), present subsections (31), (48), (57),

(65), (66), (69), and (70), and paragraph (b) of present subsection (80) are amended, and new subsections (80) through (91) are added to that section, to read:

320.08058 Specialty license plates.—

(3) COLLEGIATE LICENSE PLATES.—

(a) The department shall develop a collegiate license plate as provided in this section for state and independent universities domiciled in this state. However, any collegiate license plate created or established after October 1, 2002, must comply with the requirements of s. 320.08053 and be specifically authorized by an act of the Legislature. Collegiate license plates must bear the colors and design approved by the department as appropriate for each state and independent university. The word "Florida" must be stamped across the bottom of the plate in small letters. The department may consult with the University of Central Florida for the purpose of having the words "2017 National Champions" stamped on the University of Central Florida specialty license plate.

(7) SPECIAL OLYMPICS FLORIDA LICENSE PLATES.—

(a) Special Olympics Florida license plates must contain the official Special Olympics Florida logo and must bear the colors and ~~a~~ design ~~and colors that are~~ approved by the department. The word "Florida" must be centered at the top ~~bottom~~ of the plate, and the words "Be a Fan" ~~"Everyone Wins"~~ must be centered at the bottom ~~top~~ of the plate.

(11) INVEST IN CHILDREN LICENSE PLATES.—

(b) The proceeds of the Invest in Children license plate annual use fee must be deposited into the Juvenile Crime Prevention and Early Intervention Trust Fund within the Department of Juvenile Justice. Based on the recommendations of the juvenile justice councils, the Department of Juvenile Justice shall use the proceeds of the fee to fund programs and services that are designed to prevent juvenile delinquency. ~~The department shall allocate moneys for programs and services within each county based on that county's proportionate share of the license plate annual use fee collected by the county.~~

~~(31) AMERICAN RED CROSS LICENSE PLATES.—~~

~~(a) Notwithstanding the provisions of s. 320.08053, the department shall develop an American Red Cross license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "American Red Cross" must appear at the bottom of the plate.~~

~~(b) The department shall retain all revenues from the sale of such plates until all startup costs for developing and issuing the plates have been recovered. Thereafter, 50 percent of the annual use fees shall be distributed to the American Red Cross Chapter of Central Florida, with statistics on sales of license plates, which are tabulated by county. The American Red Cross Chapter of Central Florida must distribute to each of the chapters in this state the moneys received from sales in the~~

~~counties covered by the respective chapters, which moneys must be used for education and disaster relief in Florida. Fifty percent of the annual use fees shall be distributed proportionately to the three statewide approved poison control centers for purposes of combating bioterrorism and other poison-related purposes.~~

(47) ~~(48)~~ LIVE THE DREAM LICENSE PLATES.—

(a) The department shall develop a Live the Dream license plate as provided in this section. Live the Dream license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Live the Dream" must appear at the bottom of the plate.

(b) The proceeds of the annual use fee shall be distributed to the Dream Foundation, Inc., to ~~The Dream Foundation, Inc., shall retain the first $60,000 in proceeds from the annual use fees as reimbursement for administrative costs, startup costs, and costs incurred in the approval process. Thereafter, up to 25 percent shall be used for continuing promotion and marketing of the license plate and concept. The remaining funds shall~~ be used in the following manner:

1. Up to 5 percent may be used to administer, promote, and market the license plate.

2. ~~1.~~ At least 30 ~~Twenty-five~~ percent shall be distributed equally among the sickle cell organizations that are Florida

members of the Sickle Cell Disease Association of America, Inc., for programs that provide research, care, and treatment for sickle cell disease.

3.~~2.~~ At least 30 ~~Twenty-five~~ percent shall be distributed to the Florida chapter of the March of Dimes for programs and services that improve the health of babies through the prevention of birth defects and infant mortality.

4.~~3.~~ At least 15 ~~Ten~~ percent shall be distributed to the Florida Association of Healthy Start Coalitions to decrease racial disparity in infant mortality and to increase healthy birth outcomes. Funding will be used by local Healthy Start Coalitions to provide services and increase screening rates for high-risk pregnant women, children under 4 years of age, and women of childbearing age.

5.~~4.~~ At least 15 ~~Ten~~ percent shall be distributed to Chapman ~~the Community~~ Partnership ~~for Homeless~~, Inc., for programs that provide relief from poverty, hunger, and homelessness.

6. Up to 5 percent may be distributed by the department on behalf of The Dream Foundation, Inc., to The Martin Luther King, Jr. Center for Nonviolent Social Change, Inc., as a royalty for the use of the image of Dr. Martin Luther King, Jr.

~~5. Five percent of the proceeds shall be used by the foundation for administrative costs directly associated with~~

~~operations as they relate to the management and distribution of the proceeds.~~

~~(57) DONATE ORGANS-PASS IT ON LICENSE PLATES.—~~

~~(a) The department shall develop a Donate Organs-Pass It On license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Donate Organs-Pass It On" must appear at the bottom of the plate.~~

~~(b) The annual use fees shall be distributed to Transplant Foundation, Inc., and shall use up to 10 percent of the proceeds from the annual use fee for marketing and administrative costs that are directly associated with the management and distribution of the proceeds. The remaining proceeds shall be used to provide statewide grants for patient services, including preoperative, rehabilitative, and housing assistance; organ donor education and awareness programs; and statewide medical research.~~

(63) ~~(65)~~ LIGHTHOUSE ASSOCIATION LICENSE PLATES.—

(a) The department shall develop a Lighthouse Association license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "SaveOurLighthouses.org ~~Visit Our Lights~~" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Florida Lighthouse Association, Inc., which may use a maximum of 10 percent of the proceeds to promote and market the plates. The

remaining proceeds shall be used by the association to fund the preservation, restoration, and protection of the 29 historic lighthouses remaining in the state.

(64) ~~(66)~~ IN GOD WE TRUST LICENSE PLATES.—

(a) The department shall develop an In God We Trust license plate as provided in this section. However, the requirements of s. 320.08053 must be met before the plates are issued. In God We Trust license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "In God We Trust" must appear in the body of the plate.

(b) The license plate annual use fees shall be distributed to the In God We Trust Foundation, Inc., which may use up to 10 percent of the proceeds to offset administrative costs, promotion, and marketing of the license plate directly associated with the operations of the foundation. The remaining proceeds may be used to address the needs of the military community and the public safety community; provide educational grants and scholarships to foster self-reliance and stability in Florida's youth; and provide education in ~~to fund educational scholarships for the children of Florida residents who are members of the United States Armed Forces, the National Guard, and the United States Armed Forces Reserve and for the children of public safety employees who have died in the line of duty who are not covered by existing state law. Funds shall also be~~

~~distributed to other s. 501(c)(3) organizations that may apply for grants and scholarships and to provide educational grants to~~ public and private schools regarding ~~to promote~~ the historical ~~and religious~~ significance of religion in American and Florida history. The In God We Trust Foundation, Inc., shall create an advisory council comprised of persons with knowledge in these program areas to make funding recommendations ~~distribute the license plate annual use fees in the following manner:~~

~~1. The In God We Trust Foundation, Inc., shall retain all revenues from the sale of such plates until all startup costs for developing and establishing the plate have been recovered.~~

~~2. Ten percent of the funds received by the In God We Trust Foundation, Inc., shall be expended for administrative costs, promotion, and marketing of the license plate directly associated with the operations of the In God We Trust Foundation, Inc.~~

~~3. All remaining funds shall be expended by the In God We Trust Foundation, Inc., for programs~~.

~~(69) ST. JOHNS RIVER LICENSE PLATES.~~

~~(a) The department shall develop a St. Johns River license plate as provided in this section. The St. Johns River license plates must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "St. Johns River" must appear at the bottom of the plate.~~

~~(b) The requirements of s. 320.08053 must be met prior to the issuance of the plate. Thereafter, the license plate annual use fees shall be distributed to the St. Johns River Alliance, Inc., a s. 501(c)(3) nonprofit organization, which shall administer the fees as follows:~~

~~1. The St. Johns River Alliance, Inc., shall retain the first $60,000 of the annual use fees as direct reimbursement for administrative costs, startup costs, and costs incurred in the development and approval process. Thereafter, up to 10 percent of the annual use fee revenue may be used for administrative costs directly associated with education programs, conservation, research, and grant administration of the organization, and up to 10 percent may be used for promotion and marketing of the specialty license plate.~~

~~2. At least 30 percent of the fees shall be available for competitive grants for targeted community-based or county-based research or projects for which state funding is limited or not currently available. The remaining 50 percent shall be directed toward community outreach and access programs. The competitive grants shall be administered and approved by the board of directors of the St. Johns River Alliance, Inc. A grant advisory committee shall be composed of six members chosen by the St. Johns River Alliance board members.~~

~~3. Any remaining funds shall be distributed with the approval of and accountability to the board of directors of the~~

~~St. Johns River Alliance, Inc., and shall be used to support activities contributing to education, outreach, and springs conservation.~~

~~(70) HISPANIC ACHIEVERS LICENSE PLATES.~~

~~(a) Notwithstanding the requirements of s. 320.08053, the department shall develop a Hispanic Achievers license plate as provided in this section. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Hispanic Achievers" must appear at the bottom of the plate.~~

~~(b) The proceeds from the license plate annual use fee shall be distributed to National Hispanic Corporate Achievers, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to fund grants to nonprofit organizations to operate programs and provide scholarships and for marketing the Hispanic Achievers license plate. National Hispanic Corporate Achievers, Inc., shall establish a Hispanic Achievers Grant Council that shall provide recommendations for statewide grants from available Hispanic Achievers license plate proceeds to nonprofit organizations for programs and scholarships for Hispanic and minority Floridians. National Hispanic Corporate Achievers, Inc., shall also establish a Hispanic Achievers License Plate Fund. Moneys in the fund shall be used by the grant council as provided in this paragraph. All funds received under this subsection must be used in this state.~~

~~(c) National Hispanic Corporate Achievers, Inc., may retain all proceeds from the annual use fee until documented startup costs for developing and establishing the plate have been recovered. Thereafter, the proceeds from the annual use fee shall be used as follows:~~

~~1. Up to 5 percent of the proceeds may be used for the cost of administration of the Hispanic Achievers License Plate Fund, the Hispanic Achievers Grant Council, and related matters.~~

~~2. Funds may be used as necessary for annual audit or compliance affidavit costs.~~

~~3. Up to 20 percent of the proceeds may be used to market and promote the Hispanic Achievers license plate.~~

~~4. Twenty-five percent of the proceeds shall be used by the Hispanic Corporate Achievers, Inc., located in Seminole County, for grants.~~

~~5. The remaining proceeds shall be available to the Hispanic Achievers Grant Council to award grants for services, programs, or scholarships for Hispanic and minority individuals and organizations throughout Florida. All grant recipients must provide to the Hispanic Achievers Grant Council an annual program and financial report regarding the use of grant funds. Such reports must be available to the public.~~

~~(d) Effective July 1, 2014, the Hispanic Achievers license plate will shift into the presale voucher phase, as provided in s. 320.08053(2)(b). National Hispanic Corporate Achievers, Inc.,~~

~~shall have 24 months to record a minimum of 1,000 sales. Sales include existing active plates and vouchers sold subsequent to July 1, 2014. During the voucher period, new plates may not be issued, but existing plates may be renewed. If, at the conclusion of the 24-month presale period, the requirement of a minimum of 1,000 sales has been met, the department shall resume normal distribution of the Hispanic Achievers license plate. If, after 24 months, the minimum of 1,000 sales has not been met, the department shall discontinue the Hispanic Achievers license plate. This subsection is repealed June 30, 2016.~~

(76) ~~(80)~~ FALLEN LAW ENFORCEMENT OFFICERS LICENSE PLATES.—

(b) The annual use fees shall be distributed to the Police and Kids Foundation, Inc., which may use up to ~~a maximum of~~ 10 percent of the proceeds for marketing ~~to promote and market~~ the plate. All remaining ~~The remainder of the~~ proceeds shall be distributed to and used by the Police and Kids Foundation, Inc., for its operations, activities, programs, and projects ~~to invest and reinvest, and the interest earnings shall be used for the operation of the Police and Kids Foundation, Inc~~.

(80) AUBURN UNIVERSITY LICENSE PLATES.—

(a) The department shall develop an Auburn University license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the

plate, and the words "War Eagle" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Tampa Bay Auburn Club, which must use the moneys for the purpose of awarding scholarships to Florida residents attending Auburn University. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program pursuant to s. 1009.531 and shall use the scholarship funds for tuition and other expenses related to attending Auburn University.

(81) DONATE LIFE FLORIDA LICENSE PLATES.—

(a) The department shall develop a Donate Life Florida license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Donors Save Lives" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Donate Life Florida, which may use up to 10 percent of the proceeds for marketing and administrative costs. The remaining proceeds of the annual use fees shall be used by Donate Life Florida to educate Florida residents on the importance of organ, tissue, and eye donation and for the continued maintenance of the Joshua Abbott Organ and Tissue Donor Registry.

(82) FLORIDA STATE BEEKEEPERS ASSOCIATION LICENSE PLATES.—

(a) The department shall develop a Florida State Beekeepers Association license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Save the Bees" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the Florida State Beekeepers Association, a Florida nonprofit corporation. The Florida State Beekeepers Association may use up to 10 percent of the annual use fees for administrative, promotional, and marketing costs of the license plate.

(c) The remaining funds shall be distributed to the Florida State Beekeepers Association and shall be used to raise awareness of the importance of beekeeping to Florida agriculture by funding honeybee research, education, outreach, and husbandry. The Florida State Beekeepers Association board of managers must approve and is accountable for all such expenditures.

(83) ROTARY LICENSE PLATES.—

(a) The department shall develop a Rotary license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the word

"Rotary" must appear on the bottom of the plate. The license plate must bear the Rotary International wheel emblem.

(b) The annual use fees shall be distributed to the Community Foundation of Tampa Bay, Inc., to be used as follows:

1. Up to 10 percent may be used for administrative costs and for marketing of the plate.

2. Ten percent shall be distributed to Rotary's Camp Florida for direct support to all programs and services provided to children with special needs who attend the camp.

3. The remainder shall be distributed, proportionally based on sales, to each Rotary district in the state in support of Rotary youth programs in Florida.

(84) BEAT CHILDHOOD CANCER LICENSE PLATES.—

(a) The department shall develop a Beat Childhood Cancer license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Beat Childhood Cancer" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Beat Nb, Inc., which may use up to 10 percent of the proceeds for administrative costs directly associated with the operation of the corporation and for marketing and promoting the plate. The remaining proceeds shall be used by the corporation to fund pediatric cancer treatment and research.

(85) FLORIDA BAY FOREVER LICENSE PLATES.—

(a) The department shall develop a Florida Bay Forever license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Florida Bay Forever" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Florida National Park Association, Inc., which may use up to 10 percent of the proceeds for administrative costs and marketing of the plate. The remainder of the funds shall be used to supplement the Everglades National Park's budgets and to support educational, interpretive, historical, and scientific research relating to the Everglades National Park.

(86) BONEFISH AND TARPON TRUST LICENSE PLATES.—

(a) The department shall develop a Bonefish and Tarpon Trust license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Bonefish and Tarpon Trust" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Bonefish and Tarpon Trust, which may use up to 10 percent of the proceeds to promote and market the

license plate. The remainder of the proceeds shall be used to conserve and enhance Florida bonefish and tarpon fisheries and their respective environments through stewardship, research, education, and advocacy.

(87) MEDICAL PROFESSIONALS WHO CARE LICENSE PLATES.—

(a) The department shall develop a Medical Professionals Who Care license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Medical Professionals Who Care" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Florida Benevolent Group, Inc., a Florida nonprofit corporation, which may use up to 10 percent of such fees for administrative costs, marketing, and promotion of the plate. The remainder of the revenues shall be used by Florida Benevolent Group, Inc., to assist low-income individuals in obtaining a medical education and career through scholarships, support, and guidance.

(88) UNIVERSITY OF GEORGIA LICENSE PLATES.—

(a) The department shall develop a University of Georgia license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the

plate, and the words "The University of Georgia" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Georgia Bulldog Club of Jacksonville, which must use the moneys for the purpose of awarding scholarships to Florida residents attending the University of Georgia. Students receiving these scholarships must be eligible for the Florida Bright Futures Scholarship Program pursuant to s. 1009.531 and shall use the scholarship funds for tuition and other expenses related to attending the University of Georgia.

(89) HIGHWAYMEN LICENSE PLATES.—

(a) The department shall develop a Highwaymen license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the word "Highwaymen" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to the City of Fort Pierce, subject to a city resolution designating the city as the fiscal agent of the license plate. The city may use up to 10 percent of the fees for administrative costs and marketing of the plate and shall use the remainder of the fees as follows:

1. Before completion of construction of the Highwaymen Museum and African-American Cultural Center, the city shall distribute at least 15 percent to the St. Lucie Education

Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County. The remainder of the fees shall be used by the city to fund the construction of the Highwaymen Museum and African-American Cultural Center.

2. Upon completion of construction of the Highwaymen Museum and African-American Cultural Center, the city shall distribute at least 10 percent to the St. Lucie Education Foundation, Inc., to fund art education and art projects in public schools within St. Lucie County. The remainder of the fees shall be used by the city to fund the day-to-day operations of the Highwaymen Museum and African-American Cultural Center.

(90) DUCKS UNLIMITED LICENSE PLATES.—

(a) The department shall develop a Ducks Unlimited license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Conserving Florida Wetlands" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to Ducks Unlimited, Inc., a nonprofit corporation under s. 501(c)(3) of the Internal Revenue Code, to be used as follows:

1. Up to 5 percent may be used for administrative costs and marketing of the plate.

2. At least 95 percent shall be used in this state to support the mission and efforts of Ducks Unlimited, Inc., to conserve, restore, and manage Florida wetlands and associated habitats for the benefit of waterfowl, other wildlife, and people.

(91) DAN MARINO CAMPUS LICENSE PLATES.—

(a) The department shall develop a Dan Marino Campus license plate as provided in this section and s. 320.08053. The plate must bear the colors and design approved by the department. The word "Florida" must appear at the top of the plate, and the words "Marino Campus" must appear at the bottom of the plate.

(b) The annual use fees from the sale of the plate shall be distributed to the Dan Marino Foundation, a Florida nonprofit corporation, which may use up to 10 percent of such fees for administrative costs and marketing of the plate. The balance of the fees shall be used by the Dan Marino Foundation to assist Floridians with developmental disabilities in becoming employed, independent, and productive and to promote and fund education scholarships and awareness of these services.

Section 9. Section 320.08062, Florida Statutes, is amended to read:

320.08062 Audits and attestations required; annual use fees of specialty license plates.—

(1)(a) All organizations that receive annual use fee proceeds from the department are responsible for ensuring that proceeds are used in accordance with ss. 320.08056 and 320.08058.

(b) Any organization not subject to audit pursuant to s. 215.97 shall annually attest, under penalties of perjury, that such proceeds were used in compliance with ss. 320.08056 and 320.08058. The attestation shall be made annually in a form and format determined by the department. In addition, the department shall audit any such organization every 3 years to ensure proceeds have been used in compliance with ss. 320.08056 and 320.08058.

(c) Any organization subject to audit pursuant to s. 215.97 shall submit an audit report in accordance with rules promulgated by the Auditor General. The annual attestation shall be submitted to the department for review within 9 months after the end of the organization's fiscal year.

(2)(a) Within 120 days after receiving an organization's audit or attestation, the department shall determine which recipients of revenues from specialty license plate annual use fees have not complied with subsection (1). In determining compliance, the department may commission an independent actuarial consultant, or an independent certified public accountant, who has expertise in nonprofit and charitable organizations.

(b) The department must discontinue the distribution of revenues to any organization failing to submit the required documentation as required in subsection (1), but may resume distribution of the revenues upon receipt of the required information.

(c) If the department or its designee determines that an organization has not complied or has failed to use the revenues in accordance with ss. 320.08056 and 320.08058, the department must discontinue the distribution of the revenues to the organization. The department shall notify the organization of its findings and direct the organization to make the changes necessary in order to comply with this chapter. If the officers of the organization sign an affidavit under penalties of perjury stating that they acknowledge the findings of the department and attest that they have taken corrective action and that the organization will submit to a followup review by the department, the department may resume the distribution of revenues.

(d) If an organization fails to comply with the department's recommendations and corrective actions as outlined in paragraph (c), the revenue distributions shall be discontinued until completion of the next regular session of the Legislature. The department shall notify the President of the Senate and the Speaker of the House of Representatives by the first day of the next regular session of any organization whose revenues have been withheld as a result of this paragraph. If

the Legislature does not provide direction to the organization and the department regarding the status of the undistributed revenues, the department shall deauthorize the plate and the undistributed revenues shall be immediately deposited into the Highway Safety Operating Trust Fund.

(3) The department or its designee has the authority to examine all records pertaining to the use of funds from the sale of specialty license plates.

Section 10. Paragraph (b) of subsection (4) of section 320.08068, Florida Statutes, is amended to read:

320.08068 Motorcycle specialty license plates.—

(4) A license plate annual use fee of $20 shall be collected for each motorcycle specialty license plate. Annual use fees shall be distributed as follows:

(b) Twenty percent to Preserve Vision ~~Prevent Blindness~~ Florida.

Section 11. Subsection (8) of section 320.0807, Florida Statutes, is renumbered as subsection (6), and present subsections (5), (6), and (7) of that section are amended to read:

320.0807 Special license plates for Governor and federal and state legislators.—

~~(5) Upon application by any current or former President of the Senate and payment of the fees prescribed by s. 320.0805, the department may issue a license plate stamped "Senate~~

~~President" followed by the number assigned by the department or chosen by the applicant if it is not already in use. Upon application by any current or former Speaker of the House of Representatives and payment of the fees prescribed by s. 320.0805, the department may issue a license plate stamped "House Speaker" followed by the number assigned by the department or chosen by the applicant if it is not already in use.~~

~~(6)(a) Upon application by any former member of Congress or former member of the state Legislature, payment of the fees prescribed by s. 320.0805, and payment of a one-time fee of $500, the department may issue a former member of Congress, state senator, or state representative a license plate stamped "Retired Congress," "Retired Senate," or "Retired House," as appropriate, for a vehicle owned by the former member.~~

~~(b) To qualify for a Retired Congress, Retired Senate, or Retired House prestige license plate, a former member must have served at least 4 years as a member of Congress, state senator, or state representative, respectively.~~

~~(c) Four hundred fifty dollars of the one-time fee collected under paragraph (a) shall be distributed to the account of the direct-support organization established pursuant to s. 272.136 and used for the benefit of the Florida Historic Capitol Museum, and the remaining $50 shall be deposited into the Highway Safety Operating Trust Fund.~~

(5) ~~(7)~~ The department may create a unique plate design for plates to be used by members ~~or former members~~ of the Legislature ~~or Congress~~ as provided in subsection ~~subsections~~ (2) ~~, (5), and (6)~~.

Section 12. Section 320.0875, Florida Statutes, is created to read:

320.0875 Purple Heart special motorcycle license plate.—

(1) Upon application to the department and payment of the license tax for the motorcycle as provided in s. 320.08, a resident of the state who owns or leases a motorcycle that is not used for hire or commercial use shall be issued a Purple Heart special motorcycle license plate if he or she provides documentation acceptable to the department that he or she is a recipient of the Purple Heart medal.

(2) The Purple Heart special motorcycle license plate shall be stamped with the term "Combat-wounded Veteran" followed by the serial number of the license plate. The Purple Heart special motorcycle license plate may have the term "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 13. Paragraph (a) of subsection (1) of section 320.089, Florida Statutes, is amended to read:

320.089 Veterans of the United States Armed Forces; members of National Guard; survivors of Pearl Harbor; Purple Heart medal recipients; Bronze Star recipients; active or

retired United States Armed Forces reservists; Combat Infantry Badge, Combat Medical Badge, or Combat Action Badge recipients; Combat Action Ribbon recipients; Air Force Combat Action Medal recipients; Distinguished Flying Cross recipients; former prisoners of war; Korean War Veterans; Vietnam War Veterans; Operation Desert Shield Veterans; Operation Desert Storm Veterans; Operation Enduring Freedom Veterans; Operation Iraqi Freedom Veterans; Women Veterans; World War II Veterans; and Navy Submariners; special license plates; fee.—

(1)(a) Each owner or lessee of an automobile or truck for private use or recreational vehicle as specified in s. 320.08(9)(c) or (d), which is not used for hire or commercial use, who is a resident of the state and a veteran of the United States Armed Forces, a Woman Veteran, a World War II Veteran, a Navy Submariner, an active or retired member of the Florida National Guard, a survivor of the attack on Pearl Harbor, a recipient of the Purple Heart medal, a recipient of the Bronze Star, an active or retired member of any branch of the United States Armed Forces Reserve, or a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, or Distinguished Flying Cross, upon application to the department, accompanied by proof of release or discharge from any branch of the United States Armed Forces, proof of active membership or retired status in the Florida National Guard, proof of

membership in the Pearl Harbor Survivors Association or proof of active military duty in Pearl Harbor on December 7, 1941, proof of being a Purple Heart medal recipient, proof of being a Bronze Star recipient, proof of active or retired membership in any branch of the United States Armed Forces Reserve, or proof of membership in the Combat Infantrymen's Association, Inc., proof of being a recipient of the Combat Infantry Badge, Combat Medical Badge, Combat Action Badge, Combat Action Ribbon, Air Force Combat Action Medal, or Distinguished Flying Cross, and upon payment of the license tax for the vehicle as provided in s. 320.08, shall be issued a license plate as provided by s. 320.06 which, in lieu of the serial numbers prescribed by s. 320.06, is stamped with the words "Veteran," "Woman Veteran," "WWII Veteran," "Navy Submariner," "National Guard," "Pearl Harbor Survivor," "Combat-wounded veteran," "Bronze Star," "U.S. Reserve," "Combat Infantry Badge," "Combat Medical Badge," "Combat Action Badge," "Combat Action Ribbon," "Air Force Combat Action Medal," or "Distinguished Flying Cross," as appropriate, and a likeness of the related campaign medal or badge, followed by the serial number of the license plate. Additionally, the Purple Heart plate may have the words "Purple Heart" stamped on the plate and the likeness of the Purple Heart medal appearing on the plate.

