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## **Finance & Tax Council**

**Wednesday, April 14, 2010  
9:15 AM  
404 HOB**

**Larry Cretul  
Speaker**

**Ellyn Setnor Bogdanoff  
Chair**

# Council Meeting Notice

## HOUSE OF REPRESENTATIVES

(AMENDED 4/13/2010 4:11:01PM)

Amended(1)

### Finance & Tax Council

**Start Date and Time:** Wednesday, April 14, 2010 09:15 am

**End Date and Time:** Wednesday, April 14, 2010 11:30 am

**Location:** 404 HOB

**Duration:** 2.25 hrs

#### Consideration of the following bill(s):

CS/HB 325 Uniform Traffic Control by Roads, Bridges & Ports Policy Committee, Reagan

CS/HB 1129 City of Tamarac, Broward County by Military & Local Affairs Policy Committee, Porth, Clarke-Reed

CS/HB 1483 Spring Hill Fire Rescue and Emergency Medical Services District, Hernando County by Military & Local Affairs Policy Committee, Schenck

CS/HB 1487 Spring Lake Improvement District, Highlands County by Military & Local Affairs Policy Committee, Grimsley

CS/HB 1509 Economic Development by Economic Development Policy Committee, Weatherford, Murzin

HB 7213 Capital Formation for Infrastructure Projects by Economic Development & Community Affairs Policy Council, Murzin, Eisnaugle

Pursuant to rule 7.13, the deadline for amendments to bills on the agenda by non-appointed members shall be 6:00 p.m., Tuesday, April 13, 2010.

By request of the Chair, all council members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Tuesday, April 13, 2010.

**NOTICE FINALIZED on 04/13/2010 16:11 by BAI**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 325 Uniform Traffic Control
SPONSOR(S): Roads, Bridges & Ports Policy Committee; Reagan and others
TIED BILLS: IDEN./SIM. BILLS: SB 294

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Roads, Bridges & Ports Policy Committee, 12 Y, 0 N, As CS, Brown, Miller. Row 2: Health Care Regulation Policy Committee, 14 Y, 0 N, Guy, Calamas. Row 3: Finance & Tax Council, Diez-Arguelles, Langston.

SUMMARY ANALYSIS

CS/HB 325 creates the "Mark Wandall Traffic Safety Act." The bill authorizes counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinance. The penalty for failing to stop at a steady red light, as determined through the use of a traffic infraction detector, is a fine of \$155. The local jurisdiction retains \$75 of the fine, \$55 is distributed to the General Revenue Fund and \$25 is distributed to the Department of Health (DOH) Administrative Trust Fund. The bill directs further distributions from the DOH administrative trust fund.

The bill grants counties and municipalities (and their agents) access to Florida Department of Transportation (FDOT) right-of-way to install and operate traffic infraction detectors. The traffic infraction detector must conform to the contract specifications adopted by FDOT. The bill provides a "grandfather clause" valid until the earlier of (i) July 1, 2015 or (ii) one year after FDOT's final adoption of specifications for traffic infraction detectors.

The bill provides a complaint process for complaints that a county or municipality is employing traffic infraction detectors for purposes other than the promotion of public health, welfare, and safety or in a manner inconsistent with the law. Each county or municipality that operates a traffic infraction detector must submit a biannual report to FDOT which details the results of the detectors and the procedures for enforcement. FDOT must submit a summary report to the Governor and Legislature in even-numbered years. The report must include a review of the information submitted by the counties and municipalities and any recommendations or necessary legislation.

If local governments choose to enact ordinances to permit the use of traffic infraction detectors, local governments will incur costs for the installation and maintenance of the devices. The impact will vary depending on the negotiated agreement between the local government and any private vendor providing the equipment.

The Revenue Estimating Conference has estimated that the provisions of this bill will increase state revenues by \$39.6 million in FY 2010-11, increasing to \$127.9 million in FY 2013-14, and local government revenues by \$16.4 million in FY 2010-11, increasing to \$91.9 million in FY 2013-14.

The bill is effective upon becoming a law.



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

According to the Department of Highway Safety and Motor Vehicles (DHSMV), in 2008 there were 76 fatalities related to motor vehicle drivers who disregarded a traffic signal in Florida.<sup>1</sup> This represents approximately 3 percent of all fatal accidents in 2008, the sixth-highest cause of traffic fatalities.<sup>2</sup>

##### **Traffic Infraction Detectors**

Traffic infraction detectors, or "red light cameras," are used to enforce traffic laws by automatically photographing vehicles whose drivers run red lights. A red light camera is connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system continuously monitors the traffic signal, and the camera is triggered by any vehicle entering the intersection above a pre-set minimum speed and following a specified time after the signal has turned red. A second photograph typically shows the red light violator in the intersection. In some cases video cameras are used. Cameras record the license plate number, the date and time of day, the time elapsed since the beginning of the red signal, and the vehicle speed. Over 110 cities and towns in 20 states across the country currently participate in a red light camera program.<sup>3</sup> Red light cameras have been used in at least 33 foreign countries since the 1970s.<sup>4</sup>

An Insurance Institute for Highway Safety review of international red light camera studies concluded that cameras reduce red light violations by 40-50 percent and reduce injury crashes by 25-30 percent.<sup>5</sup> A 2005 study of red light camera programs in seven metropolitan communities by the Federal Highway Administration concluded that there was a 25 percent reduction in right-angle collisions, but a 15

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<sup>1</sup> *Florida Traffic Crash Statistics Report 2008*, Department of Highway Safety and Motor Vehicles, June 30, 2009.

<sup>2</sup> Careless driving represented 20 percent of 2008 traffic fatalities; DUI, 17 percent; excessive speed, 6 percent; driving left-of-center, 6 percent; and failure to yield right of way, 6 percent.

<sup>3</sup> National Campaign to Stop Red Light Running, [http://www.stopredlightrunning.com/get\\_the\\_facts.htm](http://www.stopredlightrunning.com/get_the_facts.htm)

<sup>4</sup> Insurance Institute for Highway Safety website ([www.iihs.org/research/qanda/rlr.html](http://www.iihs.org/research/qanda/rlr.html)) citing Blackburn, R.R. and Glibert, D.T., *Photographic enforcement of traffic laws*. Washington, DC, National Academy Press, 1995.

<sup>5</sup> *Id.*, citing Retting, R.A. et al., *Effects of red light cameras on violations and crashes: a review of the international literature*, *Traffic Injury Prevention* 4:17-23, 2003.

percent increase in rear-end collisions.<sup>6</sup> It is possible that the volume of rear-end collisions will decline as drivers get used to the idea that the vehicle in front of them will stop at a red light.<sup>7</sup>

Other studies, including a 7-jurisdiction study conducted by the Virginia Department of Transportation<sup>8</sup> and a USDOT-funded study by the Urban Transit Institute at North Carolina A&T University,<sup>9</sup> have reached conflicting results regarding crash reduction. The results of these studies are best summarized by this excerpt from the North Carolina study:

The results do not support the conventional wisdom expressed in recent literature and popular press that red light cameras reduce accidents.... Our findings are more pessimistic, finding no change in angle accidents and large increases in rear-end crashes and many other types of crashes relative to other intersections. We did find a decrease in accidents involving a vehicle turning left and a vehicle on the same roadway, which may have been included as an angle accident in some other studies. However, given that these left turn accidents occur only one third as often as angle accidents, and the fact that we find no benefit from decreasing severity of accidents suggests that there has been no demonstrable benefit from the RLC [red light camera] program in terms of safety. In many ways, the evidence points toward the installation of RLCs as a detriment to safety.

Critics on each side of the debate raise concerns about the scientific methodology of opposing studies and potential bias of researchers. Criticisms have focused on issues such as sample size, control of variables (weather, similarity of intersections, etc), and other possible control methods (e.g., failure to analyze intersections before and after detectors are placed).

Currently there are no recognized independent standards or certifications for the red light camera industry. The Federal Highway Administration (FHWA) and the National Highway Traffic Safety Administration (NHTSA) have developed guidelines for the use of state and local agencies on the implementation and operation of red light camera systems. These guidelines were most-recently updated in January 2005.<sup>10</sup> Although not a regulatory requirement, the guidance is intended to provide critical information for state and local agencies on relevant aspects of red light camera systems in order to promote consistency and proper implementation and operation. The guidelines present research that suggests engineering improvements, safety education and increased enforcement by law enforcement officers can significantly reduce red light violations.

Examples of engineering improvements include:

- *Improving signal head visibility.* Signal head visibility can be improved by increasing the size of the traffic signal lamps from 8 to 12 inches. The addition of backplates can also make signals more visible.
- *All-red interval.* An all-red clearance interval, where the traffic signals on all sides are red for a period of time, provides additional time for motorists already in the intersection to proceed through the intersection on the red indication while holding cross traffic on the cross street approaches. The red clearance interval is not intended to reduce the incidence of red light running; rather it is a safety measure.
- *Appropriate yellow times.* The likelihood of a motorist running a red light increases as the yellow interval is shortened. Lengthening the yellow interval, within appropriate guidelines, has been shown to significantly reduce the number of inadvertent red light violations.

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<sup>6</sup> *Safety Evaluation of Red-Light Cameras*, Federal Highway Administration, Publication No. FHWA-HRT-05-048, available online here: <http://www.tfhrc.gov/safety/pubs/05048/>

<sup>7</sup> *Id.*

<sup>8</sup> Available online here: <http://www.thenewspaper.com/rlc/docs/05-vdot.pdf>

<sup>9</sup> Available online here: <http://www.thenewspaper.com/rlc/docs/burkeyvobeng.pdf>

<sup>10</sup> U.S. Department of Transportation, *Red Light Camera Systems Operational Guidelines*, Publication No. FHWA-SA-05-002, January 2005.

- *Traffic signal coordination.* A coordinated traffic signal operation where motorists are able to move smoothly in platoons from intersection to intersection reduces the risk of red light violations and collisions.

Cameras are permitted by current Florida law to enforce violations of payment of tolls.<sup>11</sup> For example, toll facility operators use a digital camera to capture an image of the vehicle's license plate as the vehicle travels through the tolling zone. If the system receives payment from a SunPass, the image is deleted. If no payment is received, the image is processed for video tolling or is considered a toll violation and a Uniform Traffic Citation is issued.

In response to the city of Pembroke Pines' inquiry regarding the use of unmanned cameras to enforce violations of traffic signals, the Attorney General issued an advisory legal opinion on July 12, 2005.<sup>12</sup> The opinion concluded that it was within the local government's scope of authority "to enact an ordinance authorizing the city:

- to monitor violations of traffic signals within the city and to use unmanned cameras to monitor intersections and record traffic violations;
- to monitor violations of traffic signals within the city and to use unmanned cameras to record the license tag numbers of cars involved in such violations; and
- to advise a car owner that his or her license tag number has been recorded in a violation of the traffic laws."

The problem identified by a 1997 Attorney General opinion<sup>13</sup> was whether unmanned electronic traffic infraction detectors may independently be used as the basis for issuing citations for violations of traffic laws. Current statute requires that citations be issued when an officer "observes the commission of a traffic infraction."<sup>14</sup> The 1997 Attorney General opinion concluded that nothing precludes the use of unmanned cameras to record violations of s. 316.075, F.S., but "a photographic record of a vehicle violating traffic control laws may not be used as the basis for issuing a citation for such violations." The 2005 opinion reached the same conclusion, stating, "legislative changes are necessary before local governments may issue traffic citations and penalize drivers who fail to obey red light indications on traffic signal devices" as collected from a photographic record from unmanned cameras monitoring intersections.

Several local governments in Florida have participated in the use of red light cameras enforcement of red light violations. Due to the Attorney General's advisory opinions, the majority of local governments have used the cameras in pilot projects solely for data collection purposes or as a warning system to motorists, by sending a letter and attaching no penalty. Sarasota County, Manatee County, Palm Beach County, Polk County, and the cities of Orlando and Melbourne are examples of local governments that have at one time participated in a red light camera pilot project. The Palm Beach County Commission reported that their two-month pilot project using traffic cameras at a test intersection in Palm Beach County showed alarming results. One fifth of those who ran a red light did so two seconds after the light had changed. On average, fifty cars a day ran the light at the test site during the first month of the pilot project. During the second month of the project, following publicity about the program, that number dropped to less than twenty.<sup>15</sup>

The city of Gulf Breeze passed a local ordinance in 2005 allowing use of red light cameras. A violation by any motor vehicle running a red light that is recorded by a traffic enforcement photographic system is a civil code violation<sup>16</sup> and a \$100 civil fee is assessed against the motor vehicle owner. The city has installed one red light camera at Daniel Drive and U.S. 98 in front of Gulf Breeze Middle School. The Gulf Breeze City Council adopted the ordinance despite the opinion issued by the Attorney General.

<sup>11</sup> s. 316.1001(2)(d), F.S.

<sup>12</sup> Attorney General Opinion 05-41.

<sup>13</sup> Attorney General Opinion 97-06.

<sup>14</sup> s. 316.640(5)(a), F.S.

<sup>15</sup> Palm Beach County Board of County Commissioners, "FY 2007 State Legislative Program", available online here:

<http://www.pbcgov.com/legislativeaffairs/pdf/LegProg.pdf>

<sup>16</sup> Section 18-113, Code of Ordinances, City of Gulf Breeze, Florida.

The Gulf Breeze Police Chief said that after the signs went up, violations dropped from 150 a month to 95 in a little over a year.<sup>17</sup> The camera was installed by "Traffipax." According to the police chief, the vendor paid for the initial cost of setting up the program. In return, the vendor is paid a percentage of the \$100 fine. "Peek Traffic", the vendor who donated the equipment and monitoring for Sarasota County's pilot project, states that a camera is valued at approximately \$50,000 and costs \$10,000 to install.

From 2008 to the present, approximately 50 municipalities have joined Gulf Breeze in enacting red light camera ordinances and placing cameras at intersections. The ordinances are broadly similar, and vary only in the amount of the fine (from \$50 to \$150, with some jurisdictions enacting multiple-offense increases up to \$500), the nature of required signage (none, at the entrance to the city, or at the intersection), whether or not to engage in education before "going live," variations on the notice requirements sent to the motor vehicle owner, and variations on the process whereby a motor vehicle owner may challenge the violation.

## Trauma Centers

A verified trauma center (center) is a hospital with an established trauma program which includes health care practitioners who specialize in the treatment of emergent conditions and facilities appropriate to treat those patients.<sup>18</sup> Part II of Chapter 395, F.S., provides for a tiered system of center verification within the 19 trauma service areas established in s. 395.402, F.S. The Florida Department of Health (DOH) selects hospitals for center designation through an application process. Standards for designation are based on national guidelines established by the American College of Surgeons.<sup>19</sup> Standards for designation as a pediatric center are developed in conjunction with Children's Medical Services.<sup>20</sup> Florida's centers treat over 40,000 patients annually.<sup>21</sup>

There are three types of centers:

- Level I centers which have formal trauma care research and education programs; provide support to Level II and pediatric centers and general hospitals; and participate in an inclusive system of trauma care.<sup>22</sup>
- Level II centers which serve as a resource for general hospitals and participate in an inclusive system of trauma care.<sup>23</sup>
- Pediatric centers must be in substantial compliance with DOH rules relating to pediatric trauma center operation.<sup>24</sup>

There are a total of 21 verified centers in Florida: 7 Level I; 12 Level II; and 6 Pediatric centers.<sup>25</sup> A center may have more than one designation, for example, St. Mary's Medical Center in Delray Beach carries both a Level II and a Pediatric center designation. Additionally, one provisional center exists in Ft. Pierce, Florida.

Centers are partially funded by traffic infraction fines deposited into the Administrative Trust Fund (Trust Fund) within the DOH. In particular, s. 318.18(15), F.S., requires \$65 of the \$125 traffic citation

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<sup>17</sup> Ginny Laroe, "Police Research Traffic Cameras," *Sarasota Herald Tribune*, March 26, 2007.

<sup>18</sup> Florida Department of Health, *The Costs of Trauma Center Readiness*, July 17, 2002 (on file with the Committee).

<sup>19</sup> s. 395.401(2), F.S. Section 395.4025, F.S., delineates the DOH verified trauma center designation process. Detailed DOH standards for designation are found in *Trauma Center Standards, Department of Health, Pamphlet 150-9, January 2008*, see <http://www.doh.state.fl.us/DEMO/Trauma/PDFs/TraumaCntrStandards-DOHPamphlet150-9Jan2008.pdf> (last visited March 6, 2010).

<sup>20</sup> *Id.*

<sup>21</sup> Florida Department of Health, Division of Emergency Medical Operations, Office of Trauma, see <http://www.doh.state.fl.us/DEMO/Trauma/index.html> (last visited March 6, 2010).

<sup>22</sup> s. 395.4001(6), F.S.

<sup>23</sup> s. 395.4001(7), F.S.

<sup>24</sup> s. 395.4001(9), F.S.

<sup>25</sup> Florida Department of Health, Division of Emergency medical Operations, Office of Trauma, see <http://www.doh.state.fl.us/DEMO/Trauma/PDFs/TextEquivforTraumaCentersMap.doc> (last visited March 6, 2010).

fine for failure to stop at a traffic signal be deposited into the Trust Fund.<sup>26</sup> DOH distributes money to centers on a quarterly basis<sup>27</sup> under a formula established in s. 395.4036, F.S. The formula requires:

- Twenty percent to Centers that have a local funding contribution as of December 31. Distribution is based on a Center's trauma caseload for the most recent calendar year for which data is available.<sup>28</sup>
- Twenty percent to Centers based on a Center's trauma caseload for the most recent calendar year for which data is available. The determination of caseload volume for distribution of funds is based on DOH's Trauma Registry data<sup>29</sup>
- Forty percent to Centers based on the severity of a Center's caseload. Severity determination is made by DOH according to the International Classification Injury Severity Scores.<sup>30</sup>

Verified trauma centers are either subject to audit under s. 215.97, F.S., the Florida Single Audit Act, or, if not subject to audit requirements, must annually attest to DOH that proceeds from distributions under 395.4036, F.S., were used in compliance with that section.<sup>31</sup> Currently, traffic fine revenues do not directly fund any other type of health care facility or entity.

### **Disproportionate Share Hospitals**

The Florida Disproportionate Share Hospital (DSH) program is a Medicaid-financed method of making supplemental payments to hospitals providing a disproportionate share of Medicaid and charity care.<sup>32</sup> Payments are made according to statutory formulae. Currently, disproportionate share hospitals criteria are not used to determine traffic fine revenue distribution.

### **Effect of Proposed Changes**

#### **Local Ordinance Authorization**

The bill creates the "Mark Wandall Traffic Safety Act." The bill creates s. 316.0083, F.S., authorizing counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifies the required content of the ordinance. The traffic infraction detector must conform to the contract specifications adopted by FDOT. The bill specifies that each local ordinance must:

- provide for the use of a traffic infraction detector to enforce s. 316.075(1)(c), F.S., which requires the driver of a motor vehicle to stop when facing a traffic signal steady red light on the streets and highways under the jurisdiction of the county or municipality;
- authorize an infraction enforcement officer or a code enforcement officer to issue a ticket for violation of s. 316.075(1)(c), F.S., and to enforce the payment of tickets for such violation;
- require signs to be posted at locations designated by the county or municipality providing notification that a traffic infraction detector may be in use;
- require the county or municipality to make a public announcement and conduct a public awareness campaign of the proposed use of traffic infraction detectors at least 30 days before commencing the enforcement program; and
- establish a fine of \$155 to be assessed against the owner of a motor vehicle whose vehicle fails to stop when facing a red light, as determined through use of a traffic infraction detector.

The ordinance must allow the city to operate a traffic infraction detector within the right-of-way owned by the county or FDOT. The county or the FDOT is required to issue permits for installation, including

<sup>26</sup> s. 316.074(1) and s. 316.075(1)(c)1, F.S.

<sup>27</sup> Rule 64J-2.019(2), F.A.C.

<sup>28</sup> s. 395.4036(1)(a)1, F.S.

<sup>29</sup> s. 395.4036(1)(a)2, F.S.

<sup>30</sup> s. 395.4036(1)(a)3, F.S. The International Classification Injury Severity Score (ICISS) is a mathematical ratio used to predict and score patient survival from severe injuries. Rule 64J-2.019, F.A.C., provides for classifications of trauma patients based on the ICISS scoring system.

<sup>31</sup> s. 395.4036(2), F.S., and Rule 64J-2.019(3), F.A.C.

<sup>32</sup> s. 409.911, F.S.

access to FDOT right-of-way, according to the established permitting process. Furthermore, placement and installation of traffic infraction detectors is allowed on the State Highway System, county roads, and city streets pursuant to specifications developed by FDOT, so long as the safety and operation of the road facility is not impaired.

### **Fines and Revenue Distribution**

The fine imposed by the local ordinance is administered in the same manner and is subject to the same limitations as provided for parking violations under s. 316.1967, F.S. DHSMV's authority to suspend or revoke a license (contained in Chapter 318 and s. 322.27, F.S.) is not applicable to a violation of a traffic infraction detector ordinance enacted under s. 316.0083, F.S. A violation is not a conviction of the operator, may not be made a part of the operator's driving record, may not be used for purposes of setting motor vehicle insurance rates, and may not result in points assessed against the operator's driver's license.

The \$155 fine assessed under the ordinance is disbursed as follows:

- \$75 retained by the county or municipality enforcing the ordinance;
- \$55 to the General Revenue Fund; and
- \$25 to be deposited in the DOH Administrative Trust Fund

The bill expands the types of entities that directly receive traffic fine revenues beyond verified trauma centers. Of the funds deposited in the DOH Administrative Trust Fund pursuant to the bill:

- \$5 of each fine collected is distributed equally among all children's crisis stabilization units and rural health initiatives.
- Fourteen percent of the remaining funds (that is, the \$20 remaining from each fine after the \$5 distribution above) are distributed to the Miami Project to Cure Paralysis for brain and spinal cord injury.
- Three percent of the remaining funds are distributed equally to community-based support programs that provide support and services for individuals who have sustained a traumatic brain injury.
- Eighteen percent of the remaining funds are distributed to verified trauma centers that have a local funding contribution as of December 31. Distribution of funds is based on trauma caseload volume for the most recent calendar year available.
- Thirty percent of the remaining funds are distributed to verified trauma centers based on trauma caseload volume for the most recent calendar year available. The determination of caseload volume for distribution of is based on DOH's Trauma Registry data.
- Thirty-two percent of the total remaining funds are distributed to verified trauma centers based on severity of trauma patients for the most recent calendar year available. The determination of severity for distribution is based on DOH's International Classification Injury Severity Scores or another statistically valid and scientifically accepted method of stratifying a trauma patient's severity of injury, risk of mortality, and resource consumption as adopted by DOH by rule, weighted based on the costs associated with and incurred by the trauma center in treating trauma patients. The weighting of scores shall be established by DOH by rule.
- Three percent of the remaining funds are distributed to public hospitals that qualify for disproportionate share dollars and that are not verified trauma centers but are located in trauma service areas that do not have a verified trauma center based on their proportionate number of emergency room visits on an annual basis. Currently, four hospitals would qualify for this distribution: Bay Medical Center; Northwest Florida Community Hospital; Citrus Memorial Hospital; and Doctors' Memorial Hospital (Bonifay).

## Procedure for Issuance and Contest of Tickets

The bill refers to current statutory procedures addressing liability for payment of parking ticket violations and other parking violations<sup>33</sup> and applies those procedures to violations of traffic infraction detector ordinances created under s. 316.0083, F.S., with the following additional requirements regarding the information which must be included in the ticket:

- the name and address of the person alleged to be liable as the registered owner or operator of the vehicle involved in the violation;
- the tag number of the vehicle;
- the violation charged;
- a photographic image evidencing the violation;
- the location where the violation occurred;
- the date and time of the violation;
- a signed statement by a specifically trained technician employed by the agency or its contractor that, based on inspection of recorded images, the motor vehicle was being operated in violation of s. 316.075(1)(c), F.S.;
- the amount of the fine;
- the date by which the fine must be paid;
- the procedure for contesting the violation alleged in the ticket; and
- a warning that failure to contest the violation in the manner and time provided is deemed an admission of the liability and that a default may be entered thereon.

The violation is processed by the county or municipality that has jurisdiction over the street or highway where the violation occurred or by any entity authorized by the county or municipality to prepare and mail the ticket. The ticket must be sent by first-class or certified mail to the owner of the vehicle involved in the violation, postmarked no later than 30 days after obtaining the name and address of the registered owner, but in no event later than 60 days after the violation.

The owner is responsible for payment of the fine unless the owner can establish that the vehicle:

- Passed through the intersection to yield the right-of-way to an emergency vehicle or as part of a funeral procession;
- Passed through the intersection at the direction of a law enforcement officer;
- Was, at the time of the violation, reported as stolen; or
- Received a Uniform Traffic Citation (UTC) for the alleged violation.

The owner of the vehicle must, within 30 days, furnish an affidavit to the county or municipality that provides detailed information supporting an exemption as provided above, including relevant documents such as a police report (if the car had been reported stolen), or a copy of the UTC, if issued.

A person may elect to contest the determination that they failed to stop at a red light as evidenced by the traffic infraction detector by electing to appear before a judge or other locally-designated official authorized to adjudicate traffic infractions. If the person elects to appear before the court, they are deemed to have waived the limitation of civil penalties imposed for the violation and the court may impose a civil penalty not to exceed \$155 plus court costs. The court may take appropriate measures to enforce collection of any penalty not paid within the time permitted by the court.

A certificate sworn to or affirmed by a person authorized under s. 316.0083, F.S., who is employed by or under contract with the county or municipality where the infraction occurred, or a fax of such a certificate, that is based upon inspection of photographs or other recorded images produced by the traffic infraction detector, is prima facie evidence of the facts contained in the certificate. A photograph or other recorded image evidencing a violation must be available for inspection in any proceeding to adjudicate liability for violation of an ordinance enacted under s. 316.0083, F.S.

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<sup>33</sup> Section 316.1967(2)-(5), F.S.

The bill authorizes counties and municipalities to provide the names of those who have one or more outstanding violations, as recorded by traffic infraction detectors, to DHSMV. Pursuant to s. 320.03(8), F.S., if a person's name appears on DHSMV's list, a license plate or revalidation sticker may not be issued until the fine has been paid.

### **Oversight and Accountability**

Any traffic infraction detector installed on the state's streets or highways must meet contract specifications established by FDOT and must be tested at regular intervals according to procedures prescribed by FDOT. The bill creates a new s. 316.0776, F.S., providing that FDOT will develop traffic infraction detector specifications as part of its handbook addressing material and equipment connections to state electrical signal boxes.

The bill provides a 'grandfather clause' for a period of one year after these specifications are finalized (or July 1, 2015, if the specifications are still unfinished), for jurisdictions that have already instituted a traffic infraction detector program.

The bill also validates and ratifies any past and future enforcement actions taken by cities and counties using a traffic infraction detector until 1 year after the FDOT adopts final specifications.

The bill provides a process for complaints that a county or municipality is employing traffic infraction detectors for purposes other than the promotion of public health, welfare, and safety or in a manner inconsistent with the law. A complaint may be submitted to the governing board of the county or municipality.

Each county or municipality that operates a traffic infraction detector is required to submit a biannual report to FDOT, which must contain:

- the complaints received, along with any investigation and corrective action taken by the governing body;
- the results of using the traffic infraction detector; and
- the procedures for enforcement.

FDOT must submit a biannual summary report to the Governor and Legislature which must contain:

- a review of the information received from the counties and municipalities;
- a description of the enhancement of the traffic safety and enforcement programs; and
- recommendations, including any necessary legislation.

The first report must be submitted on or before December 1 of each even-numbered year. After reviewing the report, the Legislature may exclude a county or municipality from further participation in the program.

The bill provides a severability clause and is effective upon becoming law.

### **B. SECTION DIRECTORY:**

- Section 1.** Citing the act as the "Mark Wandall Traffic Safety Act."
- Section 2.** Amending s. 316.003, F.S.; defining the term "traffic infraction detector."
- Section 3.** Creating s. 316.0083, F.S.; creating the "Mark Wandall Traffic Safety Program" to be administered by FDOT; authorizing counties and municipalities to enact ordinances permitting the use of traffic infraction detectors and specifying the requirements of an ordinance; requiring access to county or FDOT right-of-way; exempting emergency vehicles from an ordinance enacted under this section; providing penalties for traffic control signal violations detected by traffic infraction detectors; providing for the issuance, challenge, and disposition of tickets; providing for disposition of fine revenue; providing a process for complaints that a county or municipality is employing detectors in



a manner inconsistent with this section; and requiring FDOT to submit a report to the Governor and Legislature.

- Section 4.** Amending s. 316.0745(6), F.S.; requiring traffic infraction detectors to meet certain specifications.
- Section 5.** Creating s. 316.07456, F.S.; providing a grandfather clause for existing municipal equipment and programs.
- Section 6.** Creating s. 316.0776, F. S.; allowing placement and installation of traffic infraction detectors on the State Highway System, county roads, and city streets pursuant to specifications developed by FDOT, so long as the safety and operation of the road facility is not impaired.
- Section 7.** Amending s. 316.1967, F.S., adding red-light camera ordinance violations to the violations list reported to DHSMV.
- Section 8.** Amending s. 395.4036, F.S., providing direction for the distribution of funds collected by the DOH Administrative Trust Fund.
- Section 9.** Recognizing and ratifying enforcement actions by local governments using traffic cameras prior to the effective date of this act.
- Section 10.** Providing a severability clause.
- Section 11.** Providing that the bill is effective upon becoming law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference has estimated that the provisions of this bill will increase state revenues by \$39.6 million (\$28.2 G.R., \$11.4 Trust) in FY 2010-11, increasing to \$127.9 million (\$91.1 G.R., \$36.8 Trust) in FY 2013-14.