Section 14. Subsection (3) is added to section 320.95, Florida Statutes, to read:

320.95 Transactions by electronic or telephonic means.—

(3) The department may authorize issuance of an electronic certificate of registration in addition to printing a paper registration certificate. A motor vehicle operator may present for inspection an electronic device displaying an electronic certificate of registration issued pursuant to this subsection in lieu of a paper registration certificate. Such presentation does not constitute consent for inspection of any information on the device other than the displayed certificate of registration. The person who presents the device for inspection assumes the liability for any resulting damage to the device.

Section 15. By November 1, 2018, the annual use fees withheld by the Department of Highway Safety and Motor Vehicles from the sale of the Live the Dream specialty license plate shall be used first to satisfy all outstanding royalty payments due to The Martin Luther King, Jr. Center for Nonviolent Social Change, Inc., for the use of the image of Dr. Martin Luther King, Jr. All remaining funds shall be distributed to the subrecipients on a pro rata basis according to the percentages specified in s. 320.08058(47), Florida Statutes.

Section 16. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2018.

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

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to license plates and registrations; amending s. 320.06, F.S.; providing an exception to the design of dealer license plates; amending s. 320.0605, F.S.; authorizing presentation of an electronic copy of a registration certificate to a law enforcement officer or agent of the Department of Highway Safety and Motor Vehicles; providing construction; providing for liability; amending s. 320.0657, F.S.; providing an exception to the design of fleet license plates; authorizing fleet companies to purchase specialty license plates in lieu of standard fleet license plates; requiring fleet companies to be responsible for certain costs; amending s. 320.08, F.S.; authorizing dealers to purchase specialty license plates in lieu of standard graphic dealer license plates; requiring dealers to be responsible for certain costs; amending s. 320.08053, F.S.; revising presale requirements for issuance of a specialty license plate; amending s. 320.08056, F.S.; allowing the department to authorize dealer and fleet specialty license plates; providing requirements for such plates; deleting certain specialty license plates; establishing an annual use fee for certain

specialty license plates; revising provisions for discontinuing issuance of a specialty license plate; revising applicability; prohibiting use fees received by any entity from being used for certain purposes; requiring certain organizations to establish endowments based in this state for providing scholarships to Florida residents; amending s. 320.08058, F.S.; authorizing the department to consult with the University of Central Florida for certain purposes; revising the design of certain specialty license plates; deleting certain specialty license plates; revising the distribution of annual use fees for certain specialty license plates; directing the department to develop certain specialty license plates; providing for distribution and use of fees collected from the sale of the plates; amending s. 320.08062, F.S.; directing the department to audit certain organizations that receive funds from the sale of specialty license plates; amending s. 320.08068, F.S.; requiring distribution of a specified percentage of motorcycle specialty license plate annual use fees to Preserve Vision Florida; amending s. 320.0807, F.S.; repealing provisions relating to special license plates for certain federal and state legislators; creating s. 320.0875, F.S.; providing for a special

motorcycle license plate to be issued to a recipient of the Purple Heart; providing requirements for the plate; amending s. 320.089, F.S.; providing for a special license plate to be issued to a recipient of the Bronze Star; amending s. 320.95, F.S.; allowing the department to authorize issuance of an electronic certificate of registration; authorizing such certificate to be presented for inspection; providing construction; providing for liability; providing for distribution of certain annual use fees withheld by the department; providing effective dates.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1383 Tax Deed Sales
SPONSOR(S): Ways & Means Committee, Latvala
TIED BILLS: **IDEN./SIM. BILLS:** SB 1504

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	12 Y, 0 N	Rivera	Miller
2) Ways & Means Committee	17 Y, 0 N, As CS	Curry	Langston
3) Government Accountability Committee		Rivera	Williamson

SUMMARY ANALYSIS

Local ad valorem taxes are due on November 1 or as soon as the certified tax roll is received by the tax collector. Taxes become delinquent on April 1 of the following year or immediately upon the expiration of 60 days from the date the original tax notice was mailed, whichever is later. If ad valorem taxes are not paid by June 1 or the 60th day after the tax becomes delinquent, whichever is later, the tax collector advertises and sells tax certificates to pay the delinquency.

Two years after April 1 of the year in which the tax certificate was issued, and before the certificate expires, a certificateholder may apply for a tax deed with the tax collector. Certificateholders other than the county must pay all costs required by statute before the sale may occur, including the costs of any title search or abstract. The tax collector is responsible for notifying the clerk of the circuit court of the parties requiring notice of the pending tax deed sale. The costs to bring the property to sale are added to the opening bid on the property.

Once the tax deed sale is completed, any proceeds in excess of the opening bid are paid over to and distributed by the clerk, first to governmental entities and then to nongovernmental entities in priority. However, if the balance after the governmental liens have been paid is insufficient to cover the cost to notify possible claimants of the proceeds then the clerk may retain the entire balance as a service charge. Any unclaimed money is remitted to the state on behalf of persons entitled to notice of the tax deed sale.

The bill clarifies the responsibilities of the certificateholder applying for a tax deed, including specific costs to pay. The bill requires all tax collectors to contract with title companies or abstract companies to provide a property information report, and deletes references to title searches and abstracts. Fees for property information reports and updates will be added to the costs of sale. The bill revises certain provisions on notice, distribution of surplus funds, and makes editorial changes.

The bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Property Taxation

Ad valorem taxes are levied annually by counties, school districts, municipalities, and, if authorized, special districts,[1] based on the value of real and tangible personal property as of January 1 of each year.[2] The state cannot levy ad valorem taxes on real or tangible personal property but has preempted all other forms of taxation except as provided by general law.[3] All property must be assessed at a just value for ad valorem tax purposes, and the property appraiser determines an assessed value of property based on statutory factors including the present cash value of the property, its highest and best use assessment limitation or use classification affecting the just value of a property.[4] A property's taxable base is the fair market value of locally assessed real estate, tangible personal property, and state assessed railroad property, less certain exclusions, differentials, exemptions, and credits.[5]

Tax Collection and Tax Certificate Sales

All taxes are due on November 1 of each year or as soon as the certified tax roll is received by the tax collector.[6] Taxes become delinquent on April 1 of the following year or immediately upon the expiration of 60 days from the date the original tax notice was mailed, whichever is later.[7] After receiving the tax roll, the tax collector publishes notice in the local newspaper stating the tax roll is open for collection and, within 20 working days of receipt of the tax roll, sends each taxpayer whose address is known a tax notice with the current taxes due and any delinquent taxes due.[8]

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[1] Art. VII, s. 9, Fla. Const. Section 192.001(12), F.S., defines "real property" as land, buildings, fixtures, and all other improvements to land. The terms "land," "real estate," "realty," and "real property" may be used interchangeably. Section 192.001(11)(d), F.S., defines "tangible personal property" as all goods, chattels, and other articles of value, not including the vehicular items under art. VII, s 1(b), Fla. Const. and elsewhere, capable of manual possession and whose chief value is intrinsic to the article itself.

[2] Office of Economic & Demographic Research, *2017 Florida Tax Handbook*, p.199, available at http://edr.state.fl.us/content/revenues/reports/tax-handbook/taxhandbook2017.pdf (accessed 1/21/18)(hereinafter 2017 Tax Handbook). Section 192.001(1)and(2), F.S., define Ad valorem, or property, tax as a tax based upon the assessed value of property as determined annually by:

1. The just or fair market value of an item or property;
2. The value of property as limited by art. VII of the State Constitution; or
3. The value of property in a classified use or at a fractional value if the property is assessed solely on the basis of character or use or at a specified percentage of its value under art. VII of the State Constitution.

[3] Art. VII, s. 1, Fla. Const. All ad valorem taxation must be at a uniform rate within each taxing unit, except the taxes on intangible personal property may be at different rates but may never exceed two mills on the dollar of assessed value; provided, as to any obligations secured by mortgage, deed of trust, or other lien on real estate wherever located, an intangible tax of not more than two mills on the dollar may be levied by law to be in lieu of all other intangible assessments on such obligations. Art. VII, s.2, Fla. Const.

[4] Art. VII, s. 4, Fla. Const. and s. 193.011, F.S.

[5] 2017 Tax Handbook, at 206. Exclusions are specific types of property constitutionally or statutorily removed from ad valorem taxation such as transportation vehicles, which are alternatively subject to a license tax. The Homestead exemption under art. VII, s. 6, Fla. Const., provides that every person who owns real estate with legal and equitable title and permanently resides, or has a dependent who permanently resides upon such real estate, is eligible for a $25,000 homestead tax exemption applicable to all ad valorem tax levies including school district levies. An additional $25,000 homestead exemption applies to homesteads that have an assessed value greater than $50,000 and up to $75,000, excluding school district levies.

[6] Section 197.333, F.S.

[7] Section 197.333, F.S. If the delinquency date for ad valorem taxes is later than April 1st of the year following the year in which taxes are assessed, all dates or time periods relative to the collection of, or administrative procedures regarding, delinquent taxes are extended a like number of days.

[8] Section 197.322(2), F.S. If payment has not been received, the tax collector must send out an additional notice by April 30. Section 197.343, F.S.

If ad valorem taxes are not paid by June 1 or the 60th day after the tax becomes delinquent, whichever is later, the tax collector advertises and sells tax certificates to pay the delinquency.[9] A tax certificate is a legal document that represents unpaid delinquent ad valorem taxes, non-ad valorem assessments, interest, and related costs and charges issued against a specific parcel of real property.[10] Once sold, the tax certificate becomes a first lien on the property, superior to all other liens, except as provided by law,[11] but can be enforced only through the remedies provided under ch. 197, F.S.[12]

The tax certificate expires after seven years from the date the sale was advertised.[13] If a tax deed has not been applied for, and no other administrative or legal proceeding, including a bankruptcy, has been initiated, the tax certificate is null and void and is canceled.[14]

Before a tax certificate is awarded[15] to a buyer or struck to the county (an unsold tax certificate issued to the county[16]), the taxpayer may pay the delinquent taxes and all interest, costs, and charges to avoid issuance of the tax certificate.[17] Otherwise, a tax certificate can be redeemed by paying the face value amount of the tax certificate plus all interest, costs, and charges to the tax collector any time before a tax deed is issued unless full payment for the tax deed is made to the clerk of the court.[18] The tax collector pays the tax certificateholder the amount received to redeem the certificate less a redemption fee.[19] If the certificateholder cannot be found for payment, the money is remitted to the state as unclaimed money.[20]

Tax Deed Applications

Two years after April 1 of the year in which the tax certificate was issued, and before the certificate expires, a certificateholder may apply for a tax deed with the tax collector.[21] The tax collector may charge a $75 application fee and reimbursement of costs for use of an online application process if offered. If the total fee is more than $75, the applicant must have the option to apply online.[22]

A certificateholder, other than the county, must buy or redeem all other outstanding tax certificates plus interest, any omitted taxes[23] plus interest, any delinquent taxes plus interest, and any current taxes due

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[9] Sections 197.402(3) and 197.432(1), F.S. The tax collector must advertise the sale once a week for 3 weeks. A public sale is not authorized if a tax certificate is valued under $250 and applies to property that has been granted a homestead exemption for the relevant tax year. *See* s. 197.432(4), F.S. Instead, the tax certificate is issued to the county at the maximum rate of interest allowed and cannot be sold or used for a tax deed application unless the tax certificate and accrued interest are valued at $250 or more. *See* ss. 197.432(4), 197.4725 and 197.502(3), F.S.

[10] Section 197.102(1)(f), F.S.

[11] *Id.*

[12] Section 197.432(2), F.S. A tax certificate can be transferred to another at any time before it is redeemed or a tax deed is executed. Section 197.462(1), F.S.

[13] Section 197.482, F.S.

[14] *Id.* A deferred payment tax certificate is not subject to this provision.

[15] "Awarded" means the time when the tax collector or a designee determines and announces verbally or through the closing of the bid process in a live or an electronic auction that a buyer has placed the winning bid on a tax certificate at a tax certificate sale. Section 197.102(1)(a), F.S.

[16] Section 197.432(6), F.S.

[17] Section 197.432(3), F.S.

[18] Section 197.472(1), F.S. A portion of a certificate may be redeemed only if such portion can be ascertained by legal description and the portion to be redeemed is evidenced by a contract for sale or recorded deed. *See* Section 197.472(4), F.S.

[19] Section 197.472(5), F.S.

[20] Section 197.473, F.S.

[21] Section 197.502(1), F.S.

[22] *Id.*

[23] "Omitted taxes" means those taxes which have not been extended on the tax roll against a parcel of property after the property has been placed upon the list of lands available for taxes pursuant to s. 197.502, F.S. Section 197.102, F.S.

on the property and, if applicable, pay the costs of resale.[24] If the certificateholder is the county, the application fee and reimbursement costs charged by the tax collector must be deposited with the tax collector but the county may not deposit any money for redemption or purchase of other tax certificates covering the property.[25] Certificateholders with more than one tax certificate may consolidate them into one application, but the tax collector is required to issue separate statements to the clerk of the circuit court to identify appropriate parties for notice requirements and the clerk must issue a separate tax deed for each listed parcel of real property.[26]

After the certificateholder provides the required funds, the tax collector must send a signed statement to the clerk of the circuit court confirming receipt and directing the clerk to notify the following persons prior to the sale of the property, if their addresses are documented:

- Any legal titleholder of record;
- Any lienholder of record who has recorded a lien against the property described in the tax certificate;
- Any mortgagee of record;
- Any vendee of a recorded contract for deed or any vendee who has applied to receive notice pursuant to s. 197.344(1)(c), F.S.;
- Any other lienholder who has applied to the tax collector to receive notice;
- Any person to whom the property was assessed on the tax roll for the year in which the property was last assessed;
- Any lienholder of record who has recorded a lien against a mobile home located on the property described in the tax certificate if the lien is recorded with the clerk of the circuit court in the county where the mobile home is located; and
- Any legal titleholder of record of property that is contiguous[27] to the property described in the tax certificate, if the property described is submerged land or common elements of a subdivision and if the address of the titleholder of contiguous property appears on the record of conveyance of the property to the legal titleholder.[28]

The tax collector may purchase a reasonable bond for errors and omissions made in preparing this statement,[29]and may contract with a title or abstract company to provide the minimum information to identify the persons requiring notice from the clerk.[30] If additional information is required, the tax collector must make a written request to the title or abstract company stating the additional requirements.[31] The law does not specify what report the tax collector must obtain but does reference the requirements for a property information report and title search or abstract.[32]

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[24] Section 197.502(2), F.S. Failure to pay the costs of resale within 30 days after notice from the clerk will result in the clerk's entering the land on a list entitled "lands available for taxes."

[25] Section 197.502(3), F.S. The county must apply for a tax deed if the property has been most recently assessed at a value over $5,000 by the property appraiser and may apply for a tax deed on property most recent assessment below $5,000. The county must apply on or reasonably soon after two years after the April 1 of the year the tax certificate was issued.

[26] Section 197.502(9), F.S.

[27] "Contiguous" means touching, meeting, or joining at the surface or border, other than at a corner or a single point, and not separated by submerged lands. Submerged lands lying below the ordinary high-water mark, which are sovereignty lands, are not part of the upland contiguous property for purposes of notification. Section 197.502(4)(h), F.S.

[28] Sections 197.502(4)(a)-(h), F.S. If any legal titleholder is identified as the most recent taxpayer of the property covered by the tax certificate, the clerk is permitted to mail notice to the address on the latest tax assessment roll.

[29] Section 197.502(4), F.S. A search of the official records must be made by a direct and inverse search. "Direct" means the index in straight and continuous alphabetic order by grantor, and "inverse" means the index in straight and continuous alphabetic order by grantee.

[30] Section 197.502(5)(a), F.S. The contractual relationship must be consistent with rules adopted by the Department of Revenue.

[31] Section 197.502(5)(a), F.S. The tax collector may advertise and accept bids from the title or abstract company, if deemed appropriate, and may select any title or abstract company authorized to do business in this state, regardless of its location, as long as the fee is reasonable and the minimum information is submitted.

[32] Section 197.502(5)(a)-(b), F.S. The tax collector may not accept or pay for any title search or abstract if financial responsibility is not assumed for the search, but may set reasonable restrictions as to the liability or responsibility of the title or abstract company.

A property information report is any report that discloses documents or information about a parcel of real property appearing in:

- The Official Records in the possession of the clerk of the circuit court as county recorder;[33]
- The records of a county tax collector pertaining to ad valorem real property taxes and special assessments imposed by a governmental authority; or
- The Secretary of State filing office or another governmental filing office pertaining to real or personal property.[34]

A property information report may not include or imply, either directly or indirectly, any opinion, warranty, guarantee, insurance, or other similar assurance,[35] and liability for any errors or omissions in the report is limited to the contractual remedies available only to the party expressly identified as the recipient of the report not exceeding the amount paid for the report.[36] The report must contain the liability disclaimer worded in the statute.[37] Before a tax collector becomes liable for payment of a property information report, the report, whether in paper or electronic format, must include the letterhead of the person, firm, or company making the search and signature of the making the search or an officer of the firm.[38]

A title search is the compiling of title information from official or public records.[39] An abstract is a summary of the record evidence of title.[40] An abstract must include a description of the property; the names of the grantors and grantees, mortgagors and mortgagees; the nature of the instrument, consideration, date, release of dower, number of witnesses, number of book and page of record; and such other information arranged in such order as the said board of commissioners may deem advisable.[41]

If a title search or abstract of title is produced, the fee paid for the title search or abstract must be collected from the certificateholder at the time the application is made, and the amount of the fee must be added to the opening bid of the tax deed sale.[42] The tax collector may not accept or pay for any title search or abstract if financial responsibility is not assumed for the search.[43]

In order to establish uniform prices for property information reports within the county, the tax collector must ensure that the contract for such reports includes all requests for title searches or abstracts for a given period of time.[44]

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[33] Pursuant to s. 28.222, F.S.

[34] Section 627.7843(1), F.S. Any person, including a Florida-licensed title insurer, title agent, or title agency, may issue a property information report.

[35] Section 627.7843(2), F.S. A property information report is not title insurance pursuant to s. 624.608, F.S.

[36] Section 627.7843(3), F.S.

[37] Section 627.7843(3), F.S. Under the tax deed application scheme, tax collectors may contract for higher maximum liability limits despite the statutory limitation on liability. Section 197.502(5)(a)2., F.S.

[38] Section 197.502(2)(a)1., F.S.

[39] Section 627.7711(4), F.S.

[40] *Adams v. Whittle*, 101 Fla. 705, 135 So.152 (Fla. 1931). The decision actually uses "epitome," as in a summary of a written work.

[41] Section 703.03, F.S. An abstract of tax sales relating to real estate must include number of the tax certificate, date of sale, the year for which taxes were unpaid, number and page of book where it was recorded, date of redemption or cancellation, date of the tax sales deed, number and page of book where recorded, and such other information and in such order as may be deemed advisable by the clerk. Section 703.04, F.S.

[42] Section 197.502(5)(b), F.S.

[43] Section 197.502(5)(a)2., F.S. However, reasonable restrictions as to the liability or responsibility of the title or abstract company are acceptable.

[44] Section 197.502(5)(a)3., F.S.

Tax Deed Sale

The clerk of the circuit clerk must advertise[45] and administer a sale and receive fees pursuant to a statutory fee schedule.[46] The clerk of the circuit court must notify the persons listed in the tax collector's statement of the tax deed application.[47] The notice must be mailed at least 20 days before the date of the sale. No notice is required if no addresses are listed in the tax collector's statement.[48] The clerk must certify the names and addresses of those persons notified and the date the notice was mailed or certify no address was listed on the tax collector's certification.[49] The failure of anyone to receive notice as provided by statute does not affect the validity of the tax deed issued pursuant to the notice.[50]

The opening bid for county-held tax certificates against non-homestead property must include:

- All outstanding tax certificates against the property plus taxes for any omitted years;
- Delinquent taxes;
- Interest at the rate of 1.5 per month for the period running from the month after the date of application for the deed through the month of sale; [51]
- Costs incurred for the service of notice to the required parties by the clerk;[52] and
- All costs and fees paid by the county.[53]

The opening bid for individual tax certificates must include:

- The amount of money paid to the tax collector by the certificateholder at the time of application;
- The amount required to redeem the applicant's tax certificate and all other costs and fees paid by the applicant;
- All tax certificates that were sold subsequent to the filing of the tax deed application;
- Omitted taxes, if any exist;[54]
- Interest at the rate of 1.5 per month for the period running from the month after the date of application for the deed through the month of sale; and
- Costs incurred for the service of notice to the required parties by the clerk.[55]

Opening bids for any property assessed as homestead property on the latest tax roll must include one-half of the latest assessed value of the homestead in addition to the amounts for an opening bid on non-homestead property.[56]

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[45] Upon the receipt of the tax deed application and payment of proper charges, the clerk must publish a form notice once each week for four consecutive weeks at weekly intervals in a newspaper selected as provided in s. 197.402, F.S., or as required if there is no available newspaper. No tax deed sale can be held until 30 days after the first publication of the notice. Section 197.512(1)-(2), F.S.

[46] Sections 197.502(5)(c) and 28.24(21)-(22), F.S. Currently, the clerk's fee is $60.00 for processing an application for a tax deed sale (includes application, sale, issuance, and preparation of tax deed, and disbursement of proceeds of sale), other than excess proceeds and $10 for distribution of the excess proceeds for the first $100, or fraction thereof.

[47] Section 197.522(1)(a), F.S. Notice must be made by certified mail with return receipt requested or, if the notice is to be sent outside the continental United States, by registered mail. The notice must include the warning language listed in the statute.

[48] *Id.* The certificateholder may also request the clerk mail notice to names and addresses provided by the certificateholder. The charges are paid by the certificateholder and added to the amount required to redeem the land for sale. Section 197.532, F.S.

[49] Sections 197.522(1)(c) and (2)(b), F.S.

[50] Section 197.522(1)(c), F.S. In addition to the mailed notice, the sheriff of the county in which the legal titleholder resides must notify the legal titleholder of record of the property on which the tax certificate is outstanding at least 20 days prior to the date of sale. If the sheriff is unable to make service, he or she must post a copy of the notice in a conspicuous place at the legal titleholder's last known address. The inability of the sheriff to serve notice on the legal titleholder does not affect the validity of the tax deed issued pursuant to the notice. A legal titleholder of record who resides outside the state may be notified by mail as required. However, no posting of notice must be required if the property to be sold is classified for assessment purposes, according to use classifications established by the department, as nonagricultural acreage or vacant land. *See* Section 197.522(2)(a), F.S.

[51] Section 197.542(1), F.S.

[52] Section 197.542(1), F.S. A clerk may conduct electronic tax deed sales in lieu of public outcry. *See* s. 197.542, F.S.

[53] Section 197.502(6)(a), F.S.

[54] Section 197.502(6)(b), F.S.

[55] Section 197.542(1), F.S. A clerk may conduct electronic tax deed sales in lieu of public outcry. *See* s. 197.542, F.S.

[56] Section 197.502(6)(c), F.S.