#### 2. Expenditures:

See Fiscal Comments, below.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

See Fiscal Comments, below. The Revenue Estimating Conference has estimated that the provisions of this bill will increase local government revenues by \$16.4 million in FY 2010-11, increasing to \$91.9 million in FY 2013-14.

#### 2. Expenditures:

See Fiscal Comments, below.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors there may be a fiscal impact to the private sector. Traffic infraction detectors will increase the scope of a local government's enforcement of red light violations, therefore increasing the possibility of a motor vehicle owner receiving a ticket for a red light violation. The fine for the ordinance violation, as determined by a traffic infraction detector, is \$155. If a person chooses to contest the ticket, they may appear before a judge, but they are deemed to have waived the limitation of civil penalties imposed for the violation and, if the ticket is upheld by the judge, may be charged the \$155 fine plus court costs.

There are a number of providers of traffic infraction detectors in Florida. These providers and others may realize a significant positive fiscal impact, depending on how each provider structures its services

and negotiates with a given the county or municipality.<sup>34</sup> The fine for a violation of current municipal traffic infraction detector ordinances in Florida ranges from \$50 to \$150. The amount of the fine received by the vendor varies based on negotiations between the vendor and the local government. Two important factors in the negotiation are whether the vendor will bear the up-front installation costs of the equipment, and the eventual ownership of the equipment. In the case where the vendor bears the costs of the initial installation, that vendor may receive a large percentage of the fine during the early years of the contract, in order to recoup its initial outlay. The local government may receive a larger share in later years, and will also ultimately own the equipment outright. Other jurisdictions may elect to negotiate a different arrangement whereby the vendor retains ownership of the equipment, and receives a fixed percentage of the fine over the course of the contract. A third arrangement involves a relatively large flat-fee monthly payment to the vendor, and a larger percentage of the fine retained by the local government.<sup>35</sup>

During the 2008 Legislative session, a bill similar to CS/HB 325 provided that local governments would receive \$30 per violation instead of the \$75 per violation allowed by CS/HB 325.<sup>36</sup> The Florida League of Cities noted at the time that "capital and maintenance costs of these camera systems are significant and there are few, if any, vendors that would be able to provide the systems at this price."<sup>37</sup>

#### FISCAL COMMENTS:

There may be an increase in fine revenue for the local governments that choose to enact ordinances permitting the use of traffic infraction detectors, the amount of which is indeterminate and reliant on driver awareness and future behavior. There may be a decrease in fine revenues to local governments who are now collecting fines from traffic infraction detector ordinances adopted prior to this bill becoming effective.

The bill provides that \$75 of the revenue generated by each fine is retained by the local jurisdiction. As a result, there may be an increase in fine revenue for any local governments that choose to enact ordinances permitting the use of traffic infraction detectors. The amount of revenue is indeterminate, as the number of ordinance violations to be issued is unknown and depends on driver awareness and future behavior.

The DOH Administrative Trust Fund will receive approximately 15 percent of all revenue generated by the bill (\$25 from each fine). Of this revenue, twenty percent (\$5) will be distributed to children's crisis-stabilization units and rural health initiatives. The remaining eighty percent (\$20) of the revenue directed to the Trust Fund is distributed as follows:

- Fourteen percent to the Miami Project to Cure Paralysis for brain and spinal cord injury,
- Three percent directed to community-based support programs that support services and individuals who have sustained a traumatic brain injury,
- Eighteen percent to verified trauma centers having a local funding contribution,
- Thirty percent to verified trauma centers based on trauma caseload volume,
- Thirty-two percent to verified trauma centers based on severity of trauma patients, and

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<sup>34</sup> A 2002 audit by the California State Auditor noted that "[t]he fees and fee structures that local governments pay their vendors differ significantly." The audit indicated that some cities paid anywhere from \$25 to \$106 per citation to the vendor, with larger cities like San Francisco and Los Angeles paying additional flat fees to cover certain costs. The audit suggested that "[t]hese variances may be due to the relative size differences among the programs and each local government's negotiating ability." *Red Light Camera Programs: Although They Have Contributed to a Reduction in Accidents, Operational Weaknesses Exist at the Local Level*, Report No. 2001-125, California State Auditor, Bureau of State Audits, July 2002.

<sup>35</sup> The California audit cited in Footnote 19 summarizes the varying business cases as follows: "The advantage of paying a fee for each paid citation is that the local government does not have to pay a large amount all at once. The downside of this method is that increasing profits by maximizing the number of citations issued might become an incentive for vendors—and create a poor perception of the red light camera program by the public. Conversely, paying the vendor a flat fee removes any incentive to maximize the number of citations issued to bolster profits but makes the local government susceptible to the risk that, should the number of citations issued decrease, it would not receive enough revenue to pay the vendor."

<sup>36</sup> Committee Substitute for House Bill 351 (2008) by the Economic Expansion & Infrastructure Council and Reagan.

<sup>37</sup> *League of Cities, Inc. Legislative Briefs - Traffic Enforcement*, Scott Dudley, March 21, 2008.

- Three percent to public hospitals that qualify for disproportionate share dollars and that are not verified trauma centers but are located in trauma service areas that do not have a verified trauma center based on their proportionate number of emergency room visits.

The remaining 35 percent of the revenue collected (\$55 from each fine) is deposited into the General Revenue Fund.

To the extent local governments choose to enact ordinances to permit the use of traffic infraction detectors they will incur the cost of the acquisition, installation and maintenance of the devices, the amount of which will vary depending on the negotiated agreement between the local government and any private vendor providing the equipment and service. The price of a traffic infraction detector ranges from \$50,000 to \$100,000. There may also be installation, maintenance and monitoring fees, based on the negotiated agreement.

Local court systems may see a caseload increase, in the event that vehicle operators choose to contest tickets as permitted under the bill. Although the bill permits the court to impose a penalty "not to exceed \$155 plus court costs," there may be an indeterminate cost to the local court system.

The state will incur minor administrative expenses as a result of this legislation. The bill requires FDOT to collect reports from municipalities and to prepare a biannual report for the Legislature. The bill also requires FDOT to prepare standards for traffic infraction detectors.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Article VII, section 18, paragraph (b) of the Florida Constitution states that the Legislature must pass by a two-thirds vote any general law that will "reduce the authority that municipalities and counties have to raise revenues in the aggregate...." Paragraph (d) states that laws "creating, modifying, or repealing noncriminal infractions are exempt from the requirements of this section."

If a municipality enacted a traffic infraction detector ordinance prior to this legislation becoming effective, and if the local ordinance allows the local government to retain a greater portion of the fine than allowed under this bill, then it could be argued that the bill reduces the authority that the municipality has to raise revenues in the aggregate. However, the bill creates a noncriminal infraction which counties and cities may choose to enforce by enacting a local ordinance; therefore the bill is exempt from the mandate provisions.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The Department of Health has sufficient rule-making authority to implement provision of CS/HB 325.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 9 of the bill "recognizes, validates, and ratifies any enforcement action" taken by a local government using a previously installed traffic infraction detector. There are pending lawsuits in multiple jurisdictions regarding the legality of municipal ordinances permitting traffic infraction detectors.<sup>38</sup> It is

<sup>38</sup> "West Palm Beach attorney Jason Weisser [will] sue the city. It would be the lawyer's ninth such suit against cities throughout Florida using red-light cameras, including Orlando, Miami Gardens and Aventura." *Bradenton facing red-light camera lawsuit*, Bradenton Herald, August 25, 2009. See also, *Pembroke Pines sued over red light cameras*, Sun-Sentinel, November 14, 2009 (A class-action suit with "roughly two dozen drivers," also represented by Weisser); *Lawsuit filed against city's red-light camera program*, Tampa Tribune, Aug. 7, 2009 (driver suing Temple Terrace);

unclear how the parties to these lawsuits, or the courts hearing the lawsuits, will react to the retroactive statutory "validation" and "ratification" of previously-issued citations for violating traffic infraction detector ordinances.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On January 13, 2010, the Roads, Bridges and Ports Policy Committee favorably adopted a strike-all amendment. The strike-all:

- Increases the amount of the fine from \$150 to \$155;
- Includes "leased" properties of a municipality or county as allowable locations to install traffic infraction detectors;
- Replaces the word "person" with "registered owner," in the appeals provision;
- Clarifies that cities are not responsible for payments to the state when the fine is not actually collected from the motor vehicle owner;
- Removes an explicit exception for medical emergencies, and subsequent language requiring affidavits from health care providers in the event a medical emergency is claimed;
- Modifies the revenue amounts received by certain health care providers, and adds both the "Miami Project to Cure Paralysis," and children's crisis-stabilization units to the groups receiving revenue under the bill;
- Clarifies that reports from local governments to FDOT are due biannually, not annually;
- Clarifies language regarding DOH funds to ensure that funding is available to both trauma center public hospitals and non-trauma center public hospitals; and
- Provides that the healthcare funds in the bill are not subject to s. 215.97, the Florida Single Audit Act, and that DOH, in conjunction with the Agency for Health Care Administration, "shall maximize resources for trauma services whenever possible."

The strike-all was amended to clarify that the ratification and validation in Section 9 applies to traffic infraction detectors 'grandfathered in' by Section 5 of the bill.

The bill as amended was reported favorably as a committee substitute.

1                   A bill to be entitled  
2           An act relating to uniform traffic control; creating the  
3           "Mark Wandall Traffic Safety Act"; amending s. 316.003,  
4           F.S.; defining the term "traffic infraction detector";  
5           creating s. 316.0083, F.S.; creating the Mark Wandall  
6           Traffic Safety Program to be administered by the  
7           Department of Transportation; requiring a county or  
8           municipality to enact an ordinance in order to use a  
9           traffic infraction detector to identify a motor vehicle  
10          that fails to stop at a traffic control signal steady red  
11          light; requiring such detectors to meet department  
12          contract specifications; requiring authorization of a  
13          traffic infraction enforcement officer or a code  
14          enforcement officer to issue and enforce a ticket for such  
15          violation; requiring signage; requiring certain public  
16          awareness procedures; requiring the ordinance to establish  
17          a fine of a certain amount; requiring the ordinance to  
18          provide for installing, maintaining, and operating such  
19          detectors on a right-of-way owned or maintained by the  
20          Department of Transportation or on a right-of-way or area  
21          owned, leased, or maintained by the county or municipality  
22          in which the traffic infraction detector is to be  
23          installed; prohibiting additional charges; exempting  
24          emergency vehicles; providing that the registered owner of  
25          the motor vehicle involved in the violation is responsible  
26          and liable for payment of the fine assessed; providing  
27          exceptions; providing procedures for disposition and  
28          enforcement of tickets; providing for a person to contest

29 such ticket; providing for disposition of revenue  
 30 collected; providing complaint procedures; providing for  
 31 the Legislature to exclude a county or municipality from  
 32 the program; requiring reports from participating  
 33 municipalities and counties to the department; requiring  
 34 the department to make reports to the Governor and the  
 35 Legislature; amending s. 316.0745, F.S.; providing that  
 36 traffic infraction detectors must meet certain  
 37 specifications; creating s. 316.07456, F.S.; providing for  
 38 preexisting equipment; requiring counties and  
 39 municipalities that enacted an ordinance to enforce red  
 40 light violations or entered into a contract to purchase or  
 41 lease equipment to enforce red light violations before the  
 42 effective date of this act to charge a certain penalty  
 43 amount; requiring counties or municipalities that have  
 44 acquired such equipment pursuant to an agreement entered  
 45 into before the effective date of this act to make certain  
 46 payments to the state; providing for future expiration of  
 47 such provisions; creating s. 316.0776, F.S.; providing for  
 48 placement and installation of detectors on the State  
 49 Highway System, county roads, city streets, and leased  
 50 areas; amending s. 316.1967, F.S., relating to liability  
 51 for payment of parking ticket violations and other  
 52 violations; providing for inclusion of persons with  
 53 outstanding violations in a list sent to the Department of  
 54 Highway Safety and Motor Vehicles for enforcement  
 55 purposes; amending s. 395.4036, F.S.; providing for  
 56 distribution of funds to trauma centers, certain

57 hospitals, certain nursing homes, and certain health units  
 58 and programs, to be used for specified purposes;  
 59 correcting a cross-reference; exempting such funds from  
 60 specified audit provisions; ratifying prior enforcement  
 61 actions; providing for severability; providing an  
 62 effective date.

63

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

65

66 Section 1. This act may be cited as the "Mark Wandall  
 67 Traffic Safety Act."

68 Section 2. Subsection (86) is added to section 316.003,  
 69 Florida Statutes, to read:

70 316.003 Definitions.—The following words and phrases, when  
 71 used in this chapter, shall have the meanings respectively  
 72 ascribed to them in this section, except where the context  
 73 otherwise requires:

74 (86) TRAFFIC INFRACTION DETECTOR.—A vehicle sensor  
 75 installed to work in conjunction with a traffic control signal  
 76 and a camera or cameras synchronized to automatically record two  
 77 or more sequenced photographic or electronic images or streaming  
 78 video of only the rear of a motor vehicle at the time the  
 79 vehicle fails to stop behind the stop bar or clearly marked stop  
 80 line when facing a traffic control signal steady red light. Any  
 81 ticket issued by the use of a traffic infraction detector must  
 82 include a photograph or other recorded image showing both the  
 83 license tag of the offending vehicle and the traffic control  
 84 device being violated.

85 Section 3. Section 316.0083, Florida Statutes, is created  
 86 to read:

87 316.0083 Mark Wandall Traffic Safety Program;  
 88 administration; report.-

89 (1) There is created the Mark Wandall Traffic Safety  
 90 Program governing the operation of traffic infraction detectors.  
 91 The program shall be administered by the Department of  
 92 Transportation and shall include the following provisions:

93 (a) In order to use a traffic infraction detector, a  
 94 county or municipality must enact an ordinance that provides for  
 95 the use of a traffic infraction detector to enforce s.

96 316.075(1)(c), which requires the driver of a vehicle to stop  
 97 the vehicle when facing a traffic control signal steady red  
 98 light on the streets and highways under the jurisdiction of the  
 99 county or municipality. The traffic infraction detector must  
 100 conform to the contract specifications adopted by the Department  
 101 of Transportation under s. 316.0776. A county or municipality  
 102 may install such detectors within the boundaries of the county  
 103 or municipality on rights-of-way owned or maintained by the  
 104 Department of Transportation or on rights-of-way or areas owned,  
 105 leased, or maintained by that county or municipality. Only a  
 106 municipality may install or authorize the installation of any  
 107 such detectors within the incorporated area of the municipality.  
 108 A municipality may authorize the state or county to install such  
 109 detectors within its incorporated area. Only a county may  
 110 install or authorize the installation of any such detectors  
 111 within the unincorporated area of the county. A county may  
 112 authorize the state to install such detectors in the



113 unincorporated area of the county. A county or municipality that  
 114 operates a traffic infraction detector must authorize a traffic  
 115 infraction enforcement officer or a code enforcement officer to  
 116 issue a ticket for a violation of s. 316.075(1)(c) and to  
 117 enforce the payment of the ticket for such violation. This  
 118 paragraph does not authorize a traffic infraction enforcement  
 119 officer or a code enforcement officer to carry a firearm or  
 120 other weapon and does not authorize such an officer to make  
 121 arrests. The ordinance must require signs to be posted at  
 122 locations designated by the county or municipality providing  
 123 notification that a traffic infraction detector may be in use.  
 124 Such signage must conform to the specifications adopted by the  
 125 Department of Transportation under s. 316.0745 or must be in  
 126 accordance with all applicable provisions of the latest edition  
 127 of the Manual on Uniform Traffic Control Devices, part 2, signs.  
 128 The ordinance must provide for the county or municipality to  
 129 install, maintain, and operate traffic infraction detectors  
 130 within the boundaries of the county or municipality on rights-  
 131 of-way owned or maintained by the Department of Transportation  
 132 or on rights-of-way or areas owned, leased, or maintained by  
 133 that county or municipality. The ordinance must also require  
 134 that the county or municipality make a public announcement and  
 135 conduct a public awareness campaign of the proposed use of  
 136 traffic infraction detectors at least 30 days before commencing  
 137 the enforcement program. In addition, the ordinance must  
 138 establish a fine of \$155 to be assessed against the registered  
 139 owner of a motor vehicle that fails to stop when facing a  
 140 traffic control signal steady red light as determined through

141 the use of a traffic infraction detector. Any other provision of  
 142 law to the contrary notwithstanding, an additional surcharge,  
 143 fee, or cost may not be added to the civil penalty authorized by  
 144 this paragraph, except as provided in paragraph (g).

145 (b) When responding to an emergency call, an emergency  
 146 vehicle is exempt from any ordinance enacted under this section.

147 (c) A county or municipality must adopt an ordinance under  
 148 this section that provides for the use of a traffic infraction  
 149 detector in order to impose a fine on the registered owner of a  
 150 motor vehicle for a violation of s. 316.075(1)(c). The fine  
 151 shall be imposed in the same manner and is subject to the same  
 152 limitations as provided for parking violations under s.  
 153 316.1967. Except as specifically provided in this section,  
 154 chapter 318 and s. 322.27 do not apply to a violation of s.  
 155 316.075(1)(c) for which a ticket has been issued under an  
 156 ordinance enacted pursuant to this section. Enforcement of a  
 157 ticket issued under the ordinance is not a conviction of the  
 158 operator of the motor vehicle, may not be made a part of the  
 159 driving record of the operator, and may not be used for purposes  
 160 of setting motor vehicle insurance rates. Points under s. 322.27  
 161 may not be assessed based upon such enforcement.

162 (d) The procedures set forth in s. 316.1967(2)-(5) apply  
 163 to an ordinance enacted pursuant to this section, except that  
 164 the ticket must contain the name and address of the person  
 165 alleged to be liable as the registered owner of the motor  
 166 vehicle involved in the violation, the tag number of the motor  
 167 vehicle, the violation charged, a copy of the photographic image  
 168 or images evidencing the violation, the location where the

169 violation occurred, the date and time of the violation, and a  
 170 signed statement by a specifically trained technician employed  
 171 by the agency or its contractor that, based on inspection of  
 172 photographs or other recorded images, the motor vehicle was  
 173 being operated in violation of s. 316.075(1)(c). The ticket must  
 174 advise the registered owner of the motor vehicle involved in the  
 175 violation of the amount of the fine, the date by which the fine  
 176 must be paid, and the procedure for contesting the violation  
 177 alleged in the ticket. The ticket must contain a warning that  
 178 failure to contest the violation in the manner and time provided  
 179 is deemed an admission of the liability and that a default may  
 180 be entered thereon. The violation shall be processed by the  
 181 county or municipality that has jurisdiction over the street or  
 182 highway where the violation occurred or by any entity authorized  
 183 by the county or municipality to prepare and mail the ticket.

184 (e) The ticket shall be sent by first-class or certified  
 185 mail, addressed to the registered owner of the motor vehicle,  
 186 and postmarked no later than 30 days after obtaining the name  
 187 and address of the registered owner of the vehicle, but in no  
 188 event later than 60 days after the date of the violation.

189 (f)1. The registered owner of the motor vehicle involved  
 190 in a violation is responsible and liable for payment of the fine  
 191 assessed pursuant to this section unless the owner can establish  
 192 that:

193 a. The motor vehicle passed through the intersection in  
 194 order to yield right-of-way to an emergency vehicle or as part  
 195 of a funeral procession;

196 b. The motor vehicle passed through the intersection at

197 the direction of a law enforcement officer;  
 198 c. The motor vehicle was stolen at the time of the alleged  
 199 violation; or  
 200 d. A uniform traffic citation was issued to the driver of  
 201 the motor vehicle for the alleged violation of s. 316.075(1)(c).  
 202 2. In order to establish any such fact pursuant to  
 203 subparagraph 1., the registered owner of the vehicle must,  
 204 within 60 days after receipt of notification of the alleged  
 205 violation, furnish to the county or municipality, as  
 206 appropriate, an affidavit that sets forth detailed information  
 207 supporting an exemption under subparagraph 1. For an exemption  
 208 under sub-subparagraph 1.c., the affidavit must set forth that  
 209 the vehicle was stolen and be accompanied by a copy of the  
 210 police report indicating that the vehicle was stolen at the time  
 211 of the alleged violation. For an exemption under sub-  
 212 subparagraph 1.d., the affidavit must set forth that a citation  
 213 was issued and be accompanied by a copy of the citation  
 214 indicating the time of the alleged violation and the location of  
 215 the intersection where it occurred.  
 216 (g) A registered owner may contest the determination that  
 217 such person failed to stop at a traffic control signal steady  
 218 red light as evidenced by a traffic infraction detector by  
 219 electing to appear before any judge or locally designated  
 220 official authorized by law to preside over an administrative  
 221 hearing that adjudicates traffic infractions. If a hearing is  
 222 requested by the registered owner, the notification by the  
 223 issuing authority of a hearing date, time, and location shall be  
 224 made by first class mail. A person who elects to appear before

225 the judge or designated official to present evidence is deemed  
 226 to have waived the limitation of civil penalties imposed for the  
 227 violation. The judge or designated official shall make a  
 228 determination as to whether a red light violation has been  
 229 committed and may impose a civil penalty not to exceed \$155,  
 230 plus court costs. Any person who fails to pay the civil penalty  
 231 within the time allowed by the county, municipality, or court is  
 232 deemed to have been convicted of a violation and the court shall  
 233 take appropriate measures to enforce collection of the fine.

234 (h) A certificate sworn to or affirmed by a person  
 235 authorized under this section who is employed by or under  
 236 contract with the county or municipality where the infraction  
 237 occurred, or a facsimile thereof that is based upon inspection  
 238 of photographs or other recorded images produced by a traffic  
 239 infraction detector, is prima facie evidence of the facts  
 240 contained in the certificate. A photograph or other recorded  
 241 image evidencing a violation of s. 316.075(1)(c) must be  
 242 available for inspection in any proceeding to adjudicate  
 243 liability under an ordinance enacted pursuant to this section.

244 (i) In any county or municipality in which tickets are  
 245 issued as provided in this section, the names of persons who  
 246 have one or more outstanding violations may be included on the  
 247 list authorized under s. 316.1967(6).

248 (2) Of the fine imposed and collected pursuant to  
 249 paragraph (1)(a) or paragraph (1)(g), \$55 shall be remitted by  
 250 the county or municipality to the Department of Revenue for  
 251 deposit into the General Revenue Fund, \$25 shall be remitted to  
 252 the Department of Revenue for deposit into the Department of

253 Health Administrative Trust Fund, and \$75 shall be retained by  
 254 the county or municipality enforcing the ordinance enacted  
 255 pursuant to this section. Funds deposited into the Department of  
 256 Health Administrative Trust Fund under this subsection shall be  
 257 distributed as provided in s. 395.4036(1).

258 (3) A complaint that a county or municipality is employing  
 259 traffic infraction detectors for purposes other than the  
 260 promotion of public health, welfare, and safety or in a manner  
 261 inconsistent with this section may be submitted to the governing  
 262 body of such county or municipality. Such complaints, along with  
 263 any investigation and corrective action taken by the county or  
 264 municipal governing body, shall be included in the biannual  
 265 report to the Department of Transportation and in that  
 266 department's biannual summary report to the Governor, the  
 267 President of the Senate, and the Speaker of the House  
 268 Representatives, as required by this section. Based on its  
 269 review of the report, the Legislature may exclude a county or  
 270 municipality from further participation in the program.

271 (4) (a) Each county or municipality that operates a traffic  
 272 infraction detector shall submit a biannual report to the  
 273 Department of Transportation that details the results of using  
 274 the traffic infraction detector and the procedures for  
 275 enforcement.

276 (b) The Department of Transportation shall provide a  
 277 biannual summary report to the Governor, the President of the  
 278 Senate, and the Speaker of the House of Representatives  
 279 regarding the use and operation of traffic infraction detectors  
 280 under this section. The summary report must include a review of

281 the information submitted to the Department of Transportation by  
 282 the counties and municipalities and must describe the  
 283 enhancement of the traffic safety and enforcement programs. The  
 284 Department of Transportation shall report its recommendations,  
 285 including any necessary legislation, on or before December 1 of  
 286 each even-numbered year to the Governor, the President of the  
 287 Senate, and the Speaker of the House of Representatives.

288 Section 4. Subsection (6) of section 316.0745, Florida  
 289 Statutes, is amended to read:

290 316.0745 Uniform signals and devices.—

291 (6) Any system of traffic control devices controlled and  
 292 operated from a remote location by electronic computers or  
 293 similar devices must ~~shall~~ meet all requirements established for  
 294 the uniform system, and, ~~if where~~ such a system affects ~~systems~~  
 295 ~~affect~~ the movement of traffic on state roads, the design of the  
 296 system must ~~shall~~ be reviewed and approved by the Department of  
 297 Transportation.

298 Section 5. Section 316.07456, Florida Statutes, is created  
 299 to read:

300 316.07456 Grandfather clause.—

301 (1) Any traffic infraction detector deployed on the  
 302 streets and highways of the state must meet the contract  
 303 specifications established by the Department of Transportation  
 304 and must be tested at regular intervals according to procedures  
 305 prescribed by that department.

306 (2) Notwithstanding any provision of law to the contrary,  
 307 nothing in this act shall prohibit any county or municipality  
 308 from using red light traffic enforcement devices of any type or

309 from enforcing violations of s. 316.074(1) or s. 316.075(1)(c)  
 310 or other red light traffic enforcement ordinances if such county  
 311 or municipality has enacted an ordinance to enforce red light  
 312 violations or has entered into a contract to purchase or lease  
 313 equipment to enforce red light violations before the effective  
 314 date of this act.

315 (3) Of the fine imposed and collected pursuant to s.  
 316 316.0083(1)(a) or (g), \$55 shall be remitted by the county or  
 317 municipality to the Department of Revenue for deposit into the  
 318 General Revenue Fund, \$25 shall be remitted to the Department of  
 319 Revenue for deposit into the Department of Health Administrative  
 320 Trust Fund, and \$75 shall be retained by the county or  
 321 municipality enforcing the ordinance enacted pursuant to this  
 322 section. Funds deposited into the Department of Health  
 323 Administrative Trust Fund under this subsection shall be  
 324 distributed as provided in s. 395.4036(1).

325 (4) This section expires 1 year after the Department of  
 326 Transportation's final adoption of specifications or on July 1,  
 327 2015, whichever occurs first.

328 Section 6. Section 316.0776, Florida Statutes, is created  
 329 to read:

330 316.0776 Traffic infraction detectors; placement and  
 331 installation.—Placement and installation of traffic infraction  
 332 detectors is allowed on the State Highway System, county roads,  
 333 city streets, and leased areas pursuant to specifications  
 334 developed by the Department of Transportation, included in the  
 335 handbook addressing material and equipment connections to the  
 336 state electrical signal boxes and placement of signs on state



337 equipment to protect the safety and operation of the traffic  
 338 along roadways.

339 Section 7. Subsection (6) of section 316.1967, Florida  
 340 Statutes, is amended to read:

341 316.1967 Liability for payment of parking ticket  
 342 violations and other ~~parking~~ violations.-

343 (6) Any county or municipality may provide by ordinance  
 344 that the clerk of the court or the traffic violations bureau  
 345 shall supply the department with a magnetically encoded computer  
 346 tape reel or cartridge or send by other electronic means data  
 347 which is machine readable by the installed computer system at  
 348 the department, listing persons who have three or more  
 349 outstanding parking violations, including violations of s.  
 350 316.1955, or who have one or more outstanding tickets for a  
 351 violation of a traffic control signal steady red light  
 352 indication issued pursuant to an ordinance adopted under s.

353 316.0083. Each county shall provide by ordinance that the clerk  
 354 of the court or the traffic violations bureau shall supply the  
 355 department with a magnetically encoded computer tape reel or  
 356 cartridge or send by other electronic means data that is machine  
 357 readable by the installed computer system at the department,  
 358 listing persons who have any outstanding violations of s.  
 359 316.0083 or s. 316.1955 or any similar local ordinance that  
 360 regulates parking in spaces designated for use by persons who  
 361 have disabilities. The department shall mark the appropriate  
 362 registration records of persons who are so reported. Section  
 363 320.03(8) applies to each person whose name appears on the list.

364 Section 8. Section 395.4036, Florida Statutes, is amended

365 to read:

366 395.4036 Trauma payments.-

367 (1) Recognizing the Legislature's stated intent to provide  
 368 financial support to the current verified trauma centers and to  
 369 provide incentives for the establishment of additional trauma  
 370 centers as part of a system of state-sponsored trauma centers,  
 371 the department shall use ~~utilize~~ funds collected under ss.  
 372 316.0083 and ~~s.~~ 318.18 and deposited into the Administrative  
 373 Trust Fund of the department to ensure the availability and  
 374 accessibility of trauma and emergency services throughout the  
 375 state as provided in this subsection.

376 (a) Funds collected under ss. 316.0083 and ~~s.~~ 318.18 (15)  
 377 shall be distributed as follows:

378 1. Five dollars of each fine collected under s. 316.0083  
 379 shall be distributed equally among all children's crisis  
 380 stabilization units and rural health initiatives.

381 2. Fourteen percent of the total funds, after the  
 382 deduction under subparagraph 1., which were collected under s.  
 383 316.0083 shall be distributed to the Miami Project to Cure  
 384 Paralysis for brain and spinal cord injury.

385 3. Three percent of the total funds, after the deduction  
 386 under subparagraph 1., which were collected under s. 316.0083  
 387 shall be distributed equally to community-based support programs  
 388 that provide support and services for individuals who have  
 389 sustained a traumatic brain injury.

390 4. ~~1.~~ Eighteen percent of the total funds, after the  
 391 deduction under subparagraph 1., which were collected under s.  
 392 316.0083 and ~~20~~ Twenty percent of the total funds collected

393 under s. 318.18(15) during the state fiscal year shall be  
 394 distributed to verified trauma centers that have a local funding  
 395 contribution as of December 31. Distribution of funds under this  
 396 subparagraph shall be based on trauma caseload volume for the  
 397 most recent calendar year available.

398 ~~5.2-~~ Thirty percent of the total funds, after the  
 399 deduction under subparagraph 1., which were collected under s.  
 400 316.0083 and 40 ~~Forty~~ percent of the total funds collected under  
 401 s. 318.18(15) shall be distributed to verified trauma centers  
 402 based on trauma caseload volume for the most recent calendar  
 403 year available. The determination of caseload volume for  
 404 distribution of funds under this subparagraph shall be based on  
 405 the department's Trauma Registry data.

406 ~~6.3-~~ Thirty-two percent of the total funds, after the  
 407 deduction under subparagraph 1., which were collected under s.  
 408 316.0083 and 40 ~~Forty~~ percent of the total funds collected under  
 409 s. 318.18(15) shall be distributed to verified trauma centers  
 410 based on severity of trauma patients for the most recent  
 411 calendar year available. The determination of severity for  
 412 distribution of funds under this subparagraph shall be based on  
 413 the department's International Classification Injury Severity  
 414 Scores or another statistically valid and scientifically  
 415 accepted method of stratifying a trauma patient's severity of  
 416 injury, risk of mortality, and resource consumption as adopted  
 417 by the department by rule, weighted based on the costs  
 418 associated with and incurred by the trauma center in treating  
 419 trauma patients. The weighting of scores shall be established by  
 420 the department by rule.

421 7. Three percent of the total funds, after the deduction  
 422 under subparagraph 1., which were collected under s. 316.0083  
 423 shall be distributed to public hospitals that qualify for  
 424 distributions under s. 409.911(4), that are not verified trauma  
 425 centers but are located in trauma service areas, as defined  
 426 under s. 395.402, and that do not have a verified trauma center  
 427 based on their proportionate number of emergency room visits on  
 428 an annual basis. The Agency for Health Care Administration shall  
 429 provide the department with a list of public hospitals and  
 430 emergency room visits.

431 (b) Funds collected under s. 318.18(5)(c) and (20) ~~(19)~~  
 432 shall be distributed as follows:

433 1. Thirty percent of the total funds collected shall be  
 434 distributed to Level II trauma centers operated by a public  
 435 hospital governed by an elected board of directors as of  
 436 December 31, 2008.

437 2. Thirty-five percent of the total funds collected shall  
 438 be distributed to verified trauma centers based on trauma  
 439 caseload volume for the most recent calendar year available. The  
 440 determination of caseload volume for distribution of funds under  
 441 this subparagraph shall be based on the department's Trauma  
 442 Registry data.

443 3. Thirty-five percent of the total funds collected shall  
 444 be distributed to verified trauma centers based on severity of  
 445 trauma patients for the most recent calendar year available. The  
 446 determination of severity for distribution of funds under this  
 447 subparagraph shall be based on the department's International  
 448 Classification Injury Severity Scores or another statistically

449 valid and scientifically accepted method of stratifying a trauma  
 450 patient's severity of injury, risk of mortality, and resource  
 451 consumption as adopted by the department by rule, weighted based  
 452 on the costs associated with and incurred by the trauma center  
 453 in treating trauma patients. The weighting of scores shall be  
 454 established by the department by rule.

455 (2) Funds deposited in the department's Administrative  
 456 Trust Fund for verified trauma centers and nontrauma center  
 457 public hospitals may be used to maximize the receipt of federal  
 458 funds that may be available for such trauma centers and  
 459 nontrauma center public hospitals. Notwithstanding this section  
 460 and s. 318.14, distributions to trauma centers and nontrauma  
 461 center public hospitals may be adjusted in a manner to ensure  
 462 that total payments to trauma centers and nontrauma center  
 463 public hospitals represent the same proportional allocation as  
 464 set forth in this section and s. 318.14. For purposes of this  
 465 section and s. 318.14, total funds distributed to trauma centers  
 466 and nontrauma center public hospitals may include revenue from  
 467 the Administrative Trust Fund and federal funds for which  
 468 revenue from the Administrative Trust Fund is used to meet state  
 469 or local matching requirements. Funds collected under ss.  
 470 318.14, 316.0083, and 318.18 and deposited in the Administrative  
 471 Trust Fund of the department shall be distributed to trauma  
 472 centers and nontrauma center public hospitals on a quarterly  
 473 basis using the most recent calendar year data available. Such  
 474 data shall not be used for more than four quarterly  
 475 distributions unless there are extenuating circumstances as  
 476 determined by the department, in which case the most recent

477 calendar year data available shall continue to be used and  
 478 appropriate adjustments shall be made as soon as the more recent  
 479 data becomes available.

480 (3) Funds distributed under this section are not subject  
 481 to the provisions of s. 215.97.

482 ~~(a) Any trauma center not subject to audit pursuant to s.~~  
 483 ~~215.97 shall annually attest, under penalties of perjury, that~~  
 484 ~~such proceeds were used in compliance with law. The annual~~  
 485 ~~attestation shall be made in a form and format determined by the~~  
 486 ~~department. The annual attestation shall be submitted to the~~  
 487 ~~department for review within 9 months after the end of the~~  
 488 ~~organization's fiscal year.~~

489 ~~(b) Any trauma center subject to audit pursuant to s.~~  
 490 ~~215.97 shall submit an audit report in accordance with rules~~  
 491 ~~adopted by the Auditor General.~~

492 (4) The department, working with the Agency for Health  
 493 Care Administration, shall maximize resources for trauma  
 494 services wherever possible.

495 Section 9. This act recognizes, validates, and ratifies  
 496 any enforcement action taken by a county or municipality using a  
 497 traffic infraction detector that was previously or is currently  
 498 installed until 1 year after the Department of Transportation's  
 499 final specifications are adopted, including any and all civil  
 500 finances, penalties, fees, and costs collected pursuant to such  
 501 enforcement action.

502 Section 10. If any provision of this act or its  
 503 application to any person or circumstance is held invalid, the  
 504 invalidity shall not affect other provisions or applications of

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505 | this act which can be given effect without the invalid provision  
506 | or application, and to this end the provisions of this act are  
507 | declared severable.

508 |       Section 11. This act shall take effect upon becoming a  
509 | law.

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COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Finance & Tax Council  
2 Representative Reagan offered the following:

**Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. This act may be cited as the "Mark Wandall  
7 Traffic Safety Act."

8 Section 2. Subsection (86) is added to section 316.003,  
9 Florida Statutes, to read:

10 316.003 Definitions.—The following words and phrases, when  
11 used in this chapter, shall have the meanings respectively  
12 ascribed to them in this section, except where the context  
13 otherwise requires:

14 (86) TRAFFIC INFRACTION DETECTOR.—A vehicle sensor  
15 installed to work in conjunction with a traffic control signal  
16 and a camera or cameras synchronized to automatically record two  
17 or more sequenced photographic or electronic images or streaming  
18 video of only the rear of a motor vehicle at the time the  
19 vehicle fails to stop behind the stop bar or clearly marked stop



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20 line when facing a traffic control signal steady red light. Any  
21 notification under s. 316.0083(1)(b) or traffic citation issued  
22 by the use of a traffic infraction detector must include a  
23 photograph or other recorded image showing both the license tag  
24 of the offending vehicle and the traffic control device being  
25 violated.

26 Section 3. Section 316.0076, Florida Statutes, is created  
27 to read:

28 316.0076 Regulation and use of cameras.—Regulation of the  
29 use of cameras for enforcing the provisions of this chapter is  
30 expressly preempted to the state. The regulation of the use of  
31 cameras for enforcing the provisions of this chapter is not  
32 required to comply with provisions of ch. 493.

33 Section 4. Subsection (7) is added to section 316.008,  
34 Florida Statutes, to read:

35 316.008 Powers of local authorities.—

36 (7) (a) A county or municipality may use traffic infraction  
37 detectors to enforce s. 316.074(1) or s. 316.075(1)(c)1. when a  
38 driver fails to stop at a traffic signal on streets and highways  
39 under their jurisdiction under s. 316.0083. Only a municipality  
40 may install or authorize the installation of any such detectors  
41 within the incorporated area of the municipality. Only a county  
42 may install or authorize the installation of any such detectors  
43 within the unincorporated area of the county.

44 (b) A county or municipality may use traffic infraction  
45 detectors to enforce s. 316.074(1) or s. 316.075(1)(c)1. when a  
46 driver fails to stop at a traffic signal on state roads under  
47 the original jurisdiction of the Department of Transportation

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48 when permitted by the Department of Transportation and under s.  
49 316.0083. Only a municipality may install or authorize the  
50 installation of any such detectors within the incorporated area  
51 of the municipality. Only a county may install or authorize the  
52 installation of any such detectors within the unincorporated  
53 area of the county.

54 Section 5. Section 316.0083, Florida Statutes, is created  
55 to read:

56 316.0083 Mark Wandall Traffic Safety Program;  
57 administration; report.-

58 (1)(a) For purposes of administering this section, the  
59 department, a county, or a municipality may authorize a traffic  
60 infraction enforcement officer under s. 316.640 to issue a  
61 traffic citation for a violation of s. 316.074(1) or s.  
62 316.075(1)(c)1. This paragraph does not prohibit a review of  
63 information from a traffic infraction detector by an authorized  
64 employee or agent of the department, county, or municipality  
65 prior to issuing a traffic citation by a traffic infraction  
66 enforcement officer. This paragraph does not prohibit the  
67 department, county, or municipality from issuing a notification  
68 to the registered owner of the motor vehicle involved in the  
69 violation of s. 316.074(1) or s. 316.075(1)(c)1.

70 (b)1.a. Within 30 days of the violation, a notification  
71 must be sent to the registered owner of the motor vehicle  
72 involved in the violation specifying the remedies available  
73 under s. 318.18(15) and that the violator may make payment of  
74 the \$150 penalty to the department, county, or municipality  
75 within 30 days after the date of the notification in order to

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76 avoid court fees, costs, and the issuance of a traffic citation.

77 The notification may be sent by first class or certified mail.

78 b. Included with the notification to the registered owner  
79 of the motor vehicle involved in the infraction shall be a  
80 notice that the owner has the right to review, either in person  
81 or remotely, the photographic or electronic images or the  
82 streaming video evidence that constitutes a rebuttable  
83 presumption against the owner of the vehicle. The notice must  
84 state the time and place and Internet location where the  
85 evidence may be examined and observed.

86 2. Penalties assessed and collected by the department,  
87 county, or municipality authorized to collect the funds provided  
88 for in this paragraph, less the amount retained by the county or  
89 municipality pursuant to subparagraph 3., shall be paid into the  
90 State Treasury weekly. Payment by the department, county, or  
91 municipality to the state shall be made by means of electronic  
92 funds transfers. A county or municipality shall only pay to the  
93 State Treasury that portion of the funds not to be retained by  
94 the county or municipality pursuant to subparagraph 3.

95 3. Penalties to be assessed and collected by the  
96 department, county, or municipality are as follows:

97 a. One hundred and fifty dollars for a violation of s.  
98 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
99 stop at a traffic signal if enforcement is by the department's  
100 traffic infraction enforcement officer. Seventy-five dollars  
101 shall be deposited into the General Revenue Fund, \$25 shall be  
102 remitted to the Department of Revenue for deposit into the  
103 Department of Health Administrative Trust Fund, and \$50 shall be

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104 distributed to the county or municipality in which the violation  
105 occurred. Funds deposited into the Department of Health  
106 Administrative Trust Fund under this sub-subparagraph shall be  
107 distributed as provided in s. 395.4036(1).

108 b. One hundred and fifty dollars for a violation of s.  
109 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
110 stop at a traffic signal if enforcement is by a county or  
111 municipal traffic infraction enforcement officer. Fifty dollars  
112 shall be remitted by the county or municipality to the  
113 Department of Revenue for deposit into the General Revenue Fund,  
114 \$25 shall be remitted to the Department of Revenue for deposit  
115 into the Department of Health Administrative Trust Fund, and \$75  
116 shall be retained by the county or municipality enforcing the  
117 ordinance enacted pursuant to this section. Funds deposited into  
118 the Department of Health Administrative Trust Fund under this  
119 sub-subparagraph shall be distributed as provided in s.  
120 395.4036(1).

121 4. A traffic infraction enforcement officer may not  
122 receive a commission from any revenue collected from violations  
123 of a traffic infraction detector.

124 (c)1.a. A traffic citation issued under this section shall  
125 be issued by mailing the traffic citation by certified mail to  
126 the address of the registered owner of the motor vehicle  
127 involved in the violation when payment has not been made within  
128 30 days after notification under subparagraph (b)1.

129 b. Receipt of the traffic citation constitutes  
130 notification under this paragraph.

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131 c. In the case of joint ownership of a motor vehicle, the  
132 traffic citation shall be mailed to the first name appearing on  
133 the registration, unless the first name appearing on the  
134 registration is a business organization, in which case the  
135 second name appearing on the registration may be used.

136 d. The traffic citation shall be mailed to the registered  
137 owner of the motor vehicle involved in the violation no later  
138 than 60 days after the date of the violation.

139 2. Included with the notification to the registered owner  
140 of the motor vehicle involved in the infraction shall be a  
141 notice that the owner has the right to review, either in person  
142 or remotely, the photographic or electronic images or the  
143 streaming video evidence that constitutes a rebuttable  
144 presumption against the owner of the vehicle. The notice must  
145 state the time and place and Internet location where the  
146 evidence may be examined and observed.

147 (d)1. The owner of the motor vehicle involved in the  
148 violation is responsible and liable for paying the uniform  
149 traffic citation issued for a violation of s. 316.074(1) or s.  
150 316.075(1)(c)1. when the driver failed to stop at a traffic  
151 signal, unless the owner can establish that:

152 a. The motor vehicle passed through the intersection in  
153 order to yield right-of-way to an emergency vehicle or as part  
154 of a funeral procession;

155 b. The motor vehicle passed through the intersection at  
156 the direction of a law enforcement officer;

157 c. The motor vehicle was, at the time of the violation, in  
158 the care, custody, or control of another person;

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159 d. A uniform traffic citation was issued by a law  
160 enforcement officer to the driver of the motor vehicle for the  
161 alleged violation of s. 316.074(1) or s. 316.075(1)(c)1.

162 2. In order to establish such facts, the owner of the  
163 motor vehicle shall, within 30 days after the date of issuance  
164 of the traffic citation, furnish to the appropriate governmental  
165 entity an affidavit setting forth detailed information  
166 supporting an exemption as provided in this paragraph.

167 a. An affidavit supporting an exemption under sub-  
168 subparagraph 1.d. must include the name, address, date of birth,  
169 and, if known, the driver's license number of the person who  
170 leased, rented, or otherwise had care, custody, or control of  
171 the motor vehicle at the time of the alleged violation. If the  
172 vehicle was stolen at the time of the alleged offense, the  
173 affidavit must include the police report indicating that the  
174 vehicle was stolen.

175 b. If a traffic citation for a violation of s. 316.074(1)  
176 or s. 316.075(1)(c)1. was issued at the location of the  
177 violation by a law enforcement officer, the affidavit must  
178 include the serial number of the uniform traffic citation.

179 3. Upon receipt of an affidavit, the person designated as  
180 having care, custody, and control of the motor vehicle at the  
181 time of the violation may be issued a traffic citation for a  
182 violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver  
183 failed to stop at a traffic signal. The affidavit is admissible  
184 in a proceeding pursuant to this section for the purpose of  
185 providing proof that the person identified in the affidavit was  
186 in actual care, custody, or control of the motor vehicle. The

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187 owner of a leased vehicle for which a traffic citation is issued  
188 for a violation of s. 316.074(1) or s. 316.075(1)(c)1. when the  
189 driver failed to stop at a traffic signal is not responsible for  
190 paying the traffic citation and is not required to submit an  
191 affidavit as specified in this subsection if the motor vehicle  
192 involved in the violation is registered in the name of the  
193 lessee of such motor vehicle.

194 4. The submission of a false affidavit is a misdemeanor of  
195 the second degree, punishable as provided in s. 775.082 or s.  
196 775.083.

197 (e) The photographic or electronic images or streaming  
198 video attached to the traffic citation is evidence that a  
199 violation of s. 316.074(1) or s. 316.075(1)(c)1. when the driver  
200 failed to stop at a traffic signal has occurred and is  
201 admissible in any proceeding to enforce this section and raises  
202 a rebuttable presumption that the motor vehicle named in the  
203 report or shown in the photographic or electronic images or  
204 streaming video evidence was used in violation of s. 316.074(1)  
205 or s. 316.075(1)(c)1. when the driver failed to stop at a  
206 traffic signal.

207 (2) This section supplements the enforcement of s.  
208 316.074(1) or s. 316.075(1)(c)1. by law enforcement officers  
209 when a driver fails to stop at a traffic signal and does not  
210 prohibit a law enforcement officer from issuing a traffic  
211 citation for a violation of s. 316.074(1) or s. 316.075(1)(c)1.  
212 when a driver fails to stop at a traffic signal in accordance  
213 with normal traffic enforcement techniques.

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214       (3) (a) Each county or municipality that operates a traffic  
215 infraction detector shall submit a report by October 1, 2012,  
216 and annually thereafter, to the department which details the  
217 results of using the traffic infraction detector and the  
218 procedures for enforcement for the preceding state fiscal year.

219 The information submitted by the counties and municipalities  
220 must include statistical data and information required by the  
221 department to complete the report required under paragraph (b.

222       (b) On or before December 31, 2012, and annually  
223 thereafter, the department shall provide a summary report to the  
224 Governor, the President of the Senate, and the Speaker of the  
225 House of Representatives regarding the use and operation of  
226 traffic infraction detectors under this section, along with the  
227 department's recommendations and any necessary legislation. The  
228 summary report must include a review of the information  
229 submitted to the department by the counties and municipalities  
230 and must describe the enhancement of the traffic safety and  
231 enforcement programs.

232       Section 6. Subsection (6) of section 316.0745, Florida  
233 Statutes, is amended to read:

234       316.0745 Uniform signals and devices.—

235       (6) Any system of traffic control devices controlled and  
236 operated from a remote location by electronic computers or  
237 similar devices must ~~shall~~ meet all requirements established for  
238 the uniform system, and, if ~~where~~ such a system affects ~~systems~~  
239 ~~affect~~ the movement of traffic on state roads, the design of the  
240 system shall be reviewed and approved by the Department of  
241 Transportation.



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242 Section 7. Section 316.07456, Florida Statutes, is created  
243 to read:

244 316.07456 Transitional implementation.—Any traffic  
245 infraction detector deployed on the highways, streets, and roads  
246 of this state must meet specifications established by the  
247 Department of Transportation and must be tested at regular  
248 intervals according to procedures prescribed by the Department  
249 of Transportation. However, any such equipment acquired by  
250 purchase, lease, or other arrangement under an agreement entered  
251 into by a county or municipality on or before October 1, 2011,  
252 or equipment used to enforce an ordinance enacted by a county or  
253 municipality on or before October 1, 2010, is not required to  
254 meet the specifications established by the Department of  
255 Transportation until July 1, 2011, or 180 days after the  
256 issuance of the specifications, whichever occurs last.

257 Section 8. Section 316.0776, Florida Statutes, is created  
258 to read:

259 316.0776 Traffic infraction detectors; placement and  
260 installation.—

261 (1) Traffic infraction detectors are allowed on state  
262 roads when permitted by the Department of Transportation and  
263 under placement and installation specifications developed by the  
264 Department of Transportation. Traffic infraction detectors are  
265 allowed on streets and highways under the jurisdiction of  
266 counties or municipalities and under placement and installation  
267 specifications developed by the Department of Transportation.

268 (2)(a) If the department, county, or municipality installs  
269 a traffic infraction detector at an intersection, the

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270 department, county, or municipality shall notify the public that  
271 a traffic infraction device may be in use at that intersection  
272 and must specifically include notification of camera enforcement  
273 of violations concerning right turns. Such signage used to  
274 notify the public must meet the specifications for uniform  
275 signals and devices adopted by the Department of Transportation  
276 pursuant to s. 316.0745.

277 (b) If the department, county, or municipality begins a  
278 traffic infraction detector program in a county or municipality  
279 that has never conducted such a program, the respective  
280 department, county, or municipality shall also make a public  
281 announcement and conduct a public awareness campaign of the  
282 proposed use of traffic infraction detectors at least 30 days  
283 before commencing the enforcement program.

284 Section 9. Paragraph (b) of subsection (1) and subsection  
285 (5) of section 316.640, Florida Statutes, are amended to read:

286 316.640 Enforcement.—The enforcement of the traffic laws  
287 of this state is vested as follows:

288 (1) STATE.—

289 (b)1. The Department of Transportation has authority to  
290 enforce on all the streets and highways of this state all laws  
291 applicable within its authority.

292 2.a. The Department of Transportation shall develop  
293 training and qualifications standards for toll enforcement  
294 officers whose sole authority is to enforce the payment of tolls  
295 pursuant to s. 316.1001. Nothing in this subparagraph shall be  
296 construed to permit the carrying of firearms or other weapons,  
297 nor shall a toll enforcement officer have arrest authority.

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298 b. For the purpose of enforcing s. 316.1001, governmental  
299 entities, as defined in s. 334.03, which own or operate a toll  
300 facility may employ independent contractors or designate  
301 employees as toll enforcement officers; however, any such toll  
302 enforcement officer must successfully meet the training and  
303 qualifications standards for toll enforcement officers  
304 established by the Department of Transportation.

305 3. For the purpose of enforcing s. 316.0083, the  
306 department may employ independent contractors or designate  
307 employees as traffic infraction enforcement officers. A traffic  
308 infraction enforcement officer must successfully complete  
309 instruction in traffic enforcement procedures and court  
310 presentation through the Selective Traffic Enforcement Program  
311 as approved by the Division of Criminal Justice Standards and  
312 Training of the Department of Law Enforcement, or through a  
313 similar program, but may not necessarily otherwise meet the  
314 uniform minimum standards established by the Criminal Justice  
315 Standards and Training Commission for law enforcement officers  
316 or auxiliary law enforcement officers under s. 943.13. This  
317 subparagraph does not authorize the carrying of firearms or  
318 other weapons by a traffic infraction enforcement officer and  
319 does not authorize a traffic infraction enforcement officer to  
320 make arrests. The department's traffic infraction enforcement  
321 officers must be physically located in the state.

322 (5) (a) Any sheriff's department or police department of a  
323 municipality may employ, as a traffic infraction enforcement  
324 officer, any individual who successfully completes instruction  
325 in traffic enforcement procedures and court presentation through

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326 the Selective Traffic Enforcement Program as approved by the  
327 Division of Criminal Justice Standards and Training of the  
328 Department of Law Enforcement, or through a similar program, but  
329 who does not necessarily otherwise meet the uniform minimum  
330 standards established by the Criminal Justice Standards and  
331 Training Commission for law enforcement officers or auxiliary  
332 law enforcement officers under s. 943.13. Any such traffic  
333 infraction enforcement officer who observes the commission of a  
334 traffic infraction or, in the case of a parking infraction, who  
335 observes an illegally parked vehicle may issue a traffic  
336 citation for the infraction when, based upon personal  
337 investigation, he or she has reasonable and probable grounds to  
338 believe that an offense has been committed which constitutes a  
339 noncriminal traffic infraction as defined in s. 318.14. In  
340 addition, any such traffic infraction enforcement officer may  
341 issue a traffic citation under s. 316.0083. For purposes of  
342 enforcing s. 316.0083, any sheriff's department or police  
343 department of a municipality may employ independent contractors  
344 or designate employees as traffic infraction enforcement  
345 officers. The traffic infraction enforcement officers must be  
346 physically located in the county of the respective sheriff's or  
347 police department.

348 (b) The traffic infraction enforcement officer shall be  
349 employed in relationship to a selective traffic enforcement  
350 program at a fixed location or as part of a crash investigation  
351 team at the scene of a vehicle crash or in other types of  
352 traffic infraction enforcement under the direction of a fully  
353 qualified law enforcement officer; however, it is not necessary

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354 that the traffic infraction enforcement officer's duties be  
355 performed under the immediate supervision of a fully qualified  
356 law enforcement officer.

357 (c) This subsection does not permit the carrying of  
358 firearms or other weapons, nor do traffic infraction enforcement  
359 officers have arrest authority other than the authority to issue  
360 a traffic citation as provided in this subsection.

361 Section 10. Subsection (3) of section 316.650, Florida  
362 Statutes, is amended to read:

363 316.650 Traffic citations.—

364 (3)(a) Except for a traffic citation issued pursuant to s.  
365 316.1001 or s. 316.0083, each traffic enforcement officer, upon  
366 issuing a traffic citation to an alleged violator of any  
367 provision of the motor vehicle laws of this state or of any  
368 traffic ordinance of any municipality or town, shall deposit the  
369 original traffic citation or, in the case of a traffic  
370 enforcement agency that has an automated citation issuance  
371 system, the chief administrative officer shall provide by an  
372 electronic transmission a replica of the citation data to a  
373 court having jurisdiction over the alleged offense or with its  
374 traffic violations bureau within 5 days after issuance to the  
375 violator.

376 (b) If a traffic citation is issued pursuant to s.  
377 316.1001, a traffic enforcement officer may deposit the original  
378 traffic citation or, in the case of a traffic enforcement agency  
379 that has an automated citation system, may provide by an  
380 electronic transmission a replica of the citation data to a  
381 court having jurisdiction over the alleged offense or with its

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382 traffic violations bureau within 45 days after the date of  
383 issuance of the citation to the violator. If the person cited  
384 for the violation of s. 316.1001 makes the election provided by  
385 s. 318.14(12) and pays the \$25 fine, or such other amount as  
386 imposed by the governmental entity owning the applicable toll  
387 facility, plus the amount of the unpaid toll that is shown on  
388 the traffic citation directly to the governmental entity that  
389 issued the citation, or on whose behalf the citation was issued,  
390 in accordance with s. 318.14(12), the traffic citation will not  
391 be submitted to the court, the disposition will be reported to  
392 the department by the governmental entity that issued the  
393 citation, or on whose behalf the citation was issued, and no  
394 points will be assessed against the person's driver's license.

395 (c) If a traffic citation is issued under s. 316.0083, the  
396 traffic infraction enforcement officer shall provide by  
397 electronic transmission a replica of the traffic citation data  
398 to the court having jurisdiction over the alleged offense or its  
399 traffic violations bureau within 5 days after the date of  
400 issuance of the traffic citation to the violator.

401 Section 11. Subsection (2) of section 318.14, Florida  
402 Statutes, is amended to read:

403 318.14 Noncriminal traffic infractions; exception;  
404 procedures.—

405 (2) Except as provided in ss. ~~s.~~ 316.1001(2) and  
406 316.0083(3), any person cited for an infraction under this  
407 section must sign and accept a citation indicating a promise to  
408 appear. The officer may indicate on the traffic citation the

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409 time and location of the scheduled hearing and must indicate the  
410 applicable civil penalty established in s. 318.18.

411 Section 12. Subsection (15) of section 318.18, Florida  
412 Statutes, is amended to read:

413 318.18 Amount of penalties.—The penalties required for a  
414 noncriminal disposition pursuant to s. 318.14 or a criminal  
415 offense listed in s. 318.17 are as follows:

416 (15) (a) One hundred and fifty ~~twenty-five~~ dollars for a  
417 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
418 has failed to stop at a traffic signal. Sixty dollars shall be  
419 distributed as provided in s. 318.21, \$25 shall be distributed  
420 to the General Revenue Fund, and the remaining \$65 shall be  
421 remitted to the Department of Revenue for deposit into the  
422 Administrative Trust Fund of the Department of Health.

423 (b) One hundred and fifty dollars for a violation of s.  
424 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
425 stop at a traffic signal if enforced by a traffic infraction  
426 enforcement officer pursuant to s. 316.0083. Moneys collected  
427 pursuant to enforcement under s. 316.0083 shall be distributed  
428 as provided in that section.

429 (b) If a person who is cited for a violation of s.  
430 316.074(1) or s. 316.075(1)(c)1., as enforced by a traffic  
431 infraction enforcement officer under s. 316.0083, presents  
432 documentation from the appropriate governmental entity that the  
433 traffic citation was in error, the clerk of court may dismiss  
434 the case. The clerk of court shall not charge for this service.

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435       (c) A traffic infraction enforcement officer may not  
436 receive a commission from any revenue collected from violations  
437 detected through the use of a traffic infraction detector.

438       (d) Funds deposited into the Department of Health  
439 Administrative Trust Fund under this subsection shall be  
440 distributed as provided in s. 395.4036(1).