The property is sold at public auction by the clerk of the circuit court, or the clerk's deputy, during regular office hours and pursuant to the published notice.[57] The opening bid is the bid of the certificateholder.[58] If there are no higher bids, the property is sold to the certificateholder who must pay the clerk any amounts included in the minimum bid not already paid, including, but not limited to, documentary stamp taxes, recording fees, and, if the property is homestead property, the moneys to cover the one-half value of the homestead within 30 days after the sale.[59] If the certificateholder fails to make full payment when due, the clerk enters the land on a list entitled "lands available for taxes."[60]

The property must be struck off and sold to the highest bidder who must post with the clerk a nonrefundable deposit of 5 percent of the bid or $200, whichever is greater, at the time of the sale, to be applied to the sale price at the time of full payment.[61] If the sale is canceled for any reason or the buyer fails to make full payment within the time required, the clerk must re-advertise the sale within 30 days after the buyer's nonpayment or, if canceled, within 30 days after the clerk receives the costs of resale.[62] Any person, firm, corporation, or county that is the grantee of any tax deed is entitled to the immediate possession of the lands described in the deed.[63]

Tax Sale Proceeds Distribution

If the property is not purchased by the certificateholder, the clerk must reimburse the certificateholder all of the sums paid, including the amount required to redeem the certificate or certificates together with any and all subsequent unpaid taxes plus the costs and expenses of the application for deed, with interest.[64] The clerk distributes the proceeds of sale in the same manner as money received for the redemption of tax certificates owned by the county.[65]

Any proceeds exceeding the certificateholder's statutory bid must be paid over to and disbursed by the clerk.[66] If the property purchased is homestead property and the statutory bid included the required homestead deposit,[67] that amount must be treated as excess and distributed in the same manner.[68]

The clerk must distribute the excess proceeds to governmental units to pay any lien of record held by the governmental unit against the property.[69] If there is a balance after all governmental units are paid in full, the clerk retains the excess proceeds for the benefit of persons who were entitled to notice of the tax deed sale as identified by the tax collector, including any legal titleholder of record of property contiguous to tax deed property that is submerged land or common elements of a subdivision.[70] The

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[57] Section 197.542(1), F.S.
[58] Section 197.542(1), F.S.
[59] *Id.* Upon payment, a tax deed must be issued and recorded by the clerk. Under s. 197.573, F.S., the usual restrictions and covenants limiting the use of property; the type, character and location of building; covenants against nuisances and what the former parties deemed to be undesirable conditions, in, upon, and about the property; and other similar restrictions and covenants; survive the tax deed sale. *See* s. 197.573, F.S.
[60] Section 197.542(1), F.S.
[61] Section 197.542(2), F.S.
[62] Section 197.542(3), F.S.
[63] Section 197.562, F.S. If a demand for possession is refused, the purchaser may apply to the circuit court for a writ of assistance upon five days' notice directed to the person refusing to deliver possession. Upon service of the responsive pleadings, if any, the matter must proceed as in chancery cases. If the court finds for the applicant, an order must be issued by the court directing the sheriff to put the grantee in possession of the lands.
[64] Section 197.582(1), F.S. Interest is 1.5 percent per month on the total of such sums for the period running from the month after the date of application for the deed through the month of sale.
[65] Section 197.582(1), F.S.
[66] Section 197.582(2), F.S.
[67] The homestead deposit is an amount equal to at least one-half of the assessed value of the homestead. Section 197.502(6)(c), F.S.
[68] Section 197.582(2), F.S.
[69] Section 197.582(2), F.S. Any tax certificates not incorporated in the tax deed application and omitted taxes, if any, are included. If the excess is not sufficient to pay all of such liens in full, the excess must be paid to each governmental unit pro rata.
[70] Sections 197.502(4)(h) and 197.582(2), F.S.

clerk must notify these persons by mail that the funds are being held for their benefit.[71] If the money is not claimed the clerk may report the money as unclaimed and remit it to the state.[72] The clerk may take money from the excess proceeds to cover any service charges, at the rate prescribed under the clerk's fee schedule,[73] and the costs of mailing notice.[74] Excess proceeds are held and disbursed in the same manner as unclaimed redemption moneys.[75] This may result in unclaimed proceeds being sent to the state under chapter 717, F.S., relating to disposition of unclaimed property. Such proceeds, net of refunds, are distributed to the State School Trust Fund.[76] If excess proceeds are not sufficient to cover the service charges and mailing costs, the clerk must receive the total amount of excess proceeds as a service charge.[77]

If unresolved claims against the property exist on the date the property is purchased, the clerk must ensure that the excess funds are paid according to the priorities of the claims.[78] Junior lienholders cannot be paid if a higher priority lienholder has not made a claim.[79] The clerk may initiate an interpleader action against the lienholders to resolve any potential conflicts in claim and seek reasonable fees and costs.[80]

Effect of Proposed Changes

The bill requires the certificateholder applying for a tax deed to pay the costs to bring the property to sale, including property information searches and mailing costs. The bill also adds language requiring the tax collector to cancel a tax deed application if the certificate holder fails to pay the costs to bring the property to sale within 30 days after notice from the clerk's office and provides for taxes and costs associated with a cancelled tax deed to earn interest at the bid rate for the certificate on which the application was based.

The bill requires each tax collector to contract with a title company or an abstract company to provide a property information report, defined in s. 627.7843(1), F.S., and replaces references to title searches and abstracts with reference to a property information report only. The bill requires the costs of the report and any updates to be collected from the certificateholder at the time of the tax deed application.

The bill requires the clerk to record a notice of tax deed application in the official records upon receiving the tax deed application from the tax collector. The recording of the clerk constitutes notice of pendency of a tax deed application with respect to the property, remains effective for one year after the recording date, and is deemed to provide notice to any person who acquires an interest in the described property after the date of recording without any requirement that the clerk give additional notice. The notice is released automatically upon the sale or, if the property is redeemed, notice is released upon payment of the required clerk's fees. The notice must have the same information required for the notice that must be published by a newspaper or posted publicly. The costs of the notice must be paid by the certificateholder at the time of the application for a tax deed and included in the opening bid for the property in the tax deed sale.

The bill renumbers 197.502(5)(c), F.S., to 197.502(5)(d) and adds statutory references for the advertisement and administration of a tax deed sale.

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[71] Section 197.582(2), F.S.
[72] Sections 197.582(2) and 717.117(4), F.S.
[73] *See* s. 28.24(10), F.S.
[74] Sections 197.582(2) and 197.473, F.S.
[75] Sections 197.582(2) and 197.473, F.S.
[76] Section 717.123, F.S.
[77] Section 197.582(2), F.S.
[78] Section 197.582(3), F.S.
[79] *Id.*
[80] Section 197.582(3), F.S.

The bill provides that sending the notice of the application for tax deed as required under ss. 197.512 and 197.522, F.S., to the persons entitled to receive notice under s. 197.502(4), F.S., is deemed conclusively sufficient adequate notice of the application and sale at public auction.

The bill adds current taxes to the list of costs required to be added to the opening bid for the tax deed on both county-held and individually purchased tax certificates, and adds "additional fees or costs incurred by the clerk" to the opening bid for individually purchased certificates.

The bill provides that the clerk may rely on the addresses submitted by the tax collector and is not required to seek additional information to verify addresses for persons entitled to receive notice of the tax deed sale under s. 197.502(4), F.S.

The bill requires the clerk to send notice to the persons entitled to the surplus proceeds from a tax deed sale to the addresses provided by the tax collector. The bill removes the rate limitation on the service charges charged by the clerk The bill provides a suggested form for the clerk to use to notify claimants. Service charges and mailing costs are taken out of the surplus. If the surplus is not enough to cover the service charges and mailing costs, the clerk receives the total surplus after certifying the deficiency.

The bill adds provisions regarding claims of surplus proceeds. Claimants have 120 days from the date of the notice to file a claim for the surplus proceeds. The bill adds a claim form that can be used or authorizes a form that is substantially similar to be submitted. The bill provides the claims may be submitted by mail, commercial delivery service, in person, or by fax or e-mail. If submitted by mail, the postmark date is the date of filing the claim. Otherwise, the date of delivery or receipt is recognized as the date of filing. Claims not filed by the close of business on the 120th day are barred and constitute a waiver of interest in the excess proceeds, unless they are claims by the property owner.

The bill adds a review period of 90 days during which the clerk may file an interpleader action to determine the proper disbursement of the proceeds or pay the surplus according to the clerk's own determination of priority based on the submitted claims. No declaratory action may be filed until after the claim and review periods have expired.

The bill requires holders of governmental liens, other than federal government liens and ad valorem tax liens, to file a request for disbursement of surplus funds within 120 days from the mailing of the notice. The clerk or comptroller must disburse funds to governmental units holding any lien of record against the property, including any tax certificate not incorporated in the tax deed application and any omitted tax, before non-governmental claimants. The tax deed recipient may directly pay off the liens to governmental units then file a timely claim with proof of payment and receive the same amount of funds, in the same priority, as the original lienholder.

The bill provides for the conclusive presumption that the legal titleholder of record of the tax-deeded property, defined in s. 197.502(4)(a), F.S., is entitled to any unclaimed surplus funds. If the legal titleholder of record does not claim the surplus proceeds the clerk must process the surplus proceeds as unclaimed money in the manner provided in ch. 717, F.S., regardless of whether the legal titleholder is a resident of the state or not.

The bill states that its provisions apply to tax deed applications filed with the tax collector pursuant to s. 197.502, F.S., on or after October 1, 2018.

B. SECTION DIRECTORY:

Section 1. Amends s. 197.502, F.S., relating to application for obtaining tax deed by holder of tax sale certificate; fees

Section 2. Amends s. 197.522, F.S., relating to notice to owner when application for tax deed is made.

Section 3. Amends s. 197.582, F.S., relating to disbursement of proceeds of sale.

Section 4. Provides applicability to tax deed applications filed on or after October 1, 2018.

Section 5. Provides the act will take effect on July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

The bill neither provides authority nor requires rulemaking by executive branch agencies.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 6, 2018, the Ways & Means Committee adopted a strike-all amendment and approved the bill as a committee substitute. The amendment makes technical changes and allows for tax collectors to contract with title companies and abstract companies for the preparation of property information reports, removes the definition of "title company." The amendment adds language providing that the tax collector may cancel a tax deed application if the certificateholder fails to pay the costs required to bring the property to sale within 30 days after notice from clerk and provides for taxes and costs associated with a cancelled tax deed to earn interest at the bid rate for the certificate on which the application was based. The amendment removes language indemnifying the clerk for liability for notice addresses that may be incorrect. The amendment also clarifies that this bill specifically applies to tax deed applications filed on or after October 1, 2018, with the tax collector pursuant to 197.502, F.S. The amendment also removed negative revenue impacts to the state by returning to current law regarding disposition of unclaimed property.

This analysis is drawn to the bill as amended by the Ways & Means Committee.

A bill to be entitled

An act relating to tax deed sales; amending s. 197.502, F.S.; requiring a tax certificateholder to pay specified costs required to bring the property on which taxes are delinquent to sale; requiring the tax collector to cancel a tax deed application if certain costs are not paid within a specified period for certain purposes; revising procedures for applying for, recording, and releasing tax deed applications; revising provisions to require property information reports for certain purposes; prohibiting a tax collector from accepting or paying for a property information report under certain circumstances; amending s. 197.522, F.S.; authorizing a clerk to rely on addresses provided by the tax collector for specified purposes; amending s. 197.582, F.S.; revising procedures for the disbursement of surplus funds by clerks; providing forms for use in noticing and claiming surplus funds; specifying methods for delivering claims to the clerk's office; providing deadlines for filing claims; providing procedures to be used by clerks in determining disbursement of surplus funds; authorizing a tax deed recipient to pay specified liens; specifying procedures to be used by the tax clerk if surplus funds are not claimed;

providing an effective date.

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

Section 1. Subsections (1), (2), (5), and (6) of section 197.502, Florida Statutes, are amended to read:

197.502 Application for obtaining tax deed by holder of tax sale certificate; fees.—

(1) The holder of a tax certificate at any time after 2 years have elapsed since April 1 of the year of issuance of the tax certificate and before the cancellation of the certificate, may file the certificate and an application for a tax deed with the tax collector of the county where the property described in the certificate is located. The tax collector may charge a tax deed application fee of $75 and for reimbursement of the costs for providing online tax deed application services. If the tax collector charges a combined fee in excess of $75, applicants may use ~~shall have the option of using~~ the online ~~electronic~~ tax deed application process or may file applications without using such service.

(2) A certificateholder, other than the county, who applies ~~makes application~~ for a tax deed shall pay the tax collector at the time of application all amounts required for redemption or purchase of all other outstanding tax certificates, plus interest, any omitted taxes, plus interest,

any delinquent taxes, plus interest, and current taxes, if due, covering the property. In addition, the certificateholder shall pay the costs required to bring the property to sale as provided in ss. 197.532 and 197.542, including property information searches, and mailing costs, as well as the costs of resale, if applicable. If the certificateholder fails to pay the costs to bring the property to sale within 30 days after notice from the clerk, the tax collector shall cancel the tax deed application. All taxes and costs associated with a cancelled tax deed application shall earn interest at the bid rate of the certificate on which the tax deed application was based. ~~, and~~ Failure to pay the ~~such~~ costs of resale, if applicable, within 30 days after notice from the clerk shall result in the clerk's entering the land on a list entitled "lands available for taxes."

(5)(a) For purposes of determining who must be noticed and provided the information required in subsection (4), the tax collector must ~~may~~ contract with a title company or an abstract company to provide a property information report as defined in s. 627.7843(1) ~~the minimum information required in subsection (4), consistent with rules adopted by the department~~. If additional information is required, the tax collector must make a written request to the title or abstract company stating the additional requirements. The tax collector may select any title or abstract company, regardless of its location, as long as the

fee is reasonable, the required ~~minimum~~ information is submitted, and the title or abstract company is authorized to do business in this state. The tax collector may advertise and accept bids for the title or abstract company if he or she considers it appropriate to do so.

1. The property information report must include the letterhead of the person, firm, or company that makes the search, and the signature of the individual who makes the search or of an officer of the firm. The tax collector is not liable for payment to the firm unless these requirements are met. The report may be submitted to the tax collector in an electronic format.

2. The tax collector may not accept or pay for a property information report ~~any title search or abstract~~ if financial responsibility is not assumed for the search. However, reasonable restrictions as to the liability or responsibility of the title or abstract company are acceptable. Notwithstanding s. 627.7843(3), the tax collector may contract for higher maximum liability limits.

3. In order to establish uniform prices for property information reports within the county, the tax collector must ensure that the contract for property information reports includes ~~include~~ all requests for property information reports ~~title searches or abstracts~~ for a given period of time.

(b) Any fee paid for initial property information reports

and any updates ~~for a title search or abstract~~ must be collected at the time of application under subsection (1), and the amount of the fee must be added to the opening bid.

(c) Upon receiving the tax deed application from the tax collector, the clerk shall record a notice of tax deed application in the official records, which constitutes notice of the pendency of a tax deed application with respect to the property and remains effective for 1 year from the date of recording. A person acquiring an interest in the property after the tax deed application notice has been recorded is deemed to be on notice of the pending tax deed sale and no additional notice is required. The sale of the property automatically releases any recorded notice of tax deed application for that property. If the property is redeemed, the clerk must record a release of the notice of tax deed application upon payment of the fees as authorized in s. 28.24(8) and (12). The contents of the notice shall be the same as the contents of the notice of publication required by s. 197.512. The cost of recording must be collected at the time of application under subsection (1), and added to the opening bid.

(d) The clerk must ~~shall~~ advertise ~~and administer~~ the sale as set forth in s. 197.512, administer the sale as set forth in s. 197.542, and receive such fees for the issuance of the deed and sale of the property as provided in s. 28.24.

(e) A notice of the application of the tax deed in

accordance with ss. 197.512 and 197.522 that is sent to the addresses shown on the statement described in subsection (4) is deemed conclusively sufficient to provide adequate notice of the tax deed application and the sale at public auction.

(6) The opening bid:

(a) On county-held certificates on nonhomestead property shall be the sum of the value of all outstanding certificates against the property, plus omitted years' taxes, delinquent taxes, current taxes, if due, interest, and all costs and fees paid by the county.

(b) On an individual certificate must include, in addition to the amount of money paid to the tax collector by the certificateholder at the time of application, the amount required to redeem the applicant's tax certificate and all other costs, ~~and~~ fees paid by the applicant, and any additional fees or costs incurred by the clerk, plus all tax certificates that were sold subsequent to the filing of the tax deed application, current taxes, if due, and omitted taxes, if any.

(c) On property assessed on the latest tax roll as homestead property shall include, in addition to the amount of money required for an opening bid on nonhomestead property, an amount equal to one-half of the latest assessed value of the homestead.

Section 2. Subsection (3) of section 197.522, Florida Statutes, is renumbered as subsection (4), and a new subsection

(3) is added to that section to read:

197.522 Notice to owner when application for tax deed is made.—

(3) When sending or serving a notice under this section, the clerk of the circuit court may rely on the addresses provided by the tax collector based on the certified tax roll and property information reports. The clerk of the circuit court has no duty to seek further information as to the validity of such addresses, because property owners are presumed to know that taxes are due and payable annually under s. 197.122.

Section 3. Subsections (2) and (3) of section 197.582, Florida Statutes, are amended, and subsections (4) through (9) are added to that section, to read:

197.582 Disbursement of proceeds of sale.—

(2)(a) If the property is purchased for an amount in excess of the statutory bid of the certificateholder, the surplus ~~excess~~ must be paid over and disbursed by the clerk as set forth in subsections (3), (5), and (6). If the opening bid included the homestead assessment pursuant to s. 197.502(6)(c)~~.~~ ~~If the property purchased is homestead property and the statutory bid includes an amount equal to at least one-half of the assessed value of the homestead~~, that amount must be treated as surplus ~~excess~~ and distributed in the same manner. The clerk shall distribute the surplus ~~excess~~ to the governmental units for the payment of any lien of record held by a governmental

unit against the property, including any tax certificates not incorporated in the tax deed application and omitted taxes, if any. ~~If the excess is not sufficient to pay all of such liens in full, the excess shall be paid to each governmental unit pro rata.~~ If~~, after all liens of governmental units are paid in full,~~ there remains a balance of undistributed funds, the balance must ~~shall~~ be retained by the clerk for the benefit of persons described in s. 197.522(1)(a), except those persons described in s. 197.502(4)(h), as their interests may appear. The clerk shall mail notices to such persons notifying them of the funds held for their benefit at the addresses provided in s. 197.502(4). Such notice constitutes compliance with the requirements of s. 717.117(4). Any service charges~~, at the rate prescribed in s. 28.24(10),~~ and costs of mailing notices shall be paid out of the excess balance held by the clerk. Notice must be provided in substantially the following form:

NOTICE OF SURPLUS FUNDS FROM TAX DEED SALE

CLERK OF COURT

. . . COUNTY, FLORIDA

Tax Deed #.....

Certificate #.....

Property Description: .....

Pursuant to chapter 197, Florida Statutes, the above

property was sold at public sale on ...(date of sale)....., and a surplus of $ ....(amount).... (subject to change) will be held by this office for 120 days beginning on the date of this notice to benefit the persons having an interest in this property as described in section 197.502(4), Florida Statutes, as their interests may appear (except for those persons described in section 197.502(4)(h), Florida Statutes).

To the extent possible, these funds will be used to satisfy in full, each claimant with a senior mortgage or lien in the property before distribution of any funds to any junior mortgage or lien claimant or to the former property owner. To be considered for funds when they are distributed, you must file a notarized statement of claim with this office within 120 days of this notice. If you are a lienholder, your claim must include the particulars of your lien and the amounts currently due. Any lienholder claim that is not filed within the 120-day deadline is barred.

A copy of this notice must be attached to your statement of claim. After the office examines the filed claim statements, it will notify you if you are entitled to any payment.

Dated: .....

Clerk of Court

(b) The mailed notice must include a form for making a claim under subsection (3). Service charges at the rate set

forth in s. 28.24(10) and the costs of mailing must be paid out of the surplus funds held by the clerk. If the clerk or comptroller certifies that the surplus funds are not sufficient to cover the service charges and mailing costs, the clerk shall receive the total amount of surplus funds as a service charge. ~~Excess proceeds shall be held and disbursed in the same manner as unclaimed redemption moneys in s. 197.473.~~ For purposes of identifying unclaimed property pursuant to s. 717.113, excess proceeds shall be presumed payable or distributable on the date the notice is sent. ~~If excess proceeds are not sufficient to cover the service charges and mailing costs, the clerk shall receive the total amount of excess proceeds as a service charge.~~

(3) A person receiving the notice under subsection (2) has 120 days from the date of the notice to file a written claim with the clerk for the surplus proceeds. A claim in substantially the following form is deemed sufficient:

CLAIM TO RECEIVE SURPLUS PROCEEDS OF A TAX DEED SALE

Complete and return to: .....

By mail: .....

By e-mail: .....

Note: The Clerk of the Court must pay all valid liens before distributing surplus funds to a titleholder.

Claimant's name: .....

Contact name, if applicable: .....

Address: .....

Telephone Number: ..... Email Address: .....

Tax No. .....

Date of sale (if known): .....

.... I am not making a claim and waive any claim I might have to the surplus funds on this tax deed sale.

.... I claim surplus proceeds resulting from the above tax deed sale.

I am a (check one)....Lienholder; ....Titleholder.

(1) LIENHOLDER INFORMATION (Complete if claim is based on a lien against the sold property).

(a) Type of Lien: ....Mortgage; ....Court Judgment; ....Other

Describe in detail: .....

If your lien is recorded in the county's official records, list the following, if known:

Recording date: ....; Instrument #....; Book #....; Page #.....

(b) Original amount of lien: $.....

(c) Amounts due: $.....

1. Principal remaining due: $.....

2. Interest due: $.....

3. Fees and costs due, including late fees: $..... (describe costs in detail, include additional sheet if needed);

4. Attorney fees: $.....(provide amount claimed):

$.....

(2) TITLEHOLDER INFORMATION (Complete if claim is based on title formerly held on sold property.)

(a) Nature of title (check one): .....Deed; .....Court Judgment; .....Other (describe in detail) .....

(b) If your former title is recorded in the county's official records, list the following, if known: Recording date:.....; Instrument#:.....Book #:.....; Page #:.....

(c) Amount of surplus tax deed sale proceeds claimed: $.....

(d) Does the titleholder claim the subject property was homestead property? ....Yes ....No.

(3) I hereby swear or affirm that all of the above information is true and correct.

Date: .....

Signature: .....

STATE OF FLORIDA

.....COUNTY.

Sworn to or affirmed and signed before me on ...(date) .....by ...(name of affiant).....

NOTARY PUBLIC or DEPUTY CLERK

...(Print, Type, or Stamp Commissioned Name of Notary)...

Personally known, or

Produced identification; .....

Identification Produced: .....

(4) A claim may be:

(a) Mailed using the United States Postal Service. The filing date is the postmark on the mailed claim;

(b) Delivered using either a commercial delivery service or in person. The filing date is the day of delivery; or

(c) Sent by fax or e-mail, as authorized by the clerk. The filing date is the date the clerk receives the fax or e-mail.

(5) Except for claims by a property owner, claims that are not filed on or before close of business on the 120th day after the date of the mailed notice as required by s. 197.582(2), are barred. A person, other than the property owner, who fails to file a proper and timely claim is barred from receiving any disbursement of the surplus funds. The failure of any person described in s. 197.502(4), other than the property owner, to file a claim for surplus funds within the 120 days constitutes a waiver of interest in the surplus funds and all claims thereto are forever barred.

(6) Within 90 days after the claim period expires, the clerk may either file an interpleader action in circuit court to determine the proper disbursement or pay the surplus funds according to the clerk's determination of the priority of claims using the information provided by the claimants under subsection (3). The clerk may move the court to award reasonable fees and

costs from the interpleaded funds. An action to require payment of surplus funds is not ripe until the claim and review periods expire. The failure of a person described in s. 197.502(4), other than the property owner, to file a claim for surplus funds within the 120 days constitutes a waiver of all interest in the surplus funds and all claims for them are forever barred.

(7) A holder of a recorded governmental lien, other than a federal government lien or ad valorem tax lien, must file a request for disbursement of surplus funds within 120 days after the mailing of the notice of surplus funds. The clerk or comptroller must disburse payments to each governmental unit to pay any lien of record held by a governmental unit against the property, including any tax certificate not incorporated in the tax deed application and any omitted taxes, before disbursing the surplus funds to nongovernmental claimants.

(8) The tax deed recipient may directly pay off all liens to governmental units that could otherwise have been requested from surplus funds, and, upon filing a timely claim under subsection (3) with proof of payment, the tax deed recipient may receive the same amount of funds from the surplus funds for all amounts paid to each governmental unit in the same priority as the original lienholder.

(9) If the clerk does not receive claims for surplus funds within the 120 day claim period, as required in subsection (5), there is a conclusive presumption that the legal titleholder of

record described in s. 197.502(4)(a) is entitled to the surplus funds. The clerk must process the surplus funds in the manner provided in chapter 717, regardless of whether the legal titleholder is a resident of the state or not.

~~(3) If unresolved claims against the property exist on the date the property is purchased, the clerk shall ensure that the excess funds are paid according to the priorities of the claims. If a lien appears to be entitled to priority and the lienholder has not made a claim against the excess funds, payment may not be made on any lien that is junior in priority. If potentially conflicting claims to the funds exist, the clerk may initiate an interpleader action against the lienholders involved, and the court shall determine the proper distribution of the interpleaded funds. The clerk may move the court for an award of reasonable fees and costs from the interpleaded funds.~~

Section 4. This act applies to tax deed applications filed on or after October 1, 2018, with the tax collector pursuant to s. 197.502, Florida Statutes.

Section 5. This act shall take effect July 1, 2018.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1383 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Latvala offered the following:

Amendment (with directory and title amendments)

Between lines 65 and 66, insert:

(4) The tax collector shall deliver to the clerk of the circuit court a statement that payment has been made for all outstanding certificates or, if the certificate is held by the county, that all appropriate fees have been deposited, and stating that the following persons are to be notified prior to the sale of the property:

(b) Any lienholder of record who has recorded a lien against the property described in the tax certificate if an address appears on the recorded lien or if the lienholder is a financial institution and the financial institution has

designated an address with the Department of State pursuant to s. 655.0201(2), then notice must be sent to the address on file with the Department of State.

(c) Any mortgagee of record if an address appears on the recorded mortgage or if the mortgagee has designated an address with the Department of State pursuant to s. 655.0201(2), in which case notice must be sent to the address on file with the Department of State.

The statement must be signed by the tax collector or the tax collector's designee. The tax collector may purchase a reasonable bond for errors and omissions of his or her office in making such statement. The search of the official records must be made by a direct and inverse search. "Direct" means the index in straight and continuous alphabetic order by grantor, and "inverse" means the index in straight and continuous alphabetic order by grantee.

D I R E C T O R Y A M E N D M E N T

Remove line 30 and insert:

Section 1 Subsections (1) and (2), paragraphs (b) and (c) of subsection (4), and subsections (5) and (6) of section

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

Between lines 9 and 10, insert:

revising the entities that must be notified prior to the sale of the property;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1383 (2018)

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Government Accountability Committee

Representative Latvala offered the following:

Amendment

Remove lines 321-325 and insert:

clerk may either file an interpleader action in circuit court, if potentially conflicting claims to the funds exist or pay the surplus funds according to the clerk's determination of the priority of claims using the information provided by the claimants under subsection (3). Fees and costs incurred by the clerk in determining whether an interpleader action should be filed shall be paid from the surplus funds. If the clerk files an interpleader action, the court shall determine the distribution of funds based upon the priority of liens filed. The clerk may move the court to award reasonable fees and

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: PCS for HB 1393 City of Tampa, Hillsborough County
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Darden	Williamson

SUMMARY ANALYSIS

Special districts are units of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.

The bill creates the Water Street Improvement District in the City of Tampa, Hillsborough County. The District's purpose is to install, operate, and maintain community infrastructure.