441       Section 13. Section 321.50, Florida Statutes, is created  
442 to read:

443       321.50 Authorization to use traffic infraction detectors.-  
444 The Department of Highway Safety and Motor Vehicles is  
445 authorized to use traffic infraction detectors to enforce s.  
446 316.074(1) or s. 316.075(1)(c)1. when a driver fails to stop on  
447 state roads as defined in ch. 316 which are under the original  
448 jurisdiction of the Department of Transportation, when permitted  
449 by the Department of Transportation, and under s. 316.0083.

450       Section 14. Paragraph (d) of subsection (3) of section  
451 322.27, Florida Statutes, is amended to read:

452       322.27 Authority of department to suspend or revoke  
453 license.-

454       (3) There is established a point system for evaluation of  
455 convictions of violations of motor vehicle laws or ordinances,  
456 and violations of applicable provisions of s. 403.413(6)(b) when  
457 such violations involve the use of motor vehicles, for the  
458 determination of the continuing qualification of any person to  
459 operate a motor vehicle. The department is authorized to suspend  
460 the license of any person upon showing of its records or other  
461 good and sufficient evidence that the licensee has been  
462 convicted of violation of motor vehicle laws or ordinances, or



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463 applicable provisions of s. 403.413(6)(b), amounting to 12 or  
464 more points as determined by the point system. The suspension  
465 shall be for a period of not more than 1 year.

466 (d) The point system shall have as its basic element a  
467 graduated scale of points assigning relative values to  
468 convictions of the following violations:

- 469 1. Reckless driving, willful and wanton—4 points.  
470 2. Leaving the scene of a crash resulting in property  
471 damage of more than \$50—6 points.  
472 3. Unlawful speed resulting in a crash—6 points.  
473 4. Passing a stopped school bus—4 points.  
474 5. Unlawful speed:  
475 a. Not in excess of 15 miles per hour of lawful or posted  
476 speed—3 points.  
477 b. In excess of 15 miles per hour of lawful or posted  
478 speed—4 points.  
479 6. A violation of a traffic control signal device as  
480 provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.  
481 However, no points shall be imposed for a violation of s.  
482 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
483 stop at a traffic signal and when enforced by a traffic  
484 infracton enforcement officer. In addition, a violation of s.  
485 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to  
486 stop at a traffic signal and when enforced by a traffic  
487 infracton enforcement officer may not be used for purposes of  
488 setting motor vehicle insurance rates.  
489 7. All other moving violations (including parking on a  
490 highway outside the limits of a municipality)—3 points. However,

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491 no points shall be imposed for a violation of s. 316.0741 or s.  
492 316.2065(12).

493 8. Any moving violation covered above, excluding unlawful  
494 speed, resulting in a crash-4 points.

495 9. Any conviction under s. 403.413(6)(b)-3 points.

496 10. Any conviction under s. 316.0775(2)-4 points.

497 Section 16. If any provision of this act or its  
498 application to any person or circumstance is held invalid, the  
499 invalidity does not affect other provisions or applications of  
500 this act which can be given effect without the invalid provision  
501 or application, and to this end the provisions of this act are  
502 severable.

503 Section 17. This act shall take effect July 1, 2010.

504

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506

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

507  
508 Remove the entire title and insert:

509 A bill to be entitled

510 An act relating to uniform traffic control; providing a  
511 short title; amending s. 316.003, F.S.; defining the term  
512 "traffic infraction detector"; creating s. 316.0076,  
513 F.S.; preempting to the state the use of cameras to  
514 enforce traffic laws; amending s. 316.008, F.S.;  
515 authorizing counties and municipalities to use traffic  
516 infraction detectors under certain circumstances;  
517 creating s. 316.0083, F.S.; creating the Mark Wandall  
518 Traffic Safety Program; authorizing the Department of

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519 Highway Safety and Motor Vehicles, a county, or a  
520 municipality to use a traffic infraction detector to  
521 identify a motor vehicle that fails to stop at a traffic  
522 control signal steady red light; requiring authorization  
523 of a traffic infraction enforcement officer to issue and  
524 enforce a citation for such violation; requiring  
525 notification to be sent to the registered owner of the  
526 motor vehicle involved in the violation; providing  
527 requirements for the notification; providing for  
528 collection of penalties; providing for distribution of  
529 penalties collected; prohibiting a traffic infraction  
530 enforcement officer from receiving a commission from any  
531 revenue collected from violations detected through the  
532 use of a traffic infraction detector; providing  
533 procedures for issuance, disposition, and enforcement of  
534 citations; providing for exemptions; providing that  
535 certain evidence is admissible for enforcement; providing  
536 penalties for submission of a false affidavit; providing  
537 that the act does not preclude the issuance of citations  
538 by law enforcement officers; requiring reports from  
539 participating municipalities and counties to the  
540 department; requiring the department to make reports to  
541 the Governor and Legislature; amending s. 316.0745, F.S.;  
542 revising a provision that requires certain remotely  
543 operated traffic control devices to meet certain  
544 specifications; creating s. 316.07456, F.S.; requiring  
545 traffic infraction detectors to meet specifications  
546 established by the Department of Transportation;

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547 providing that a traffic infraction detector acquired by  
548 purchase, lease, or other arrangement under an agreement  
549 entered into by a county or municipality on or before a  
550 specified date is not required to meet the established  
551 specifications until a specified date; creating s.  
552 316.0776, F.S.; providing for the placement and  
553 installation of detectors on certain roads when permitted  
554 by and under the specifications of the department;  
555 requiring that if the state, county, or municipality  
556 installs a traffic infraction detector at an  
557 intersection, the state, county, or municipality shall  
558 notify the public that a traffic infraction device may be  
559 in use at that intersection; requiring that such signage  
560 posted at the intersection meet the specifications for  
561 uniform signals and devices adopted by the Department of  
562 Transportation; requiring that traffic infraction  
563 detectors meet specifications established by the  
564 Department of Transportation; requiring a public  
565 awareness campaign if such detectors are to be used;  
566 amending s. 316.640, F.S.; requiring the Department of  
567 Transportation to develop training and qualification  
568 standards for traffic infraction enforcement officers;  
569 authorizing counties and municipalities to use  
570 independent contractors as traffic infraction enforcement  
571 officers; amending s. 316.650, F.S.; requiring a traffic  
572 enforcement officer to provide to the court a replica of  
573 the citation data by electronic transmission under  
574 certain conditions; amending s. 318.14, F.S.; providing

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575 an exception from provisions requiring a person cited for  
576 an infraction for failing to stop at a traffic control  
577 signal steady red light to sign and accept a citation  
578 indicating a promise to appear; amending s. 318.18, F.S.;  
579 increasing certain fines; providing for penalties for  
580 infractions enforced by a traffic infraction enforcement  
581 officer; providing for distribution of fines; allowing  
582 the clerk of court to dismiss certain cases upon  
583 receiving documentation that the uniform traffic citation  
584 was issued in error; prohibiting the receipt of  
585 commissions by traffic infraction enforcement officers;  
586 creating s. 321.50, F.S.; authorizing the Department of  
587 Highway Safety and Motor Vehicles to use traffic  
588 infraction detectors under certain circumstances;  
589 amending s. 322.27, F.S.; providing that no points may be  
590 assessed against the driver's license for infractions  
591 enforced by a traffic infraction enforcement officer;  
592 providing that infractions enforced by a traffic  
593 infraction enforcement officer may not be used for  
594 purposes of setting motor vehicle insurance rates;  
595 providing for severability; providing an effective date.



**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/HB 1129 City of Tamarac, Broward County  
**SPONSOR(S):** Military & Local Affairs Policy Committee and Porth  
**TIED BILLS:** **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	13 Y, 0 N, As CS	Nelson	Hoagland 
2)	Finance & Tax Council		Aldridge <sup>IA</sup>	Langston 
3)	Economic Development & Community Affairs Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

The City of Tamarac was incorporated in 1963, and is comprised of 12 square miles located in central Broward County. The approximate population of the municipality is 60,000.

The CS for HB 1129 enlarges the corporate limits of the City of Tamarac to include contiguous, unincorporated land known as "Prospect Bend." The bill provides that this annexation will be effective on September 15, 2010. The bill also: requires an interlocal agreement between the city and Broward County to be executed prior to the annexation; provides for the land use and zoning governance of the annexed area; provides for a partial exemption from fire rescue special assessments for the annexed area; provides a policy relating to the imposition of impact fees; contains language that supports the preservation of existing contracts; and provides for the transfer of public roads and rights-of-way.

The bill is effective upon becoming law.

According to the Economic Impact Statement, it is estimated that the City of Tamarac's cost for the annexation will be negligible due to the fact that the city currently provides municipal services to the neighborhoods immediately surrounding and adjacent to the Prospect Bend property. It is estimated that the city will raise \$351,804 in Fiscal Years 2010-2011 and 2011-2012 in ad valorem taxes, non-ad valorem fire assessments and residential stormwater fees for the purpose of providing municipal services to the area at issue.

**Pursuant 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. The provisions of House Rule 5.5(b) appear to apply to this bill.**

**Additionally, this bill, as amended, may not comply with s. 10 of Art. III of the State Constitution. See, III. COMMENTS, A. CONSTITUTIONAL ISSUES, of this analysis.**

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Present Situation**

##### Constitutional/Statutory Provisions Relating to Annexation<sup>1</sup>

Section 2 (c), of Art. VIII of the State Constitution provides that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.” This provision authorizes the Legislature to annex unincorporated property into a municipality by special act.<sup>2</sup> It also authorizes the Legislature to establish procedures in general law for the annexation of property.

The Legislature established local annexation procedures by general law in 1974, with the enactment of ch. 171, F. S., the “Municipal Annexation or Contraction Act.” Chapter 171, F. S., describes the ways that property can be annexed or deannexed by cities without passage of an act by the Legislature. In 2006, this chapter was expanded to provide an alternative process for annexation that allows counties and municipalities to jointly determine how services are provided to residents and property.<sup>3</sup>

##### Requirements for Annexation

Before local annexation procedures may begin, pursuant to s. 171.042, F.S., the governing body of the municipality must prepare a report containing plans for providing urban services to any area to be annexed. A copy of the report must be filed with the board of county commissioners where the municipality is located. This report must include appropriate maps, plans for extending municipal services, timetables and financing methodologies. It must certify that the area proposed to be annexed is appropriate for annexation because it meets the following standards and requirements described by s. 171.043, F.S.:

- The area to be annexed must be an unincorporated area that is contiguous to the boundary of the annexing municipality.<sup>4</sup>
- The area to be annexed must be reasonably compact.<sup>5</sup>

<sup>1</sup> The term “annexation” is defined in the Florida Statutes to mean “the adding of real property to the boundaries of an incorporated municipality, such addition making such real property in every way a part of the municipality.” See, s. 171.031(1), F.S.

<sup>2</sup> Miami-Dade County, however, has exclusive jurisdiction over its municipal annexations under ss. 11(1)(c), (5) and (6), Art. VIII of the 1885 State Constitution, as adopted by reference in s. 6(e), Art. VIII of the State Constitution.

<sup>3</sup> See, part II of ch. 171, F.S., the “Interlocal Service Boundary Agreement Act.”

<sup>4</sup> This means that a substantial part of the boundary of the area to be annexed has a common boundary with the municipality. There are specified exceptions for cases in which an area is separated from the city's boundary by a publicly owned county park, right-of-way or body of water.



- No part of the area to be annexed may fall within the boundary of another incorporated municipality.
- Part or all of the land to be annexed must be developed for urban purposes.<sup>6</sup>
- Alternatively, if the proposed area is not developed for urban purposes, it can either border at least 60 percent of a developed area, or provide a necessary bridge between two urban areas for the extension of municipal services.

Annexed areas are declared to be subject to taxation (and existing indebtedness) for the current year on the effective date of the annexation, unless the annexation takes place after the municipal governing body levies such tax for that year. In the case of municipal contractions, the city and county must reach agreement on the transfer of indebtedness or property—the amount to be assumed, its fair value and the manner of transfer and financing.<sup>7</sup>

## Types of Annexations

### *Voluntary Annexation*

If the property owners of a reasonably compact, unincorporated area desire annexation into a contiguous municipality, they can initiate voluntary annexation proceedings. Section 171.044 (4), F. S., provides that the procedures for voluntary annexation are “supplemental to any other procedure provided by general law or special law.” The following process governs voluntary annexations in every county, except for those counties with charters providing an exclusive method for municipal annexation:

- submission of a petition—signed by all property owners in the area proposed to be annexed—to the municipal governing body; and
- adoption of an ordinance by the governing body of the municipality to annex the property after publication of a notice—which sets forth the proposed ordinance in full—at least once a week for two consecutive weeks.

The governing body of the municipality also must provide a copy of the notice to the board of county commissioners of the county where the municipality is located.

Land cannot be annexed through voluntary annexation when the process results in the creation of an enclave.<sup>8</sup>

### *Involuntary Annexation*

A municipality may annex property where the property owners have not petitioned for annexation pursuant to s. 171.0413, F. S. This process is referred to as “involuntary” annexation. In general, the requirements for an involuntary annexation are:

- the adoption of an annexation ordinance by the annexing municipality’s governing body;
- at least two advertised public hearings held by the governing body of the municipality prior to the adoption of the ordinance, with the first hearing on a weekday at least seven days after the first advertisement and the second hearing held on a weekday at least five days after the first advertisement;<sup>9</sup> and

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<sup>5</sup> Section 171.031(12), F.S., defines “compactness” as concentration of a piece of property in a single area and precludes any action which would create enclaves, pockets, or finger areas in serpentine patterns. Any annexation proceeding in any county in the state is required to be designed in such a manner as to ensure that the area will be reasonably compact.

<sup>6</sup> An area developed for urban purposes is defined as an area which meets any one of the following standards: (a) a total resident population equal to at least two persons per acre; (b) a total resident population equal to at least one person per acre, with at least 60 percent of subdivided lots one acre or less; or (c) at least 60 percent of the total lots used for urban purposes, with at least 60 percent of the total urban residential acreage divided into lots of five acres or less.

<sup>7</sup> See, s. 171.061, F.S.

<sup>8</sup> An enclave is: (a) any unincorporated, improved or developed area that is enclosed within and bounded on all sides by a single municipality; or (b) any unincorporated, improved or developed area that is enclosed within and bounded by a single municipality and a natural or manmade obstacle that allows the passage of vehicular traffic to that unincorporated area only through the municipality. Section 171.031(13), F.S.

<sup>9</sup> This requirement was passed by the 1999 Legislature.

- submission of the ordinance to a vote of the registered electors of the area proposed for annexation once the governing body has adopted the ordinance.<sup>10</sup>

Any parcel of land which is owned by one individual, corporation or legal entity, or owned collectively by one or more individuals, corporations or legal entities, proposed to be annexed cannot be severed, separated, divided or partitioned by the provisions of the ordinance, unless the owner of such property waives this requirement.

If there is a majority vote in favor of annexation in the area proposed to be annexed, the area becomes part of the city. If there is no majority vote, the area cannot be made the subject of another annexation proposal for two years from the date of the referendum.

If more than 70 percent of the land in an area proposed to be annexed is owned by individuals, corporations or legal entities which are not registered electors of such area, the area cannot be annexed unless the owners of more than 50 percent of the land in such area consent to the annexation. This consent must be obtained by the parties proposing the annexation prior to the referendum.

If the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. The area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality, then the property owner consents must be obtained by the parties proposing the annexation prior to the final adoption of the ordinance.

#### Effect of Annexation on an Area

Upon the effective date of an annexation, the area becomes subject to all laws, ordinances and regulations in force in the annexing municipality. An exception occurs pursuant to s. 171.062(2), F.S., in that if the area annexed was subject to a county land use plan and county zoning or subdivision regulations, these regulations remain in effect until the municipality adopts a comprehensive plan amendment that includes the annexed area. In contractions, excluded territory is immediately subject to county laws, ordinances and regulations.

Any changes in municipal boundaries require revision of the boundary section of the municipality's charter. Such changes must be filed as a charter revision with the Department of State within 30 days of the annexation or contraction.<sup>11</sup>

#### Appeal of Annexation or Contraction

Affected persons who believe they will suffer material injury because of the failure of a city to comply with annexation or contraction laws as applied to their property can appeal the annexation ordinance. They may file a petition within 30 days following the passage of the ordinance with the circuit court for the county in which the municipality is located seeking the court's review by certiorari. If an appeal is won, the petitioner is entitled to reasonable costs and attorney's fees.<sup>12</sup>

#### Broward County Annexations

Broward County is located on Florida's South Atlantic coast and consists of nearly 1,200 square miles with a population of approximately 1.8 million residents. Broward County currently contains 31 municipalities, the majority of which achieved their current corporate boundaries through a multitude of annexations.

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<sup>10</sup> In 1999, the Florida Legislature removed the requirement of a dual referendum in specific circumstances. Previously, in addition to a vote by the electors in the proposed annexed area, the annexation ordinance was submitted to a separate vote of the registered electors of the annexing municipality if the total area annexed by a municipality during any one calendar year period cumulatively exceeded more than five percent of the total land area of the municipality or cumulatively exceeded more than five percent of the municipal population. The holding of a dual referendum is now at the discretion of the governing body of the annexing municipality.

<sup>11</sup> Section 171.091, F.S.

<sup>12</sup> Section 171.081, F.S.

The 1996 Florida Legislature adopted a special act<sup>13</sup> which describes Broward County has having “numerous scattered unincorporated pockets which reflect the haphazard manner in which annexation into municipalities has taken place over the years by the application of general annexation laws of the state....” This law requires that any annexation of unincorporated property within Broward County proposed to be accomplished pursuant to ch. 171, F.S., first must be considered at a public hearing conducted by the Broward County Legislative Delegation, pursuant to its adopted rules. The annexation is not effective until the 15<sup>th</sup> day of September following adjournment sine die of the next regular legislative session following the completion of all necessary procedures for annexation.

That same year, in cooperation with the Broward County Board of County Commissioners, the Broward County Legislative Delegation created the “Ad Hoc Committee on Annexation Policy.” The delegation charged the committee with the responsibility of developing and recommending policy regarding future annexations. The committee recommended that annexation of all unincorporated areas of Broward County be encouraged to occur by the year 2010, and that any remaining unincorporated areas would be subject to annexation by the Florida Legislature. In 2001, this goal was changed to the year 2005.

The Broward County Legislative Delegation sponsors several local annexation bills each year.

### The City of Tamarac

The City of Tamarac was incorporated in 1963, and is comprised of 12 square miles located in central Broward County. The approximate population of the municipality is 60,000.

### **Effect of Proposed Changes**

The CS for HB 1129 provides that the unincorporated Prospect Bend area in Broward County will be annexed into the City of Tamarac effective September 15, 2010. The area at issue is approximately 78 acres, and is estimated by the Broward County Planning Services Division to have a population of 331.

This property was the subject of a 2007 local act (ch. 2007-294, L.O.F.) that provided for its annexation into the City of Tamarac. Nonetheless, no electors voted in the subsequent referendum. This issue was again the subject of a local act in 2009 (ch. 2009-252, L.O.F.), which provided for the exclusive use of mail ballots. Only 10 voters participated in this referendum—five in favor of the annexation and five against the annexation.<sup>14</sup> There is opposition to this local bill by certain commercial and residential property owners within the area.

The bill requires that an interlocal agreement must be developed and executed between the governing bodies of Broward County and the City of Tamarac prior to the effective date of the annexation. The agreement is required to address infrastructure improvement projects and include a financially feasible plan for transitioning county services, buildings, infrastructure, waterways and employees.

Upon annexation into the City of Tamarac, the Prospect Bend area will be governed as follows:

- The annexed property will be subject to the zoning regulations of Broward County, as amended through March 1, 2010.
- Any change of zoning districts or land use designations may only be accomplished by a supermajority vote of the full governing body of the municipality.
- Any use, building or structure that is legally in existence at the time of annexation may not be made a prohibited use by the City of Tamarac.

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<sup>13</sup> Chapter 96-542, L.O.F, as amended by ch. 99-447, L.O.F.

<sup>14</sup> February 23, 2010, letter from Sandy Harris, Executive Director of the Broward Legislative Delegation.

- The annexed property will be provided a partial exemption from any fire rescue special assessment levied by the city in order that the amounts collected from these parcels are equal to those previously collected by Broward County. If Broward County discontinues its assessment, the exemption remains in place using the amount that would have been collected by the City of Fort Lauderdale had the parcels been within that municipality. If both the county and Fort Lauderdale cease to levy these types of special assessments, then the assessment levied by the City of Tamarac will be applied to the property.

Case law has established that a special assessment must be fairly and reasonably apportioned among the properties receiving the special benefit. See, City of Boca Raton v. State, 595 So. 2d 25 (Fla. 1992). It is unknown whether this plan would be determined to be in compliance with that requirement if challenged.

- The City of Tamarac is prohibited from charging impact fees within the annexed area for any uses or development existing as of the effective date of the annexation.

As impact fees are generally one-time assessments levied on new development to offset its impact on the capital cost of providing services and infrastructure, this language may be irrelevant.

The bill further provides that nothing in it is to be construed to affect or abrogate the rights of parties to any contract which is in effect prior to the annexation, whether the contract is between Broward County and a third party or between nongovernmental entities.

Finally, the bill provides that all public roads and associated rights-of-way associated in the Broward County Road System, lying within the area subject to annexation, are transferred from Broward County's jurisdiction to the jurisdiction of the City of Tamarac. All rights, title, interests and responsibilities for any transferred roads, including, but not limited to, the ownership, operation, maintenance, planning, design and construction of such roads and rights-of-way transfer from Broward County jurisdiction and ownership to the jurisdiction and ownership of the City of Tamarac on the effective date of the annexation.

The act takes effect upon becoming a law.

## B. SECTION DIRECTORY:

Section 1: Provides for annexation of described property.

Section 2: Provides for an interlocal agreement.

Section 3: Provides for land use and zoning governance, and continued uses.

Section 4: Provides for partial exemption from fire rescue special assessments.

Section 5: Provides for the imposition of impact fees.

Section 6: Provides applicability to existing contracts.

Section 7: Provides for transfer of public roads and rights-of-way.

Section 8: Provides an effective date.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 22, 2010

WHERE? The *Sun-Sentinel*, a daily newspaper published in Broward County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

According to Economic Impact Statement, it is estimated that Tamarac's cost for the annexation will be negligible due to the fact that the city currently provides municipal services to the neighborhood immediately surrounding and adjacent to the proposed annexation sites. It is estimated that the city will raise \$351,804 in Fiscal Years 2010-2011 and 2011-2012<sup>15</sup> in ad valorem taxes, non-ad valorem fire assessments and residential stormwater fees for the purpose of providing municipal services to the area at issue.

The City of Tamarac will benefit from increased revenues. Broward County will benefit by no longer having to provide municipal services to the proposed annexation site. Each individual taxpayer within the proposed annexation sites will benefit from Tamarac's localized municipal services and also will be represented in a municipal government.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

Section 10, art. III of the State Constitution, provides that:

*No special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law.*

Section 11.02, F.S., implements this constitutional provision, and requires that a notice advertising intent to seek enactment of local legislation describe the substance of the contemplated law.

The notice for HB 1129 was very specific, describing each provision in the bill.

Drafting Local Legislation in Florida, a publication of the House of Representative's Bill Drafting Service (1995), provides, in relevant part:

*The prime purpose of the constitutional requirement that notice be given with respect to the enactment of special or local legislation is to apprise persons directly interested in the matter or thing to be affected of the nature and substance of the bill, so that the enactments, or the essential substance thereof, may be contested, if that is desired. So long as such laws as finally enacted accord in substance and purpose and are germane to and within the scope of the subject matter of the published notice, the organic provision has been complied with. Therefore, if a special act, as finally adopted, is at variance with the contents of the notice, as published, it is not necessarily invalidated—even though it exceeds such notice in some particular. See: Prescott v. Board of Public Instruction, 32 So. 2d 731 (1947). However, the question as to what constitutes a material variance sufficient to invalidate the act (particularly when the act exceeds its notice) cannot be answered with any degree of certainty. See: AGO 071-223 (1971). Suffice it to say that any such variance is clearly open to challenge and ought to be avoided if at all possible.*

In the instant case, one could argue that by virtue of specificity of the notice for HB 1129, the public would have been led to believe that all provisions relating to the annexation were advertised. The

<sup>15</sup> Due to current economic conditions and annual property devaluation, no growth factor was applied in calculating these figures.

amendment to the bill contains three new provisions, two of which are fairly innocuous. The third provision, however, purports to provide for a partial exemption from any fire rescue special assessment levied by the City of Tamarac for the annexed property. While the language appears to be crafted in hopes of avoiding a result whereby the special assessment could be determined to be invalid as not being fairly and reasonably apportioned, this factor does not serve to cure the fact that the other residents of the city may not have received sufficient notice to have prompted their discovery of this arrangement.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

**Drafting Issues**

Section 4 of the CS appears to freeze the amount of fire rescue special assessments of the annexed property to the time preceding the annexation. It is unclear as to whether this result was intended by the Sponsor of the bill.

Section 4 also contains a finding by the Legislature "...that it is fair and reasonable to provide for a partial exemption from any fire rescue special assessment levied by the City of Tamarac to all parcels within the [annexed] area...." This determination may be inappropriate.

**Other Comments**

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the Special Order Calendar in any section reserved for the expedited consideration of local bills. This bill may create an exemption to s. 171.062(1), F.S., which provides that an area annexed to a municipality shall be subject to all laws, ordinances and regulations in force in that municipality, via the "continued use" provisions contained in Section 3.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On April 8, 2010, the Military & Local Affairs Policy Committee adopted an amendment providing that the property annexed into the City of Tamarac:

- be governed by the zoning regulations of Broward County.
- receive a partial exemption from fire rescue special assessments.
- not be charged impact fees for uses or development existing as of the effective date of the annexation.

The amendment also removed language that provided that any resident of the area annexed into the City of Tamarac is deemed to satisfy residency requirements for municipal office candidacy. The city's charter requires that members of city boards, committees or commissions be residents, with no need for a particular period of residency. Article III, Division 1. Sec. 2-56. Thus, it appears that the deletion of this language will have no effect.

This analysis is drafted to the Committee Substitute.

1                                   A bill to be entitled  
 2           An act relating to City of Tamarac, Broward County;  
 3           extending and enlarging the corporate limits of the City  
 4           of Tamarac to include specified unincorporated lands  
 5           within such corporate limits; providing for an effective  
 6           date of annexation; providing for an interlocal agreement;  
 7           providing for land use and zoning governance; providing  
 8           legislative findings; providing requirements for the  
 9           levying of fire rescue special assessments; providing for  
 10          an assessment methodology review and report on the fire  
 11          rescue special assessment; prohibiting the charging of  
 12          certain impact fees; providing applicability to existing  
 13          contracts; providing for transfer of public roads and  
 14          rights-of-way; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18           Section 1. The following described lands shall be annexed  
 19 into and a part of the City of Tamarac effective September 15,  
 20 2010:

21  
 22           Prospect Field Road/West Commercial Boulevard  
 23 Annexation Boundary is described as follows:

24  
 25           A portion of Section 17, Township 49 South, Range 42  
 26 East, Broward County, Florida, more particularly  
 27 described as follows: BEGIN at the point of  
 28 intersection of the North line of the Southeast One-

29 Quarter (SE 1/4) of the Northeast One-Quarter (NE 1/4)  
 30 of said Section 17 with the East line of the West One-  
 31 Half (W 1/2) of the Southeast One-Quarter (SE 1/4) of  
 32 the Northeast One-Quarter (NE 1/4) of said Section 17,  
 33 said point being on the municipal boundary of the City  
 34 of Tamarac, as established by Ordinance No. 0-81-17  
 35 of the City of Tamarac; Thence along said municipal  
 36 boundary the following 3 courses; Thence Westerly,  
 37 along said North line, to a point 50.00 feet East of  
 38 the West line of the Southeast One-Quarter (SE 1/4) of  
 39 the Northeast One-Quarter (NE 1/4) of said Section 17;  
 40 Thence Southerly, along a line 50.00 feet East of and  
 41 parallel with the West line of the Southeast One-  
 42 Quarter (SE 1/4) of the Northeast One-Quarter (NE 1/4)  
 43 of said section 17, said line being the East right of  
 44 way line of Prospect Field Road, to a point of  
 45 intersection with the South line of the North One-Half  
 46 (N 1/2) of the Northwest One-Quarter (NW 1/4) of the  
 47 Southeast One-Quarter (SE 1/4) of the Northeast One-  
 48 Quarter (NE 1/4) of said Section 17; Thence Easterly,  
 49 along said South line, to the Southeast corner of the  
 50 North One-Half (N 1/2) of the Northwest One-Quarter  
 51 (NW 1/4) of the Southeast One-Quarter (SE 1/4) of the  
 52 Northeast One-Quarter (NE 1/4) of said Section 17,  
 53 said point being on the municipal boundary of the City  
 54 of Fort Lauderdale, as established by Chapter 71-640,  
 55 Laws of Florida; Thence Northerly, along the East line  
 56 of the Northwest One-Quarter (NW 1/4) of the Southeast



57 One-Quarter (SE 1/4) of the Northeast One-Quarter (NE  
 58 1/4) of said Section 17, and along said municipal  
 59 boundary to the POINT OF BEGINNING.