The bill takes effect upon becoming a law, except that provisions authorizing the levy of ad valorem taxation take effect only upon approval by a majority vote of owners of freeholds voting in a referendum.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Independent Special Districts

A "special district" is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary. Special districts are created by general law or special act,[1] local ordinance,[2] or by rule of the Governor and Cabinet.[3] A special district has only those powers expressly provided by, or reasonably implied from, the authority provided in the district's charter. Special districts provide specific municipal services in addition to, or in place of, those provided by a municipality or county.[4]

A "dependent special district" is a special district where the membership of the governing body is identical to the governing body of a single county or municipality, all members of the governing body are appointed by the governing body of a single county or municipality, members of the district's governing body are removable at will by the governing body of a single county or municipality, or the district's budget is subject to the approval of governing body of a single county or municipality.[5] An "independent special district" is any district that is not a dependent special district.[6]

Formation and Charter of an Independent Special District

With the exception of community development districts,[7] the charter for any new independent special district must include the minimum elements required by ch. 189, F.S.[8] Any special laws or general laws of local application relating to a special district may not:

- Create a special district with a district charter that does not conform to the minimum requirements in s. 189.031(3), F.S.;[9]
- Exempt district elections from the requirements of s. 189.04, F.S.;[10]
- Exempt a district from the requirements for bond referenda in s. 189.042, F.S.;[11]
- Exempt a district from certain requirements relating to[12] issuing bonds if no referendum is required,[13] requiring special district reports on public facilities,[14] notice and reports of special district public meetings,[15] or required reports, budgets, and audits;[16] or

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[1] Section 189.031(3), F.S.
[2] Section 189.02(1), F.S.
[3] Section 190.005(1), F.S. *See*, generally, s. 189.012(6), F.S.
[4] *2017 – 2018 Local Gov't Formation Manual* at p. 64, available at http://www.myfloridahouse.gov/Sections/Committees/committeesdetail.aspx?CommitteeId=2911 (last visited Feb. 25, 2018).
[5] Section 189.012(2), F.S.
[6] Section 189.012(3), F.S.
[7] Section 189.0311, F.S. *See* s. 190.004, F.S. (providing that chapter 190, F.S., governs the functions and powers of independent community development districts).
[8] Section 189.031(1), F.S. Section 189.031(3), F.S., sets forth the minimum charter requirements for an independent special district.
[9] Section 189.031(2)(a), F.S.
[10] Section 189.031(2)(b), F.S.
[11] Section 189.031(2)(c), F.S.
[12] Section 189.031(2)(d), F.S.
[13] Section 189.051, F.S.
[14] Section 189.08, F.S.
[15] Section 189.015, F.S.
[16] Section. 189.016, F.S.

- Create a district for which a statement documenting specific required matters is not submitted to the Legislature:
  - The purpose of the proposed district;
  - The authority of the proposed district;
  - An explanation of why the district is the best alternative; and
  - A resolution or official statement from the local general-government jurisdiction where the proposed district will be located stating the proposed district is consistent with approved local government plans and the local government does not object to creation of the district.[17]

These prohibitions were passed by a three-fifths majority in the House and Senate when ch. 189, F.S., originally was adopted.[18] They may be amended or repealed only "by like vote."[19]

The charter of a newly created district must state whether it is dependent or independent.[20] Charters of independent special districts must address and include a list of required provisions, including the purpose of the district, its geographical boundaries, taxing authority, bond authority, and selection procedures for the members of its governing body.[21]

Special districts do not possess "home rule" powers and may impose only those taxes, assessments, or fees authorized by special or general law. The special act creating an independent special district may provide for funding from a variety of sources while prohibiting others. For example, ad valorem tax authority is not mandatory for a special district.[22]

Election of Special District Boards

Members of a special district board are generally elected by the qualified electors of the district.[23] Some district boards, however, are elected according to a one-acre/one-vote methodology.[24]

Section 189.041, F.S., provides a process for transitioning a special district governing board elected on a one-acre/one-vote basis to election by the qualified electors of the district. A referendum may be called at any time once the district has at least 500 qualified electors.[25] A petition signed by 10 percent of the qualified electors must be filed with the governing body of the district requesting a referendum.[26] Upon verification of the petition, the governing board of the district must call for a referendum at the earlier of the next regularly scheduled election of governing body members occurring at least 30 days after the verification of the petition or within six months of verification.[27]

If the qualified electors approve of the transition, the size of the board is increased to five members and elections for the board are held at the earlier of the next regularly scheduled general election or a special election held within six months following the referendum approving transition and the finalization

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[17] Section 189.031(2)(e), F.S.
[18] Chapter 89-169, s. 67, Laws of Fla.
[19] Article III, s. 11(a)(21), Fla. Const. ("SECTION 11. Prohibited special laws.— (a) There shall be no special law or general law of local application pertaining to: … (21) any subject when prohibited by general law passed by a three-fifths vote of the membership of each house. Such law may be amended or repealed by like vote.").
[20] Section 189.031(5), F.S.
[21] Section 189.031(3), F.S. (setting forth the minimum charter requirements).
[22] Article VII, s. 9(a), Fla. Const.
[23] *See e.g.* ch. 2015-202, s. 4(4)(2)(a), Laws of Fla. (election provisions for Lehigh Acres Municipal Services Improvement District).
[24] *See* s. 189.04(4), F.S. (providing an exception for special district governing board elected on a one-acre/one-vote basis); *also see e.g.* ch. 2007-306, s. 5, Laws of Fla. (election provisions for the Babcock Ranch Community Independent Special District).
[25] Section 189.041(2)(a)1.a., F.S.
[26] Section 189.041(2)(a)1.b., F.S.
[27] Section 189.041(2)(a)2., F.S.

of the district urban area map.[28] If the qualified electors do not approve of the transition, a new referendum may not be held for at least two years.[29]

Within 30 days after the transition referendum, the governing body of the district must direct the district's staff to prepare and present maps describing all urban areas contained in the district.[30] For the purposes of this determination, an "urban area" is a contiguous, developed, and inhabited urban area within a district with a minimum density of at least:

- 1.5 persons per acre, as defined the latest census or other official population count;
- 1 single-family home per 2.5 acres, with access to improved roads; or
- 1 single-family home per 5 acres within a recorded plat subdivision.[31]

The maps describing the urban areas must be presented to the governing body of the district within 60 days after the referendum.[32] The determination of urban areas is made with the assistance of local general-purpose governments and district landowners or electors may contest the accuracy of the map.[33] If a landowner or elector raises an objection to the map, the map is submitted to the county engineer for review.[34] After all objections to the map have been addressed, the governing body of the district must adopt either its initial map or the map as amended by the county engineer as the official map at a regular scheduled meeting of the governing body held within 60 days of the presentation of all such maps.[35] A landowner or elector may contest the accuracy of the map by filing a petition in circuit court within 30 days.[36]

After the adoption of the official map or a certification by the circuit court, the district urban area map must determine the extent of urban area within the district and the composition of the board pursuant to s. 189.041(3)(a), F.S.[37] The maps must be readopted every five years, but may be readopted sooner at the discretion of the governing body of the district.[38]

The composition of the board is determined by the percentage of the district that is urban area, as follows:[39]

Urban Area as Percentage of District	Number of Board Members Elected by Landowners	Number of Board Members Elected by Qualified Electors
Less than 25%	4	1
26%-50%	3	2
51%-70%	2	3
70%-90%	1	4
More than 91%	0	5

[28] Section 189.041(2)(a)3., F.S.
[29] Section 189.041(2)(a)4., F.S.
[30] Section 189.041(2)(b)1. F.S.
[31] Section 189.041(1)(b), F.S.
[32] Section 189.041(2)(b)2., F.S.
[33] Sections 189.041(1)(b), (2)(b)3., F.S.
[34] Section 189.041(2)(b)3., F.S.
[35] Section 189.041(2)(b)4., F.S.
[36] Section 189.041(2)(b)5., F.S.
[37] Section 189.041(2)(b)6., F.S.
[38] Section 189.041(2)(b)8., F.S.
[39] Section 189.041(3)(a), F.S.

Governing board members elected by qualified electors serve four-year terms, except for those elected at the first election and the first landowner's meeting following the referendum, who serve the following terms:[40]

Urban Area as Percentage of District	Terms of Board Members Elected by Landowners	Terms of Board Members Elected by Qualified Electors
Less than 25%	1 member serving each a 1, 2, 3, and 4 year term	1 member serving a 4 year term
26%-50%	1 member serving each a 1, 2, and 3 year term	2 member serving a 4 year term
51%-70%	1 member serving each a 1 and 2 year term	2 members serving a 4 year term, 1 member serving a 2 year term
70%-90%	1 member serving a 1 year term	2 members serving a 4 year term, 2 members serving a 2 year term
More than 91%	n/a	3 members serving a 4 year term, 2 members serving a 2 year term

Annual landowners meetings continue to be held as long as at least one member of the board is elected on a one-acre/one-vote basis.[41] There is no requirement for a majority of the acreage of the district to be represented by either owner or an owner's proxy at the landowners meeting.[42] Electors must hold landowner meetings in the month preceding the month of the election of governing body members.[43]

Communications Services

When a special district operates a high-speed internet or other telecommunication services network, the special district must:

- Separately account for the revenues, expenses, property, and source of investment dollars associated with the provision of such service;[44]
- Pay ad valorem taxes to any county in which the service operates;[45]
- Make specific findings and adopt a business plan;[46]
- Establish separate books and records and an enterprise fund to account for the operation of communications services;[47]
- Adopt separate operating and capital budgets for communications services;[48] and
- Operate at a profit within four years.[49]

If the provision of communications services by the special district is not profitable within four years, the special district must either cease providing services, sell the system used to provide services, partner with a private entity to provide services at a profit, or approve continuing service by a majority vote.[50]

[40] Section 189.041(3)(b), F.S.
[41] Section 189.041(3)(c)1., F.S.
[42] Section 189.041(3)(c)2., F.S.
[43] Section 189.041(3)(c)3., F.S.
[44] Section 125.421(1), F.S.
[45] Section 125.421(3), F.S.
[46] Section 350.81(2)(b)-(d), F.S.
[47] Section 350.81(2)(g)-(h), F.S.
[48] Section 350.81(2)(i), F.S.
[49] Section 350.81(2)(l), F.S.
[50] *Id.*

Districts are prohibited from:

- Setting rates below the cost of providing the communications service;[51]
- Operating outside of the boundaries of the district, without consent of the county and/or municipality in which services would be provided;[52]
- Issuing revenue bonds with maturities of longer than 15 years without voter approval;[53] and
- Using powers of eminent domain "solely or primarily" for providing communications services.[54]

Effect of Proposed Changes

The bill creates the Water Street Improvement District (District), an independent special district in the City of Tampa, Hillsborough County and provides a charter for the District. The District's purpose is to install, operate, and maintain community infrastructure in Tampa.

Legislative Findings, Legislative Intent and Policy

The bill provides Legislative findings and intent, stating the District provides for the construction and management of a substantial commercial and mixed-use district containing over two million square feet of newly constructed office space; one million square feet of newly constructed retail, cultural, educational, and entertainment spaces that compliment active pedestrian experiences; and parks and public gathering spaces that connect existing community fixtures such as the Tampa Convention Center, Amalie Arena, Tampa Bay History Center, Florida Aquarium, and Tampa Riverwalk.

The bill states the District does not have the power to engage in comprehensive planning, zoning, or development permitting and that the creation of the District is consistent with the City of Tampa Comprehensive Plan and will provide a comprehensive community development approach to promote sustainable and efficient land use. The bill states it is the intent and purpose of the District that no debt or obligation will be placed on any local general-purpose government without that government's consent.

Charter Requirements, Creation, Establishment, Jurisdiction, and Charter

The bill provides a list of sections of the bill that fulfill the requirements for the creation of a special district under s. 189.031(3), F.S.

District Boundaries

The bill provides the legal description of the boundaries of the District. The bill provides that any residential unit subject to condominium ownership, as created by recording a condominium declaration in the public records of Hillsborough County, or any transferred unit, are not included in the boundaries of the District.[55]

Membership, Powers, and Duties of the Board of Supervisors

The bill provides for a five-member board (Board), with each member serving a four-year term. Members of the Board must be both residents of the state and citizens of the United States.

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[51] Section 350.81(2)(f), F.S.
[52] Section 350.81(2)(e)1.c., F.S.
[53] Section 350.81(2)(e)2., F.S.
[54] Section 350.81(2)(j), F.S.
[55] The bill defines a "residential unit" as a room or group of rooms forming a single, independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking, and eating purposes that is 10,000 square feet or less in size. It also defines the term "transferred unit" to mean any property within the boundaries of the District acquired by a landowner after the effective date of the act.

A meeting of the landowners of the District must be held within 90 days of the effective date of the act. Notice of the meeting must be provided once a week for two consecutive weeks in a newspaper of general circulation in the area of the District. The landowners present at the meeting will elect a chair from among attendees to conduct the meeting. The chair may nominate candidates and make motions if he or she is a landowner or holds the proxy of a landowner. The landowners present constitute a quorum, even if they are less than 50 percent of the total acreage of the District, and may elect members of the governing board. The three candidates for the Board receiving the first, second, and third highest number of votes are elected to a term expiring November 15, 2022, while the two candidates receiving the fourth and fifth highest number of votes are elected to a term expiring November 17, 2020.

Each landowner is entitled to one vote for each acre he or she owns. Any fractional acre is treated as one acre for the purposes of the landowner vote. Landowners who are unable to attend may cast their votes by proxy. Subsequent landowners elections must be announced at a public meeting at least 90 days before the landowners meeting and noticed in the same manner as the initial landowners meeting. Subsequent elections to the Board occur on the first Tuesday after the first Monday of November every two years.

Members of the Board are subject to ethics and conflict of interest laws generally applicable to public officers. The bill provides that the Governor may remove a Board member for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act. In the event of a vacancy, the remaining members of the Board may make an appointment to serve the remainder of the unexpired term, unless the vacancy was created by the Governor removing the Board member, in which case the Governor makes an appointment to fill the vacancy.

The Board is required to elect a chair and a secretary, as well as other officers the Board deems necessary. The secretary does not have to be a member of the board. Members of the Board are not entitled to compensation, but may receive reimbursement for travel and per diem expenses as provided in s. 112.061, F.S.

The Board is required to keep a record of its proceedings containing all meeting, resolutions, bonds, and any corporate acts. The record book and other District records must be open to inspection by the public as required by ch. 119, F.S.

General Duties of the Board

District Manager and Treasurer

The Board is required to employ a district manager to oversee any improvements or facilities constructed by the District. The bill specifies that employing a Board member, district manager, or other employee of a landowner as the district manager for the District does not constitute a conflict of interest under ch. 112, F.S. The district manager is permitted to hire additional employees as necessary and authorized by the board.

The Board is also required to hire a treasurer, who must be a resident of the state. The treasurer manages the finances of the District and may be granted other powers as the Board finds appropriate. The Board sets the compensation of the treasurer and the Board may require the treasurer to post a surety bond. The bill requires that an independent certified public accountant on at least an annual basis audit the financial records of the Board.[56] The Board, in conjunction with the treasurer, is required to select a qualified public depository for the funds of the District.

[56] As an independent special district, the District will be required to maintain a public website on which it must post its annual budget and any amendments, all financial reports and audits of the District's finances required by law, and a link to the Department of Financial Services' website. Sections. 189.016, 189.069, F.S. The District must file a separate annual financial statement with the Department of Financial Services, under s. 218.32, F.S., and periodic audited financial statements with the Florida Auditor General, under s. 218.39, F.S.

Budget and Reporting

The district manager is required to prepare a proposed budget on or before July 15 of each year for consideration by the Board. The budget must contain all expenditures of the District and estimates of projected revenues. The Board may make amendments to the proposed budget before approval. The Board is required to provide adequate notice of the budget hearing. The Board must adopt a final budget before October 1, the beginning of its fiscal year. The Board must submit a copy of the budget to the Tampa City Council for informational purpose at least 60 days prior to its adoption.

The Board must provide the Tampa City Council with a copy of the District's public facilities report as required by s. 189.08, F.S.

The District will provide full disclosure of its public financing and maintenance of improvements to real property to all existing and prospective owners of property within the District. The District must provide each developer within the District with sufficient copies of the information to provide to each prospective purchaser. The District must also file the disclosure documents in the property records of the county.

The bill provides that the District must maintain an official website by the end of its first full fiscal year as required by s. 189.069, F.S.

General Powers

The bill grants the District the following general powers to:

- Conduct business on behalf of the District, including suing or being sued, adopting a seal, and acquiring and disposing of property;
- Contract for professional services;
- Conduct financial transactions for District purposes;
- Adopt and enforce rules;
- Maintain an office;
- Hold, control, purchase, or dispose of public easements;
- Lease as lessor or lessee any type of project the District is authorized to undertake;
- Borrow money and issue bonds as authorized in the act and to levy taxes and assessments;
- Charge user fees as necessary to conduct District activities;
- Exercise eminent domain;
- Cooperate with other government entities;
- Assess and impose ad valorem taxes, as provided in the act;
- Levy and impose special assessments;
- Exercise special powers; and
- Exercise powers necessary and proper for fulfilling the special and limited purpose of the District as authorized by this act.

Special Powers

The bill also grants the District special powers to implement its lawful and special purpose and to provide the following systems and infrastructure for those special and limited purposes:

- Water management and control for the lands within the District and to connect some or any of such facilities with roads and bridges;
- Water supply, sewer, and wastewater management, reclamation, and reuse;
- District roads equal to or exceeding specifications of the county in which the roads are located, together with street lighting;
- Buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage;

- Investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the District;
- Conservation and mitigation of wildlife habitat;
- Parks and facilities for indoor and outdoor recreational, cultural, and educational uses;
- School buildings and related structures, which may be leased, sold, or donated to the school district, a charter school as authorized by law, or educational facilities for intermediate and higher education or vocational training;
- Security;[57]
- Traffic control and enforcement, when authorized by proper governmental agencies;[58]
- Control and elimination of mosquitoes and other arthropods of public health importance;
- Enter into impact fee, mobility fee, or other similar credit agreements with the City of Tampa, Hillsborough County, or a landowner developer and to see or assign such credits, on terms the District deems appropriate;
- Buildings and structures for District offices, maintenance facilities, meeting facilities, town centers, or other authorized projects;
- Establish and create, at noticed meetings, such governmental departments of the governing board.
- Sustainable or green infrastructure improvements, facilities, chillers, and services;[59]
- Any facilities or improvements that may otherwise be provided by a county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees;
- Construction and operation of communications systems and related infrastructure;[60]
- Enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education; and
- Any other project within or without the boundaries of the District when the project is required for the purposes of meeting concurrency or similar development-rated obligations and the project is subject to an agreement between the District, the Tampa City Council, the Hillsborough County Board of County Commissioners, or with any other applicable public or private entity, and is not inconsistent with effective local comprehensive plans or the general of special powers contained in the bill.

The bill provides that the District's power to provide any utility service is both subject to the City of Tampa's provision of that service and may not be exercised in such a manner as to adversely impact the City's bond resolutions or covenants.

The bill requires the District and the City of Tampa to enter into an interlocal agreement if the exercise of the special powers of the District and the powers of the City of Tampa would result in "unnecessary duplication" of services and facilities. The purpose of the interlocal agreement is to avoid inefficiencies and allow the District and the City to exercise jointly common powers and authority. The bill provides that the special act does not preempt the powers and authority of the City of Tampa.

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[57] The District may contract with the appropriate local general purpose government agencies for an increased level of services within the district boundaries.

[58] The District may contract with a towing operator to remove a vehicle or vessel from a district-owned facility or property if the district follows the requirements of s. 715.07, F.S. The selection of a towing operator is not subject to public bidding if the towing operator is included in the approved list of towing operators maintained by the City of Tampa.

[59] The bill provides that this provision does not authorize the District to provide electric services or otherwise impair electric utility franchise agreements.

[60] The bill provides that communications services provided by the District are subject to ss. 125.421 and 350.81, F.S. Section 125.421, F.S., provides that a local government entity operating as a telecommunications company must separately account for revenues, expenses, property, and investments related to telecommunications service; is subject to all local requirements on telecommunications companies; and must pay ad valorem taxes on telecommunications facilities. Section 350.81, F.S., provides a statutory framework for communications services offered by governmental entities, including special districts.

Financing and Bonds

The Board has the power to issue bond anticipation notes that will bear interest not to exceed the maximum rate allowed by law and that will mature no later than five years from issuance. The Board may also obtain loans and issue negotiable notes, warrants, or other evidence of debt, payable at such times and bearing such interest as the Board determines, but not to exceed the maximum rate allowed by general law and to be sold or discounted at such price or prices not less than 95 percent of par value. Bonds may be sold in blocks or installment at different times, at public or private sale after advertisement, at not less than 90 percent of the par value, together with accrued interest. The Board also has the authority to issue refunding bonds and revenue bonds.

The bill authorizes the Board to levy ad valorem taxes on all taxable property in the District, if such levy has been approved at a referendum as required by Art. VII, s. 9 of the Florida Constitution. This levy may not exceed 1.0 mills.

The Board annually must determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments are collected annually in the same manner as county taxes. The Board may determine a formula for the determination of an amount, which when paid by a taxpayer with respect to any tax parcel, constitutes a prepayment of all future annual installments of the benefit special assessment.

The Board may levy a maintenance special assessment to preserve the facilities and projects of the District. The amount of the assessment is determined by the Board upon a report of the District's engineer and assessed by the Board upon the land within the District benefited by the maintenance, or apportioned between the benefited lands in proportion to the benefits received by each tract of land. The assessment is a lien on the assessed property until paid and enforceable in the same manner as county taxes. However, this does not prohibit the District from using the method prescribed in ss. 197.363, 197.3631, or 197.3632, F.S., for enforcing and collecting these assessments.

The District may establish and collect rates, fees, rentals, or other charges, referred to as "revenues", for the system and facilities furnished by the District such as recreational facilities, water management and control facilities, and water, sewer, and reuse systems. The District must hold a public hearing concerning the proposed rates, fees, rentals, or other charges, which may not apply to District leases, prior to adoption under the administrative rulemaking authority of the District.

Any rates, fees, rentals, charges, or delinquent penalties not paid within 60 days, will be in default and the District in a civil action may recover the unpaid balance together with reasonable attorney fees and costs. In the event fees, rentals, or other charges for water and sewer, or either of them, are not paid when due, the District may, under rules and regulations of the Board, discontinue and shut off both water and sewer services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and restoration of service are fully paid.

Enforcement of Taxes and Assessments

The collection and enforcement of all taxes levied by the District is in the same manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes pertain to the collection of such taxes. Benefit special assessments, maintenance special assessments, and special assessments are non-ad valorem assessments as defined by s. 197.3632, F.S.

Any property of a governmental entity subject to a ground lease as described in s. 190.003(13), F.S., is not subject to lien or encumbrance on the underlying fee interest for a levy of ad valorem taxes or non-ad valorem assessments under this bill. Any property owned by the City of Tampa (and used for governmental purposes), Hillsborough County, or the state is not subject to ad valorem taxes or non-ad valorem special assessments.

Competitive Bidding and Public Notice Regarding District Purchases

Any contract for goods, supplies, or materials that exceeds $195,000[61] is subject to competitive bidding through notice of bids published once in a newspaper of general circulation in Hillsborough County. In addition, if the Board seeks to construct or improve a public building, structure, or other public works it must comply with the bidding procedures in s. 255.20, F.S., and other applicable general law. The Board must accept the bid of the lowest responsive and responsible bidder unless all bids have been rejected. The provisions of the Consultants Competitive Negotiation Act in s. 287.055, F.S., apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services.

Contracts for maintenance services that exceed $195,000[62] are subject to competitive bidding. All contracts for other services are not subject to competitive bidding unless the District adopts a rule, policy, or procedure to apply competitive bidding procedures to those contracts. The Board may require bidders to supply a bond.

Waiver of Sovereign Immunity

Any suits against the District for damages arising out of tort are subject to the limitations provided in s. 768.28, F.S.

Termination of the District

The bill provides that the District exists until dissolved by the Legislature or declared inactive by the Department of Economic Opportunity.[63]

Notice to Purchasers of Property

After the creation of the District, each contract for initial sale of a unit within the District must include a disclosure statement informing the purchaser of the existence of the District and that the purchase will be liable for taxes, assessments, and fees imposed by the District.

Public Access

Any facility, service, works, improvement, project, or other infrastructure owned by the District, or funded by federal tax-exempt bonding issued by the District, is public. The District may establish rules regulating the use of the property and imposing reasonable charges or fees for such use.

B. SECTION DIRECTORY:

Section 1: Provides that the special act may be cited as the "Water Street Improvement District Act."

Section 2: Provides legislative findings and intent, definitions, and list of policy objectives.

Section 3: Provides for the creation and establishment of the District, minimum charter requirements.

Section 4: States the legal boundaries of the District.

[61] *See* s. 287.017(1)(d), F.S. (creating purchasing categories for procurement of personal property and services).
[62] *See id.*
[63] Section 189.062, F.S.

Section 5: Provides for Board of Supervisors; membership and meeting requirements; organization, powers, and duties of the Board; terms of office; election requirements.

Section 6: Provides for the general duties of the Board.

Section 7: Provides for severability of the act.

Section 8: Provides that the bill is effective upon becoming a law, except that the provisions authorizing the levy of ad valorem taxation take effect only upon approval by a majority vote of owners of freeholds of the Water Street Improvement District in a referendum.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes [x] No []

IF YES, WHEN? November 10, 2017

WHERE? The *Tampa Bay Times*, a daily newspaper of general circulation in Hillsborough County, Florida.