60  
 61 Prospect Field Road/N.W. 31st Avenue Annexation  
 62 Boundary is described as follows:

63  
 64 A portion of Sections 8 and 17, Township 49 South,  
 65 Range 42 East, Broward County, Florida, described as  
 66 follows: BEGIN at the point of intersection of the  
 67 North right of way line of Prospect Field Road with  
 68 a line 264 feet East of and parallel with the West  
 69 line of said Section 8, said point being on the  
 70 municipal boundary of the City of Fort Lauderdale, as  
 71 established by Chapter 71-640, Laws of Florida;  
 72 Thence along said municipal boundary the following 3  
 73 courses; Thence Easterly, along said North right of  
 74 way line, to the North line of said Section 17; Thence  
 75 Easterly, along said North line of Section 17, to the  
 76 West line of Lot 11 of, LITTLE FARMS, according to the  
 77 plat thereof, as recorded in Plat Book 27, Page 29 of  
 78 the Public Records of Broward County, Florida; Thence  
 79 Southerly, along said West line and the Southerly  
 80 prolongation thereof, to the centerline of Orange  
 81 Street as shown on said plat of, LITTLE FARMS, said  
 82 point being on the municipal boundary of the City of  
 83 Fort Lauderdale, as established by Ordinance No. C-  
 84 87-10 of the City of Fort Lauderdale; Thence

85 Southerly, along the West line of Lot 30 of said plat  
 86 and the Northerly prolongation thereof and said  
 87 municipal boundary, to a point on the South line of  
 88 the Northwest One-Quarter (NW 1/4) of the Northwest  
 89 One-Quarter (NW 1/4) of the Northeast One-Quarter (NE  
 90 1/4) of said Section 17, said point being on the  
 91 municipal boundary of the City of Tamarac, as  
 92 established by Ordinance No. 0-81-17 of the City of  
 93 Tamarac. Thence along said municipal boundary of the  
 94 City of Tamarac the following 3 courses; Thence  
 95 Westerly, along said South line, to the Southwest  
 96 corner of the Northeast One-Quarter (NE 1/4) of the  
 97 Northeast One-Quarter (NE 1/4) of the Northwest One-  
 98 Quarter (NW 1/4) of said Section 17; Thence Southerly  
 99 to the Southeast corner of the Southwest One-Quarter  
 100 (SW1/4) of the Northeast One-Quarter (NE 1/4) of the  
 101 Northwest One-Quarter (NW 1/4) of said Section 17;  
 102 Thence Westerly to the Southwest corner of the  
 103 Southwest One-Quarter (SW1/4) of the Northeast One-  
 104 Quarter (NE 1/4) of the Northwest One-Quarter (NW 1/4)  
 105 of said Section 17, said point being on the municipal  
 106 boundary of the City of Fort Lauderdale, as  
 107 established by Ordinance No. C-72-22 of the City of  
 108 Fort Lauderdale; Thence along said municipal boundary  
 109 the following 4 courses; Thence Westerly, along the  
 110 South line of the Northwest One-Quarter (NW 1/4) of  
 111 the Northwest One-Quarter (NW 1/4) of said Section 17,  
 112 to the West line of said Section 17; Thence Northerly,

113 along said West line, to the South line of the West  
 114 264 feet of the North One-Half (N 1/2) of the North  
 115 One-Half (N 1/2) of the Northwest One-Quarter (NW 1/4)  
 116 of the Northwest One-Quarter (NW 1/4) of said Section  
 117 17; Thence Easterly, along said South line, to the  
 118 Southeast corner thereof;

119  
 120 Thence Northerly, along the East line thereof, to the  
 121 POINT OF BEGINNING.

122 Section 2. An interlocal agreement shall be developed  
 123 between the governing bodies of Broward County and the City of  
 124 Tamarac and executed prior to the effective date of the  
 125 annexation as specified in section 1. The agreement shall  
 126 address infrastructure improvement projects and include a  
 127 financially feasible plan for transitioning county services,  
 128 buildings, infrastructure, waterways, and employees.

129 Section 3. Upon annexation into the municipality, the  
 130 areas described in section 1 shall be governed by the zoning  
 131 regulations of Broward County as amended through March 1, 2010,  
 132 which shall apply to all areas described in section 1, which is  
 133 Zone M-3 Heavy Manufacturing. In applying the adopted provisions  
 134 of the Broward County Zoning Code, each reference to a  
 135 commission, board, or employee of Broward County shall be  
 136 construed to refer to its nearest counterpart in the City of  
 137 Tamarac. The Broward County Zoning Code shall be interpreted and  
 138 applied to the maximum extent possible. The city may codify the  
 139 applicable Broward County zoning regulations in effect as of  
 140 March 1, 2010, into the city's own zoning regulations, provided

141 that such codification is done without any changes other than  
 142 chapter and section numbers or references to any applicable city  
 143 commission, board, or employee. Any change of zoning districts  
 144 or land use designations may be accomplished only by enactment  
 145 of the vote of the majority of the full governing body of the  
 146 municipality plus one. Any use, building, or structure that is  
 147 legally in existence at the time of annexation within the area  
 148 described in section 1 shall not be made a prohibited use by the  
 149 City of Tamarac.

150       Section 4. The Legislature finds that it is fair and  
 151 reasonable to provide for a partial exemption from any fire  
 152 rescue special assessment levied by the City of Tamarac to all  
 153 parcels within the area described in section 1 in order that the  
 154 amounts collected from these parcels are equal to the amounts  
 155 that were collected from these parcels by Broward County for the  
 156 provision of fire rescue services before annexation. The area  
 157 described in section 1 includes a zoning category and uses that  
 158 are materially different from those currently existing within  
 159 the city and that may not be addressed in the city's current  
 160 fire rescue special assessment methodology. These new uses will  
 161 provide economic diversity and opportunities to the city that  
 162 presently do not exist. Moreover, the annexation of these  
 163 parcels into the city will provide economic benefits not  
 164 otherwise available to the city, including, without limitation,  
 165 increased ad valorem tax revenue paid directly by the annexed  
 166 parcels, which will fund and enhance other city services  
 167 provided citywide which, if not for the enhanced revenues  
 168 received from the annexed parcels, would have to be funded

169 through existing revenues. The exemption shall be equal to the  
 170 amount of the special assessment levied by the City of Tamarac  
 171 on the parcels within the area described in section 1 in excess  
 172 of the amount that would have been charged the same parcels by  
 173 Broward County through its fire assessment had the area  
 174 described in section 1 remained an unincorporated area of  
 175 Broward County. This partial exemption shall remain in place,  
 176 notwithstanding any other statute or ordinance regarding non-ad  
 177 valorem assessments. If Broward County discontinues its fire  
 178 rescue special assessment, the exemption shall remain in place  
 179 using the amount collected by the City of Fort Lauderdale had  
 180 the area been part of Fort Lauderdale, and if both Broward  
 181 County and Fort Lauderdale cease to levy fire rescue special  
 182 assessments, the assessment levied by the City of Tamarac shall  
 183 then be collected from the parcels within the area described in  
 184 section 1. Any shortfall in revenues by the city as a result of  
 185 this exemption shall be funded by any available funding sources  
 186 other than the fire rescue special assessment. The city shall  
 187 complete an assessment methodology review and report for its  
 188 fire rescue special assessment, to include an analysis of the  
 189 parcels within the area described in section 1, within 1 year  
 190 after the effective date of the annexation.

191       Section 5. The City of Tamarac may not charge any impact  
 192 fees to any parcel within the area described in section 1 for  
 193 any uses or development existing as of the effective date of the  
 194 annexation that under the city's ordinances would have been due  
 195 to the city for the existing uses had they been developed under  
 196 the city's code. Development and uses that commence on or after

197 the effective date of the annexation shall be subject to the  
 198 city's impact fees.

199 Section 6. Nothing in this act may be construed to affect  
 200 or abrogate the rights of parties to any contracts, whether they  
 201 be between Broward County and a third party or between  
 202 nongovernmental entities, which contracts are in effect prior to  
 203 the effective date of the annexation.

204 Section 7. All public roads, and the public rights-of-way  
 205 associated therewith, in the Broward County Road System, lying  
 206 within the limits of the lands subject to annexation in this act  
 207 as described in Section 1, are transferred from the jurisdiction  
 208 of Broward County to the jurisdiction of the City of Tamarac on  
 209 the effective date of the annexation. All rights, title,  
 210 interests, and responsibilities for any transferred roads,  
 211 including, but not limited to, the ownership, operation,  
 212 maintenance, planning, design, and construction of such roads  
 213 and the rights-of-way associated therewith, shall transfer from  
 214 the jurisdiction and ownership of Broward County to the  
 215 jurisdiction and ownership of the City of Tamarac on the  
 216 effective date of the annexation.

217 Section 8. This act shall take effect upon becoming a law.



HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 1483 Spring Hill Fire Rescue and Emergency Medical Services District, Hernando County

SPONSOR(S): Military & Local Affairs Policy Committee and Schenck

TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Military & Local Affairs Policy Committee, 13 Y, 0 N, As CS, Rojas, Hoagland. Row 2: Finance & Tax Council, Wilson, Langston.

SUMMARY ANALYSIS

The Spring Hill Fire Rescue and Emergency Medical Services District of Hernando County was created in 2009 by ch. 2009-261, L.O.F. The district was created as an independent special fire control district, with all powers under ch. 189 and 191, F.S., within the district's boundaries.

However, due to a scrivener's error, ch. 2009-261, L.O.F., did not accurately record the legal description of the district. The Hernando County Property Appraiser's Office identified discrepancies in the district boundaries provided in the original act. The boundaries used to levy the ad valorem tax for the district for the last four decades, as a dependent district, are slightly different from the boundaries described in the act.

The county has been able to determine that the affected residents participated in the November 4, 2008, election in which the electors of the district voted for the district to become independent.

This bill clarifies the boundaries for the Spring Hill Fire Rescue and Emergency Medical Services District. The bill also prohibits the district from levying ad valorem taxes on tangible personal property.

The bill is effective upon becoming law.



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

The Spring Hill Fire Department was established in 1968. In January of 1974, after a special referendum election, the Spring Hill Fire Department became the Spring Hill Fire & Rescue District. This was a special fire tax district, voted for by the citizens and making Spring Hill Fire & Rescue, still today, the first and only government body in Spring Hill.

In the early 1990's the department was part of the county's total millage cap. The county then transformed the area of the district into a Municipal Service Taxing Unit. Near this time, the county, also allowed the district to become independent, however the measure was rejected at election. During this period the district essentially operated as a quasi-dependent district. On November 4, 2008, the electors of the district voted for the district to become independent.

Chapter 2009-261, L.O.F., created the Spring Hill Fire Rescue and Emergency Medical Services District (the district) as an independent special fire control district, in Hernando County, Florida.

##### Boundary Change

However, due to a scrivener's error, ch. 2009-261, L.O.F., did not accurately record the legal description of the district. The Hernando County Property Appraiser's Office identified discrepancies in the district boundaries provided in the original act. The boundaries used to levy the ad valorem tax for district for the last four decades, as a dependent district, are slightly different from the boundaries described in the act.

In a combined effort with the Hernando County Property Appraiser's Office, the Hernando County Office of Management and Budget, and the district, the intended boundaries have been identified and submitted to the Legislature for correction. This bill establishes the originally intended boundaries of the district.

The county has been able to determine that the affected residents participated in the November 4, 2008, election in which the electors of the district voted for the district to become independent<sup>1</sup>.

Section 191.014, F.S., provides that boundaries of a district may be modified, extended, or enlarged only upon approval or ratification by the Legislature. The merger of a district with all or portions of other independent special districts or dependent fire control districts is effective only upon ratification by the Legislature. A district may not, solely by reason of a merger with another governmental entity, increase ad valorem taxes on property within the original limits of the district beyond the maximum established by the district's enabling legislation, unless approved by the electors of the district by referendum.

#### Ad Valorem Taxes

Currently, the Spring Hill Fire Rescue and Emergency Medical Services District board is authorized to levy ad valorem taxes annually against all taxable property within the district to provide funds for the district.

The bill also prohibits the district from levying ad valorem taxes on tangible personal property.

#### B. SECTION DIRECTORY:

Section 1: Amends ch. 2009-261, L.O.F., to correct district boundary and prohibits the district from assessing a tangible personal property tax.

Section 2: Provides an effective date of upon becoming law.

### II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN?

January 30, 2010

WHERE?

Hernando Today/ Hernando Sunday, a newspaper published in Brookesville in Hernando County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

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<sup>1</sup> Per written communication with the Hernando County Property Appraiser's Office, Hernando County Supervisor of Elections Office, and the Spring Hill Fire Rescue and Emergency Medical Services District Fire Chief.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

Article VII, Section 4 of the Florida Constitution states that, "By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation . . . ."

Florida courts have interpreted Article VII, Section 4 of the Florida Constitution to limit the ability of the legislature to create classifications of property for favored tax treatment.<sup>2</sup>

The bill contains a provision that classifies tangible personal property and exempts it from taxation. This provision may implicate Article VII, section 4 of the Florida Constitution and the court decisions interpreting the constitutional provision.

#### B. RULE-MAKING AUTHORITY:

None

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 8, 2010, HB 1483 was amended in the Military & Local Affairs Policy Committee upon adoption of an amendment. The amendment added language to the bill that expressly prohibits the district from assessing a tangible personal property tax. The analysis reflects the bill as amended.

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<sup>2</sup> *Interlachen Lakes Estates, Inc. v. Snyder*, 304 So.2d 433 (1973).

1                   A bill to be entitled  
2           An act relating to the Spring Hill Fire Rescue and  
3           Emergency Medical Services District, Hernando County;  
4           amending chapter 2009-261, Laws of Florida; revising  
5           district boundaries; providing that the district may not  
6           levy a tangible personal property tax; providing an  
7           effective date.

8

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

10

11           Section 1. Subsection (2) of section 2 and subsection (1)  
12           of section 6 of chapter 2009-261, Laws of Florida, are amended  
13           to read:

14           Section 2. Creation; status; charter amendments;  
15           boundaries; district purposes.-

16           (2) The lands to be included within the district are the  
17           following described lands of Spring Hill, in Hernando County, to  
18           wit:

19

20           For a Point of Beginning (POB), commence at the  
21           intersection of the East Section line of Section 34,  
22           Township 23, Range 18 East projected South and the  
23           Centerline of the Right-of-Way of County Line Road.

24

25           Thence; Go Northerly along the aforementioned East  
26           Section line of Section 34, Township 23, Range 18  
27           East, Section 27, Township 23, Range 18 East.

28

29 Thence; proceed East along the North Section line of  
 30 Section 26, Township 23, Range 18 East, terminating at  
 31 the North East corner of the West 1/2 of Section 26,  
 32 Township 23, Range 18 East.

33  
 34 Thence; proceed Northerly along the East lines of the  
 35 West 1/2 of Sections 23 and 14, Township 23, Range 18  
 36 East terminating at the intersection of said line and  
 37 the southwest corner of a parcel described in ORB 612  
 38 page 589.

39  
 40 Thence proceed easterly along the south boundary line  
 41 of said parcel continuing to the intersection of that  
 42 line with the Centerline of Spring Hill Drive.

43  
 44 Thence; Easterly along the Centerline of the Right-of-  
 45 Way of Spring Hill Drive to a point of intersection  
 46 constructed by extending the East boundary of Candy  
 47 Road, in a Southerly direction.

48  
 49 Thence; Northerly along the Eastern boundary of Candy  
 50 Lane to the limits of the plat of Quail Meadows, Phase  
 51 I.

52  
 53 Thence; Southwesterly along the rear property lines of  
 54 Lots 13 - 22 inclusive of Quail Meadows, Phase I, to  
 55 the Northern boundary of Atwater Drive.

56

57 Thence; Westerly along said Northern boundary of  
 58 Atwater Drive to the limits of the plat of Quail  
 59 Meadows, Phase I, said point being the West Section  
 60 line of Section 13, Township 23 South, Range 18 East.

61  
 62 Thence; Northerly along said West Section line to the  
 63 North.

64  
 65 Thence; Northerly along the aforementioned West  
 66 Section line to a point of intersection with the  
 67 Centerline of Powell Road and said Section line.

68  
 69 Thence; Westerly along Powell Road to a point of  
 70 intersection with the East line of the West 1/2 of  
 71 Section 10, Township 23 South, Range 18 East.

72  
 73 Thence; Northerly along aforementioned Section line  
 74 terminating at the North line of said Section 10,  
 75 Township 23 South, Range 18 East.

76  
 77 Thence; Westerly along the North Section line of  
 78 Section 10, Township 23 South, Range 18 East  
 79 continuing Westerly along the South Section line of  
 80 Section 4, Township 23 South, Range 18 East;  
 81 terminating at a point, constructed by the  
 82 intersection of said Section line and the East  
 83 Boundary line of Spring Hill Unit 18, 19, 20; Plat

84        Book 17, Page 30, sheet 2 of 6 as recorded in the  
 85        Public Records of Hernando County;  
 86  
 87        Thence; Northerly along the East Boundary line of the  
 88        aforementioned Plat.  
 89  
 90        Thence; Northerly along the East Boundary line of Plat  
 91        Book #17, Page 69 as :recorded in Hernando County  
 92        Public Records.  
 93  
 94        Thence; Northerly along the East Boundary line as  
 95        shown in Plat Book 9, Page 69, Spring Hill Unit 20.  
 96  
 97        Thence; Easterly along the South Boundary line as  
 98        shown in Plat Book 9, Sheet 9, of Spring Hill Unit 20.  
 99  
 100       Thence; Run Northerly along the West Right-of-Way line  
 101       of the Florida Power Corporation Easement as shown on  
 102       Sheet 9, Sheet 10, and Sheet 12, Plat Book 9; Spring  
 103       Hill Unit 20, as recorded in Hernando County Public  
 104       Records.  
 105  
 106       Thence; Run S89°38'00"W, a distance of 377.25 feet  
 107       from. the North East corner of the Platted Boundary as  
 108       recorded in Plat Book 9, Page 76.  
 109  
 110       Thence; N00°07'10"W, a distance of 944.51 feet.  
 111

112 Thence; N89°44'10"W, a distance of 1,324.27 feet.

113

114 Thence; N00°06'12"E; 942.14 feet along the East line  
 115 of the West 1/2 of Section 33, Township 22 South,  
 116 Range 18 East.

117

118 Thence; N00°05'42"W, 1,848.49 feet to the South Right-  
 119 of-Way line of State Road #50.

120

121 Thence; Westerly along the South Right-of-Way line of  
 122 State Road #50; S89°31'17"W a distance of 1,322.86  
 123 feet.

124

125 Thence; S00°02'58"E, a distance of 916.82 feet;  
 126 S89°50'34"W, a distance of 1,323.56 feet; S00°00'12"E,  
 127 a distance of 909.40 feet to the Centerline of the  
 128 Florida Power Corp. Right-of-way.

129

130 Thence; Westerly along the South centerline of a  
 131 Florida Power Right-of-Way line as described in O.R.  
 132 Book #713, Pages 20 & 22.

133

134 Thence; Northerly along the West Boundary line of  
 135 aforementioned O.R. Book #713, to the South Right-of-  
 136 Way line of State Road #50.

137

138 Thence; Approximately 1,015.00 feet, Westerly along  
 139 the South Right-of-Way line of State Road #50.



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Thence; South approximately 750.00 feet.

Thence; West approximately 2,500.00 feet.

Thence; North approximately 750 feet to the South  
Right-of-Way line of State Road #50.

Thence; In a Westerly direction follow the South  
Right-of-Way line of State Road #50 to the  
intersection of said line and the easterly boundary of  
a parcel described in ORB 301 page 72.

Thence proceed southerly, along the eastern perimeter  
of said parcel to its intersection with a parcel  
described in ORB 732 page 1907.

Thence proceed easterly, southwesterly, west and  
northerly around the outer perimeter of said parcels  
to the intersection of said line and State Road #50.

Thence proceed westerly following the South Right-of-  
Way line of State Road #50 to the intersection of said  
line with the East Section line of Section 2, Township  
23 South, Range 17 East.

Thence; Run Southerly along the aforementioned East  
Section line to the North Boundary line of Spring Hill

168 Unit 22, Replat, Block 1484, Plat Book 12, Page 81, as  
 169 recorded in Hernando County Public Records.

170  
 171 Thence; Westerly along the aforementioned Boundary  
 172 line to the East Right-of-Way line of U.S. 19.

173  
 174 Thence; Southerly along the East Right-of-Way line of  
 175 U.S. 19, to the Centerline of the Right-of-Way of  
 176 Northcliffe Boulevard.

177  
 178 Thence; Southerly along the Centerline of the Right-  
 179 of-Way of Northcliffe Boulevard to the West Boundary  
 180 line of Spring Hill Unit #26.

181  
 182 Thence; Southerly along the West Boundary line of  
 183 Spring Hill Unit #26, terminating at the Southeast  
 184 corner of Section 10, Township 23 South, Range 17  
 185 East.

186  
 187 Thence west along the aforesaid south section line to  
 188 the south west comer of section 9.

189  
 190 Thence proceed south along the west boundary of  
 191 section 16 to the southwest corner of said section.

192  
 193 Thence proceed west along the northern section line of  
 194 section 20 to the northwest corner of said section.

195

196 Thence proceed south along the west line of section 20  
 197 and section 29 to its intersection with the boundary  
 198 of the South Hernando US #19 Commerce Center as  
 199 recorded in plat book 17, pages 11-16.

201 Thence proceed south westerly along said boundary to  
 202 its intersection with the north section line of  
 203 section 31.

205 Thence proceed west along said northern section line  
 206 to the northwest corner of said section.

208 Thence proceed southerly along the west boundary line  
 209 of said section to the southwest corner of said  
 210 section 31.

212 Thence proceed east along the south boundaries of  
 213 Township 23 South Ranges 17 and 18 East to the  
 214 intersection of the East Section line of Section 34,  
 215 Township 23, Range 18 East projected South and the  
 216 Centerline of the Right-of-Way of County Line Road  
 217 (POB).

219 ~~For a Point of Beginning (P.O.B.), commence at the~~  
 220 ~~intersection of the East Section line of Section 34,~~  
 221 ~~Township 23, Range 18 East projected South and the~~  
 222 ~~Centerline of the Right-of-Way of County Line Road.~~

223

224 ~~Thence; Go Northerly along the aforementioned East~~  
 225 ~~Section line of Section 34, Township 23, Range 18~~  
 226 ~~East, Section 27, Township 23, Range 18 East.~~

227  
 228 ~~Thence; East along the North Section line of Section~~  
 229 ~~26, Township 23, Range 18 East, terminating at the~~  
 230 ~~North East comer of the West V2 of Section 26,~~  
 231 ~~Township 23, Range 18 East.~~

232  
 233 ~~Thence; Northerly along the East Section line of the~~  
 234 ~~West 1/2 of Section 23, Township 23, Range 18 East~~  
 235 ~~terminating at the intersection of that line and the~~  
 236 ~~centerline of the Right of Way of Spring Hill Drive.~~

237  
 238 ~~Thence; Easterly along the centerline of the Right of~~  
 239 ~~Way of Spring Hill Drive to a point of intersection~~  
 240 ~~constructed by extending the East boundary of Candy~~  
 241 ~~Road, in a Southerly direction.~~

242  
 243 ~~Thence; Northerly along the Eastern boundary of Candy~~  
 244 ~~Lane to the limits of the plat of Quail Meadows, Phase~~  
 245 ~~I.~~

246  
 247 ~~Thence; Southwesterly along the rear property lines of~~  
 248 ~~Lots 13-22 inclusive of Quail Meadows, Phase I, to the~~  
 249 ~~Northern boundary of Atwater Drive.~~

250

251 ~~Thence; Westerly along said Northern boundary of~~  
 252 ~~Atwater Drive to the limits of the plat of Quail~~  
 253 ~~Meadows, Phase I, said point being the West Section~~  
 254 ~~line of Section 13, Township 23 South, Range 18 East.~~

255  
 256 ~~Thence; Northerly along said West Section line to the~~  
 257 ~~North.~~

258  
 259 ~~Thence; Northerly along the aforementioned West~~  
 260 ~~Section line to a point of intersection with the~~  
 261 ~~centerline of Powell Road and said Section line.~~

262  
 263 ~~Thence; Westerly along Powell Rd. to a point of~~  
 264 ~~intersection with the East line of the West 1/2 of~~  
 265 ~~Section 10, Township 23 South, Range 18 East.~~

266  
 267 ~~Thence; Northerly along aforementioned Section line~~  
 268 ~~commencing at the North line of said Section 10,~~  
 269 ~~Township 23 South, Range 18 East.~~

270  
 271 ~~Thence; Westerly along the North Section line of~~  
 272 ~~Section 10, Township 23 South, Range 18 East~~  
 273 ~~continuing Westerly along the South Section line of~~  
 274 ~~Section 4, Township 23 South, Range 18 East,~~  
 275 ~~terminating at a point, constructed by the~~  
 276 ~~intersection of said Section line and the East~~  
 277 ~~Boundary line of Spring Hill Unit 18-2; Plat Book 17,~~

278 ~~Page 30, sheet 2 of 6 as recorded in the Public~~  
 279 ~~Records of Hernando County;~~  
 280  
 281 ~~Thence; Northerly along the East Boundary line of the~~  
 282 ~~aforementioned Plat Book 17, Page 30;~~  
 283  
 284 ~~Thence; Northerly along the East Boundary line of Plat~~  
 285 ~~Book #17, Page 69 as recorded in Hernando County~~  
 286 ~~Public Record. (To PB9-65-80)~~  
 287  
 288 ~~Thence: Northerly along the East Boundary line as~~  
 289 ~~shown in Plat Book 9, Page 69, Spring Hill Unit 20.~~  
 290  
 291 ~~Thence; Easterly along the South Boundary line as~~  
 292 ~~shown in Plat Book 9, Sheet 9, of Spring Hill Unit 20.~~  
 293  
 294 ~~Thence; Run Northerly along the West Right-of-Way line~~  
 295 ~~of the Florida Power Corporation Easement as shown on~~  
 296 ~~Sheet 9, Sheet 10, and Sheet 12, Plat Book 9; Spring~~  
 297 ~~Hill Unit 20, as recorded in Hernando County Public~~  
 298 ~~Records.~~  
 299  
 300 ~~Thence; Run S89°38'00"W, a distance of 377.25 feet~~  
 301 ~~from the North East corner of the Platted Boundary as~~  
 302 ~~recorded in Plat Book 9, Page 76.~~  
 303  
 304 ~~Thence; N00°07'10"W, a distance of 944.51 feet,~~  
 305

306 ~~Thence; N89°44'10"W, a distance of 1,324.27 feet~~  
 307  
 308 ~~Thence; N00°06'12"E, 942.14 feet along the East line~~  
 309 ~~of the West 1/2 of Section 33, Township 22 South,~~  
 310 ~~Range 18 East.~~  
 311  
 312 ~~Thence; N00°05'42"W, 1,848.49 feet to the South Right-~~  
 313 ~~of Way line of State Road #50.~~  
 314  
 315 ~~Thence; Westerly along the South Right of Way line of~~  
 316 ~~State Road #50; S89°31'17"W a distance of 1,322.86~~  
 317 ~~feet.~~  
 318  
 319 ~~Thence; S00°02'58"E, a distance of 916.82 feet;~~  
 320 ~~S89°50'34"W, a distance of 1,323.56 feet; S00°00'12"E,~~  
 321 ~~a distance of 909.40 feet to the Centerline of the~~  
 322 ~~Florida Power Corp. Right of way.~~  
 323  
 324 ~~Thence; Westerly along the South centerline of a~~  
 325 ~~Florida Power Right of Way line as described in O.R.~~  
 326 ~~Book #713, Pages 20 & 22. (Attached)~~  
 327  
 328 ~~Thence; Northerly along the West Boundary line of~~  
 329 ~~aforementioned O.R. Book #713, to the South Right of~~  
 330 ~~Way line of State Road #50.~~  
 331  
 332 ~~Thence; Approximately 1,015.00 feet, Westerly along~~  
 333 ~~the South Right of Way line of State Road #50.~~

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~~Thence; South approximately 750.00 feet.~~

~~Thence; West approximately 2,500.00 feet.~~

~~Thence; North approximately 750 feet to the South  
Right of Way line of State Road #50.~~

~~Thence; In a Westerly direction follow the South  
Right of Way line of State Road #50 to the  
intersection of said line and the East Section line of  
Section 2, Township 23 South, Range 17 East.~~

~~Thence; Run Southerly along the aforementioned East  
Section line to the North Boundary line of Spring Hill  
Unit 22, Replat, Block 1484, Plat Book 12, Page 81, as  
recorded in Hernando County Public Records.~~

~~Thence; Westerly along the aforementioned Boundary  
line to the East Right of Way line of U.S. 19.~~

~~Thence; Southerly along the East Right of Way line of  
U.S. 19, to the Centerline of the Right of Way of  
Northeliffe Boulevard.~~

~~Thence; Southerly along the centerline of the Right-  
of-Way of Northeliffe Boulevard to the West Boundary  
line of Spring Hill Unit #26.~~



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~~Thence; Southerly along the West Boundary line of Spring Hill Unit #26, commencing at the South Section line of Section 10, Township 23 South, Range 117 East.~~

~~Thence; West along the aforementioned South Section line, Westerly to the centerline of the Right of Way of U.S. 19.~~

~~Thence; South along the centerline of the Right of Way of U.S. 19 to a point, constructed by extending the Centerline of Greenleaf Way and the aforementioned centerline of Right of Way of U.S. 19.~~

~~Thence; Westerly from said point to the West Boundary line of Weeki Wachee Woodlands Unit 2, Plat Book #7, Page 10.~~

~~Thence; Southerly along the said West Boundary line to the North Boundary line of Weeki Wachee Acres Unit 2, Plat Book 6, Page 46;~~

~~Thence; Westerly along aforementioned North Boundary line;~~

~~Thence; Southerly along the West Boundary line of aforementioned Weeki Wachee Acres Unit 2;~~

390 ~~Thence; 240.00 feet East, to the centerline of the~~  
 391 ~~Right of Way of U.S. 19.~~  
 392  
 393 ~~Thence; South along the centerline of the Right of Way~~  
 394 ~~of U.S. 19 to the Intersection of said Right of Way~~  
 395 ~~and Trenton Avenue.~~  
 396  
 397 ~~Thence; Southerly along Trenton Avenue to a point on~~  
 398 ~~the South Section line of Section 20, Township 23~~  
 399 ~~South, Range 17 East;~~  
 400  
 401 ~~Thence; Westerly along said Section line to the~~  
 402 ~~centerline of the Right of Way of U.S. 19.~~  
 403  
 404 ~~Thence; South along the centerline of the Right of Way~~  
 405 ~~of U.S. 19, to a point of Intersection with the North~~  
 406 ~~Boundary line of South Hernando U.S. 19, Commerce~~  
 407 ~~Center; Plat Book #17, Pages 11 through 15.~~  
 408  
 409 ~~Thence; West from the aforementioned point; to the~~  
 410 ~~West Boundary line of South Hernando U.S. 19, Commerce~~  
 411 ~~Center.~~  
 412  
 413 ~~Thence; Southerly along the West Boundary line, to the~~  
 414 ~~S.W. corner of aforementioned Plat;~~  
 415  
 416 ~~Thence: Easterly to the centerline of the Right of Way~~  
 417 ~~of U.S. 19.~~

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~~Thence; South along the centerline of the Right-of-Way of U.S. 19, to a point of intersection with the North Boundary of South Hernando U.S. 19 Commerce Center Plat Book #17, Pages 11 thru 16.~~

~~Thence; Westerly from said point, along the North Boundary line.~~

~~Thence; Southerly along the West Boundary line of the aforementioned Plat;~~

~~Thence; Easterly along the South Boundary line of said Plat terminating at the centerline of the Right-of-Way of U.S. #19.~~

~~Thence; Southerly along the centerline of the Right-of-Way of U.S. 19 terminating at the Intersection of said Right-of-Way and the centerline of the Right-of-Way of County Line Road.~~

~~Thence; Easterly from aforementioned said point along the centerline of the Right-of-Way of County Line Road.~~

~~Thence; Easterly, from the aforementioned terminus, along the centerline of the Right-of-Way of County~~

445 ~~Line Road, to a point of Intersection of the West~~  
 446 ~~Boundary line of Arkays Park Subdivision.~~

447  
 448 ~~Thence; Northerly along the aforementioned West~~  
 449 ~~Boundary line.~~

450  
 451 ~~Thence; Easterly along the aforementioned North~~  
 452 ~~Boundary line,~~

453  
 454 ~~Thence; Southerly along the East Boundary line of the~~  
 455 ~~aforementioned Plat terminating at the intersection of~~  
 456 ~~that line and the centerline of the Right-of-Way of~~  
 457 ~~County Line Road.~~

458  
 459 ~~Thence; Easterly, from that terminus point, along the~~  
 460 ~~centerline of the Right of Way of County Line Road and~~  
 461 ~~returning to the Point of Beginning. P.O.B.~~

462  
 463 ~~LESS:~~

464  
 465 ~~West 11.5A of Northwest 1/4 of Northwest 1/4 Section~~  
 466 ~~4, Township 23, Range 8~~

467  
 468 ~~Southwest 1/4 of Southwest 1/4 less North 292 feet of~~  
 469 ~~East 825 feet, Section 29, Township 23, Range 17~~

470  
 471 ~~5 acres in Northwest 1/4 of Northeast 1/4 of Section~~  
 472 ~~32, Township 23, Range 17~~

CS/HB 1483

2010

473 Section 6. Ad valorem taxes.—

474 (1) The board shall have the authority to levy ad valorem  
475 taxes annually against all taxable property, except tangible  
476 personal property, within the district to provide funds for the  
477 purposes of the district only upon the approval by a majority  
478 vote of those qualified electors of the district voting in a  
479 referendum election authorizing the use of ad valorem taxation  
480 not to exceed 2.5 mills.

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

Amendment No. 1

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Finance & Tax Council  
2 Representative(s) Snyder offered the following:

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**Amendment (with directory and title amendments)**

Remove lines 473-480

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

Remove lines 11-12 and insert:

Section 1. Subsection (2) of section 2 of chapter 2009-  
261, Laws of Florida, is amended

-----

**T I T L E   A M E N D M E N T**

Remove lines 5-6 and insert:

district boundaries; providing an







## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

Spring Lake Improvement District (district) is an independent water control district located in Highlands County which was created in 1971 pursuant to ch. 71-669, L.O.F. The district consists of 3,359 acres and serves approximately 3,500 residents.

The district is governed by a five member board of supervisors. Three supervisors are elected on a one-acre one-vote basis, two are popularly elected. Each supervisor receives \$100 per month.

##### Powers of the District

The district has all powers of a water control district created pursuant to ch. 298, F.S., to construct, operate, and maintain water control systems within the district and to levy assessments and issue bonds to finance such water control systems. The district currently levies \$293 per acre, or if a parcel is smaller than an acre, \$293 per parcel. The district has an annual budget of \$1.935 million that funds all operations including drainage, mosquito control, parks, streetlights, and maintenance of road ways.

The district has the power:

- To contract and be contracted with; to sue and be sued; to adopt a seal; to acquire real or personal property.
- To adopt a water control plan.
- To provide for a district office and the storage and maintenance of the district's equipment.
- To drain and reclaim lands within the district.
- To regulate drainage requirements and set forth conditions to be met for plats to be recorded.
- To borrow money and issue bonds, certificates, warrants, notes, or other evidence of indebtedness of the district.
- To build improvements and to acquire equipment.
- To construct bridges, culverts, and roads.
- To hold easements, reservations, or dedications.

- To impose an ad valorem tax, a drainage tax, and a maintenance tax.
- To impose and foreclose special assessment liens.
- To regulate all structures and things which come into contact with or are a part of a district facility.
- To enforce the provisions herein by the promulgation of rules and regulations.
- To cooperate with other drainage districts or governmental agencies.
- To hire employees.
- To exercise all powers necessary.
- To construct, improve, and maintain roadways.
- To make use of public easements.
- To enter into leases.
- To regulate the supply of water within the district.
- To own and operate water and sewer systems.
- To own and operate parks and other recreational facilities.
- To issue bonds.
- To install and operate streetlights.
- To require underground utilities.
- To require district landowners to maintain their property.
- To exercise all powers conferred by ch. 298, F.S.

### **Effect of Proposed Changes**

CS/HB 1487 amends the charter of the district by removing repetitive language already contained in chs. 189 and 298, F.S. The elections provisions of the district's charter are clarified to reflect that there are two popularly elected Board members. The compensation of the Board is increased from \$100 per month to \$250 per month, provided such salary is approved by a super majority of the Board. The district is authorized to acquire by purchase, gift, or condemnation real and personal property outside the district.<sup>1</sup>

### **Powers of the District**

The bill authorizes the district to:

- Construct and maintain roadways including roads, parkways, bridges, landscaping, irrigation, bicycle and jogging paths, street lighting, traffic signals, road striping, and all other customary elements of a modern road system;
- Establish facilities for providing transportation throughout the district, including private or contract carriers, buses, vehicles, railroads, and other transportation facilities, to meet the transportation requirements of the district activities;

---

<sup>1</sup> Section 298.22(7), F.S., provides that water control districts "may condemn or acquire, by purchase or grant, for the use of the district, any land or property within or without said district not acquired or condemned by the court as identified in the engineer's report, and shall follow the procedure set out in chapter 73. Such powers to condemn or acquire any land or property within or without the district shall also be available for implementing requirements imposed on those districts subject to s. 373.4592."

- Provide public safety, including security, guardhouses, and patrol cars, when authorized by proper governmental agencies; except the district may not exercise any police power;
- Establish and create departments, committees, boards, or other agencies, including a public relations committee;
- Conduct mosquito control,
- Conduct fire control and emergency medical services with county approval; and
- Construct and maintain school facilities which may be leased or sold to the school district when authorized by the district school board.

The compensation of the property appraiser, tax collector, and clerk of the circuit court for services performed in connection with taxes and assessments shall be in accordance with general law.<sup>2</sup> The levies of non-ad valorem assessments on land less than one acre are assessed as one acre while those parcels over one acre shall be assessed at the nearest whole number of acres. All taxes and assessments of the district are levied, collected, and enforced in the same manner as county taxes.<sup>3</sup>

Pursuant to ch. 298, F.S., the act, and applicable general law, the district has the power to issue assessment bonds and revenue bonds, without limitation to amount, for financing those systems and facilities contained in section 3.<sup>4</sup>

The bill also requires that all purchases shall be made in compliance with the competitive bid or negotiation provisions of ss. 255.20 and 287.055, F.S., ch. 298, F.S., and applicable general law, and the policies of the district board of supervisors.

The bill is subject to a referendum on the question of whether the district shall have the authority to provide public safety and security services, fire rescue services with the approval of the county, and mosquito control services; to construct and maintain district transportation facilities and educational facilities with the approval of the county school board; to establish district departments, committees and boards; and compensate its supervisors up to \$250 per month with supermajority approval of the board.

**B. SECTION DIRECTORY:**

- Section 1: Revises the powers of the district.
- Section 2: Repeals various sections of the district's charter.
- Section 3: Provides for referendum and provides a ballot statement.
- Section 4: Provides an effective date of upon becoming law for referendum and ballot statement.

**II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS**

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? December 13, 2009.

WHERE? In *The News-Sun*, a tri-weekly newspaper published in Highlands County, Florida.

<sup>2</sup> Section 43 of the charter.

<sup>3</sup> *Id.*

<sup>4</sup> The district's current bonding authority is found in subsection 9 of section 2 and subsection 23 of section 10, and sections 22, 23, 24, 28, 29, 30, 31.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN? In connection with the November 2010 general election.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

Yes, the district can adopt rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 8, 2010, the Military & Local Affairs Policy Committee adopted four amendments that remove the authority for the district to enforce deed restrictions, correct drafting errors, make the act subject to referendum, and provides a ballot statement. The analysis is drafted to the committee substitute.

1 A bill to be entitled  
 2 An act relating to Spring Lake Improvement District,  
 3 Highlands County; amending chapter 2005-342, Laws of  
 4 Florida; deleting obsolete language and language  
 5 inconsistent with or repetitive of general law; providing  
 6 for minimum charter requirements; amending board,  
 7 election, and term of office provisions; amending the  
 8 compensation for board members to comply with general law;  
 9 deleting obsolete district powers and providing additional  
 10 district powers including mosquito control, fire and  
 11 emergency services, and construction and maintenance of  
 12 school facilities; providing for applicability of general  
 13 laws; providing a ballot statement; requiring a  
 14 referendum; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Subsections (1), (3), (12), (13), and (14) of  
 19 section 1, section 4, subsections (1) and (9) of section 5, and  
 20 present sections 6, 9, 10, 19, 20, 22, and 48 of section 3 of  
 21 chapter 2005-342, Laws of Florida, are amended, and new sections  
 22 10, 11, and 12 are added to that section, to read:

23 Section 1. Minimum charter requirements.—In accordance  
 24 with section 189.404(3), Florida Statutes, the following are the  
 25 minimum requirements for the charter of the Spring Lake  
 26 Improvement District:

27 (1) The district is organized and exists for all purposes  
 28 set forth in this act and chapter 298, Florida Statutes, as they

29 may be amended from time to time, and applicable general law  
 30 except as herein otherwise provided.

31 (3) The district was created by the process contained in  
 32 chapter 298, Florida Statutes, and its powers supplemented by  
 33 special act.

34 ~~(12) In accordance with this act and chapter 298, Florida~~  
 35 ~~Statutes, the district may continue to levy upon all of the real~~  
 36 ~~taxable property in the district a special tax each year as~~  
 37 ~~maintenance tax.~~

38 ~~(13) The method for collecting non-ad valorem assessments,~~  
 39 ~~fees, or service charges shall be as set forth in this act and~~  
 40 ~~chapters 197 and 298, Florida Statutes, as they may be amended~~  
 41 ~~from time to time.~~

42 ~~(12)-(14)~~ The district's planning requirements shall be as  
 43 set forth in chapters 189 and 298, Florida Statutes, as they may  
 44 be amended from time to time.

45 Section 4. Applicability ~~of certain provisions~~ of chapter  
 46 298, Florida Statutes, to the Spring Lake Improvement District;  
 47 inconsistent laws inapplicable.—The provisions of chapter 298,  
 48 Florida Statutes, and all amendments thereto, now existing or  
 49 hereafter enacted, are declared to be applicable to the Spring  
 50 Lake Improvement District insofar as not inconsistent with the  
 51 provisions of this act or any subsequent special acts relating  
 52 to the Spring Lake Improvement District. ~~Notwithstanding the~~  
 53 ~~foregoing, the provisions of sections 298.11, 298.12, 298.14,~~  
 54 ~~298.15, 298.17, 298.18, 298.19, 298.20, 298.23, 298.24, 298.25,~~  
 55 ~~298.365, 298.366, 298.401, 298.41, 298.465, 298.48, 298.52,~~  
 56 ~~298.54, 298.56, 298.57, 298.61, 298.70, 298.71, 298.72, 298.73,~~

57 ~~and 298.74, Florida Statutes, and amendments thereto, shall not~~  
 58 ~~be applicable to the Spring Lake Improvement District.~~

59 Section 5. Definitions.—Unless the context indicates  
 60 otherwise, the following words as used in this act shall have  
 61 the following meanings:

62 (1) "Assessable improvements" includes, without  
 63 limitation, any and all ~~drainage and land reclamation works and,~~  
 64 ~~facilities, sewer systems, storm sewers and drains, water~~  
 65 ~~systems, streets, roads,~~ or other projects of the district, or  
 66 that portion or portions thereof, ~~local in nature and~~ of special  
 67 benefit to the premises or lands served thereby, and any and all  
 68 modifications, improvements, and enlargements thereof.

69 (9) "Water management and flood control facilities" means  
 70 any canals, ditches, or other drainage facilities, reservoirs,  
 71 dams, levees, sluiceways, dredging holding basins, floodways,  
 72 pumping stations, or any other works, structures, or facilities  
 73 for the conservation, control, development, utilization, and  
 74 disposal of water, and any purposes appurtenant, necessary, or  
 75 incidental thereto, and includes all real and personal property  
 76 and any interest therein, rights, easements, and franchises of  
 77 any nature relating to any such water and flood control  
 78 facilities or necessary or convenient for the acquisition,  
 79 construction, reconstruction, operation, or maintenance thereof.

80 Section 6. Board; election; organization, terms of office,  
 81 quorum; report and minutes.—

82 (1) The board of the district shall be elected and shall  
 83 exercise the powers granted to the district under this act and  
 84 under chapter 298, Florida Statutes. ~~The board shall consist of~~

85 ~~the number of members, and each member shall hold office for the~~  
 86 ~~term of years until his or her successor shall be chosen and~~  
 87 ~~shall qualify, as set forth in section 189.4051, Florida~~  
 88 ~~Statutes. All members of the board shall be landowners within~~  
 89 ~~the district.~~

90 (2) The district is governed by a five-member board of  
 91 supervisors. The composition of the board, as well as the terms  
 92 of office and qualification of supervisors, shall be determined  
 93 pursuant to section 189.4051, Florida Statutes. All supervisors  
 94 shall be landowners within the district.

95 (3) Those supervisors elected on a one-acre one-vote basis  
 96 shall be elected at a meeting of the landowners to be held in  
 97 the month of November of each year. All landowners' meetings  
 98 shall be held pursuant to sections 298.11 and 298.12, Florida  
 99 Statutes. The remaining supervisors shall be elected pursuant to  
 100 section 189.4051, Florida Statutes, and shall be district  
 101 residents and registered voters.

102 (4) The terms of office for those supervisors elected on a  
 103 one-acre one-vote basis shall begin with the next regularly  
 104 scheduled board meeting following the election. The terms of  
 105 office for all other supervisors shall begin with the next  
 106 regularly scheduled board meeting after certification of the  
 107 election by the Highlands County Supervisor of Elections. Before  
 108 entering upon his or her official duties, all supervisors

109 ~~(2) In the month of November of each year commencing~~  
 110 ~~November of 1992, there shall be held a meeting of the~~  
 111 ~~landowners of the district at a location within the district in~~  
 112 ~~Highlands County for the purpose of electing one supervisor for~~



113 ~~a term of 3 years. The president of the board at the time of the~~  
 114 ~~November 1992 election shall have his or her term extended until~~  
 115 ~~the November 1994 election. The secretary of the board at the~~  
 116 ~~time of the November 1992 election shall have his or her term~~  
 117 ~~extended until the November 1993 election. The remaining~~  
 118 ~~position of supervisor shall stand for election at the November~~  
 119 ~~1992 meeting of landowners. Notice of said landowners meeting~~  
 120 ~~shall be published once a week for 2 consecutive weeks in a~~  
 121 ~~newspaper in Highlands County which is in general circulation~~  
 122 ~~within the district, the last said publication to be not less~~  
 123 ~~than 14 days nor more than 28 days before the date of the~~  
 124 ~~election. The landowners when assembled at such meeting shall~~  
 125 ~~organize by electing a chair who shall conduct the meeting. At~~  
 126 ~~such meeting each landowner shall be entitled to cast one vote~~  
 127 ~~per acre of land owned by him or her and located within the~~  
 128 ~~district, for each person to be elected. A landowner may vote in~~  
 129 ~~person or by proxy in writing. Fractions of an acre shall be~~  
 130 ~~treated as 1 acre, entitling the landowner to one vote with~~  
 131 ~~respect thereto. The person receiving the highest number of~~  
 132 ~~votes for the office of supervisor shall be declared elected as~~  
 133 ~~such supervisor. The owners and proxy holders of district~~  
 134 ~~acreage who are present at a duly noticed landowners meeting~~  
 135 ~~shall constitute a quorum for the purpose of holding such~~  
 136 ~~election or any election thereafter. The provisions of this~~  
 137 ~~section do not exempt the district from the election provisions~~  
 138 ~~of section 189.4051, Florida Statutes.~~

139 ~~(3) Each supervisor before entering upon his or her~~  
 140 ~~official duties shall take and subscribe to an oath of office as~~

141 | prescribed in section 298.13, Florida Statutes.

142 |       (5)~~(4)~~ All supervisors shall hold office for the terms for  
 143 | which they are elected or appointed and until their successors  
 144 | shall be chosen and qualify. In case of a vacancy in the office  
 145 | of any supervisor the remaining supervisor or supervisors (even  
 146 | though less than a quorum) may fill such vacancy by appointment  
 147 | of a new supervisor or supervisors for the unexpired term of the  
 148 | supervisor who vacated his or her office.

149 |       (6)~~(5)~~ As soon as practicable after each election, the  
 150 | board shall organize by choosing one of their number as  
 151 | president of the board and by electing a secretary, who need not  
 152 | be a member of the board.

153 |       (7)~~(6)~~ A majority of the members of the board shall  
 154 | constitute a quorum.

155 |       ~~(7) The board shall keep a permanent record book entitled~~  
 156 | ~~"Record of Proceedings of Spring Lake Improvement District," in~~  
 157 | ~~which the minutes of all meetings, resolutions, proceedings,~~  
 158 | ~~certificates, bonds given by all employees, and any and all~~  
 159 | ~~corporate acts, shall be recorded. Such record book shall at~~  
 160 | ~~reasonable times be open to the inspection of any landowner,~~  
 161 | ~~taxpayer, resident, or bondholder of the district, and such~~  
 162 | ~~other persons as the board may determine to have a proper~~  
 163 | ~~interest in the proceedings of the board. Such record book shall~~  
 164 | ~~be kept at any office or other regular place of business~~  
 165 | ~~maintained by the board in Highlands County.~~

166 |       (8) Whenever any election shall be authorized or required  
 167 | by this act to be held by the landowners at any particular or  
 168 | stated time or day, and if for any reason such election is not

169 held at such time or on such day, then in such event the power  
 170 or duty to hold such election shall not cease or lapse, but such  
 171 election shall be held thereafter when practicable, and in  
 172 accordance with the procedures provided by this act.

173 Section 7.9. Compensation of board.—Each supervisor shall  
 174 be entitled to receive for his or her services an amount not to  
 175 exceed \$250 per month, provided such salary is approved by a  
 176 super majority of the board ~~\$100 per month~~. In addition, each  
 177 supervisor shall receive reasonable traveling expenses for  
 178 attending the place of meeting from his or her residence. Unless  
 179 the board by resolution otherwise provides, such traveling  
 180 expenses shall not be in excess of the amounts provided by law  
 181 for state and county officials.

182 Section 8.10. Powers of the district.—The district shall  
 183 have, and the board may exercise, any or all of the following  
 184 powers:

185 (1) The district shall have the following powers:

186 (a) ~~To contract and be contracted with; to sue and be sued~~  
 187 by its in the name in any court of law or in equity, to make  
 188 contracts, and of the district, to adopt and use a corporate  
 189 seal and to alter the same at pleasure.

190 (b) ~~To acquire by purchase, gift, or condemnation devise,~~  
 191 ~~eminent domain, (except as limited herein), or otherwise,~~  
 192 ~~property, real and or personal, property, either or both any~~  
 193 ~~estate therein, within or without the district, and to convey~~  
 194 and dispose be used for any of such real and personal property,  
 195 either or both, as may be necessary or convenient to carry out  
 196 the purposes, or any of the purposes, of this act and chapters

197 189 and 298, Florida Statutes.

198 (c) To finance, fund, construct, operate, and maintain  
 199 canals, ditches, drains, levees, lakes, ponds, and other works  
 200 for water management and control purposes.

201 ~~(2) To adopt a water control plan; and to establish,~~  
 202 ~~construct, operate, and maintain a system of main and lateral~~  
 203 ~~canals, drains, ditches, levees, dikes, dams, sluices, locks,~~  
 204 ~~revetments, reservoirs, holding basins, floodways, pumping~~  
 205 ~~stations, syphons, culverts, and storm sewers to drain and~~  
 206 ~~reclaim the lands within the district and to connect some or any~~  
 207 ~~of them with roads and bridges as in the judgment of the board~~  
 208 ~~is deemed advisable to provide access to such facilities.~~

209 ~~(3) To acquire and maintain appropriate sites for storage~~  
 210 ~~and maintenance of the equipment of the district and to acquire,~~  
 211 ~~maintain, and construct a suitable building to house the office~~  
 212 ~~and records of the district.~~

213 ~~(4) To clean out, straighten, widen, open up, or change~~  
 214 ~~the courses and flow, alter, or deepen any canal, ditch, drain,~~  
 215 ~~river, water course, or natural stream as within the judgment of~~  
 216 ~~the board is deemed advisable to drain and reclaim lands within~~  
 217 ~~the district; to~~

218 (d) To finance, fund, acquire, purchase, operate, and  
 219 maintain pumps, plants, and pumping systems for water management  
 220 and control drainage purposes. ~~and~~

221 (e) To finance, fund, construct, operate, and maintain  
 222 irrigation works, and machinery, and plants in connection with  
 223 ~~the purposes herein set forth.~~

224 ~~(5) To regulate and set forth by appropriate resolution~~

225 ~~the drainage requirements and conditions to be met for plats to~~  
 226 ~~be entitled to record on any land within the district, including~~  
 227 ~~authority to require as a condition precedent for any platting~~  
 228 ~~that good and sufficient bond be posted to ensure proper~~  
 229 ~~drainage for the area to be platted.~~

230 ~~(6) To borrow money and issue bonds, certificates,~~  
 231 ~~warrants, notes, or other evidences of indebtedness of the~~  
 232 ~~district as hereinafter provided.~~

233 ~~(7) To build and construct any other works and~~  
 234 ~~improvements deemed necessary to preserve and maintain the works~~  
 235 ~~in or out of the district; to acquire, construct, operate,~~  
 236 ~~maintain, use, sell convey, transfer, or otherwise provide for~~  
 237 ~~machines and equipment for any purpose authorized by this act or~~  
 238 ~~chapter 298, Florida Statutes; and to contract for the purchase,~~  
 239 ~~construction, operation, maintenance, use, sale, conveyance, and~~  
 240 ~~transfer of said machinery and equipment.~~

241 ~~(8) To construct or enlarge, or cause to be constructed or~~  
 242 ~~enlarged, any and all bridges or culverts that may be needed in~~  
 243 ~~or out of the district, across any drain, ditch, canal,~~  
 244 ~~floodway, holding basin, excavation, public highway, tract,~~  
 245 ~~grade, fill, or cut; to construct roadways over levees and~~  
 246 ~~embankments; to construct any and all of said works and~~  
 247 ~~improvements across, through, or over any public right-of-way,~~  
 248 ~~highway, grade, fill, or cut in or out of the district.~~

249 ~~(9) To hold, control, and acquire by donation, purchase,~~  
 250 ~~or condemnation, any easement, reservation, or dedication in the~~  
 251 ~~district, for any of the purposes herein provided. To condemn as~~  
 252 ~~provided by chapters 73 and 74, Florida Statutes, or acquire, by~~

253 ~~purchase or grant for use in the district, any land or property~~  
 254 ~~within the district necessary for the purposes of this act.~~

255 ~~(10) To access and impose an ad valorem tax, an annual~~  
 256 ~~drainage tax, and a maintenance tax as hereinafter provided.~~

257 ~~(11) To impose and foreclose special assessment liens as~~  
 258 ~~hereinafter provided.~~

259 ~~(12) To prohibit, regulate, and restrict by appropriate~~  
 260 ~~resolution all structures, materials, and things, whether solid,~~  
 261 ~~liquid, or gas, whether permanent or temporary in nature, which~~  
 262 ~~come upon, come into, connect to, or be a part of any facility~~  
 263 ~~owned or operated by the district.~~

264 ~~(13) To administer and provide for the enforcement of all~~  
 265 ~~of the provisions herein, including the making, adopting,~~  
 266 ~~promulgating, amending, and repealing of all rules and~~  
 267 ~~regulations necessary or convenient for the carrying out of the~~  
 268 ~~duties, obligations, and powers conferred on the district~~  
 269 ~~created hereby.~~

270 ~~(14) To cooperate with or contract with other drainage~~  
 271 ~~districts or other governmental agencies as may be necessary,~~  
 272 ~~convenient, incidental, or proper in connection with any of the~~  
 273 ~~powers, duties, or purposes of the district as stated in this~~  
 274 ~~act.~~

275 ~~(15) To employ engineers, attorneys, agents, employees,~~  
 276 ~~and representatives as the board of supervisors may from time to~~  
 277 ~~time determine necessary and to fix their compensation and~~  
 278 ~~duties.~~

279 ~~(16) To exercise all of the powers necessary, convenient,~~  
 280 ~~incidental, or proper in connection with any of the powers,~~

281 ~~duties, or purposes of said district as stated in this act.~~

282       (f)~~(17)~~ To finance, fund, construct, improve, pave, and  
 283 maintain roadways and roads necessary and convenient for the  
 284 exercise of the powers or duties or any of the powers or duties  
 285 of the district or the supervisors thereof; and to include as a  
 286 component of roads, parkways, bridges, landscaping, irrigation,  
 287 bicycle and jogging paths, street lighting, traffic signals,  
 288 road striping, and all other customary elements of a modern road  
 289 system to provide access to and efficient development of areas  
 290 made suitable and available for cultivation, settlement, urban  
 291 subdivision, homesites, and other beneficial developments as a  
 292 result of the drainage operations of the district.

293       ~~(18) To make use of any public easements, dedications to~~  
 294 ~~public use, platted reservations for public purposes, or any~~  
 295 ~~reservations for drainage purposes within the boundaries of the~~  
 296 ~~district.~~

297       ~~(19) To lease as lessor or lessee to or from any person,~~  
 298 ~~firm, corporation, association, or body, public or private, any~~  
 299 ~~projects of the type that the district is authorized to~~  
 300 ~~undertake and facilities or property of any nature for the use~~  
 301 ~~of the district to carry out any of the purposes of this act.~~

302       ~~(20) To regulate the supply and level of water within the~~  
 303 ~~district; to divert waters from one area, lake, pond, river,~~  
 304 ~~stream, basin, or drainage or water flood control facility to~~  
 305 ~~any other area, lake, pond, river, stream, basin, or drainage~~  
 306 ~~and water flood control facility; to regulate control and~~  
 307 ~~restrict the development and use of natural or artificial~~  
 308 ~~streams or bodies of water, lakes, or ponds; and to take all~~

309 ~~measures determined by the board to be necessary or desirable to~~  
 310 ~~prevent or alleviate land erosion. The powers granted to the~~  
 311 ~~district by this subsection shall be concurrent within the~~  
 312 ~~boundaries of the district with other public bodies, agencies,~~  
 313 ~~or authorities as may be authorized by law. The district is~~  
 314 ~~eligible to receive moneys, disbursements, and assistance from~~  
 315 ~~the state available to flood control or water management~~  
 316 ~~districts and the navigation districts or agencies.~~

317 (g)(21) To finance, fund, plan, establish own, acquire,  
 318 construct or, reconstruct, enlarge or extend, equip, operate,  
 319 and maintain, extend, and improve water systems and facilities  
 320 for providing transportation throughout the district, including  
 321 private or contract carriers, buses, vehicles, railroads, and  
 322 other transportation facilities, to meet the transportation  
 323 requirements of the district activities conducted within the  
 324 district sewer systems or combined water and sewer systems; to  
 325 ~~regulate the use of sewers and the supply of water within the~~  
 326 ~~district and to prohibit or regulate the use and maintenance of~~  
 327 ~~outhouses, privies, septic tanks, or other sanitary structures~~  
 328 ~~or appliances within the district; to prescribe methods of~~  
 329 ~~pretreatment of wastes not amenable to treatment with domestic~~  
 330 ~~sewage before accepting such wastes for treatment and to refuse~~  
 331 ~~to accept such wastes when not sufficiently pretreated as may be~~  
 332 ~~prescribed, and to prescribe penalties for the refusal of any~~  
 333 ~~person or corporation to so pretreat such wastes; to sell or~~  
 334 ~~otherwise dispose of the effluent, sludge, or other byproducts~~  
 335 ~~as a result of sewage treatment; and to construct and operate~~  
 336 ~~connecting, intercepting, or outlet sewers and sewer mains and~~



337 ~~pipes and water mains, conduits, or pipelines in, along, or~~  
 338 ~~under any street, alleys, highways, or other public places or~~  
 339 ~~ways within or without the district, when deemed necessary or~~  
 340 ~~desirable by the board. The plans for any water or sewer system~~  
 341 ~~shall be subject to the approval of the State Board of Health.~~

342 (h)(22) To own, finance, fund, plan, establish, acquire,  
 343 construct or reconstruct, enlarge or extend, equip, operate, and  
 344 maintain parking facilities within the district boundaries.