B. REFERENDUM(S) REQUIRED? Yes [x] No []

IF YES, WHEN? A referendum of the freeholders of the district must be held if the board seeks to levy ad valorem taxes.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached [x] No []

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [x] No []

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

The bill requires rules and orders adopted by the District pertaining to the powers, duties, and functions of the officers of the District; the conduct of the business of the District; the maintenance of records; the form of certificates evidencing tax liens and all other documents and records of the District; and the operation of guardhouses by the District or any other unit of local government to serve security purposes, to be adopted and enforced pursuant to ch. 120, F.S., the Administrative Procedure Act.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the City of Tampa, Hillsborough County; creating the Water Street Tampa Improvement District; providing a short title; providing legislative findings and intent; providing definitions; stating legislative policy regarding creation of the district; establishing compliance with minimum requirements in s. 189.031(3), F.S., for creation of an independent special district; providing for creation and establishment of the district; providing district boundaries; providing for the jurisdiction and charter of the district; providing for a governing board and establishing membership criteria and election procedures; providing for board members' terms of office; providing for board meetings; providing for administrative duties of the board; providing a method for election of the board; providing for a district manager and district personnel; providing for a district treasurer, selection of a public depository, and district budgets and financial reports; providing for the general powers of the district; providing for the special powers of the district to plan, finance, and provide community infrastructure and services within the district; providing for bonds; providing for future ad

valorem taxation; providing for special assessments; providing for authority to borrow money; providing for tax liens; providing for competitive procurement; providing for fees and charges; providing for amendment to the charter; providing for required notices to purchasers of units within the district; defining district public property; providing for construction; providing severability; providing for a referendum; providing an effective date.

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

Section 1. This act may be cited as the "Water Street Tampa Improvement District Act."

Section 2. Legislative findings and intent; definitions; policy.—

(1) LEGISLATIVE INTENT; PURPOSE OF THE DISTRICT.—

(a) The lands located wholly within Hillsborough County and the City of Tampa covered by this act contain many opportunities for thoughtful, comprehensive, responsible, and consistent development over a long period.

(b) There is a need to use a special and limited purpose independent special district as a unit of special-purpose local government for the Water Street Tampa Improvement District lands located within Hillsborough County and the City of Tampa to

provide for a more comprehensive community development approach, which will facilitate an integral relationship among transportation, land use, and urban design to provide for a diverse mix of housing, regional employment, and economic development opportunities, rather than fragmented development with underutilized infrastructure which is generally associated with urban sprawl.

(c) The establishment of a special and limited purpose independent special district for the Water Street Tampa Improvement District lands will allow the construction and management of a substantial commercial and mixed-use district with more than 2 million square feet of new office space, including the first new office towers in downtown Tampa in nearly 25 years; 1 million square feet of new retail, cultural, educational, and entertainment space that complement the active pedestrian experience at the street level; and new and enhanced park and public gathering places that will connect existing cultural, entertainment, and community anchors, including the Tampa Convention Center, Amalie Arena, Tampa Bay History Center, Florida Aquarium, and Tampa Riverwalk.

(d) There is a considerably long period of time during which there is a significant burden to provide various systems, facilities, and services on the initial landowners of the Water Street Tampa Improvement District lands, such that there is a need for flexible management, sequencing, timing, and financing

of the various systems, facilities, and services to be provided to these lands, taking into consideration absorption rates, commercial viability, and related factors. Therefore, extended control by the initial landowner with regard to the provision of systems, facilities, and services for the Water Street Tampa Improvement District lands, coupled with the special and limited purpose of such district, is in the public interest.

(e) The existence and use of an independent special district for the Water Street Tampa Improvement District lands, subject to the City of Tampa comprehensive plan, will provide for a comprehensive and complete community development approach to promote a sustainable and efficient land use pattern for the district lands with long-term planning to provide opportunities for the mitigation of impacts and development of infrastructure in an orderly and timely manner; prevent the overburdening of the general-purpose local government and the taxpayers therein; and provide an enhanced tax base and regional employment and economic development opportunities.

(f) The creation and establishment of the special district will encourage local government financial self-sufficiency in providing public facilities and in identifying and implementing fiscally sound, innovative, and cost-effective techniques to provide and finance public facilities while encouraging coordinated development of capital improvement plans by all

levels of government, in accordance with the goals of chapter 187, Florida Statutes.

(g) The creation and establishment of the special district will encourage and enhance cooperation among communities that have unique assets, irrespective of political boundaries, to bring the private and public sectors together for establishing an orderly and economically sound plan for current and future needs and growth.

(h) The creation and establishment of a special and limited purpose independent special district is a legitimate supplemental and alternative method available to manage, own, operate, construct, reconstruct, and finance capital infrastructure systems, facilities, and services.

(i) In order to be responsive to the critical timing required through the exercise of its special management functions, an independent special district requires the authority to finance capital improvements payable from and secured by lienable and nonlienable revenues, with full and continuing public disclosure and accountability, payable by the benefitted landowners, both present and future, and by users of the systems, facilities, improvements, and services provided to the land area by the special district, without unduly burdening the taxpayers and citizens of the state, Hillsborough County, or the City of Tampa.

(j) The special district created and established by this act shall not have or exercise any comprehensive planning, zoning, or development permitting power; the establishment of the special district shall not be considered a development order within the meaning of part I of chapter 380, Florida Statutes; and all applicable planning and permitting laws, rules, regulations, and policies of the City of Tampa and Hillsborough County control the development of the land to be serviced by the Water Street Tampa Improvement District.

(k) The creation by this act of the Water Street Tampa Improvement District is not inconsistent with the City of Tampa comprehensive plan.

(l) It is the legislative intent and purpose of this act that no debt or obligation of the special district constitute a burden on any general-purpose local government.

(2) DEFINITIONS.—As used in this act, the term:

(a) "Ad valorem bonds" means bonds that are payable from the proceeds of ad valorem taxes levied on real and tangible personal property.

(b) "Assessable improvements" means, without limitation, any and all public improvements and community facilities that the district is empowered to provide in accordance with this act that provide a special benefit to property within the district.

(c) "Assessment bonds" means special obligations of the district which are payable solely from proceeds of the special

assessments or benefit special assessments levied for assessable improvements, provided that, in lieu of issuing assessment bonds to fund the costs of assessable improvements, the district may issue revenue bonds for such purposes payable from assessments. Assessment bonds are considered to be revenue bonds for all purposes of this act.

(d) "Assessments" means special assessments, benefit special assessments, and maintenance special assessments if authorized by general law.

(e) "Benefit special assessments" are assessments imposed, levied, and collected pursuant to section 6(12)(b).

(f) "Board of supervisors" or "board" means the governing body of the district or, if such board has been abolished, the board, body, or commission assuming the principal functions thereof or to whom the powers given to the board by this act have been given by law.

(g) "Bond" includes "certificate," and the provisions that are applicable to bonds are equally applicable to certificates. The term includes any assessment bond, refunding bond, revenue bond, bond anticipation note, and other such obligation in the nature of a bond as is provided for in this act.

(h) "Cost" or "costs," when used with reference to any project, includes, but is not limited to:

1. The expenses of determining the feasibility or practicability of acquisition, construction, or reconstruction.

2. The cost of surveys, estimates, plans, and specifications.

3. The cost of improvements.

4. Engineering, architectural, fiscal, and legal expenses and charges.

5. The cost of all labor, materials, machinery, and equipment.

6. The cost of all lands, properties, rights, easements, and franchises acquired.

7. Financing charges.

8. The creation of initial reserve and debt service funds.

9. Working capital.

10. Interest charges incurred or estimated to be incurred on money borrowed prior to and during construction and acquisition and for such reasonable period of time after completion of construction or acquisition as the board may determine.

11. The cost of issuance of bonds pursuant to this act, including advertisements and printing.

12. The cost of any bond or tax referendum held pursuant to this act and all other expenses of issuance of bonds.

13. The discount, if any, on the sale or exchange of bonds.

14. Administrative expenses.

15. Such other expenses as may be necessary or incidental to the acquisition, construction, or reconstruction of any project, or to the financing thereof, or to the development of any lands within the district.

16. Payments, contributions, dedications, and any other exactions required as a condition of receiving any governmental approval or permit necessary to accomplish any district purpose.

17. Any other expense or payment permitted by this act or allowable by law.

(i) "District" means the Water Street Tampa Improvement District.

(j) "District manager" means the manager of the district.

(k) "District roads" means highways, streets, roads, alleys, intersection improvements, sidewalks, bike or cart paths, crossings, landscaping, irrigation, signage, signalization, storm drains, bridges, multi-use trails, lighting, and thoroughfares of all kinds.

(l) "General-purpose local government" means a county, municipality, or consolidated city-county government.

(m) "Governing board member" means any member of the board of supervisors.

(n) "Land development regulations" means those regulations of general purpose local government, adopted under the Community Planning Act, codified under part II of chapter 163, Florida Statutes, to which the district is subject and as to which the

district may not do anything that is inconsistent therewith. Land development regulations shall not mean specific management, engineering, operations, or capital improvement planning needed in the daily management, implementation, and supplying by the district of systems, facilities, services, works, improvements, projects, or infrastructure, so long as they remain subject to and are not inconsistent with the applicable city codes.

(o) "Landowner" means the owner of a freehold estate as it appears on the deed record, including a trustee, a private corporation, and an owner of a condominium unit. "Landowner" does not include a reversioner, remainderman, mortgagee, or any governmental entity which shall not be counted and need not be notified of proceedings under this act. "Landowner" also means the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

(p) "Maintenance special assessments" are assessments imposed, levied, and collected pursuant to the provisions of section 6(12)(d).

(q) "Non-ad valorem assessment" means only those assessments that can become a lien against the benefitted lands within the district, including a homestead as permitted in s. 4, Art. X of the State Constitution.

(r) "Powers" means powers used and exercised by the board of supervisors to accomplish the special and limited purpose of the district, including:

1. "General powers," which means those organizational and administrative powers of the district as provided in its charter in order to carry out its special and limited purpose as a local government public corporate body politic.

2. "Special powers," which means those powers enumerated by the district charter to implement its specialized systems, facilities, services, projects, improvements, and infrastructure and related functions in order to carry out its special and limited purposes.

3. Any other powers, authority, or functions set forth in this act.

(s) "Project" means any development, improvement, property, power, utility, facility, enterprise, service, system, works, or infrastructure now existing or hereafter undertaken or established under the provisions of this act.

(t) "Reclaimed water" means water that has received at least secondary treatment and basic disinfection and is reused after flowing out of a domestic wastewater treatment facility.

(u) "Reclaimed water system" means any plant, system, facility, or property, and any addition, extension, or improvement thereto at any future time constructed or acquired as part thereof, useful, necessary, or having the present

capacity for future use in connection with the development of sources, treatment, purification, or distribution of reclaimed water. The term includes franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

(v) "Refunding bonds" means bonds issued to refinance outstanding bonds of any type and the interest and redemption premium thereon. Refunding bonds may be issuable and payable in the same manner as refinanced bonds, except that no approval by the electorate shall be required unless required by the State Constitution.

(w) "Residential unit" means a room or group of rooms forming a single independent habitable unit used for or intended to be used for living, sleeping, sanitation, cooking, and eating purposes that is 10,000 square feet or less in size.

(x) "Revenue bonds" means obligations of the district that are payable from revenues, including, but not limited to, special assessments and benefit special assessments, derived from sources other than ad valorem taxes on real or tangible personal property and that do not pledge the property, credit, or general tax revenue of the district.

(y) "Sewer system" means any plant, system, facility, or property, and additions, extensions, and improvements thereto at any future time constructed or acquired as part thereof, useful or necessary or having the present capacity for future use in

connection with the collection, treatment, purification, or disposal of sewage, including, but not limited to, industrial wastes resulting from any process of industry, manufacture, trade, or business or from the development of any natural resource. The term includes treatment plants, pumping stations, lift stations, valves, force mains, intercepting sewers, laterals, pressure lines, mains, and all necessary appurtenances and equipment; all sewer mains, laterals, and other devices for the reception and collection of sewage from premises connected therewith; and all real and personal property and any interest therein, and rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

(z) "Special assessments" means assessments as imposed, levied, and collected by the district for the costs of assessable improvements pursuant to the provisions of this act, chapter 170, Florida Statutes, and the additional authority under s. 197.3631, Florida Statutes, or other provisions of general law, now or hereinafter enacted, which provide or authorize a supplemental means to impose, levy, or collect special assessments.

(aa) "Taxes" or "tax" means those levies and impositions of the board of supervisors that support and pay for government and the administration of law and that may be ad valorem or

property taxes based upon both the appraised value of property and millage, at a rate uniform within the jurisdiction.

(bb) "Transferred unit" means any property within the boundaries of the district acquired by a landowner after the effective date of this act.

(cc) "Water Street Tampa Improvement District" means the special and limited purpose independent special district unit of local government created and chartered by this act, and limited to the performance of those general and special powers authorized by its charter under this act, the boundaries of which are set forth by the act, the governing board of which is created and authorized to operate with legal existence by this act, and the purpose of which is as set forth in this act.

(dd) "Water system" means any plant, system, facility, or property, and any addition, extension, or improvement thereto at any future time constructed or acquired as a part thereof, useful, necessary, or having the present capacity for future use in connection with the development of sources, treatment, purification, or distribution of water. The term includes dams, reservoirs, storage tanks, mains, lines, valves, hydrants, pumping stations, chilled water distribution systems, laterals, and pipes for the purpose of carrying water to the premises connected with such system, and all rights, easements, and franchises of any nature relating to any such system and necessary or convenient for the operation thereof.

(3) POLICY.—Based upon its findings, ascertainments, determinations, intent, purpose, and definitions, the Legislature states its policy expressly:

(a) The district and the district charter, with its general and special powers, as created in this act, are essential and the best alternative for the residential, commercial, office, hotel, industrial, and other community uses, projects, or functions in the included portion of the City of Tampa and Hillsborough County consistent with the effective comprehensive plan and designed to serve a lawful public purpose.

(b) The district, which is a special purpose local government and a political subdivision, is limited to its special purpose as expressed in this act, with the power to provide, plan, implement, construct, maintain, and finance as a local government management entity systems, facilities, services, improvements, infrastructure, and projects, and possessing financing powers to fund its management power over the long term and with sustained levels of high quality.

(c) The creation of the Water Street Tampa Improvement District by and pursuant to this act, and its exercise of its management and related financing powers to implement its limited, single, and special purpose, is not a development order and does not trigger or invoke any provision within the meaning of chapter 380, Florida Statutes, and all applicable

governmental planning, environmental, and land development laws, regulations, rules, policies, and ordinances apply to all development of the land within the jurisdiction of the district as created by this act.

(d) The district shall operate and function subject to, and not inconsistent with, the applicable comprehensive plan of the City of Tampa and any applicable development orders (e.g. detailed specific area plan development orders), zoning regulations, and other land development regulations.

(e) The special and limited purpose Water Street Tampa Improvement District shall not have the power of a general-purpose local government to adopt a comprehensive plan or related land development regulation as those terms are defined in the Community Planning Act pursuant to s. 163.3164, Florida Statutes.

(f) This act may be amended, in whole or in part, only by special act of the Legislature.

Section 3. Minimum charter requirements; creation and establishment; jurisdiction; construction; charter.—

(1) Pursuant to s. 189.031(3), Florida Statutes, the Legislature sets forth that the minimum requirements in paragraphs (a) through (o) of that section have been met in the identified provisions of this act as follows:

(a) The purpose of the district is stated in the act in subsection (4) of this section and in section 2.

(b) The powers, functions, and duties of the district regarding ad valorem taxation, bond issuance, other revenue-raising capabilities, budget preparation and approval, liens and foreclosure of liens, use of tax deeds and tax certificates as appropriate for non-ad valorem assessments, and contractual agreements are set forth in section 6.

(c) The provisions for methods for establishing the district are in this section.

(d) The methods for amending the charter of the district are set forth in this section and section 4.

(e) The provisions for the membership and organization of the governing body and the establishment of a quorum are in section 5.

(f) The provisions regarding maximum compensation of each board member are in section 5.

(g) The provisions regarding the administrative duties of the governing body are found in sections 5 and 6.

(h) The provisions applicable to financial disclosure, noticing, and reporting requirements generally are set forth in sections 5 and 6.

(i) The provisions regarding procedures and requirements for issuing bonds are set forth in section 6.

(j) The provisions regarding elections or referenda and the qualifications of an elector of the district are in sections 2 and 5.

(k) The provisions regarding methods for financing the district are generally in section 6.

(l) Other than taxes levied for the payment of bonds and taxes levied for periods not longer than 2 years when authorized by vote of the electors of the district, the provisions for the authority to levy ad valorem tax and the authorized millage rate are in section 6.

(m) The provisions for the method or methods of collecting non-ad valorem assessments, fees, or service charges are in section 6.

(n) The provisions for planning requirements are in this section and section 6.

(o) The provisions for geographic boundary limitations of the district are set forth in sections 4 and 6.

(2) The Water Street Tampa Improvement District is created and incorporated as a public body corporate and politic, an independent special and limited purpose local government, an independent special district, under s. 189.031, Florida Statutes, and as defined in this act and in s. 189.012, Florida Statutes, in and for portions of Hillsborough County and the City of Tampa. All notices for the enactment by the Legislature of this special act have been provided pursuant to the State Constitution, the Laws of Florida, and the rules of the House of Representatives and the Senate. No referendum subsequent to the effective date of this act is required as a condition of

establishing the district. Therefore, the district, as created by this act, is established on the property described in this act.

(3) The territorial boundary of the district shall embrace and include all of that certain real property described in section 4.

(4) The jurisdiction of the district, in the exercise of its general and special powers, and in the carrying out of its special and limited purposes, is both within the external boundaries of the legal description of this district and extraterritorial when limited to, and as authorized expressly elsewhere in, the charter of the district as created in this act or applicable general law. This special and limited purpose district is created as a public body corporate and politic, and local government authority and power is limited by its charter, this act, and subject to the provisions of other general laws, including chapter 189, Florida Statutes, except that an inconsistent provision in this act shall control and the district has jurisdiction to perform such acts and exercise such authorities, functions, and powers as shall be necessary, convenient, incidental, proper, or reasonable for the implementation of its special and limited purpose regarding the sound planning, provision, acquisition, development, operation, maintenance, and related financing of those public systems, facilities, services, improvements, projects, and infrastructure

works as authorized herein, including those necessary and incidental thereto.

(5) The exclusive charter of the Water Street Tampa Improvement District is this act and, except as otherwise provided in subsection (2) and section 4, may be amended only by special act of the Legislature.

Section 4. Legal description of the Water Street Tampa Improvement District.—The metes and bounds legal description of the district, within which there are no parcels of property owned by those who do not wish their property to be included within the district, is as follows:

That part of Section 24, Township 29 South, Range 18 East, and Section 19, Township 29 South, Range 19 East, all lying within the City of Tampa, Hillsborough County, Florida, lying within the following described boundaries to wit:

Begin at the intersection of the Centerline of Morgan Street and the Centerline of Garrison Avenue as shown on HENDRY & KNIGHT'S MAP OF THE GARRISON, per map or plat thereof as recorded in Plat Book 2, page 73, of the Public Records of Hillsborough County, Florida; run thence Easterly, along the centerline of said Garrison Avenue, (the same being an un-named street

shown on REVISED MAP OF BELL'S ADDITION TO TAMPA per map or plat thereof as recorded in Plat Book 1, page 96 of the Public Records of Hillsborough County, Florida), to the Southerly projection of the Easterly boundary of the Tampa South Crosstown Expressway; run thence Northerly and Northeasterly, along said Easterly boundary as established by Official Record Book 3530, page 157, City of Tampa Ordinance 97-240, Official Record Book 3510, page 1148, Official Record Book 3509, page 108, City of Tampa Ordinance 2001-128, and Official Record Book 3826, page 184, of the Public Records of Hillsborough County, Florida, to the Northern-most corner of said Official Record Book 3826, page 184, said point lying on the West boundary of Nebraska Avenue as shown on aforementioned REVISED MAP OF BELL'S ADDITION TO TAMPA; run thence East to the Centerline of said Nebraska avenue, the same being shown as Governor Avenue on MAP OF FINLEY AND CAESAR SUBDIVISION per map or plat thereof as recorded in Plat Book 1, page 84, of the Public Records of Hillsborough County, Florida; run thence North to the Centerline of Finley Street as shown on said MAP OF FINLEY AND CAESAR SUBDIVISION; run thence East to the West boundary of Tangent Avenue (being shown as on un-named Avenue on said MAP OF FINLEY AND CAESAR

SUBDIVISION; run thence Southerly, along said West boundary, to the Southeast corner of Lot 13, Block 15 of said Subdivision; run thence Southerly to the Northeast corner of Lot 6, Block 1 of A.W. GILCHRIST'S OAK GROVE ADDITION TO TAMPA per map or plat thereof as recorded in Plat Book 2, page 31, of the Public Records of Hillsborough County, Florida); run thence South, along the East boundary of Lots 6 and 16, Block 1, Lots 6 and 16, Block 4, and Lot 6, Block 5, and the projections thereof to the Easterly projection of the Centerline of Carew Avenue (also formerly known as Platt Street), as shown on CHAMBERLINS SUBDIVISION per map or plat thereof as recorded in Plat Book 1, page 104, of the Public Records of Hillsborough County, Florida; (the same being shown on HENDRY & KNIGHT'S MAP OF CHAMBERLAINS per map or plat thereof as recorded in Plat Book 5, page 10, of the Public Records of Hillsborough County, Florida;); thence Easterly along said Centerline projection, to the Northeasterly projection of the Easterly boundary of Water Lot 70 of aforementioned HENDRY & KNIGHT'S MAP OF CHAMBERLAINS; run thence Southwesterly along said projection, Easterly boundary, and its Southwesterly projection, to the Centerline of Garrison Channel per the Tampa Port Authority Bulkhead Lines as established

by Hillsborough County Port Authority on September 15, 1960, December 5, 1961 and April 5, 1963, and filed for record in Plat Book 42, page 37, of the Public Records of Hillsborough County, Florida; run thence Southwesterly along said Centerline to the Southerly projection of the Centerline of Franklin Street as shown on aforementioned HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Northwesterly along said projection, and said Centerline, to the centerline of Water Street as shown on said HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Northeasterly along said Centerline to the Centerline of Florida Avenue as shown on said HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Northwesterly along said Centerline to the Centerline of Carew Avenue as shown on said HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Northeasterly along said Centerline to the Centerline of Morgan Street as shown on said HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Northwesterly along said Centerline to a point of intersection with the Southeasterly projection of the Southwesterly boundary of those lands described in Official Record Book 3166, page 225 of the Public Records of Hillsborough County, Florida; run thence along said projection and said Southwesterly boundary, to the Northwest corner of

said lands; run thence along the Northerly boundary of said lands, and its Northeasterly projection, to the Centerline of aforementioned Morgan Street; run thence Northwesterly along said Centerline to the Centerline of Hampton Avenue (now known as Brorein Street) as shown on said HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Southwesterly along said Centerline to the Southerly projection of the Easterly boundary of those lands described in Official Record Book 22204, page 1038 of the Public Records of Hillsborough County, Florida; run thence Northwesterly along said projection and said Easterly Boundary, to the Northeast corner of said lands; run thence Southwesterly along the Northerly boundary of said lands, and its Westerly projection, to the Centerline of Florida Avenue as shown on said HENDRY & KNIGHT'S MAP OF THE GARRISON; run thence Northwesterly along said Centerline to the Westerly projection of the Southerly boundary of those lands shown on map of survey prepared by Curtis G. Humphreys (Sullivan, Humphreys & Sullivan), dated November 13, 1958 (Order No. C2592), said map being on file with the City Tampa Survey Deportment, said boundary, being the some line as the North boundary of those lands described in Official Record Book 3565, page 1895, and Official

Record Book 4041, page 1405, of the Public Records of Hillsborough County, Florida; run thence Northeasterly, along said boundary and its Easterly projection, to the Centerline of Morgan Street as shown on aforementioned REVISED MAP OF BELL'S ADDITION TO TAMPA; run thence Southeasterly along said Centerline to the centerline of aforementioned Garrison Avenue; run thence East, 2.0 feet, more or less, to the Point of Beginning.

LESS AND EXCEPT THEREFROM:
Block 99 of HENDRY & KNIGHT'S MAP OF THE GARRISON, per map or plat thereof as recorded in Plat Book 2, page 73, of the Public Records of Hillsborough County, Florida, less that portion thereof conveyed to Tampa-Hillsborough County Expressway Authority by deed recorded in Official Record Book 3036, page 1173, of the Public Records of Hillsborough County, Florida.

ALSO LESS AND EXCEPT THEREFROM:
Lots 6, 8, and 10 through 15, inclusive, of Block 11, MAP OF FINLEY AND CAESAR SUBDIVISION per map or plat thereof as recorded in Plat Book 1, page 84, of the Public Records of Hillsborough County, Florida,

together with those portions of Finley Street and vacated alleys abutting thereon.

(1) Notwithstanding anything herein to the contrary, the boundary of the district shall not include any residential unit subjected to condominium ownership, as created by recording a condominium declaration in the public records of Hillsborough County.

(2) Notwithstanding anything herein to the contrary, upon any property meeting the definition of a residential unit or a transferred unit after the effective date of this act, then the boundary of the district shall be reduced by the legal description of such property and this section of the charter shall stand amended automatically with no further legislative action by the Legislature required.

Section 5. Board of supervisors; members and meetings; organization; powers; duties; terms of office; additional requirements.—

(1) The board of the district shall exercise the powers granted to the district pursuant to this act. The board shall consist of five members, each of whom shall hold office for a term of 4 years, as provided in this section, except as otherwise provided herein for initial board members. Notwithstanding anything herein to the contrary, a board member will continue to serve beyond his or her term until a successor

is chosen and qualified. The members of the board must be residents of the state and citizens of the United States.

(2)(a) Within 90 days after the effective date of this act, there shall be held a meeting of the landowners of the district for the purpose of electing five supervisors for the district. Notice of the landowners' meeting shall be published once a week for 2 consecutive weeks in a newspaper that is in general circulation in the area of the district, the last day of such publication to be not fewer than 14 days nor more than 28 days before the date of the election. The landowners, when assembled at such meeting, shall organize by electing a chair, who shall conduct the meeting. The chair may be any person present at the meeting. If the chair is a landowner or proxy holder of a landowner, he or she may nominate candidates and make and second motions. The landowners present at the meeting, in person or by proxy, shall constitute a quorum. At any landowners' meeting, 50 percent of the district acreage shall not be required to constitute a quorum, and each governing board member elected by landowners shall be elected by a majority of the acreage represented either by owner or proxy present and voting at said meeting.

(b) At such meeting, each landowner shall be entitled to cast one vote per acre of land owned by him or her and located within the district for each person to be elected. A landowner may vote in person or by proxy in writing. Each proxy must be

signed by one of the legal owners of the property for which the vote is cast and must contain the typed or printed name of the individual who signed the proxy; the street address, legal description of the property, or tax parcel identification number; and the number of authorized votes. If the proxy authorizes more than one vote, each property must be listed and the number of acres of each property must be included. The signature on a proxy need not be notarized. A fraction of an acre shall be treated as 1 acre, entitling the landowner to one vote with respect thereto. The three candidates receiving the highest number of votes shall each be elected for terms expiring November 15, 2022, and the two candidates receiving the next largest number of votes shall each be elected for terms expiring November 17, 2020, with the term of office for each successful candidate commencing upon election. The members of the first board elected by landowners shall serve their respective terms; however, the next election of board members shall be held on November 17, 2020. Thereafter, there shall be an election by landowners for the district every 2 years on the first Tuesday after the first Monday in November, which shall be noticed pursuant to paragraph (a). The second and subsequent landowners' election shall be announced at a public meeting of the board at least 90 days before the date of the landowners' meeting and shall also be noticed pursuant to paragraph (a). Instructions on how all landowners may participate in the election, along with

sample proxies, shall be provided during the board meeting that announces the landowners' meeting. Each supervisor elected in or after November 2018 shall serve a 4-year term.

(3) Members of the board, regardless of how elected, shall be public officers, shall be known as supervisors, and, upon entering into office, shall take and subscribe to the oath of office as prescribed by s. 876.05, Florida Statutes. Members of the board shall be subject to ethics and conflict of interest laws of the state that apply to all local public officers. Members of the board shall hold office for the terms for which they were elected or appointed and until their successors are chosen and qualified. Except as provided in subsection (4), if, during the term of office, a vacancy occurs on the board, the remaining members of the board shall fill each vacancy by an appointment for the remainder of the unexpired term.

(4) Any elected member of the board of supervisors may be removed by the Governor for malfeasance, misfeasance, dishonesty, incompetency, or failure to perform the duties imposed upon him or her by this act, and any vacancies that may occur in such office for such reasons shall be filled by the Governor as soon as practicable.

(5) A majority of the members of the board constitutes a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. Action taken by the district shall be upon a vote of a majority of the

members present unless general law or a rule of the district requires a greater number.

(6) As soon as practicable after each election or appointment, the board shall organize by electing one of its members as chair and by electing a secretary, who need not be a member of the board, and such other officers as the board may deem necessary.

(7) The board shall keep a permanent record book entitled "Record of Proceedings of Water Street Tampa Improvement District," in which shall be recorded minutes of all meetings, resolutions, proceedings, certificates, bonds given by all employees, and any and all corporate acts. The record book and all other district records shall at reasonable times be opened to inspection in the same manner as state, county, and municipal records pursuant to chapter 119, Florida Statutes. The record book shall be kept at the office or other regular place of business maintained by the board in a designated location in the City of Tampa.

(8) Each supervisor shall not be entitled to receive compensation for his or her services; however, each supervisor shall receive travel and per diem expenses as set forth in s. 112.061, Florida Statutes.

(9) All meetings of the board shall be open to the public and governed by the provisions of chapter 286, Florida Statutes.

Section 6. Board of supervisors; general duties.—

(1) DISTRICT MANAGER AND EMPLOYEES.—The board shall employ and fix the compensation of a district manager, who shall have charge and supervision of the works of the district and shall be responsible for preserving and maintaining any improvement or facility constructed or erected pursuant to the provisions of this act, for maintaining and operating the equipment owned by the district, and for performing such other duties as may be prescribed by the board. It shall not be a conflict of interest under chapter 112, Florida Statutes, for a board member, the district manager, or another employee of the district to be a stockholder, officer, or employee of a landowner. The district manager may hire or otherwise employ and terminate the employment of such other persons, including, without limitation, professional, supervisory, and clerical employees, as may be necessary and authorized by the board. The compensation and other conditions of employment of the officers and employees of the district shall be as provided by the board.

(2) TREASURER.—The board shall designate a person who is a resident of the state as treasurer of the district, and who shall have charge of the funds of the district. Such funds shall be disbursed only upon the order of or pursuant to a resolution of the board by warrant or check countersigned by the treasurer and by such other person as may be authorized by the board. The board may give the treasurer such other or additional powers and duties as the board may deem appropriate and may fix his or her

compensation. The board may require the treasurer to give a bond in such amount, on such terms, and with such sureties as may be deemed satisfactory to the board to secure the performance by the treasurer of his or her powers and duties. The financial records of the board shall be audited by an independent certified public accountant at least once a year.

(3) PUBLIC DEPOSITORY.—The board is authorized to select as a depository for its funds any qualified public depository as defined in s. 280.02, Florida Statutes, which meets all the requirements of chapter 280, Florida Statutes, and has been designated by the treasurer as a qualified public depository upon such terms and conditions as to the payment of interest by such depository upon the funds so deposited as the board may deem just and reasonable.

(4) BUDGET; REPORTS AND REVIEWS.—

(a) The district shall provide financial reports in such form and such manner as prescribed pursuant to this act and chapter 218, Florida Statutes.

(b) On or before July 15 of each year, the district manager shall prepare a proposed budget for the ensuing fiscal year to be submitted to the board for board approval. The proposed budget shall include at the direction of the board an estimate of all necessary expenditures of the district for the ensuing fiscal year and an estimate of income to the district from the taxes and assessments and other revenues as provided in

this act. The board shall consider the proposed budget item by item and may either approve the budget as proposed by the district manager or modify the same in part or in whole. The board shall indicate its approval of the budget by resolution, which resolution shall provide for a hearing on the budget as approved. Notice of the hearing on the budget shall be published in a newspaper of general circulation in the area of the district once a week for two consecutive weeks, except that the first publication shall be no fewer than 15 days prior to the date of the hearing. The notice shall further contain a designation of the day, time, and place of the public hearing. At the time and place designated in the notice, the board shall hear all objections to the budget as proposed and may make such changes as the board deems necessary. At the conclusion of the budget hearing, the board shall, by resolution, adopt the budget as finally approved by the board. The budget shall be adopted prior to October 1 of each year.

(c) At least 60 days before adoption, the board of supervisors of the district shall submit to the Tampa City Council for purposes of disclosure and information only, the proposed annual budget for the ensuing fiscal year, and the council may submit written comments to the board of supervisors solely for the assistance and information of the board of supervisors of the district in adopting its annual district budget.

(d) The board of supervisors of the district shall submit annually a public facilities report to the Tampa City Council pursuant to s. 189.08, Florida Statutes. The council may use and rely on the district's public facilities report in the preparation or revision of the comprehensive plan.

(5) DISCLOSURE OF PUBLIC INFORMATION; WEB-BASED PUBLIC ACCESS.—The district will provide for the full disclosure of information relating to the public financing and maintenance of improvements to real property undertaken by the district. Such information shall be made available to all existing landowners and all prospective owners of property within the district. The district shall furnish each developer within the district with sufficient copies of that information to provide each prospective initial purchaser of property in that development with a copy; and any developer within the district, when required by law to provide a public offering statement, shall include a copy of such information relating to the public financing and maintenance of improvements in the public offering statement. The district shall file the disclosure documents required by this subsection and any amendments thereto in the property records of each county in which the district is located. By the end of the first full fiscal year of the district's creation, the district shall maintain an official Internet website in accordance with s. 189.069, Florida Statutes.

(6) GENERAL POWERS.—The district shall have, and the board may exercise, the following general powers:

(a) To sue and be sued in the name of the district; to adopt and use a seal and authorize the use of a facsimile thereof; to acquire, by purchase, gift, devise, or otherwise, and to dispose of, real and personal property, or any estate therein; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.

(b) To contract for the services of consultants to perform planning, engineering, legal, or other appropriate services of a professional nature. Such contracts shall be subject to public bidding or competitive negotiation requirements as set forth in general law applicable to independent special districts.

(c) To borrow money and accept gifts; to apply for and use grants or loans of money or other property from the United States, the state, a unit of local government, or any person for any district purposes and enter into agreements required in connection therewith; and to hold, use, and dispose of such moneys or property for any district purposes in accordance with the terms of the gift, grant, loan, or agreement relating thereto.

(d) To adopt and enforce rules and orders pursuant to the provisions of chapter 120, Florida Statutes, prescribing the powers, duties, and functions of the officers of the district; the conduct of the business of the district; the maintenance of

records; and the form of certificates evidencing tax liens and all other documents and records of the district. The board may also adopt and enforce administrative rules with respect to any of the projects of the district and define the area to be included therein. The board may also adopt resolutions which may be necessary for the conduct of district business.

(e) To maintain an office at such place or places as the board of supervisors designates in the City of Tampa and within the district when facilities are available.

(f) To hold, control, and acquire by donation, purchase, or condemnation, or dispose of, any public easements, dedications to public use, platted reservations for public purposes, or any reservations for those purposes authorized by this act and to make use of such easements, dedications, or reservations for the purposes authorized by this act.

(g) To lease as lessor or lessee to or from any person, firm, corporation, association, or body, public or private, any projects of the type that the district is authorized to undertake and facilities or property of any nature for the use of the district to carry out the purposes authorized by this act.

(h) To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness as provided herein; to levy such taxes and assessments as may be authorized; and to charge, collect, and enforce fees and other user charges.

(i) To raise, by user charges or fees authorized by resolution of the board, amounts of money which are necessary for the conduct of district activities and services and to enforce their receipt and collection in the manner prescribed by resolution not inconsistent with law.

(j) To exercise all powers of eminent domain now or hereafter conferred on counties in this state provided, however, that such power of eminent domain may not be exercised outside the territorial limits of the district. The district shall not have the power to exercise eminent domain over municipal, county, state, or federal property. The powers hereinabove granted to the district shall be so construed to enable the district to fulfill the objects and purposes of the district as set forth in this act.

(k) To cooperate with, or contract with, other governmental agencies as may be necessary, convenient, incidental, or proper in connection with any of the powers, duties, or purposes authorized by this act.

(l) To assess and to impose upon lands in the district ad valorem taxes as provided by this act.

(m) To determine, order, levy, impose, collect, and enforce assessments pursuant to this act and chapter 170, Florida Statutes, pursuant to authority granted in s. 197.3631, Florida Statutes, or pursuant to other provisions of general law now or hereinafter enacted which provide or authorize a

supplemental means to order, levy, impose, or collect special assessments. Such special assessments, in the discretion of the district, may be collected and enforced pursuant to the provisions of ss. 197.3632 and 197.3635, Florida Statutes, and chapters 170 and 173, Florida Statutes, or as provided by this act, or by other means authorized by general law now or hereinafter enacted. The district may levy such special assessments for the purposes enumerated in this act and to pay special assessments imposed by Hillsborough County on lands within the district.

(n) To exercise such special powers and other express powers as may be authorized and granted by this act in the charter of the district, including powers as provided in any interlocal agreement entered into pursuant to chapter 163, Florida Statutes, or which shall be required or permitted to be undertaken by the district pursuant to any development order, including any detailed specific area plan development order, or any interlocal service agreement with Hillsborough County for fair-share capital construction funding for any certain capital facilities or systems required of a developer pursuant to any applicable development order or agreement.

(o) To exercise all of the powers necessary, convenient, incidental, or proper in connection with any other powers or duties or the special and limited purpose of the district authorized by this act.

The provisions of this subsection shall be construed liberally in order to carry out effectively the special and limited purpose of this act.

(7) SPECIAL POWERS.—The district shall have, and the board may exercise, the following special powers to implement its lawful and special purpose and to provide, pursuant to that purpose, systems, facilities, services, improvements, projects, works, and infrastructure, each of which constitutes a lawful public purpose when exercised pursuant to this charter, subject to, and not inconsistent with, general law regarding utility providers' territorial and service agreements and the regulatory jurisdiction and permitting authority of all other applicable governmental bodies, agencies, and any special districts having authority with respect to any area included therein, and to plan, establish, acquire, construct or reconstruct, enlarge or extend, equip, operate, finance, fund, and maintain improvements, systems, facilities, services, works, projects, and infrastructure. If the district's special powers and the City of Tampa's general powers will cause unnecessary duplication of services and facilities, the district and the City of Tampa, or another governmental body if the services implemented by the power lies within that other governmental body's jurisdiction, shall enter into an interlocal agreement to avoid inefficiencies and jointly exercise their common powers

and authority. Nothing herein shall preempt the powers and authority of the City of Tampa. Any or all of the following special powers are granted by this act in order to implement the special and limited purpose of the district:

(a) To provide water management and control for the lands within the district, subject to the City of Tampa's stormwater utility system, and to connect some or any of such facilities with roads and bridges. Nothing herein shall permit the district to adversely impact the City of Tampa's bond resolutions or covenants. In the event that the board assumes the responsibility for providing water management and control for the district which is to be financed by benefit special assessments, the board shall adopt plans and assessments pursuant to law or may proceed to adopt water management and control plans, assess for benefits, and apportion and levy special assessments as follows:

1. The board shall cause to be made by the district's engineer, or such other engineer or engineers as the board may employ for that purpose, complete and comprehensive water management and control plans for the lands located within the district which will be improved in any part or in whole by any system of facilities which may be outlined and adopted, and the engineer shall make a report in writing to the board with maps and profiles of said surveys and an estimate of the cost of carrying out and completing the plans.

2. Upon the completion of such plans, the board shall hold a hearing thereon to hear objections thereto, shall give notice of the time and place fixed for such hearing by publication once each week for 2 consecutive weeks in a newspaper of general circulation in the general area of the district, and shall permit the inspection of the plan at the office of the district by all persons interested. All objections to the plan shall be filed at or before the time fixed in the notice for the hearing and shall be in writing.

3. After the hearing, the board shall consider the proposed plan and any objections thereto and may modify, reject, or adopt the plan or continue the hearing until a day certain for further consideration of the proposed plan or modifications thereof.

4. When the board approves a plan, a resolution shall be adopted and a certified copy thereof shall be filed in the office of the secretary and incorporated by him or her into the records of the district.

5. The water management and control plan may be altered in detail from time to time until the engineer's report pursuant to s. 298.301, Florida Statutes, is filed but not in such manner as to affect materially the conditions of its adoption. After the engineer's report has been filed, no alteration of the plan shall be made, except as provided by this act.

6. Within 20 days after the final adoption of the plan by the board, the board shall proceed pursuant to s. 298.301, Florida Statutes.

(b) To provide, subject to the City of Tampa's utility systems, water supply, sewer, wastewater, and reclaimed water management, reclamation, and reuse, or any combination thereof, and any irrigation systems, facilities, and services; to construct and operate water systems, sewer systems, and reclaimed water systems such as connecting intercepting or outlet sewers and sewer mains and pipes and water mains, conduits, or pipelines in, along, and under any street, alley, highway, or other public place or way; and to dispose of any effluent, residue, or other byproducts of such water system, sewer system, or reclaimed water system and to enter into interlocal agreements and other agreements with public or private entities for the same. Nothing herein shall permit the district to adversely impact the City of Tampa's bond resolutions or covenants. Any water or utility assets acquired or constructed with respect to the foregoing shall become a part of the City of Tampa's water and utility system unless otherwise agreed to between the district and the City of Tampa.

(c) To provide district roads equal to or exceeding the specifications of the county or city in which such district roads are located, and to provide street lights. This special power includes, but is not limited to, roads, parkways,

intersections, bridges, landscaping, hardscaping, irrigation, bicycle lanes, bicycle and cart paths, sidewalks, jogging paths, multiuse pathways and trails, street lighting, traffic signals, regulatory or informational signage, road striping, underground conduit, underground cable or fiber or wire installed pursuant to an agreement with or tariff of a retail provider of services, and all other customary elements of a functioning modern road system in general or as tied to the conditions of development approval for the area within the district, and parking facilities that are freestanding or that may be related to any innovative strategic intermodal system of transportation pursuant to applicable federal, state, and local laws and ordinances.

(d) To provide buses, trolleys, rail access, mass transit facilities, transit shelters, ridesharing facilities and services, parking improvements, and related signage.

(e) To provide investigation and remediation costs associated with the cleanup of actual or perceived environmental contamination within the district under the supervision or direction of a competent governmental authority unless the covered costs benefit any person who is a landowner within the district and who caused or contributed to the contamination.

(f) To provide conservation and mitigation of wildlife habitat, including the maintenance of any plant or animal species, and any related interest in real or personal property.

(g) To provide investigation and remediation costs associated with the preservation of actual or perceived historic and archaeological resources within the district under the supervision or direction of a competent governmental authority.

(h) Using its general and special powers as set forth in this act, to provide any other project within or without the boundaries of the district when the project is required for purposes of meeting concurrency or similar development-related obligations and the project is the subject of an agreement between the district and the Tampa City Council, the Board of County Commissioners of Hillsborough County, or any other applicable public or private entity, and is not inconsistent with the effective local comprehensive plans.

(i) To provide parks, plazas, and facilities for indoor and outdoor recreational, cultural, and educational uses, including facilities that encourage the integration of exercise and fitness into everyday life.

(j) To provide school buildings and related structures, which may be leased, sold, or donated to the school district, a charter school as authorized by law, or educational facilities for intermediate and higher education or vocational training, for use in the educational system when authorized by the district school board or other applicable governmental entity.

(k) To provide security, including, but not limited to, guardhouses, electronic intrusion-detection systems, monitoring,

and patrol cars, when authorized by proper governmental agencies; except that the district may not exercise any police power, but may contract with the appropriate general-purpose local government agencies for an increased level of such services within the district boundaries.

(l) To provide traffic control and enforcement when authorized by proper governmental agencies. Nothing in this act prohibits the district from contracting with a towing operator to remove a vehicle or vessel from a district-owned facility or property if the district follows the authorization, notice, and procedural requirements in s. 715.07, Florida Statutes, for an owner or lessee of private property. The district's selection of a towing operator is not subject to public bidding if the towing operator is included in an approved list of towing operators maintained by the City of Tampa.

(m) To provide control and elimination of mosquitoes and other arthropods of public health importance.

(n) To enter into impact fee, mobility fee, or other similar credit agreements with the City of Tampa, Hillsborough County, or a landowner developer and to sell or assign such credits on such terms as the district deems appropriate.

(o) To provide buildings and structures for district offices, maintenance facilities, meeting facilities, town centers, or any other project authorized or granted by this act.

(p) To establish and create, at noticed meetings, such departments of the board of supervisors of the district, as well as committees, task forces, boards, or commissions, or other agencies under the supervision and control of the district, as from time to time the members of the board may deem necessary or desirable in the performance of the acts or other things necessary to exercise the board's general or special powers to implement an innovative project to carry out the special and limited purpose of the district as provided in this act and to delegate the exercise of its powers to such departments, boards, task forces, committees, commissions, or other agencies, and such administrative duties and other powers as the board may deem necessary or desirable, but only if there is a set of expressed limitations for accountability, notice, and periodic written reporting to the board that shall retain the powers of the board.

(q) To provide electrical, sustainable, or green infrastructure improvements, facilities, chillers, and services, including, but not limited to, recycling of natural resources, reduction of energy demands, development and generation of alternative or renewable energy sources and technologies, mitigation of urban heat islands, sequestration, capping or trading of carbon emissions or carbon emissions credits, LEED or Florida Green Building Coalition certification, and development of facilities and improvements for low-impact development and to

enter into joint ventures, public-private partnerships, and other agreements and to grant such easements as may be necessary to accomplish the foregoing. Nothing herein shall authorize the district to provide electric service to retail customers or otherwise act to impair electric utility service territories or franchise agreements.

(r) To provide for any facilities or improvements that may otherwise be provided for by any county or municipality, including, but not limited to, libraries, annexes, substations, and other buildings to house public officials, staff, and employees.

(s) To provide for the construction and operation of communications systems and related infrastructure for the carriage and distribution of communications services, and to enter into joint ventures, public-private partnerships, and other agreements and to grant such easements as may be necessary to accomplish the foregoing. For purposes of this paragraph, communications systems shall mean all facilities, buildings, equipment, items, and methods necessary or desirable in order to provide communications services, including, without limitation, wires, cables, conduits, wireless cell sites, computers, modems, satellite antennae sites, transmission facilities, network facilities, and appurtenant devices necessary and appropriate to support the provision of communications services. Communications services includes, without limitation, internet, voice telephone

or similar services provided by voice over internet protocol, cable television, data transmission services, electronic security monitoring services, and multi-channel video programming distribution services. Communications services provided by the district shall be subject to ss. 125.421 and 350.81, Florida Statutes, and carry or include any governmental channel or other media content created or produced by Hillsborough County.

(t) To coordinate, work with, and, as the board deems appropriate, enter into interlocal agreements with any public or private entity for the provision of an institution or institutions of higher education.

(u) To coordinate, work with, and, as the board deems appropriate, enter into public-private partnerships and agreements as may be necessary or useful to effectuate the purposes of this act.

The enumeration of special powers herein shall not be deemed exclusive or restrictive but shall be deemed to incorporate all powers express or implied necessary or incident to carrying out such enumerated special powers, including the general powers provided by this special act charter to the district to implement its purposes. The provisions of this subsection shall be construed liberally, subject to the provisions of this section that require the district and the City of Tampa to

resolve any duplications of the use of powers through the implementation of an interlocal agreement, in order to carry out effectively the special and limited purpose of this district under this act.

(8) ISSUANCE OF BOND ANTICIPATION NOTES.—In addition to the other powers provided for in this act, and not in limitation thereof, the district shall have the power, at any time and from time to time after the issuance of any bonds of the district are authorized, to borrow money for the purposes for which such bonds are to be issued in anticipation of the receipt of the proceeds of the sale of such bonds and to issue bond anticipation notes in a principal sum not in excess of the authorized maximum amount of such bond issue. Such notes shall be in such denomination or denominations, bear interest at such rate as the board may determine not to exceed the maximum rate allowed by general law, mature at such time or times not later than 5 years from the date of issuance, and be in such form and executed in such manner as the board shall prescribe. Such notes may be sold at either public or private sale or, if such notes shall be renewal notes, may be exchanged for notes then outstanding on such terms as the board shall determine. Such notes shall be paid from the proceeds of such bonds when issued. The board may, in its discretion, in lieu of retiring the notes by means of bonds, retire them by means of current revenues or from any taxes or assessments levied for the payment of such

bonds, but, in such event, a like amount of the bonds authorized shall not be issued.

(9) BORROWING.—The district at any time may obtain loans, in such amount and on such terms and conditions as the board may approve, for the purpose of paying any of the expenses of the district or any costs incurred or that may be incurred in connection with any of the projects of the district, which loans shall bear interest as the board determines, not to exceed the maximum rate allowed by general law, and may be payable from and secured by a pledge of such funds, revenues, taxes, and assessments as the board may determine, subject, however, to the provisions contained in any proceeding under which bonds were theretofore issued and are then outstanding. For the purpose of defraying such costs and expenses, the district may issue negotiable notes, warrants, or other evidences of debt to be payable at such times and to bear such interest as the board may determine, not to exceed the maximum rate allowed by general law, and to be sold or discounted at such price or prices not less than 95 percent of par value and on such terms as the board may deem advisable. The board shall have the right to provide for the payment thereof by pledging the whole or any part of the funds, revenues, taxes, and assessments of the district or by covenanting to budget and appropriate from such funds. The approval of the electors residing in the district shall not be necessary except when required by the State Constitution.

(10) BONDS.—

(a) Sale of bonds.—Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may be sold at public or private sale after such advertisement, if any, as the board may deem advisable, but not in any event at less than 90 percent of the par value thereof, together with accrued interest thereon. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered by the district as payment of the purchase price of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price or exchange for any property, real, personal, or mixed, including franchises or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board in its discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered may be:

1. The money paid for the bonds.

2. The principal amount, plus accrued interest to the date of redemption or exchange, or outstanding obligations exchanged for refunding bonds.

3. In the case of special assessment or revenue bonds, the amount of any indebtedness to contractors or other persons paid with such bonds, or the fair value of any properties exchanged for the bonds, as determined by the board.

(b) Authorization and form of bonds.—Any special assessment bonds or revenue bonds may be authorized by resolution or resolutions of the board which shall be adopted by a majority of all the members thereof then in office. Such resolution or resolutions may be adopted at the same meeting at which they are introduced and need not be published or posted. The board may, by resolution, authorize the issuance of bonds and fix the aggregate amount of bonds to be issued; the purpose or purposes for which the moneys derived therefrom shall be expended, including, but not limited to, payment of costs as defined in section 2(2)(h); the rate or rates of interest, not to exceed the maximum rate allowed by general law; the denomination of the bonds; whether or not the bonds are to be issued in one or more series; the date or dates of maturity, which shall not exceed 40 years from their respective dates of issuance; the medium of payment; the place or places within or without the state at which payment shall be made; registration privileges; redemption terms and privileges, whether with or without premium; the manner of execution; the form of the bonds, including any interest coupons to be attached thereto; the manner of execution of bonds and coupons; and any and all other terms, covenants, and conditions thereof and the establishment of revenue or other funds. Such authorizing resolution or resolutions may further provide for the contracts authorized by s. 159.825(1)(f) and (g), Florida Statutes, regardless of the

tax treatment of such bonds being authorized, subject to the finding by the board of a net saving to the district resulting by reason thereof. Such authorizing resolution may further provide that such bonds may be executed in accordance with the Registered Public Obligations Act, except that bonds not issued in registered form shall be valid if manually countersigned by an officer designated by appropriate resolution of the board. The seal of the district may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes as if he or she had remained in office until such delivery.