345 (i) To finance, fund, plan, establish, acquire, construct  
 346 or reconstruct, enlarge or extend, equip, operate, and maintain  
 347 additional systems and facilities for parks and facilities for  
 348 indoor and outdoor recreational recreation, cultural, and  
 349 educational uses including buildings and equipment for such  
 350 uses, playgrounds, picnic grounds, camping facilities, and water  
 351 recreation facilities within or without the district.

352 (j) To acquire, construct, finance, fund, operate, and  
 353 maintain water plants and systems to produce, purify, and  
 354 distribute water for consumption.

355 (k) To acquire, construct, finance, fund, operate, and  
 356 maintain sewer systems for the collection, disposal, and reuse  
 357 of waste and to prevent water pollution in the district.

358 (l) To levy non-ad valorem assessments; to prescribe, fix,  
 359 establish, and collect rates, fees, rentals, fares, or other  
 360 charges, and to revise the same from time to time, for the  
 361 facilities and services furnished or to be furnished by the  
 362 district; and to recover the cost of making connection to any  
 363 district facility or system.

364 (m) To provide for the discontinuance of service and

365 reasonable penalties, including attorney's fees, against any  
 366 user or property for any such rates, fees, rentals, fares, or  
 367 other charges that become delinquent and require collection.  
 368 However, no charges or fees shall be established until after a  
 369 public hearing of the board at the district at which all  
 370 affected persons shall be given an opportunity to be heard.

371 (n) To enter into agreements with any person, firm, or  
 372 corporation for the furnishing by such person, firm, or  
 373 corporation of any facilities and services of the type provided  
 374 for in this act.

375 (o) To construct and maintain facilities for and take  
 376 measures to control mosquitoes and other arthropods of public  
 377 health importance.

378 (p) To finance, fund, plan, establish, acquire, construct  
 379 or reconstruct, enlarge or extend, equip, operate, and maintain  
 380 additional systems and facilities for conservation areas,  
 381 mitigation areas, and wildlife habitat, including the  
 382 maintenance of any plant or animal species, and any related  
 383 interest in real or personal property.

384 (q) To borrow money and issue negotiable or other bonds of  
 385 the district as hereinafter provided; to borrow money, from time  
 386 to time, and issue negotiable or other notes of the district  
 387 therefore, bearing interest at an amount not to exceed the  
 388 maximum interest allowable by law, in anticipation of the  
 389 collection of taxes and assessments or revenues of the district;  
 390 and to pledge or hypothecate such taxes, assessments, and  
 391 revenues to secure such bonds, notes, or obligations, and to  
 392 sell, discount, negotiate, and dispose of the same.

393 (r) To provide public safety, including, but not limited  
 394 to, security, guardhouses, fences and gates, electronic  
 395 intrusion detection systems, and patrol cars, when authorized by  
 396 proper governmental agencies; except that the district may not  
 397 exercise any police power, but may contract with the appropriate  
 398 local general-purpose government agencies for an increased level  
 399 of such service within the district boundaries.

400 (s) To provide systems and facilities for fire prevention  
 401 and control and emergency medical services, including the  
 402 construction or purchase of fire stations, water mains and  
 403 plugs, fire trucks, and other vehicles and equipment consistent  
 404 with any adopted Highlands County ordinances, rules, or  
 405 regulations.

406 (t) To finance, fund, plan, establish, acquire, construct  
 407 or reconstruct, enlarge or extend, equip, and maintain  
 408 additional systems and facilities for school buildings and  
 409 related structures pursuant to this act and chapter 1013,  
 410 Florida Statutes, which may be leased, sold, or donated to the  
 411 school district for use in the educational system when  
 412 authorized by the district school board.

413 ~~(23) To issue general obligation bonds, revenue bonds,~~  
 414 ~~assessment bonds, or any other bonds or obligations authorized~~  
 415 ~~by the provisions of this act or any other law, or any~~  
 416 ~~combination of the foregoing, to pay all or part of the cost of~~  
 417 ~~the acquisition, construction, reconstruction, extension,~~  
 418 ~~repair, improvement, maintenance, or operation of any project or~~  
 419 ~~combination of projects, to provide for any facility, service,~~  
 420 ~~or other activity of the district and to provide for the~~

421 ~~retirement or refunding of any bonds or obligations of the~~  
 422 ~~district, or for any combination of the foregoing purposes.~~

423 ~~(24) To build, install, maintain, and operate~~  
 424 ~~streetlights.~~

425 (u)~~(25)~~ To require that all new and existing public and  
 426 private utilities and services used for local distribution  
 427 purposes, excluding primary feeders, be constructed underground;  
 428 to construct, alter, and maintain said underground utilities;  
 429 and, to the extent allowed by law, to regulate and restrict by  
 430 appropriate resolution the location, type, construction, and  
 431 maintenance by others of said underground utilities.

432 (v) To establish and create such departments, committees,  
 433 boards, or other agencies, including a public relations  
 434 committee, as from time to time the board of supervisors may  
 435 deem necessary or desirable in the performance of this act or  
 436 other things necessary to the exercise of the powers provided in  
 437 this act, and to delegate to such departments, boards, or other  
 438 agencies such administrative duties and other powers as the  
 439 board of supervisors may deem necessary or desirable.

440 (w)~~(26)~~ To require every landowner within the district to  
 441 maintain his or her respective property in a neat and attractive  
 442 condition, free of high grass, weeds, underbrush, and refuse; to  
 443 regulate and restrict by appropriate resolution the maintenance  
 444 thereof; to mow and maintain said property on the landowner's  
 445 failure to do so; and to impose, assess, collect, and place a  
 446 lien upon such property for the cost and expense of mowing and  
 447 maintenance by the district.

448 (x) To exercise all other powers necessary, convenient, or

449 proper in connection with any of the powers or duties of the  
 450 district stated in this act. The powers and duties of the  
 451 district shall be exercised by and through the board of  
 452 supervisors thereof, which board shall have the authority to  
 453 employ engineers, attorneys, agents, employees, and  
 454 representatives as the board of supervisors may, from time to  
 455 time, determine, and to fix their compensation and duties.  
 456 However, in addition thereto, the district shall have all of the  
 457 powers provided for in chapter 298, Florida Statutes. All powers  
 458 and authority of the district shall extend and apply to the  
 459 district as a whole and to each unit of development as, from  
 460 time to time, may be designated by the board of supervisors.

461 ~~(27) To exercise any and all other powers conferred upon~~  
 462 ~~drainage districts by chapter 298, Florida Statutes.~~

463 Section 10. Taxes; non-ad valorem assessments.-

464 (1) NON-AD VALOREM ASSESSMENTS.-Non-ad valorem assessments  
 465 for the construction, operation, or maintenance of district  
 466 facilities, services, and operations shall be assessed, levied,  
 467 and collected pursuant to chapter 298, chapter 170, or chapter  
 468 197, Florida Statutes.

469 ~~(2) Section 19. TAXES, ASSESSMENTS, AND COSTS; A LIEN ON~~  
 470 ~~LAND AGAINST WHICH ASSESSED, ETC.-Tax liens.-All taxes and~~  
 471 ~~assessments of the district provided for in this act or chapter~~  
 472 ~~298, Florida Statutes, together with all penalties for default~~  
 473 ~~in the payment of the same, and all costs in collecting the same~~  
 474 ~~including reasonable attorney's fees fixed by the court and~~  
 475 ~~taxed as cost in the action brought to enforce payment, shall,~~  
 476 ~~from the date of January 1 for each year the property is liable~~

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477 ~~to~~ assessment thereof ~~and~~ until paid, constitute a lien of equal  
 478 dignity with the liens for ~~state and county taxes,~~ and other  
 479 taxes of equal dignity with ~~state and county taxes,~~ upon all the  
 480 lands against which such taxes shall be levied as is provided in  
 481 this act. ~~A sale of any of the real property within the district~~  
 482 ~~for state and county or other taxes shall not operate to relieve~~  
 483 ~~or release the property so sold from the lien for subsequent~~  
 484 ~~district taxes or installments of district taxes which lien may~~  
 485 ~~be enforced against such property as though no such sale thereof~~  
 486 ~~had been made. The provisions of section 194.171, Florida~~  
 487 ~~Statutes, and amendments thereto shall be applicable to district~~  
 488 ~~taxes with the same force and effect as if said provisions were~~  
 489 ~~expressly set forth in this act.~~

490 (3) COMPENSATION OF PROPERTY APPRAISER, TAX COLLECTOR, AND  
 491 CLERK OF THE CIRCUIT COURT.—The Property Appraiser, Tax  
 492 Collector, and Clerk of the Circuit Court of Highlands County  
 493 shall be entitled to compensation for services performed in  
 494 connection with taxes and assessments of the district as  
 495 provided by general law.

496 (4) LEVIES OF NON-AD VALOREM ASSESSMENTS ON LAND LESS THAN  
 497 1 ACRE.—In levying and assessing all assessments, each tract or  
 498 parcel of land less than 1 acre in area shall be assessed as a  
 499 full acre, and each tract or parcel of land more than 1 acre in  
 500 area which contains a fraction of an acre shall be assessed at  
 501 the nearest whole number of acres, a fraction of one-half or  
 502 more to be assessed as a full acre.

503 Section 11. When unpaid taxes and assessments delinquent;  
 504 penalty.—All taxes and assessments provided for in this act

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505 shall be and become delinquent and bear penalties on the amount  
 506 of the taxes in the same manner as county taxes.

507 Section 12. Enforcement of taxes and assessments.—The  
 508 collection and enforcement of all taxes and assessments levied  
 509 by the district shall be at the same time and in like manner as  
 510 county taxes, and the provisions of the Florida Statutes  
 511 relating to the sale of lands for unpaid and delinquent county  
 512 taxes, the issuance, sale, and delivery of tax certificates for  
 513 such unpaid and delinquent county taxes, the redemption thereof,  
 514 the issuance to individuals of tax deeds based thereon, and all  
 515 other procedures in connection therewith shall be applicable to  
 516 the district and the delinquent and unpaid taxes of the district  
 517 to the same extent as if the statutory provisions were expressly  
 518 set forth in this act. All taxes and assessments shall be  
 519 subject to the same discounts as county taxes.

520 Section 13.20. Issuance of revenue bonds, assessment  
 521 bonds, and bond anticipation notes.—

522 (1) In addition to the other powers provided the district,  
 523 ~~for in this act~~ and not in limitation thereof, the district  
 524 shall have the power, pursuant to this act, chapter 298, Florida  
 525 Statutes, and applicable general law, at any time, and from time  
 526 to time after the issuance of any bonds of the district shall  
 527 have been authorized, to borrow money for the purposes for which  
 528 such bonds are to be issued in anticipation of the receipt of  
 529 the proceeds of the sale of such bonds and to issue bond  
 530 anticipation notes in a principal sum not in excess of the  
 531 authorized maximum amount of such bond issue. ~~Such notes shall~~  
 532 ~~be in such denomination or denominations, bear interest at such~~

533 ~~rate as the board may determine not to exceed 10 percent per~~  
 534 ~~annum, mature at such time or times not later than 5 years from~~  
 535 ~~the date of issuance, and be in such form and executed in such~~  
 536 ~~manner as the board shall prescribe. Such notes may be sold at~~  
 537 ~~either public or private sale or, if such notes shall be renewal~~  
 538 ~~notes, may be exchanged for notes then outstanding on such terms~~  
 539 ~~as the board shall determine. Such notes shall be paid from the~~  
 540 ~~proceeds of such bonds when issued. The board may in its~~  
 541 ~~discretion, in lieu of retiring the notes by means of bonds,~~  
 542 ~~retire them by means of current revenues or from any taxes or~~  
 543 ~~assessments levied for the payment of such bonds, but in such~~  
 544 ~~event a like amount of the bonds authorized shall not be issued.~~

545 (2) Pursuant to chapter 298, Florida Statutes, this act,  
 546 and applicable general law, the district shall have the power to  
 547 issue assessment bonds and revenue bonds from time to time,  
 548 without limitation as to amount, for the purpose of financing  
 549 those systems and facilities provided for in section 8. Such  
 550 revenue bonds may be secured by, or payable from, the gross or  
 551 net pledge of the revenues to be derived from any project or  
 552 combination of projects; from the rates, fees, or other charges  
 553 to be collected from the users of any project or projects; from  
 554 any revenue-producing undertaking or activity of the district;  
 555 from non-ad valorem assessments; or from any other source or  
 556 pledged security. Such bonds shall not constitute an  
 557 indebtedness of the district, and the approval of the qualified  
 558 electors shall not be required unless such bonds are  
 559 additionally secured by the full faith and credit and taxing  
 560 power of the district.



561           (3) ~~Section 22. Issuance of bonds. In the discretion of~~  
 562 ~~the board,~~ Any issue of bonds may be secured by a trust  
 563 agreement by and between the district and a corporate trustee or  
 564 trustees, which may be any trust company or bank having the  
 565 powers of a trust company within or without the state. The  
 566 resolution authorizing the issuance of the bonds or such trust  
 567 agreement may pledge the revenues to be received from any  
 568 projects of the district and may contain such provisions for  
 569 protecting and enforcing the rights and remedies of the  
 570 bondholders as the board may approve, including, without  
 571 limitation, covenants, setting forth the duties of the district  
 572 in relation to the acquisition, construction, reconstruction,  
 573 stewardship, ~~reconstructions, improvements,~~ maintenance, repair,  
 574 operation, and insurance of any projects; the fixing and  
 575 revising of the rates, fees, and charges; and the custody,  
 576 safeguarding, and application of all moneys, and for the  
 577 employment of consulting ~~counseling~~ engineers in connection with  
 578 such acquisition, construction, reconstruction, stewardship  
 579 ~~improvement,~~ maintenance, repair, or operation. ~~It shall be~~  
 580 ~~lawful for any bank or trust company incorporated under the laws~~  
 581 ~~of the state which may act as a depository of the proceeds of~~  
 582 ~~bonds or of revenues to furnish such indemnifying bonds or to~~  
 583 ~~pledge such securities as may be required by the district. Such~~  
 584 ~~resolution or trust agreement may set forth the rights and~~  
 585 ~~remedies of the bondholders and of the trustee, if any, and may~~  
 586 ~~restrict the individual right of action by bondholders. The~~  
 587 ~~board may provide for the payment of the proceeds of the sale of~~  
 588 ~~the bonds and the revenues of any project to such officer,~~

589 ~~board, or depository as it may designate for the custody~~  
 590 ~~thereof, and for the method of disbursement thereof with such~~  
 591 ~~safeguards and restrictions as it may determine. All expenses~~  
 592 ~~incurred in carrying out the provisions of such resolution or~~  
 593 ~~trust agreement may be treated as party of the cost of operation~~  
 594 ~~of the project to which such trust agreement pertains.~~

595 (4) Bonds of each issue shall be dated; shall bear  
 596 interest at such rate or rates, including variable rates, which  
 597 interest may be tax exempt or taxable for federal income tax  
 598 purposes; shall mature at such time or times from their date or  
 599 dates; and may be made redeemable before maturity at such price  
 600 or prices and under such terms and conditions as may be  
 601 determined by the board.

602 (5) The district shall have the power to issue bonds for  
 603 the purpose of refunding any outstanding bonds of the district.

604 ~~Section 16.48. Bids required.—No contract shall be let by~~  
 605 ~~the board for the construction or maintenance of any project~~  
 606 ~~authorized by this act, nor shall any goods, supplies, or~~  
 607 ~~materials be purchased except in compliance with the competitive~~  
 608 ~~bid or negotiations provisions of sections 255.20 and 287.055,~~  
 609 ~~Florida Statutes, chapter 298, Florida Statutes, other~~  
 610 ~~applicable general law, and the policies of the district board~~  
 611 ~~of supervisors when the amount thereof to be paid by said~~  
 612 ~~district shall exceed the amount provided in section 287.017,~~  
 613 ~~Florida Statutes, for category two, unless notice of bids shall~~  
 614 ~~be advertised once a week for 2 consecutive weeks in a newspaper~~  
 615 ~~published in Highlands County and in general circulation within~~  
 616 ~~the district, and in each case the bid of the lowest responsible~~

617 ~~bidder shall be accepted, unless all bids are rejected because~~  
 618 ~~the bids are too high. The board may require the bidders to~~  
 619 ~~furnish bond with responsible surety to be approved by the~~  
 620 ~~board.~~ Nothing in this section shall prevent the board from  
 621 undertaking and performing the construction, operation, and  
 622 maintenance of any project or facility authorized by this act by  
 623 the employment of labor, material, and machinery.

624 Section 2. Sections 7, 8, 12, 13, 14, 15, 16, 17, 18, 21,  
 625 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38,  
 626 39, 40, 41, 43, 44, 45, 46, 50, and 51 of section 3 of chapter  
 627 2005-342, Laws of Florida, are repealed.

628 Section 3. Referendum.-In conjunction with the general  
 629 election of November 2010, the Supervisor of Elections of  
 630 Highlands County shall conduct a referendum on the question of  
 631 granting the Spring Lake Improvement District certain additional  
 632 powers. The referendum question shall be posed as follows:

633  
 634 Shall the Spring Lake Improvement District be authorized to  
 635 provide public safety and security services, fire rescue  
 636 services with the approval of the county, and mosquito control  
 637 services; to construct and maintain district transportation  
 638 facilities and educational facilities with the approval of the  
 639 county school board; to establish district departments,  
 640 committees and boards; and to compensate its supervisors up to  
 641 \$250 per month with supermajority approval of the board?

642  
 643 \_\_\_\_\_ Yes  
 644 \_\_\_\_\_ No

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645           Section 4.   This act shall take effect only upon its  
646 approval by a majority vote of those qualified electors of the  
647 district voting in a referendum conducted in accordance with the  
648 provisions of law relating to elections currently in force,  
649 except that this section and section 3 shall take effect upon  
650 this act becoming a law.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1509 Economic Development
SPONSOR(S): Economic Development Policy Committee, Weatherford and others
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR. Row 1: Economic Development Policy Committee, 11 Y, 0 N, As CS, Kruse, Kruse. Row 2: Finance & Tax Council, Wilson, Langston.

SUMMARY ANALYSIS

This bill enhances various economic development incentives, tax credits, grants, and exemptions.

The bill amends s. 196.1995, F.S, authorizing counties and municipalities to extend economic development ad valorem tax exemptions.

The bill also revises the Capital Investment Tax Credit, found in s. 220.191, F.S., by lowering the job creation and investment requirements for a "qualified project", and redefining a "qualifying business" to include a qualified target industry as defined in s. 288.106, F.S.

The bill amends various provisions of ch. 288, F.S., by:

- Providing that Rural Regional Development Matching Grants can be used by economic development organizations for technical assistance to businesses in the rural counties and communities;
• Revising the Qualified Target Industry Tax Refund Program; allowing for additional credits for businesses in the High-Impact Business sectors, and providing an additional wage requirement waver for manufacturing projects;
• Redefining "eligible high-impact business" by lowering both job creation and investment threshold requirements;
• Revising the guidelines for High-Impact Sector Performance Grant award amounts;
• Providing a process for legislative consultation and review of Quick Action Closing (QAC) fund projects;
• Providing the Office of Tourism, Trade, and Economic Development (OTTED) the authority to renegotiate contracts with businesses, which have received QAC funds, that wish to revise their agreements due to negative market conditions;
• Providing that QAC funds will be placed in reserve and carried over into the next fiscal year instead of reverting back to General Revenue at the end of fiscal year for which it was appropriated,
• Authorizing, subject to appropriation, the Institute for the Commercialization of Public Research to make seed fund grants to business, who must raise matching funds for such grants.

This bill also amends ch. 2009-96, L.O.F., providing that various permit holders an additional one year extension, as long as the affected permit holders comply with the specified requirements.

The 2010 Revenue Estimating Conference has not reviewed the provisions of the bill.

This bill will become effective upon becoming a law.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

#### **Section 1. Economic Development Ad Valorem Tax Exemption**

##### **Present Situation**

Section 3(c), Art. VII of the State Constitution authorizes any county or municipality, for the purpose of its respective tax levy and subject to the provisions of the subsection and general law, to grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting by referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

Section 196.1995, F.S., provides that such economic development ad valorem tax exemptions expire 10 years after the date such authority was approved in an election, but provides that such authority may be renewed for another 10-year period in a referendum. Some local governments have requested clarification of whether more than one 10-year renewal can be approved by referendum.

##### **Effect of Proposed Changes**

The bill revises s. 196.1995(7), F.S., clarifying that the authority to renew economic development ad valorem tax extensions may be renewed for subsequent 10-year periods provided that each ten year renewal is approved in a referendum.

## **Section 2. Capital Investment Tax Credit**

### **Present Situation**

The Capital Investment Tax Credit is used to attract and grow capital-intensive industries in Florida. It is an annual credit, provided for up to twenty years, against corporate income or premium tax liabilities generated by or arising out of the qualifying project. Eligible projects are those in designated high-impact portions of the following sectors: clean energy, biomedical technology, financial services, information technology, silicon technology, transportation equipment manufacturing, or be a corporate headquarters facility. The sum of all tax credits provided may not exceed 100 percent of the eligible capital costs of the project. Projects must also create a minimum of 100 jobs and invest at least \$25 million in eligible capital costs. Eligible capital costs include all expenses incurred in the acquisition, construction, installation, and equipping of a project from the beginning of construction to the commencement of operations. The level of investment and the project's Florida corporate income tax liability for the 20 years following commencement of operations determines the amount of the annual credit.<sup>1</sup>

The annual tax credit may not exceed the following percentages of the annual corporate income tax liability or the premium tax liability generated by or arising out of a qualifying project:

- One hundred percent for a qualifying project which results in a cumulative capital investment of at least \$100 million.
- Seventy-five percent for a qualifying project which results in a cumulative capital investment of at least \$50 million but less than \$100 million.
- Fifty percent for a qualifying project which results in a cumulative capital investment of at least \$25 million but less than \$50 million.

### **Effect of Proposed Changes**

The bill changes the definition of a "qualifying business" to require a business to be designated a qualified target industry business under s. 288.106(1)(q), F.S., instead of a business in one of the High-Impact Business sectors identified by Enterprise Florida, Inc.(EFI). The bill changes the definition of a "qualifying project" by:

- Lowering the job creation requirement from 100 to 50;
- Establishing the wage as the average annual wage of at least 130 percent of the average private sector wage in the area; and
- Requiring a cumulative capital investment of at least \$25 million in the state.

The bill also removes a new or expanded facility, which was a qualified target industry business, which created or retained at least 1,000 jobs, provided that at least 100 of those jobs were new, paid an annual average wage of at least 130 percent of the average private sector wage in the area, and made a cumulative investment of at least \$100 million, as a qualifying project. Further, the bill removes a provision in the qualifying project section that was not utilized. The bill also allows a prorated tax credit to be awarded if the business has met the capital investment and wage requirements but has not met the employment requirements because of market conditions.

The changes made by the bill reflect that most job creation and business investments of today and the future likely are of smaller size, but not necessarily smaller in impact to a community.

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<sup>1</sup> Section 220.191, F.S. See also Enterprise Florida, Inc., <http://eflorida.com/ContentSubpage.aspx?id=472> (visited 3/14/10)



### **Section 3. Regional Rural Development Grants**

#### **Present Situation**

A “rural community” is a county with a population of 75,000 or less; a county with a population of 125,000 or less that is contiguous to a county with a population of 75,000 or less; a municipality within a county with a population of 75,000 or less, or a municipality within a county with a population of 125,000 or less that is contiguous to a county with a population of 75,000 or less; or a federal enterprise community or an incorporated rural city with a population of 25,000 or less and an employment base focused on traditional agricultural or resource-based industries, located in a county not defined as rural, which has at least three or more of the economic distress factors identified by statute and verified by the Office of Trade, Tourism, and Economic Development (OTTED).<sup>2</sup>

Based on the most recent population estimates, thirty-two Florida counties are presently categorized as “rural” pursuant to the statutory definition outlined above. Most of these rural counties have been categorized into one of three Rural Areas of Critical Economic Concern (North Central, Northwest, and South Central). The Rural Areas of Critical Economic Concern (RACECs) are defined by OTTED based on measures of economic interdependence among the rural counties in each of the three geographic regions.

Section 288.018, F.S., established the Regional Rural Development Grants Program. OTTED must establish a matching grants program to provide funding to regionally based economic development organizations representing rural counties and communities for the purpose of building the professional capacity of their organizations. OTTED is authorized to approve, on an annual basis, grants to such regionally based economic development organizations. The maximum amount an organization may receive in any year is \$35,000, or \$100,000 in a rural area of critical economic concern recommended by the Rural Economic Development Initiative and designated by the Governor, and must be matched each year by an equivalent amount of nonstate resources.

In approving the participants, OTTED must consider the demonstrated need of the applicant for assistance and require the following:

- Documentation of official commitments of support from each of the units of local government represented by the regional organization.
- Demonstration that each unit of local government has made a financial or in-kind commitment to the regional organization.
- Demonstration that the private sector has made financial or in-kind commitments to the regional organization.
- Demonstration that the organization is in existence and actively involved in economic development activities serving the region.
- Demonstration of the manner in which the organization is or will coordinate its efforts with those of other local and state organizations.

#### **Effect of Proposed Changes**

The bill provides that Regional Rural Development Grants may also be used by economic development organizations to provide technical assistance to businesses within the rural counties and communities. This provision will provide additional options for rural communities to attract new business and expand current infrastructure.

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<sup>2</sup> s. 288.0656, F.S.

## **Section 4. Qualified Target Industry Tax Refund Program**

### **Present Situation**

The Qualified Target Industry Tax Refund Program (QTI) was created by the Florida Legislature in 1994 to attract businesses that offer high-wage jobs, particularly headquarters, to relocate in Florida. This incentive includes refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes. Businesses that locate or expand in Florida are eligible for tax refunds of \$3,000 per new job created. The tax refund increases to \$6,000 per job for businesses that locate in an enterprise zone or rural county. In addition, a business is eligible for a \$1,000 per job bonus if it pays over 150 percent of the average wage in the area, and a \$2,000 per job bonus if it exceeds 200 percent of the average wage. To qualify, the business must secure the local government's support. A local government is required to provide at least 20 percent of the amount of the state's award.

During the 2009 Legislative Session, changes were made to the QTI program to streamline the application process and provide relief for businesses struggling in a difficult economic climate. Applications must now be reviewed and certified pursuant to the standard timeline outlined in s. 288.061, F.S. Wage requirements for QTI expansion projects are now based solely on new jobs being created, rather than an average of all jobs, current and new.

### **Key definitions**

A "target industry business" is defined as either a corporate headquarters or any business that is engaged in one of the target industries identified by OTTED and EFI as meeting the statutory criteria in s. 288.106(1)(o), F.S. Those criteria are:

- Industry forecasts should indicate strong expectation for future growth in both employment and output, according to the most recent available data.
- The industry should have stability, not be subject to periodic layoffs, whether due to seasonality or sensitivity to volatile economic variables such as weather, and relatively resistant to recession, so that the demand for its products or services is not necessarily subject to decline during an economic downturn.
- The industry should pay relatively high wages compared to statewide or area salary averages.
- The industry should be both market and resource independent. In other words, the business should not be reliant on Florida consumers to purchase its products or services in order to be profitable, nor should it rely on Florida resources – which is undefined but presumably could mean natural resources such as water, solar energy, organic compounds, or ores.
- The industry should contribute toward diversifying, strengthening, or expanding the state's or area's economic base, as indicated by analysis of employment and output shares compared to national and regional trends. Special consideration should be given to industries that strengthen regional economies by adding value to basic products or building regional industrial clusters as indicated by industry analysis.
- The industry should have strong positive impacts on or benefits to the state and regional economies.

Within the definition of "target industry business," the statute provides that "special consideration should be given to Florida's growing access to international markets or to replacing imports," and to the "development of strong industrial clusters that include defense and homeland security businesses."