(c) Interim certificates; replacement certificates.—Pending the preparation of definitive bonds, the board may issue interim certificates or receipts or temporary bonds, in such form and with such provisions as the board may determine, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The board may also provide for the replacement of any bonds which become mutilated, lost, or destroyed.

(d) Negotiability of bonds.—Any bond issued under this act or any temporary bond, in the absence of an express recital on the face thereof that it is nonnegotiable, shall be fully

negotiable and shall be and constitute a negotiable instrument within the meaning and for all purposes of the law merchant and the laws of the state.

(e) Defeasance.—The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of the district in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption and the whole amount of the principal and interest and premium, if any, due and payable upon the bonds or obligations then outstanding shall be held in trust for such purpose, and provision shall also be made for paying all other sums payable in connection with such bonds or other obligations, then and in such event the right, title, and interest of the holders of the bonds in any revenues, funds, or other properties by which such bonds are secured shall thereupon cease, terminate, and become void; and the board may apply any surplus in any sinking fund established in connection with such bonds or obligations and all balances remaining in all other funds or accounts other than moneys held for the redemption or payment of the bonds or other obligations to any lawful purpose of the district as the board shall determine.

(f) Issuance of additional bonds.—If the proceeds of any bonds are less than the cost of completing the project in connection with which such bonds were issued, the board may authorize the issuance of additional bonds, upon such terms and conditions as the board may provide in the resolution authorizing the issuance thereof, but only in compliance with the resolution or other proceedings authorizing the issuance of the original bonds.

(g) Refunding bonds.—The district is authorized to issue bonds to provide for the retirement or refunding of any bonds or obligations of the district that at the time of such issuance are or subsequent thereto become due and payable, or that at the time of issuance have been called or are, or will be, subject to call for redemption within 10 years thereafter, or the surrender of which can be procured from the holders thereof at prices satisfactory to the board. Refunding bonds may be issued at any time that in the judgment of the board such issuance will be advantageous to the district. No approval of the landowners in the district shall be required for the issuance of refunding bonds except in cases in which such approval is required by the State Constitution. The board may by resolution confer upon the holders of such refunding bonds all rights, powers, and remedies to which the holders would be entitled if they continued to be the owners and had possession of the bonds for the refinancing of which such refunding bonds are issued, including, but not

limited to, the preservation of the lien of such bonds on the revenues of any project or on pledged funds, without extinguishment, impairment, or diminution thereof. The provisions of this act pertaining to bonds of the district shall, unless the context otherwise requires, govern the issuance of refunding bonds, the form and other details thereof, the rights of the holders thereof, and the duties of the board with respect to such bonds.

(h) Revenue bonds.—

1. The district shall have the power to issue revenue bonds from time to time without limitation as to amount. Such revenue bonds may be secured by, or payable from, the gross or net pledge of the revenues to be derived from any project or combination of projects; from the rates, fees, or other charges to be collected from the users of any project or projects; from any revenue-producing undertaking or activity of the district; from special assessments; from benefit special assessments; or from any other source or pledged security. Such bonds shall not constitute an indebtedness of the district, and the approval of the landowners shall not be required unless such bonds are additionally secured by the full faith and credit and taxing power of the district.

2. Any two or more projects may be combined and consolidated into a single project and may hereafter be operated and maintained as a single project. The revenue bonds authorized

herein may be issued to finance any one or more of such projects, regardless of whether or not such projects have been combined and consolidated into a single project. If the board deems it advisable, the proceedings authorizing such revenue bonds may provide that the district may thereafter combine the projects then being financed or theretofore financed with other projects to be subsequently financed by the district and that revenue bonds to be thereafter issued by the district shall be on parity with the revenue bonds then being issued, all on such terms, conditions, and limitations as shall have been provided in the proceeding which authorized the original bonds.

(i) Bonds as legal investment or security.—

1. Notwithstanding any provisions of any other law to the contrary, all bonds issued under the provisions of this act shall constitute legal investments for savings banks, banks, trust companies, insurance companies, executors, administrators, trustees, guardians, and other fiduciaries and for any board, body, agency, instrumentality, county, municipality, or other political subdivision of the state and shall be and constitute security which may be deposited by banks or trust companies as security for deposits of state, county, municipal, or other public funds or by insurance companies as required or voluntary statutory deposits.

2. Any bonds issued by the district shall be incontestable in the hands of bona fide purchasers or holders for value and

shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof.

(j) Covenants.—Any resolution authorizing the issuance of bonds may contain such covenants as the board may deem advisable, and all such covenants shall constitute valid and legally binding and enforceable contracts between the district and the bondholders, regardless of the time of issuance thereof. Such covenants may include, without limitation, covenants concerning the disposition of the bond proceeds; the use and disposition of project revenues; the pledging of revenues, taxes, and assessments; the obligations of the district with respect to the operation of the project and the maintenance of adequate project revenues; the issuance of additional bonds; the appointment, powers, and duties of trustees and receivers; the acquisition of outstanding bonds and obligations; restrictions on the establishing of competing projects or facilities; restrictions on the sale or disposal of the assets and property of the district; the priority of assessment liens; the priority of claims by bondholders on the taxing power of the district; the maintenance of deposits to ensure the payment of revenues by users of district facilities and services; the discontinuance of district services by reason of delinquent payments; acceleration upon default; the execution of necessary instruments; the procedure for amending or abrogating covenants with the

bondholders; and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

(k) Validation proceedings.—The power of the district to issue bonds under the provisions of this act may be determined, and any of the bonds of the district maturing over a period of more than 5 years shall be validated and confirmed, by court decree, under the provisions of chapter 75, Florida Statutes, and laws amendatory thereof or supplementary thereto.

(l) Tax exemption.—To the extent allowed by general law, all bonds issued hereunder and interest paid thereon and all fees, charges, and other revenues derived by the district from the projects provided by this act are exempt from all taxes by the state or by any political subdivision, agency, or instrumentality thereof; however, any interest, income, or profits on debt obligations issued hereunder are not exempt from the tax imposed by chapter 220, Florida Statutes. Further, the district is not exempt from the provisions of chapter 212, Florida Statutes.

(m) Application of s. 189.051, Florida Statutes.—Bonds issued by the district shall meet the criteria set forth in s. 189.051, Florida Statutes.

(n) Act furnishes full authority for issuance of bonds.—This act constitutes full and complete authority for the issuance of bonds and the exercise of the powers of the district provided herein. No procedures or proceedings, publications,

notices, consents, approvals, orders, acts, or things by the board, or any board, officer, commission, department, agency, or instrumentality of the district, other than those required by this act, shall be required to perform anything under this act, except that the issuance or sale of bonds pursuant to the provisions of this act shall comply with the general law requirements applicable to the issuance or sale of bonds by the district. Nothing in this act shall be construed to authorize the district to utilize bond proceeds to fund the ongoing operations of the district.

(o) Pledge by the state to the bondholders of the district.—The state pledges to the holders of any bonds issued under this act that it will not limit or alter the rights of the district to own, acquire, construct, reconstruct, improve, maintain, operate, or furnish the projects or to levy and collect the taxes, assessments, rentals, rates, fees, and other charges provided for herein and to fulfill the terms of any agreement made with the holders of such bonds or other obligations and that it will not in any way impair the rights or remedies of such holders.

(p) Default.—A default on the bonds or obligations of the district shall not constitute a debt or obligation of the state or any general-purpose local government or the state. In the event of a default or dissolution of the district, no general-purpose local government shall be required to assume the

property of the district, the debts of the district, or the district's obligations to complete any infrastructure improvements or provide any services to the district. The provisions of s. 189.076(2), Florida Statutes, shall not apply to the district.

(11) TRUST AGREEMENTS.—Any issue of bonds shall be secured by a trust agreement or resolution by and between the district and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without the state. The resolution authorizing the issuance of the bonds or such trust agreement may pledge the revenues to be received from any projects of the district and may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as the board may approve, including, without limitation, covenants setting forth the duties of the district in relation to the acquisition, construction, reconstruction, improvement, maintenance, repair, operation, and insurance of any projects; the fixing and revising of the rates, fees, and charges; and the custody, safeguarding, and application of all moneys and for the employment of consulting engineers in connection with such acquisition, construction, reconstruction, improvement, maintenance, repair, operation, or insurance. It shall be lawful for any bank or trust company within or without the state which may act as a depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge

such securities as may be required by the district. Such resolution or trust agreement may set forth the rights and remedies of the bondholders and of the trustee, if any, and may restrict the individual right of action by bondholders. The board may provide for the payment of proceeds of the sale of the bonds and the revenues of any project to such officer, board, or depository as it may designate for the custody thereof and may provide for the method of disbursement thereof with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of operation of the project to which such trust agreement pertains.

(12) AD VALOREM TAXES; ASSESSMENTS, BENEFIT SPECIAL ASSESSMENTS, MAINTENANCE SPECIAL ASSESSMENTS, AND SPECIAL ASSESSMENTS.—

(a) Ad valorem taxes.—The board shall have the power to levy and assess an ad valorem tax on all the taxable property in the district to construct, operate, and maintain assessable improvements; to pay the principal of, and interest on, any bonds of the district; and to provide for any sinking or other funds established in connection with any such bonds. An ad valorem tax levied by the board for operating purposes, exclusive of debt service on bonds, shall not exceed 1 mill. The ad valorem tax provided for herein shall be in addition to county and all other ad valorem taxes provided for by law. Such

tax shall be assessed, levied, and collected in the same manner and at the same time as county taxes. The levy of ad valorem taxes must be approved by referendum as required by Section 9 of Article VII of the State Constitution.

(b) Benefit special assessments.—The board annually shall determine, order, and levy the annual installment of the total benefit special assessments for bonds issued and related expenses to finance assessable improvements. These assessments may be due and collected during each year county taxes are due and collected, in which case such annual installment and levy shall be evidenced to and certified to the property appraiser by the board not later than August 31 of each year. Such assessment shall be entered by the property appraiser on the county tax rolls and shall be collected and enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds thereof shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in s. 197.3632, Florida Statutes, or chapter 173, Florida Statutes, for collecting and enforcing these assessments. Each annual installment of benefit special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the assessment for the exercise of the district's powers under subsections (6) and (7) shall be determined by the board based upon a report of the

district's engineer and assessed by the board upon such lands, which may be part or all of the lands within the district benefited by the improvement, apportioned between benefited lands in proportion to the benefits received by each tract of land. The board may, if it determines it is in the best interests of the district, set forth in the proceedings initially levying such benefit special assessments or in subsequent proceedings a formula for the determination of an amount which, when paid by a taxpayer with respect to any tax parcel, shall constitute a prepayment of all future annual installments of such benefit special assessments. The payment of which amount with respect to such tax parcel shall relieve and discharge such tax parcel of the lien of such benefit special assessments and any subsequent annual installment thereof. The board may provide further that upon delinquency in the payment of any annual installment of benefit special assessments, such prepayment amount of all future annual installments of benefit special assessments shall be and become immediately due and payable together with such delinquent annual installment.

(c) Maintenance special assessments.—To maintain and preserve the facilities and projects of the district, the board may levy a maintenance special assessment. This assessment may be evidenced to and certified to the tax collector by the board of supervisors by August 31 of each year and shall be entered by the property appraiser on the county tax rolls collected and

enforced by the tax collector in the same manner and at the same time as county taxes, and the proceeds therefrom shall be paid to the district. However, this subsection shall not prohibit the district in its discretion from using the method prescribed in s. 197.363, s. 197.3631, or s. 197.3632, Florida Statutes, for collecting and enforcing these assessments. These maintenance special assessments shall be a lien on the property against which assessed until paid and shall be enforceable in like manner as county taxes. The amount of the maintenance special assessment for the exercise of the district's powers under this section shall be determined by the board based upon a report of the district's engineer and assessed by the board upon such lands, which may be all of the lands within the district benefited by the maintenance thereof, apportioned between the benefited lands in proportion to the benefits received by each tract of land.

(d) Special assessments.—The board may levy and impose any special assessments pursuant to this subsection.

(e) Enforcement of taxes.—The collection and enforcement of all taxes levied by the district shall be at the same time and in like manner as county taxes, and the provisions of general law relating to the sale of lands for unpaid and delinquent county taxes; the issuance, sale, and delivery of tax certificates for such unpaid and delinquent county taxes; the redemption thereof; the issuance to individuals of tax deeds

based thereon; and all other procedures in connection therewith shall be applicable to the district to the same extent as if such statutory provisions were expressly set forth herein. All taxes shall be subject to the same discounts as county taxes.

(f) When unpaid tax is delinquent; penalty.—All taxes provided for in this act shall become delinquent and bear penalties on the amount of such taxes in the same manner as county taxes.

(g) Status of assessments.—Benefit special assessments, maintenance special assessments, and special assessments are hereby found and determined to be non-ad valorem assessments as defined in s. 197.3632, Florida Statutes.

(h) Assessments constitute liens; collection.—Any and all assessments, including special assessments, benefit special assessments, and maintenance special assessments authorized by this section, and including special assessments as defined in section 2(2) and granted and authorized by this subsection, shall constitute a lien on the property against which assessed from the date of levy and imposition thereof until paid, coequal with the lien of state, county, municipal, and school board taxes. These assessments may be collected, at the district's discretion, under authority of s. 197.3631, Florida Statutes, by the tax collector pursuant to the provisions of ss. 197.3632 and 197.3635, Florida Statutes, or in accordance with other collection measures provided by law. In addition to, and not in

limitation of, any powers otherwise set forth herein or in general law, these assessments may also be enforced pursuant to the provisions of chapter 173, Florida Statutes.

(i) Land owned by governmental entity.—Except as otherwise provided by law, no levy of ad valorem taxes or non-ad valorem assessments under this act, chapter 170 or chapter 197, Florida Statutes, or otherwise by a board of the district, on property of a governmental entity that is subject to a ground lease as described in s. 190.003(14), Florida Statutes, shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity. There shall be no levy of ad valorem taxes or non-ad valorem assessments under this act on property owned by the state or Hillsborough County. There shall be no levy of ad valorem taxes or non-ad valorem assessments under this act on property owned by the City of Tampa and used for governmental purposes.

(13) SPECIAL ASSESSMENTS.—

(a) As an alternative method to the levy and imposition of special assessments pursuant to chapter 170, Florida Statutes, pursuant to the authority of s. 197.3631, Florida Statutes, or pursuant to other provisions of general law, now or hereafter enacted, which provide a supplemental means or authority to impose, levy, and collect special assessments as otherwise authorized under this act, the board may levy and impose special

assessments to finance the exercise of any of its powers permitted under this act using the following uniform procedures:

1. At a noticed meeting, the board of supervisors of the district may consider and review an engineer's report on the costs of the systems, facilities, and services to be provided; a preliminary special assessment methodology; and a preliminary roll based on acreage or platted lands, depending upon whether platting has occurred.

a. The special assessment methodology shall address and discuss and the board shall consider whether the systems, facilities, and services being contemplated will result in special benefits peculiar to the property, different in kind and degree than general benefits, as a logical connection between the systems, facilities, and services themselves and the property, and whether the duty to pay the special assessments by the property owners is apportioned in a manner that is fair and equitable and not in excess of the special benefit received. It shall be fair and equitable to designate a fixed proportion of the annual debt service, together with interest thereon, on the aggregate principal amount of bonds issued to finance such systems, facilities, and services which give rise to unique, special, and peculiar benefits to property of the same or similar characteristics under the special assessment methodology so long as such fixed proportion does not exceed the unique,

special, and peculiar benefits enjoyed by such property from such systems, facilities, and services.

b. The engineer's cost report shall identify the nature of the proposed systems, facilities, and services, their location, a cost breakdown plus a total estimated cost, including cost of construction or reconstruction, labor, and materials, lands, property, rights, easements, franchises, or systems, facilities, and services to be acquired, cost of plans and specifications, surveys of estimates of costs and revenues, costs of engineering, legal, and other professional consultation services, and other expenses or costs necessary or incident to determining the feasibility or practicability of such construction, reconstruction, or acquisition, administrative expenses, relationship to the authority and power of the district in its charter, and such other expenses or costs as may be necessary or incident to the financing to be authorized by the board of supervisors.

c. The preliminary special assessment roll shall be in accordance with the assessment methodology as may be adopted by the board of supervisors. The special assessment roll shall be completed as promptly as possible and shall show the acreage, lots, lands, or plats assessed and the amount of the fairly and reasonably apportioned assessment based on special and peculiar benefit to the property, lot, parcel, or acreage of land. If the special assessment against such lot, parcel, acreage, or portion

of land is to be paid in installments, the number of annual installments in which the special assessment is divided shall be entered into and shown upon the special assessment roll.

2. The board of supervisors of the district may determine and declare by an initial special assessment resolution to levy and assess the special assessments with respect to assessable improvements stating the nature of the systems, facilities, and services, improvements, projects, or infrastructure constituting such assessable improvements, the information in the engineer's cost report, the information in the special assessment methodology as determined by the board at the noticed meeting, the preliminary special assessment methodology, and the preliminary special assessment roll. If the board determines to declare and levy the special assessments by the initial special assessment resolution, the board shall also adopt and declare a notice resolution which shall provide and cause the initial special assessment resolution to be published once a week for a period of 2 weeks in newspapers of general circulation published in Hillsborough County and said board shall by the same resolution fix a time and place at which the owner or owners of the property to be assessed or any other persons interested therein may appear before said board and be heard as to the propriety and advisability of making such improvements, as to the costs thereof, as to the manner of payment therefor, and as to the amount thereof to be assessed against each property so

improved. Thirty days' notice in writing of such time and place shall be given to such property owners. The notice shall include the amount of the special assessment and shall be served by mailing a copy to each assessed property owner at his or her last known address, the names and addresses of such property owners to be obtained from the record of the property appraiser of the county political subdivision in which the land is located or from such other sources as the district manager or engineer deems reliable. Proof of such mailing shall be made by the affidavit of the manager of the district or by the engineer, said proof to be filed with the district manager. Failure to mail said notice or notices shall not invalidate any of the proceedings hereunder. It is provided further that the last publication shall be at least 1 week prior to the date of the hearing on the final special assessment resolution. Said notice shall describe the general areas to be improved and advise all persons interested that the description of each property to be assessed and the amount to be assessed to each piece, parcel, lot, or acre of property may be ascertained at the office of the manager of the district. Such service by publication shall be verified by the affidavit of the publisher and filed with the manager of the district. Moreover, the initial special assessment resolution with its attached, referenced, and incorporated engineer's cost report, preliminary special assessment methodology, and preliminary special assessment roll,

along with the notice resolution, shall be available for public inspection at the office of the manager and the office of the engineer or any other office designated by the board of supervisors in the notice resolution. Notwithstanding the foregoing, the landowners of all of the property which is proposed to be assessed may give the district written notice of waiver of any notice and publication provided for in this subparagraph and such notice and publication shall not be required, provided, however, that any meeting of the board of supervisors to consider such resolution shall be a publicly noticed meeting.

3. At the time and place named in the noticed resolution as provided for in subparagraph 2., the board of supervisors of the district shall meet and hear testimony from affected property owners as to the propriety and advisability of making the systems, facilities, services, projects, works, improvements, or infrastructure and funding them with assessments referenced in the initial special assessment resolution on the property. Following the testimony and questions from the members of the board or any professional advisors to the district of the preparers of the engineer's cost report, the special assessment methodology, and the special assessment roll, the board of supervisors shall make a final decision on whether to levy and assess the particular special assessments. Thereafter, the board of supervisors shall meet as

an equalizing board to hear and to consider any and all complaints as to the particular special assessments and shall adjust and equalize the special assessments to ensure proper assessment based on the benefit conferred on the property.

4. When so equalized and approved by resolution or ordinance by the board of supervisors, to be called the final special assessment resolution, a final special assessment roll shall be filed with the clerk of the board and such special assessment shall stand confirmed and remain legal, valid, and binding first liens on the property against which such special assessments are made until paid, equal in dignity to the first liens of ad valorem taxation of county and municipal governments and school boards. However, upon completion of the systems, facilities, service, project, improvement, works, or infrastructure, the district shall credit to each of the assessments the difference in the special assessment as originally made, approved, levied, assessed, and confirmed and the proportionate part of the actual cost of the improvement to be paid by the particular special assessments as finally determined upon the completion of the improvement; but in no event shall the final special assessment exceed the amount of the special and peculiar benefits as apportioned fairly and reasonably to the property from the system, facility, or service being provided as originally assessed. Promptly after such confirmation, the special assessment shall be recorded by the

clerk of the district in the minutes of the proceedings of the district, and the record of the lien in this set of minutes shall constitute prima facie evidence of its validity. The board of supervisors, in its sole discretion, may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project consisting of bond financing cost, such as capitalized interest, funded reserves, and bond discounts included in the estimated cost of the project, upon payment in full of any special assessments during such period prior to the time such financing costs are incurred as may be specified by the board of supervisors in such resolution.

5. District special assessments may be made payable in installments over no more than 40 years from the date of the payment of the first installment thereof and may bear interest at fixed or variable rates.

(b) Notwithstanding any provision of this act or chapter 170, Florida Statutes, that portion of s. 170.09, Florida Statutes, which provides that special assessments may be paid without interest at any time within 30 days after the improvement is completed and a resolution accepting the same has been adopted by the governing authority shall not be applicable to any district special assessments, whether imposed, levied, and collected pursuant to the provisions of this act or other provisions of general law, including, but not limited to, chapter 170, Florida Statutes.

(c) In addition, the district is authorized expressly in the exercise of its rulemaking power to adopt rules that provide for notice, levy, imposition, equalization, and collection of assessments.

(14) ISSUANCE OF CERTIFICATES OF INDEBTEDNESS BASED ON ASSESSMENTS FOR ASSESSABLE IMPROVEMENTS; ASSESSMENT BONDS.—

(a) The board may, after any special assessments or benefit special assessments for assessable improvements are made, determined, and confirmed as provided in this act, issue certificates of indebtedness for the amount so assessed against the abutting property or property otherwise benefited, as the case may be, and separate certificates shall be issued against each part or parcel of land or property assessed, which certificates shall state the general nature of the improvement for which the assessment is made. The certificates shall be payable in annual installments in accordance with the installments of the special assessment for which they are issued. The board may determine the interest to be borne by such certificates, not to exceed the maximum rate allowed by general law, and may sell such certificates at either private or public sale and determine the form, manner of execution, and other details of such certificates. The certificates shall recite that they are payable only from the special assessments levied and collected from the part or parcel of land or property against which they are issued. The proceeds of such certificates may be

pledged for the payment of principal of and interest on any revenue bonds issued to finance in whole or in part such assessable improvement, or, if not so pledged, may be used to pay the cost or part of the cost of such assessable improvements.

(b) The district may also issue assessment bonds, revenue bonds, or other obligations payable from a special fund into which such certificates of indebtedness referred to in paragraph (a) may be deposited or, if such certificates of indebtedness have not been issued, may assign to such special fund for the benefit of the holders of such assessment bonds or other obligations, or to a trustee for such bondholders, the assessment liens provided for in this act unless such certificates of indebtedness or assessment liens have been theretofore pledged for any bonds or other obligations authorized hereunder. In the event of the creation of such special fund and the issuance of such assessment bonds or other obligations, the proceeds of such certificates of indebtedness or assessment liens deposited therein shall be used only for the payment of the assessment bonds or other obligations issued as provided in this section. The district is authorized to covenant with the holders of such assessment bonds, revenue bonds, or other obligations that it will diligently and faithfully enforce and collect all the special assessments, and interest and penalties thereon, for which such certificates of indebtedness

or assessment liens have been deposited in or assigned to such fund; to foreclose such assessment liens so assigned to such special fund or represented by the certificates of indebtedness deposited in the special fund, after such assessment liens have become delinquent, and deposit the proceeds derived from such foreclosure, including interest and penalties, in such special fund; and to make any other covenants deemed necessary or advisable in order to properly secure the holders of such assessment bonds or other obligations.

(c) The assessment bonds, revenue bonds, or other obligations issued pursuant to this section shall have such dates of issue and maturity as shall be deemed advisable by the board; however, the maturities of such assessment bonds or other obligations shall not be more than 2 years after the due date of the last installment that will be payable on any of the special assessments for which such assessment liens, or the certificates of indebtedness representing such assessment liens, are assigned to or deposited in such special fund.

(d) Such assessment bonds, revenue bonds, or other obligations issued under this section shall bear such interest as the board may determine, not to exceed the maximum rate allowed by general law, and shall be executed, shall have such provisions for redemption prior to maturity, shall be sold in the manner, and shall be subject to all of the applicable provisions contained in this act for revenue bonds, except as

the same may be inconsistent with the provisions of this section.

(e) All assessment bonds, revenue bonds, or other obligations issued under the provisions of this section shall have all the qualities and incidents of negotiable instruments under the law merchant and the laws of the state.

(15) TAX LIENS.—All taxes of the district provided for in this act, together with all penalties for default in the payment of the same and all costs in collecting the same, including a reasonable attorney fee fixed by the court and taxed as a cost in the action brought to enforce payment, shall, from January 1 of each year the property is liable to assessment and until paid, constitute a lien of equal dignity with the liens for state and county taxes and other taxes of equal dignity with state and county taxes upon all the lands against which such taxes shall be levied. A sale of any of the real property within the district for state and county or other taxes shall not operate to relieve or release the property so sold from the lien for subsequent district taxes or installments of district taxes, which lien may be enforced against such property as though no such sale thereof had been made. In addition, for purposes of s. 197.552, Florida Statutes, the lien of all special assessments levied by the district shall constitute a lien of record held by a municipal or county governmental unit. The provisions of ss. 194.171, 197.122, 197.333, and 197.432, Florida Statutes, shall

be applicable to district taxes with the same force and effect as if such provisions were expressly set forth in this act.

(16) PAYMENT OF TAXES AND REDEMPTION OF TAX LIENS BY THE DISTRICT; SHARING IN PROCEEDS OF TAX SALE.—

(a) The district shall have the power and right to:

1. Pay any delinquent state, county, district, municipal, or other tax or assessment upon lands located wholly or partially within the boundaries of the district.

2. Redeem or purchase any tax sales certificates issued or sold on account of any state, county, district, municipal, or other taxes or assessments upon lands located wholly or partially within the boundaries of the district.

(b) Delinquent taxes paid, or tax sales certificates redeemed or purchased, by the district, together with all penalties for the default in payment of the same and all costs in collecting the same and a reasonable attorney fee, shall constitute a lien in favor of the district of equal dignity with the liens of state and county taxes and other taxes of equal dignity with state and county taxes upon all the real property against which the taxes were levied. The lien of the district may be foreclosed in the manner provided in this act.

(c) In any sale of land pursuant to s. 197.542, Florida Statutes, the district may certify to the clerk of the circuit court of the county holding such sale the amount of taxes due to the district upon the lands sought to be sold, and the district

shall share in the disbursement of the sales proceeds in accordance with the provisions of this act and under the laws of the state.

(17) FORECLOSURE OF LIENS.—Any lien in favor of the district arising under this act may be foreclosed by the district by foreclosure proceedings in the name of the district in a court of competent jurisdiction as provided by general law in like manner as is provided in chapter 170 or chapter 173, Florida Statutes, and amendments thereto, and the provisions of those chapters shall be applicable to such proceedings with the same force and effect as if those provisions were expressly set forth in this act. Any act required or authorized to be done by or on behalf of a municipality in foreclosure proceedings under chapter 170 or chapter 173, Florida Statutes, may be performed by such officer or agent of the district as the board of supervisors may designate. Such foreclosure proceedings may be brought at any time after the expiration of 1 year from the date any tax, or installment thereof, becomes delinquent; however, no lien shall be foreclosed against any political subdivision or agency of the state. Other legal remedies shall remain available.

(18) MANDATORY USE OF CERTAIN DISTRICT FACILITIES.—To the full extent permitted by law, the district shall require all lands, buildings, premises, persons, firms, and corporations within the district to use the facilities of the district.

(19) COMPETITIVE PROCUREMENT; BIDS; NEGOTIATIONS.—

(a) No contract shall be let by the board for any goods, supplies, or materials to be purchased when the amount thereof to be paid by the district shall exceed the amount provided in s. 287.017, Florida Statutes, for category four, unless notice of bids shall be advertised once in a newspaper in general circulation in Hillsborough County. Any board seeking to construct or improve a public building, structure, or other public works shall comply with the bidding procedures of s. 255.20, Florida Statutes, and other applicable general law. In each case, the bid of the lowest responsive and responsible bidder shall be accepted unless all bids are rejected because the bids are too high or the board determines it is in the best interests of the district to reject all bids. The board may require the bidders to furnish bond with a responsible surety to be approved by the board. Nothing in this subsection shall prevent the board from undertaking and performing the construction, operation, and maintenance of any project or facility authorized by this act by the employment of labor, material, and machinery.

(b) The provisions of the Consultants' Competitive Negotiation Act, s. 287.055, Florida Statutes, apply to contracts for engineering, architecture, landscape architecture, or registered surveying and mapping services let by the board.

(c) Contracts for maintenance services for any district facility or project shall be subject to competitive bidding requirements when the amount thereof to be paid by the district exceeds the amount provided in s. 287.017, Florida Statutes, for category four. The district shall adopt rules, policies, or procedures establishing competitive bidding procedures for maintenance services. Contracts for other services shall not be subject to competitive bidding unless the district adopts a rule, policy, or procedure applying competitive bidding procedures to said contracts. Nothing herein shall preclude the use of requests for proposal instead of invitations to bid as determined by the district to be in its best interest.

(20) RATES; FEES, RENTALS, AND CHARGES; PROCEDURE FOR ADOPTION AND MODIFICATIONS; MINIMUM REVENUE REQUIREMENTS.—

(a) The district is authorized to prescribe, fix, establish, and collect rates, fees, rentals, or other charges, hereinafter sometimes referred to as "revenues," and to revise the same from time to time, for the systems, facilities, and services furnished by the district, within the limits of the district, including, but not limited to, recreational facilities, water management and control facilities, and water and sewer systems; to recover the costs of making connection with any district service, facility, or system; and to provide for reasonable penalties against any user or property for any such rates, fees, rentals, or other charges that are delinquent.

(b) No such rates, fees, rentals, or other charges for any of the facilities or services of the district shall be fixed until after a public hearing at which all the users of the proposed facility or services or owners, tenants, or occupants served or to be served thereby and all other interested persons shall have an opportunity to be heard concerning the proposed rates, fees, rentals, or other charges. Rates, fees, rentals, and other charges shall be adopted under the administrative rulemaking authority of the district, but shall not apply to district leases. Notice of such public hearing setting forth the proposed schedule or schedules of rates, fees, rentals, and other charges shall have been published in a newspaper of general circulation in Hillsborough County at least once and at least 10 days prior to such public hearing. The rulemaking hearing may be adjourned from time to time. After such hearing, such schedule or schedules, either as initially proposed or as modified or amended, may be finally adopted. A copy of the schedule or schedules of such rates, fees, rentals, or charges as finally adopted shall be kept on file in an office designated by the board and shall be open at all reasonable times to public inspection. The rates, fees, rentals, or charges so fixed for any class of users or property served shall be extended to cover any additional users or properties thereafter served which shall fall in the same class, without the necessity of any notice or hearing.

(c) Such rates, fees, rentals, and charges shall be just and equitable and uniform for users of the same class, and when appropriate may be based or computed either upon the amount of service furnished, upon the average number of persons residing or working in or otherwise occupying the premises served, or upon any other factor affecting the use of the facilities furnished, or upon any combination of the foregoing factors, as may be determined by the board on an equitable basis.

(d) The rates, fees, rentals, or other charges prescribed shall be such as will produce revenues, together with any other assessments, taxes, revenues, or funds available or pledged for such purpose, at least sufficient to provide for the items hereinafter listed, but not necessarily in the order stated:

1. To provide for all expenses of operation and maintenance of such facility or service.

2. To pay when due all bonds and interest thereon for the payment of which such revenues are, or shall have been, pledged or encumbered, including reserves for such purpose.

3 . To provide for any other funds which may be required under the resolution or resolutions authorizing the issuance of bonds pursuant to this act.

(e) The board shall have the power to enter into contracts for the use of the projects of the district and with respect to the services, systems, and facilities furnished or to be furnished by the district.

(21) RECOVERY OF DELINQUENT CHARGES.—In the event that any rates, fees, rentals, charges, or delinquent penalties shall not be paid as and when due and shall be in default for 60 days or more, the unpaid balance thereof and all interest accrued thereon, together with reasonable attorney fees and costs, may be recovered by the district in a civil action.

(22) DISCONTINUANCE OF SERVICE.—In the event the fees, rentals, or other charges for district services or facilities are not paid when due, the board shall have the power, under such reasonable rules and regulations as the board may adopt, to discontinue and shut off such services until such fees, rentals, or other charges, including interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services, are fully paid; and, for such purposes, the board may enter on any lands, waters, or premises of any person, firm, corporation, or body, public or private, within the district limits. Such delinquent fees, rentals, or other charges, together with interest, penalties, and charges for the shutting off and discontinuance and the restoration of such services and facilities and reasonable attorney fees and other expenses, may be recovered by the district, which may also enforce payment of such delinquent fees, rentals, or other charges by any other lawful method of enforcement.

(23) ENFORCEMENT AND PENALTIES.—The board or any aggrieved person may have recourse to such remedies in law and at equity

as may be necessary to ensure compliance with the provisions of this act, including injunctive relief to enjoin or restrain any person violating the provisions of this act or any bylaws, resolutions, regulations, rules, codes, or orders adopted under this act. In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, land, or water is used, in violation of this act or of any code, order, resolution, or other regulation made under authority conferred by this act or under law, the board or any citizen residing in the district may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use; to restrain, correct, or avoid such violation; to prevent the occupancy of such building, structure, land, or water; and to prevent any illegal act, conduct, business, or use in or about such premises, land, or water.

(24) SUITS AGAINST THE DISTRICT.—Any suit or action brought or maintained against the district for damages arising out of tort, including, without limitation, any claim arising upon account of an act causing an injury or loss of property, personal injury, or death, shall be subject to the limitations provided in s. 768.28, Florida Statutes.

(25) EXEMPTION OF DISTRICT PROPERTY FROM EXECUTION.—All district property shall be exempt from levy and sale by virtue

of an execution, and no execution or other judicial process shall issue against such property, nor shall any judgment against the district be a charge or lien on its property or revenues; however, nothing contained herein shall apply to or limit the rights of bondholders to pursue any remedy for the enforcement of any lien or pledge given by the district in connection with any of the bonds or obligations of the district.

(26) TERMINATION OF DISTRICT.—The district shall remain in existence until the earlier of the following:

(a) The district is terminated and dissolved pursuant to amendment to this act by the Legislature; or

(b) The district has become inactive pursuant to s. 189.062, Florida Statutes.

(27) INCLUSION OF TERRITORY.—The inclusion of any or all territory of the district within a municipality does not change, alter, or affect the boundary, territory, existence, or jurisdiction of the district.

(28) SALE OF REAL ESTATE WITHIN THE DISTRICT; REQUIRED DISCLOSURE TO PURCHASER.—Subsequent to the creation of this district under this act, each contract for the initial sale of a parcel of real property and each contract for the initial sale of a unit within the district shall include, immediately prior to the space reserved in the contract for the signature of the purchaser, the following disclosure statement in boldfaced and conspicuous type that is larger than the type in the remaining

text of the contract: "THE WATER STREET TAMPA IMPROVEMENT DISTRICT MAY IMPOSE AND LEVY TAXES, USER FEES, AND/OR ASSESSMENTS ON THIS PROPERTY. THESE TAXES AND ASSESSMENTS PAY FOR THE CONSTRUCTION, OPERATION, AND MAINTENANCE COSTS OF CERTAIN PUBLIC SYSTEMS, FACILITIES, AND SERVICES OF THE DISTRICT AND ARE SET ANNUALLY AND/OR PERIODICALLY BY THE GOVERNING BOARD OF THE DISTRICT. THESE TAXES, USER FEES, AND ASSESSMENTS ARE IN ADDITION TO COUNTY AND OTHER LOCAL GOVERNMENTAL TAXES, USER FEES, AND ASSESSMENTS AND ALL OTHER TAXES, USER FEES, AND ASSESSMENTS PROVIDED FOR BY LAW."

(29) NOTICE OF CREATION AND ESTABLISHMENT.—Within 30 days after the election of the first board of supervisors creating this district, the district shall cause to be recorded in the grantor-grantee index of the property records in Hillsborough County a "Notice of Creation and Establishment of the Water Street Tampa Improvement District." The notice shall, at a minimum, include the legal description of the property covered by this act.

(30) DISTRICT PROPERTY PUBLIC; FEES.—Any system, facility, service, works, improvement, project, or other infrastructure owned by the district, or funded by federal tax-exempt bonds issued by the district, is public; and the district by rule may regulate, and may impose reasonable charges or fees for, the use thereof, but not to the extent that such regulation or

imposition of such charges or fees constitutes denial of reasonable access.

Section 7. If any provision of this act is determined unconstitutional or otherwise determined invalid by a court of law, all the rest and remainder of the act shall remain in full force and effect as the law of this state.

Section 8. This act shall take effect upon becoming a law, except that the provisions of this act which authorize the levy of ad valorem taxation shall take effect only upon express approval by a majority vote of those owners of freeholds of the Water Street Tampa Improvement District, as required by Section 9 of Article VII of the State Constitution, voting in a referendum election.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAC 18-06 OGSR/Citizens Property Insurance Corporation
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 7012

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The Citizens Property Insurance Corporation (Citizens) policyholder eligibility clearinghouse program was established by the Legislature in 2013. The program identifies private-market property insurance options for homeowners who believe Citizens may be their only choice for property insurance. When the Legislature created the program, it also created a public record exemption for proprietary business information provided to the clearinghouse by insurers with respect to identifying and selecting risks for an offer of coverage.

The bill reenacts the public record exemption, which will repeal on October 2, 2018, if this bill does not become law. The bill also inserts a cross-reference to provide a specific definition for the term "trade secrets," which are protected under the public record exemption.

The bill may have a minimal fiscal impact on the state. *See* Fiscal Comments section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

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

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created[5] then a public necessity statement and a two-thirds vote for passage are not required.

Citizens Property Insurance Corporation Clearinghouse

The Citizens Property Insurance Corporation (Citizens) policyholder eligibility clearinghouse program was established by the Legislature in 2013.[6] The program identifies private-market property insurance options for homeowners who believe Citizens may be their only choice for property insurance. When an applicant applies for coverage with Citizens, the Citizens-appointed agent will enter information from the applicant's application into the clearinghouse. Participating private-market companies can review the submitted information to determine whether they would like to offer coverage. If one or more private-market companies offer to insure the risk, the agent will provide the applicant with a quote sheet that includes a side-by-side list of all offers received. The quote sheet will indicate which offers are comparable to Citizens and whether any of those offers fall within a specific threshold. For new policies, the offer must be no more than 15 percent greater than Citizens' current rate to meet the threshold. For renewal policies, the offer must be no greater than Citizens' current rate to meet the threshold. If an offer from a participating private market insurer falls within these thresholds, the applicant is ineligible for coverage with Citizens.[7] Renewal policies made ineligible for coverage due to a private market offer

[1] Section 119.15, F.S.
[2] Section 119.15(3), F.S.
[3] Section 119.15(6)(b), F.S.
[4] Section 24(c), Art. I of the State Constitution.
[5] An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.
[6] Chapter 2013-60, L.O.F.
[7] Section 627.3518(5), F.S.

through the clearinghouse can reapply through Citizens and be rated as a renewal if, within the first three years of leaving Citizens, their private market rate was raised more than 10 percent in one year.[8]

There are currently 15 private market insurers participating in the clearinghouse.[9] Since its launch in 2014 through December 12, 2017, a total of 45,835 new policies consisting of $13.56 billion in Coverage A have been channeled away from Citizens.[10] In addition, during this same timeframe, 8,880 renewal policies consisting of $1.55 billion in Coverage A have also been channeled out of Citizens and into the private market.[11]

Public Record Exemption under Review

When the Legislature created the Citizens clearinghouse in 2013, it also created a public record exemption for proprietary business information provided to the clearinghouse by insurers with respect to identifying and selecting risks for an offer of coverage. Such information is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The term "proprietary business information" is defined to mean:

> [I]nformation, regardless of form or characteristics, which is owned or controlled by an insurer and:
>
> 1. Is identified by the insurer as proprietary business information and is intended to be and is treated by the insurer as private in that the disclosure of the information would cause harm to the insurer, an individual, or the company's business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public;
> 2. Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to the clearinghouse; and
> 3. Includes, but is not limited to:
>   a. Trade secrets.
>   b. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

The 2013 public necessity statement for the exemption provided that:

> Obtaining offers of coverage from authorized insurers through the clearinghouse will provide more choices for consumers and reduce the [Citizens'] exposure and potential for imposing assessments on its policyholders and policyholders in the private market. In order for the program to efficiently determine whether there are authorized insurers interested in making an offer of coverage for a particular risk, a substantial amount of detailed data from participating insurers must be provided to the program. Public disclosure of the detailed data could result in a substantial chilling effect on insurer participation in the program and thereby undermine the program's success.[12]

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[8] *Id.*

[9] Citizens Property Insurance Corporation, *Property Insurance Clearinghouse*, https://www.citizensfla.com/clearinghouse (last visited Feb. 23, 2018).

[10] Citizens Market Accountability and Advisory Committee Depopulation and Clearinghouse Update, Dec. 12, 2017, *available at* https://www.citizensfla.com/documents/20702/6045232/20171212+05+Depopulation+and+Clearinghouse+Update.pdf.

[11] *Id.*

[12] Section 2, ch. 2013-61, L.O.F.

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2018, unless reenacted by the Legislature.[13]

During the 2017 interim, subcommittee staff consulted with staff from Citizens as part of its review under the Open Government Sunset Review Act. According to Citizens, the exemption is necessary to encourage insurers to participate in the clearinghouse and allow risks to be moved from Citizens to the private market by the clearinghouse. As such, Citizens supports reenactment of the public record exemption.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby reenacting the public record exemption for proprietary business information provided to the clearinghouse by insurers with respect to identifying and selecting risks for an offer of coverage.

The bill also inserts a cross-reference to provide a specific definition for the term "trade secrets," which are protected under the public record exemption. Under the new definition, the term "trade secret" means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

B. SECTION DIRECTORY:

Section 1 amends s. 627.3518, F.S., to reenact the public record exemption for proprietary business information provided to the clearinghouse by insurers.

Section 2 provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to impact state government revenues.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to impact local government revenues.

2. Expenditures:

   The bill does not appear to impact local government expenditures.

[13] Section 627.3518(11)(c), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could create a minimal fiscal impact on Citizens because staff responsible for complying with public record requests could require training related to revision of the definition of the term "trade secrets" in the public record exemption. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of Citizens.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 627.3518, F.S., which provides an exemption from public records requirements for certain proprietary business information provided by insurers to the Citizens Property Insurance Corporation policyholder eligibility clearinghouse; inserting a cross-reference; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (11) of section 627.3518, Florida Statutes, is amended to read:

627.3518 Citizens Property Insurance Corporation policyholder eligibility clearinghouse program.—The purpose of this section is to provide a framework for the corporation to implement a clearinghouse program by January 1, 2014.

(11) Proprietary business information provided to the corporation's clearinghouse by insurers with respect to identifying and selecting risks for an offer of coverage is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(a) As used in this subsection, the term "proprietary business information" means information, regardless of form or

characteristics, which is owned or controlled by an insurer and:

1. Is identified by the insurer as proprietary business information and is intended to be and is treated by the insurer as private in that the disclosure of the information would cause harm to the insurer, an individual, or the company's business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public;

2. Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to the clearinghouse; and

3. Includes~~, but is not limited to~~:

a. Trade secrets, as defined in s. 688.002.

b. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Proprietary business information may be found in underwriting criteria or instructions which are used to identify and select risks through the program for an offer of coverage and are shared with the clearinghouse to facilitate the shopping of risks with the insurer.

(b) The clearinghouse may disclose confidential and exempt proprietary business information:

1. If the insurer to which it pertains gives prior written consent;

2. Pursuant to a court order; or

3. To another state agency in this or another state or to a federal agency if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has verified in writing its legal authority to maintain such confidentiality.

~~(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2018.

PCB GAC 18-07

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GAC 18-07 OGSR/Local Government Electric Utility
SPONSOR(S): Government Accountability Committee
TIED BILLS: **IDEN./SIM. BILLS:** SB 7008

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Accountability Committee		Moore	Williamson

SUMMARY ANALYSIS

The Open Government Sunset Review Act requires the Legislature to review each public record exemption and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Municipal electric utilities, from time to time, seek or receive proposals from business entities concerning the development of projects related to providing electric service. According to the utilities, providers of new technologies would be discouraged from sharing information about opportunities to participate in projects if such information were subject to public disclosure due to fear of harming their business by exposing competitively sensitive information.

Current law provides that proprietary confidential business information held by an electric utility that is subject to public record requirements in conjunction with a due diligence review of an electric project or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources is confidential and exempt from public record requirements.

The bill reenacts the public record exemption, which will repeal on October 2, 2018, if this bill does not become law. The bill also inserts a cross-reference to provide a specific definition for the term "trade secrets," which are protected under the public record exemption.

The bill may have a minimal fiscal impact on local governments. *See* Fiscal Comments section.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Open Government Sunset Review Act

The Open Government Sunset Review Act[1] sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.[2]

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

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.[3]

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.[4] If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created[5] then a public necessity statement and a two-thirds vote for passage are not required.

Information Provided to Municipal Electric Utilities

Municipal electric utilities, from time to time, seek or receive proposals from business entities concerning the development of projects related to providing electric service. According to the utilities, providers of new technologies would be discouraged from sharing information about opportunities to participate in projects if such information were subject to public disclosure due to fear of harming their business by exposing competitively sensitive information.

Public Record Exemption under Review

In 2013, the Legislature created a public record exemption for proprietary confidential business information held by an electric utility that is subject to public record requirements in conjunction with a due diligence review of an electric project[6] or a project to improve the delivery, cost, or diversification of

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[1] Section 119.15, F.S.

[2] Section 119.15(3), F.S.

[3] Section 119.15(6)(b), F.S.

[4] Section 24(c), Art. I of the State Constitution.

[5] An example of an exception to a public record exemption would be allowing another agency access to confidential and exempt records.

[6] The term "electric project" means:

1. Any plant, works, system, facilities, and real property and personal property of any nature whatsoever, together with all parts thereof and appurtenances thereto, which is located within or without the state and which is used or useful in the generation, production, transmission, purchase, sale, exchange, or interchange of electric capacity and energy, including facilities and property for the acquisition, extraction, conversion, transportation, storage, reprocessing, or disposal of fuel and other materials of any kind for any such purposes.
2. Any interest in, or right to, the use, services, output, or capacity of any such plant, works, system, or facilities.

fuel or renewable energy resources. Such information is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.

The term "proprietary confidential business information" is defined to mean:

> [I]nformation, regardless of form or characteristics, which is held by an electric utility that is subject to chapter 119, is intended to be and is treated by the entity that provided the information to the electric utility as private in that the disclosure of the information would cause harm to the entity providing the information or its business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public. Proprietary confidential business information includes, but is not limited to:
>
> 1. Trade secrets.
> 2. Internal auditing controls and reports of internal auditors.
> 3. Security measures, systems, or procedures.
> 4. Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the electric utility to contract for goods or services on favorable terms.
> 5. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of information.

The 2013 public necessity statement for the exemption provided that:

> The disclosure of such proprietary confidential business information, such as trade secrets, internal auditing controls and reports, security measures, systems, or procedures, or other information relating to competitive interests, could injure the provider in the marketplace by giving its competitors detailed insights into its financial status and strategic plans, thereby putting the provider at a competitive disadvantage. Without this exemption, providers might be unwilling to enter into discussions with the electric utility regarding the feasibility of future contracting. This could, in turn, limit opportunities the electric utility might otherwise have for finding cost-effective or strategic solutions for providing electric service or improving the delivery, cost, or diversification of fuel or renewable energy.[7]

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2018, unless reenacted by the Legislature.[8]

During the 2017 interim, subcommittee staff sent a questionnaire to each municipal electric utility as part of its review under the Open Government Sunset Review Act. In all, responses were received from 19 electric utilities.[9] All of these utilities recommended that the exemption be reenacted because the exemption has enabled the utilities to pursue opportunities to find the most innovative approaches to meeting the electric needs of their customers. As such, the exemption has brought value to the utilities' customers.

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3. Any study to determine the feasibility or costs of any of the foregoing, including, but not limited to, engineering, legal, financial, and other services necessary or appropriate to determine the legality and financial and engineering feasibility of any project referred to in subparagraph 1. or subparagraph 2.

Section 163.01(3)(d), F.S.

[7] Section 2, ch. 2013-143, L.O.F.

[8] Section 119.0713(4)(d), F.S.

[9] The questionnaire and responses are on file with the Government Accountability Committee.

Effect of the Bill

The bill removes the scheduled repeal date of the public record exemption, thereby reenacting the public record exemption for proprietary confidential business information held by a local government electric utility.

The bill also inserts a cross-reference to provide a specific definition for the term "trade secrets," which are protected under the public record exemption. Under the new definition, the term "trade secrets" means information, including a formula, pattern, compilation, program, device, method, technique, or process that:

- Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
- Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

B. SECTION DIRECTORY:

Section 1 amends s. 119.0713, F.S., to reenact the public record exemption for proprietary confidential business information held by a local government electric utility.

Section 2 provides an effective date of October 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The bill does not appear to impact state government revenues.

2. Expenditures:

   The bill does not appear to impact state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The bill does not appear to impact local government revenues.

2. Expenditures:

   See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill could create a minimal fiscal impact on municipal electric utilities because staff responsible for complying with public record requests could require training related to revision of the definition of term "trade secrets" in the public record exemption. The costs, however, would be absorbed, as they are part of the day-to-day responsibilities of the utilities.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 119.0713, F.S., which provides an exemption from public records requirements for proprietary confidential business information held by a local government electric utility; inserting a cross-reference; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Subsection (4) of section 119.0713, Florida Statutes, is amended to read:

119.0713 Local government agency exemptions from inspection or copying of public records.—

(4)(a) Proprietary confidential business information means information, regardless of form or characteristics, which is held by an electric utility that is subject to this chapter ~~119~~, is intended to be and is treated by the entity that provided the information to the electric utility as private in that the disclosure of the information would cause harm to the entity providing the information or its business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement that provides that the information will not be

released to the public. Proprietary confidential business information includes~~, but is not limited to~~:

1. Trade secrets, as defined in s. 688.002.

2. Internal auditing controls and reports of internal auditors.

3. Security measures, systems, or procedures.

4. Information concerning bids or other contractual data, the disclosure of which would impair the efforts of the electric utility to contract for goods or services on favorable terms.

5. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

(b) Proprietary confidential business information held by an electric utility that is subject to this chapter ~~119~~ in conjunction with a due diligence review of an electric project as defined in s. 163.01(3)(d) or a project to improve the delivery, cost, or diversification of fuel or renewable energy resources is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(c) All proprietary confidential business information described in paragraph (b) shall be retained for 1 year after the due diligence review has been completed and the electric utility has decided whether or not to participate in the project.

~~(d) This subsection is subject to the Open Government~~

~~Sunset Review Act in accordance with s. 119.15, and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2018.

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

V