Specifically excluded as "target" industries are: any business engaged in retail activities; any electrical utility company; any phosphate or other solid-minerals severance, mining, or processing operation; any oil or gas exploration or production operation; or any business subject to regulation by the state Division of Hotels and Restaurants. Implicitly excluded is agriculture.

The "targeted industry list" actually is a list of seven industrial categories, with several business types listed under each. It is published in EFI's annual Incentives Report and is attached to OTTED's annual

legislative budget request. Originally, the list of target industries was approved by the Legislature, but since 1996 the list has been developed by OTTED, in consultation with EFI.

The seven categories are manufacturing facilities; finance and insurance services; wholesale trade; information industries; professional, scientific, and technical services; management services; and administrative and support services. For 2009, there are 36 individual types of businesses under the umbrella of the seven industrial categories, ranging from pharmaceutical manufacturing, to film production, to customer support centers.

Another key definition is “average private sector wage in the area,” which can mean one of the following, the statewide average annual private-sector wage, the average annual private-sector wage in the county, or standard metropolitan area (MSA) where the business is locating or expanding. Part of the negotiation process between EFI and the applicant business will define which one of these three is used as the basis for computing an applicant business’ average annual wage requirement. Depending on the business’ prospective location, there could be a wide variance in the average private-sector salaries paid in these three geographic areas.

Other eligibility criteria:

- Meeting the definition of “targeted industry business” is just the first step for a business interested in applying for a QTI incentive. The business also must:
- Agree to create at least 10 new jobs or, if a Florida business planning to expand its operations, agree to create a net increase in employment of at least 10 percent. OTTED may grant a waiver to the minimum 10-percent increase in new jobs by an existing business within an enterprise zone or a rural county.
- Agree to pay each new employee an annual salary that is at least 115 percent of the average private sector wage in the area. OTTED may waive the wage requirement for businesses that locate in a rural county or city, in an enterprise zone, or in a brownfield area, if requested and justified in writing by the local governmental entity and EFI.
- Receive a commitment of a 20-percent match (cash or in-kind) from the local government where the business proposes to locate or expand. The form of the commitment must be a resolution passed by the county commission. The local match can include the amount of ad valorem tax abatement or the appraised market value of publicly owned land or structures deeded to or leased by the QTI business. If a local government provides less than its 20-percent match, OTTED reduces the state award by the same amount.

No business may receive more than \$1.5 million in QTI refunds in a single fiscal year, or more than \$5 million total over the term of its agreement with OTTED. The exception is for QTI businesses located in an enterprise zone, where the 1-year cap is \$2 million and the overall cap is \$7.5 million. Also, no business may receive more than 25 percent of the total award in a single fiscal year – consequently, QTI contracts between OTTED and a business typically are for a term of 4 years.

Taxes eligible for refund under the QTI program are:

- Corporate income taxes under ch. 220, F.S.;
- Insurance premium tax under s. 624.509, F.S.;
- Taxes on the sales, use, and other transactions under ch. 212, F.S.;
- Intangible personal property taxes under ch. 199, F.S.;
- Emergency excise taxes under ch. 221, F.S.;
- Excise taxes on documents under ch. 201, F.S.;
- Ad valorem taxes paid, as defined in s. 220.03(1), F.S.; and
- Certain state communications services taxes administered under ch. 202, F.S.

In s. 288.095(3) (a), F.S., the amount of annual state funding for the QTI and Qualified Defense Contract and Space Business (commonly referred to as QDSC) tax refunds is capped at \$35 million. Historically, the majority of the funds are paid out as QTI tax refunds because QTI is the more popular of the two incentive programs. In FY 2009-2010, the Legislature appropriated a lump sum of \$21,637,000 collectively for the QTI, QDSC, and the High Impact Business Incentive Programs.

## **Effect of Proposed Changes**

The bill revises that the QTI program will allow businesses categorized as High-Impact Businesses to receive an additional bonus of \$2,000 multiplied by the number of jobs specified in the tax refund agreement with such businesses.

The bill also allows OTTED to waive QTI wage requirements for a manufacturing project located anywhere in the state so long as the jobs proposed pay an estimated annual average wage equaling at least 100 percent of the average private sector wage in the area where the business is to be located.

## **Section 5. High Impact Business**

### **Present Situation**

The High Impact Performance Incentive (HIPI) was created in 1997 and is designed to attract "high impact" sectors of the economy to Florida such as life sciences, financial services, and manufacturing industries such as transportation equipment, aviation and aerospace, automotive, and semiconductors. Section 288.108, F.S., defines "Eligible high-impact business" to mean a business in one of the high-impact sectors identified by EFI, and certified by the OTTED, which is making a cumulative investment in the state of at least \$100 million and creating at least 100 new full-time equivalent jobs in the state or a research and development facility making a cumulative investment of at least \$75 million and creating at least 75 new full-time equivalent jobs. Such investment and employment must be achieved in a period not to exceed 3 years after the date the business is certified as a qualified high-impact business.

### **Effect of Proposed Changes**

Additionally, the bill lowers the job creation and investment requirements for HIPI. The number of jobs required to be created is lowered from 100 new full-time equivalent jobs to 50, and the cumulative investment requirement is lowered from \$100 million to \$50 million. Further, for a research and development facility, the cumulative investment requirement is lowered from \$75 million to \$25 million.

## **Section 6. Quick Action Closing Fund**

### **Present Situation**

Section 288.1088, F.S., provides the requirements that OTTED and EFI must follow in order to approve a Quick Action Closing Fund project for funding:

- The company must be in an industry eligible for the Qualified Target Industry Tax Rebate program as referenced in s. 288.106, F.S. By law, the list of eligible industries is established by OTTED and EFI, and is updated annually.
- The project must have a positive payback ratio of at least 5 to 1. The project's economic impact must be at least 5 times that of the cost of the incentive. EFI uses an economic model that in effect calculates this number based on location, jobs, capital investment, etc. There is no minimum capital investment or minimum number of jobs, but these amounts would affect this ratio.
- The incentive must be deemed an inducement to the company's decision to locate, retain jobs, or expand in the state.
- The project must pay an average annual wage of at least 125 percent of the area-wide or statewide private sector average wage. This is the average wage of all jobs being incentivized or guaranteed to be added to or kept in the state by the company.
- The project must be supported by the local community in which the project is to be located. This is usually demonstrated through a resolution of either the county or city commission which may include local financial or in-kind support.

There are no restrictions as to what, if any, other incentive programs can be combined with the Quick Action Closing fund.

EFI reviews applications pursuant to s. 288.061, F.S., and determined eligibility of each project. Upon receipt of an application, EFI evaluates individual proposals for high-impact business facilities and forwards its recommendation regarding the use of moneys in the fund for such facilities to the director of OTTED. Within 22 calendar days after receiving the evaluation and recommendation from EFI, the director must recommend to the Governor approval or disapproval of a project for receipt of funds from the Quick Action Closing Fund. In recommending a project, the director must include proposed performance conditions that the project must meet to obtain incentive funds. The Governor must provide the evaluation of projects recommended for approval to the President of the Senate and the Speaker of the House of Representatives and consult with the President of the Senate and the Speaker of the House of Representatives before giving final approval for a project. The Executive Office of the Governor must recommend approval of a project and the release of funds pursuant to the legislative consultation and review requirements set forth in s. 216.177, F.S. The recommendation must include proposed performance conditions that the project must meet in order to obtain funds. Unused funds at the end of a fiscal year revert back to General Revenue.

After the 2004 and 2005 hurricane seasons, the Florida Legislature approved an Economic-Stimulus Exemption for QTI that allowed for projects contracted for awards the ability to be forgiven for one year if the business was unable to meet the performance requirements in the contract. This was necessary to ensure businesses were not penalized for the impacts of wide spread economic conditions beyond their control, and ensure that the business had an incentive to continue to grow in Florida after the downturn had passed.

OTTED has the ability to approve applications for an Economic Stimulus Exemption for tax refund claims submitted after January 1, 2009, but before July 1, 2011 to ensure that businesses are not penalized for the impacts of wide spread economic conditions beyond their control, and ensure that they have an incentive to continue to grow in Florida after the downturn has passed. A business must still meet job creation requirements in the future before receiving tax refunds. Under current law, OTTED may provide an economic development exemption for participants in the qualified target industry refund program, but only for that program and only through the time allowed in law.

### **Effect of Proposed Changes**

The bill revises the process for approval of Quick Action Closing Fund (QAC) projects by providing a procedure for the President of the Senate and the Speaker of the House of Representatives to notify the Governor that an action or proposed action exceeds delegated authority. Upon notification, the Governor must void the release of funds and to instruct OTTED to seek Legislative Budget Commission (LBC) approval. The bill also removes the requirement that the LBC release funds under certain circumstances. The bill also provides that QAC funds will be placed in reserve and carried over into the next fiscal year instead of reverting back to General Revenue at the end of fiscal year for which it was appropriated.

### **Section 7. Institute for the Commercialization of Public Research**

The purpose of the Institute for the Commercialization of Public Research (Institute) is to assist in the commercialization of products developed by the research and development activities of publicly supported universities and colleges, research institutes, and other publicly supported organizations within the state. The Institute must support existing commercialization efforts at Florida universities. It may not supplant, replace, or direct existing technology transfer operations or other commercialization programs, including incubators and accelerators.

To be eligible for assistance, the company or organization attempting to commercialize its product must be accepted by the institute before receiving the institute's assistance. The Institute shall receive recommendations from any publicly supported organization for any company that is

commercializing the research, technology, or patents from a qualifying publicly supported organization. The Institute reviews the business plans and technology information of each such recommended company, before making its decision whether to accept it.

For each company that is accepted, the Institute shall provide mentoring, develop marketing information, and use its resources to attract capital investment into the company. The Institute's other duties are to:

- Maintain a centralized location to showcase companies and their technologies and products;
- Develop an efficient process to inventory and publicize companies and products that have been accepted by the institute for commercialization;
- Routinely communicate with private investors and venture capital organizations regarding the investment opportunities in its showcased companies;
- Facilitate meetings between prospective investors and eligible organizations in the institute;
- Hire full-time staff who understand relevant technologies needed to market companies to the angel investors and venture capital investment community;
- Operate within an allocated annual budget of \$1 million or less; and
- Develop cooperative relationships with publicly supported organizations all of which work together to provide resources or special knowledge that is likely to be helpful to institute companies.

The Institute is prohibited from developing or accruing any ownership, royalty, or other such rights over, or interest in, companies or products in the Institute and shall maintain the secrecy of proprietary information. It also may not charge for services rendered to state universities and affiliated organizations, community colleges, or state agencies.

The Institute's board must submit a report each December 1 to the Governor, the President of the Senate, the Speaker of the House of Representatives, EFI, and the president of the university under whose aegis the Institute is placed.

### **Effect of Proposed Changes**

Subject to appropriation, the bill provides authority to the Institute to contract with a business to provide the business with seed capital if the business' technologies, products or services are developed with publicly funded research. The amount of such contract may not exceed \$250,000 and must be supported by at least an equal monetary matching contribution from private sources. The Institute must include these results in its annual report to the Governor, the President of the Senate, and the Speaker of the House.

### **Section 8. Permit Extensions.**

#### **Present Situation**

Section 14. of ch. 2009-96, L.O.F., provided extensions of permits for two years under certain conditions. Section 14 provided that:

"(1) Except as provided in subsection (4), and in recognition of 2009 real estate market conditions, any permit issued by the Department of Environmental Protection or a water management district pursuant to part IV of chapter 373, Florida Statutes, that has an expiration date of September 1, 2008, through January 1, 2012, is extended and renewed for a period of 2 years following its date of expiration. This extension includes any local government-issued development order or building permit. The 2-year extension also applies to build out dates including any build out date extension previously granted under s. 380.06(19)(c), Florida Statutes. This section shall not be construed to prohibit conversion from the construction phase to the operation phase upon completion of construction.

(2) The commencement and completion dates for any required mitigation associated with a phased construction project shall be extended such that mitigation takes place in the same timeframe relative to the phase as originally permitted.

(3) The holder of a valid permit or other authorization that is eligible for the 2-year extension shall notify the authorizing agency in writing no later than December 31, 2009, identifying the specific authorization for which the holder intends to use the extension and the anticipated timeframe for acting on the authorization.

(4) The extension provided for in subsection (1) does not apply to:

(a) A permit or other authorization under any programmatic or regional general permit issued by the Army Corps of Engineers.

(b) A permit or other authorization held by an owner or operator determined to be in significant noncompliance with the conditions of the permit or authorization as established through the issuance of a warning letter or notice of violation, the initiation of formal enforcement, or other equivalent action by the authorizing agency.

(c) A permit or other authorization, if granted an extension, that would delay or prevent compliance with a court order.

(5) Permits extended under this section shall continue to be governed by rules in effect at the time the permit was issued, except when it can be demonstrated that the rules in effect at the time the permit was issued would create an immediate threat to public safety or health. This provision shall apply to any modification of the plans, terms, and conditions of the permit that lessens the environmental impact, except that any such modification shall not extend the time limit beyond 2 additional years.

(6) Nothing in this section shall impair the authority of a county or municipality to require the owner of a property, that has notified the county or municipality of the owner's intention to receive the extension of time granted by this section, to maintain and secure the property in a safe and sanitary condition in compliance with applicable laws and ordinances."<sup>3</sup>

### **Effect of Proposed Changes**

The bill provides that permit extensions granted in Section 14 of ch. 2009-96, L.O.F., are extended an additional one year, as long as the affected permit holders comply with the specified requirements.

### **Section 9. Effective Date**

Provides this act shall take effect upon becoming a law.

### **B. SECTION DIRECTORY:**

**Section 1:** Amends s. 196.1995, F.S., clarifying the requirements for extending economic development ad valorem tax exemptions.

**Section 2:** Amends s. 220.191, F.S., revising the Capital Investment Tax Credit.

**Section 3:** Amends s. 288.018, F.S., revising the Regional Rural Development Matching Grants Program.

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<sup>3</sup> Ch. 2009-96, L.O.F.

- Section 4:** Amends s. 288.106, F.S., revising the Tax Refund Program for Qualified Target Industry Businesses.
- Section 5:** Amends s. 288.108, F.S., revising the High-Impact Business or HIPI incentive.
- Section 6:** Amends s. 288.1088, F.S., revising the Quick Action Closing Fund.
- Section 7:** Amends s. 288.9625, F.S., relating to the Institute for Commercialization of Public Research.
- Section 8:** Extends for one year permit extensions authorized under ch. 2009-96, L.O.F.
- Section 9:** Provides this act shall take effect 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:  
  
See FISCAL COMMENTS.
- 2. Expenditures:  
  
See FISCAL COMMENTS.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

The changes made by the bill reflect that most job creation and business investments of today and the future likely are of smaller size, but not necessarily smaller in impact to a community. Additionally, these changes may incent bio-tech businesses, manufacturing facilities, and other research and development intensive businesses to locate or expand in the state since they may be able to take advantage of the incentives based on the lower job creation and investment requirements. These changes may also further the state’s policy to induce the growth of the state’s bio-industry clusters and further the diversification of the state’s economy. Further, the bill’s changes may provide additional options to rural communities to attract or help expand businesses in their area.

**D. FISCAL COMMENTS:**

The 2010 Revenue Estimating Conference has not reviewed the provisions of this bill.

**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:

None.

#### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 17, 2010, the Economic Development Policy Committee adopted a Proposed Committee Substitute to HB 1509. The Proposed Committee Substitute:

- Amends the LBC approval process for the Quick Action Closing program to provide a legislative notification procedure that the governor has exceeded his delegated authority. Allows QAC funds to be carried over two fiscal years.
- Revises the incentives in the Qualified Target Industry Business Refund Program by increasing the tax refund program for High-Impact Businesses and by providing a waiver option on wage requirements for a manufacturing project.
- Expands eligibility for the Capital Investment Tax Credit and the High-Impact Business Program by increasing targeted business sectors and lowering the job creation and investment requirements.
- Allows the Rural Regional Development Matching Grants program to be used for technical assistance for businesses in rural communities.
- Authorizes the Institute for Commercialization of Public Research to make seed fund grants to businesses, who must raise matching funds to such grants.
- Clarifies how an economic development ad valorem tax exemption may be extended by referendum.

In addition, the bill removed the following provisions from HB 1509:

- Requiring counties to report annually how funds are spent and outcome results.
- Creating a "jobs for the unemployed" tax credit.
- Increasing the annual appropriations cap for QTI and QDSC.
- Allowing the capital investment tax credit amount to diminish over a 10-year period.
- Creating the Jobs for Florida Revolving Loan Program.
- Revising administrative provisions of the film and entertainment incentive.
- Requiring Department of Revenue to adopt rules that would authorize local governments to petition the Cabinet for delegation.
- Requiring OPPAGA to evaluate the Enterprise Zone program.
- Extending certain water-related permits.
- Delaying the expiration of the Florida Homebuyer Opportunity Program.

The bill was reported favorably as a committee substitute.



29 returned funds; providing for expiration; requiring that  
 30 certain funds be placed in reserve; providing for the  
 31 release of funds; providing for the reversion of funds;  
 32 amending s. 288.9625, F.S.; authorizing the Institute for  
 33 the Commercialization of Public Research to accept public  
 34 funds and contract for the provision of seed capital to  
 35 businesses; limiting the amount of such contract;  
 36 requiring that additional information be included in the  
 37 institute's annual report to the Governor and Legislature;  
 38 amending s. 14, ch. 2009-96, Laws of Florida; extending  
 39 certain water-related permits issued by the Department of  
 40 Environmental Protection or water management districts  
 41 pursuant to part IV of ch. 373, F.S., and certain local  
 42 government-issued development orders and building permits;  
 43 providing an effective date.

44

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

46

47 Section 1. Subsection (7) of section 196.1995, Florida  
 48 Statutes, is amended to read:

49 196.1995 Economic development ad valorem tax exemption.—

50 (7) The authority to grant exemptions under this section  
 51 expires ~~will expire~~ 10 years after the date such authority was  
 52 approved in an election, but such authority may be renewed for  
 53 subsequent another 10-year periods if each 10-year renewal is  
 54 approved ~~period~~ in a referendum called and held pursuant to this  
 55 section.

56 Section 2. Paragraphs (g) and (h) of subsection (1) and

57 subsections (3) and (4) of section 220.191, Florida Statutes,  
 58 are amended to read:

59 220.191 Capital investment tax credit.—

60 (1) DEFINITIONS.—For purposes of this section:

61 (g) "Qualifying business" means a qualified target  
 62 industry business as defined in s. 288.106 that which  
 63 establishes a qualifying project in this state and ~~which~~ is  
 64 certified by the office to receive tax credits pursuant to this  
 65 section.

66 (h) "Qualifying project" means:

67 1. A new or expanding facility in this state that which  
 68 creates at least 50 ~~100~~ new jobs in this state, pays an annual  
 69 average wage of at least 130 percent of the average private  
 70 sector wage in the area as defined in s. 288.106, makes a  
 71 cumulative capital investment of at least \$25 million in this  
 72 state, and is a qualified target industry business as defined in  
 73 s. 288.106 in one of the high-impact sectors identified by  
 74 Enterprise Florida, Inc., and certified by the office pursuant  
 75 to s. 298.108(6), including, but not limited to, aviation,  
 76 aerospace, automotive, and silicon technology industries; or

77 2. ~~A new or expanded facility in this state which is~~  
 78 ~~engaged in a target industry designated pursuant to the~~  
 79 ~~procedure specified in s. 288.106(1)(c) and which is induced by~~  
 80 ~~this credit to create or retain at least 1,000 jobs in this~~  
 81 ~~state, provided that at least 100 of those jobs are new, pay an~~  
 82 ~~annual average wage of at least 130 percent of the average~~  
 83 ~~private sector wage in the area as defined in s. 288.106(1), and~~  
 84 ~~make a cumulative capital investment of at least \$100 million~~

85 ~~after July 1, 2005. Jobs may be considered retained only if~~  
 86 ~~there is significant evidence that the loss of jobs is imminent.~~  
 87 ~~Notwithstanding subsection (2), annual credits against the tax~~  
 88 ~~imposed by this chapter shall not exceed 50 percent of the~~  
 89 ~~increased annual corporate income tax liability or the premium~~  
 90 ~~tax liability generated by or arising out of a project~~  
 91 ~~qualifying under this subparagraph. A facility that qualifies~~  
 92 ~~under this subparagraph for an annual credit against the tax~~  
 93 ~~imposed by this chapter may take the tax credit for a period not~~  
 94 ~~to exceed 5 years; or~~

95 2.3. A new or expanded headquarters facility in this state  
 96 that ~~which~~ locates in an enterprise zone and brownfield area,  
 97 ~~and~~ is induced by this credit to create at least 1,500 jobs  
 98 paying ~~which~~ on average ~~pay~~ at least 200 percent of the  
 99 statewide average annual private sector wage, as published by  
 100 the Agency for Workforce Innovation or its successor, and ~~which~~  
 101 ~~new or expanded headquarters facility~~ makes a cumulative capital  
 102 investment in this state of at least \$250 million.

103 (3) (a) Notwithstanding subsection (2), an annual credit  
 104 against the tax imposed by this chapter shall be granted to a  
 105 qualifying business that ~~which~~ establishes a qualifying project  
 106 pursuant to subparagraph (1) (h) 2.3., in an amount equal to the  
 107 lesser of \$15 million or 5 percent of the eligible capital costs  
 108 made in connection with a qualifying project, for a period not  
 109 to exceed 20 years beginning with the commencement of operations  
 110 of the project. The tax credit shall be granted against the  
 111 corporate income tax liability of the qualifying business and as  
 112 further provided in paragraph (c). The total tax credit provided

113 pursuant to this subsection shall be equal to no more than 100  
 114 percent of the eligible capital costs of the qualifying project.

115 (b) If the credit granted under this subsection is not  
 116 fully used in any one year because of insufficient tax liability  
 117 on the part of the qualifying business, the unused amount may be  
 118 carried forward for a period not to exceed 20 years after the  
 119 commencement of operations of the project. The carryover credit  
 120 may be used in a subsequent year when the tax imposed by this  
 121 chapter for that year exceeds the credit for which the  
 122 qualifying business is eligible in that year under this  
 123 subsection after applying the other credits and unused  
 124 carryovers in the order provided by s. 220.02(8).

125 (c) The credit granted under this subsection may be used  
 126 in whole or in part by the qualifying business or any  
 127 corporation that is ~~either~~ a member of that qualifying  
 128 business's affiliated group of corporations, is a related entity  
 129 taxable as a cooperative under subchapter T of the Internal  
 130 Revenue Code, or, if the qualifying business is an entity  
 131 taxable as a cooperative under subchapter T of the Internal  
 132 Revenue Code, is related to the qualifying business. Any entity  
 133 related to the qualifying business may continue to file as a  
 134 member of a Florida-nexus consolidated group pursuant to a prior  
 135 election made under s. 220.131(1), Florida Statutes (1985), even  
 136 if the parent of the group changes due to a direct or indirect  
 137 acquisition of the former common parent of the group. Any credit  
 138 may ~~can~~ be used by any of the affiliated companies or related  
 139 entities referenced in this paragraph to the same extent as it  
 140 could have been used by the qualifying business. However, any

141 such use does ~~shall~~ not operate to increase the amount of the  
 142 credit or extend the period within which the credit must be  
 143 used.

144 (4) Before ~~Prior to~~ receiving tax credits pursuant to this  
 145 section, a qualifying business must achieve and maintain the  
 146 minimum employment goals beginning with the commencement of  
 147 operations at a qualifying project and continuing each year  
 148 thereafter during which tax credits are available pursuant to  
 149 this section. However, the office may approve a prorated tax  
 150 credit amount for a qualifying business that enters into an  
 151 agreement with the office on or after July 1, 2010, and  
 152 satisfies the capital investment and average wage requirements  
 153 but does not meet the employment requirements because of market  
 154 conditions. The prorated tax credit shall be calculated by  
 155 multiplying the tax credit amount for which the qualifying  
 156 business would be eligible if all applicable requirements were  
 157 satisfied by the percentage of the average employment specified  
 158 in the tax credit agreement that is actually achieved.

159 Section 3. Subsection (1) of section 288.018, Florida  
 160 Statutes, is amended to read:

161 288.018 Regional Rural Development Grants Program.—

162 (1) The Office of Tourism, Trade, and Economic Development  
 163 shall establish a matching grant program to provide funding to  
 164 regionally based economic development organizations representing  
 165 rural counties and communities for the purpose of building the  
 166 professional capacity of their organizations. Such matching  
 167 grants may also be used by an economic development organization  
 168 to provide technical assistance to businesses within the rural

169 counties and communities that it serves. The Office of Tourism,  
 170 Trade, and Economic Development is authorized to approve, on an  
 171 annual basis, grants to such regionally based economic  
 172 development organizations. The maximum amount an organization  
 173 may receive in any year will be \$35,000, or \$100,000 in a rural  
 174 area of critical economic concern recommended by the Rural  
 175 Economic Development Initiative and designated by the Governor,  
 176 and must be matched each year by an equivalent amount of  
 177 nonstate resources.

178 Section 4. Paragraph (b) of subsection (2) and paragraph  
 179 (b) of subsection (3) of section 288.106, Florida Statutes, are  
 180 amended to read:

181 288.106 Tax refund program for qualified target industry  
 182 businesses.—

183 (2) TAX REFUND; ELIGIBLE AMOUNTS.—

184 (b) Upon approval by the director, a qualified target  
 185 industry business shall be allowed tax refund payments equal to  
 186 \$3,000 multiplied by ~~times~~ the number of jobs specified in the  
 187 tax refund agreement under subparagraph (4)(a)1., or equal to  
 188 \$6,000 multiplied by ~~times~~ the number of jobs if the project is  
 189 located in a rural county or an enterprise zone. Further, a  
 190 qualified target industry business shall be allowed additional  
 191 tax refund payments equal to \$1,000 multiplied by ~~times~~ the  
 192 number of jobs specified in the tax refund agreement under  
 193 subparagraph (4)(a)1., if such jobs pay an annual average wage  
 194 of at least 150 percent of the average private sector wage in  
 195 the area, or equal to \$2,000 multiplied by ~~times~~ the number of  
 196 jobs if such jobs pay an annual average wage of at least 200



197 percent of the average private sector wage in the area. A  
 198 business that falls within one of the high-impact sectors  
 199 designated under s. 288.108 shall be allowed additional tax  
 200 refund payments equal to \$2,000 multiplied by the number of jobs  
 201 specified in the tax refund agreement under subparagraph  
 202 (4)(a)1. A qualified target industry business may not receive  
 203 refund payments of more than 25 percent of the total tax refunds  
 204 specified in the tax refund agreement under subparagraph  
 205 (4)(a)1. in any fiscal year. Further, a qualified target  
 206 industry business may not receive more than \$1.5 million in  
 207 refunds under this section in any single fiscal year, or more  
 208 than \$2.5 million in any single fiscal year if the project is  
 209 located in an enterprise zone. A qualified target industry may  
 210 not receive more than \$5 million in refund payments under this  
 211 section in all fiscal years, or more than \$7.5 million if the  
 212 project is located in an enterprise zone. Funds made available  
 213 pursuant to this section may not be expended in connection with  
 214 the relocation of a business from one community to another  
 215 community in this state unless the Office of Tourism, Trade, and  
 216 Economic Development determines that without such relocation the  
 217 business will move outside this state or determines that the  
 218 business has a compelling economic rationale for the relocation  
 219 and that the relocation will create additional jobs.

220 (3) APPLICATION AND APPROVAL PROCESS.—

221 (b) To qualify for review by the office, the application  
 222 of a target industry business must, at a minimum, establish the  
 223 following to the satisfaction of the office:

- 224 1. The jobs proposed to be provided under the application,

225 pursuant to subparagraph (a)4., must pay an estimated annual  
 226 average wage equaling at least 115 percent of the average  
 227 private sector wage in the area where the business is to be  
 228 located or the statewide private sector average wage. In  
 229 determining the average annual wage, the office shall include  
 230 only new proposed jobs, and wages for existing jobs shall be  
 231 excluded from this calculation. The office may waive the average  
 232 wage requirement at the request of the local governing body  
 233 recommending the project and Enterprise Florida, Inc. The wage  
 234 requirement may only be waived for a project located in a  
 235 brownfield area designated under s. 376.80, ~~or~~ in a rural city  
 236 or county, or in an enterprise zone, or for a manufacturing  
 237 project at any location within the state if the jobs proposed to  
 238 be created pay an estimated annual average wage equaling at  
 239 least 100 percent of the average private sector wage in the area  
 240 where the business is to be located, and only when the merits of  
 241 the individual project or the specific circumstances in the  
 242 community in relationship to the project warrant such action. If  
 243 the local governing body and Enterprise Florida, Inc., make such  
 244 a recommendation, it must be transmitted in writing and the  
 245 specific justification for the waiver recommendation must be  
 246 explained. If the director elects to waive the wage requirement,  
 247 the waiver must be stated in writing and the reasons for  
 248 granting the waiver must be explained.

249         2. The target industry business's project must result in  
 250 the creation of at least 10 jobs at such project and, if an  
 251 expansion of an existing business, must result in a net increase  
 252 in employment of at least 10 percent at the business.

253 Notwithstanding the definition of the term "expansion of an  
 254 existing business" in paragraph (1)(g), at the request of the  
 255 local governing body recommending the project and Enterprise  
 256 Florida, Inc., the office may define an "expansion of an  
 257 existing business" in a rural community or an enterprise zone as  
 258 the expansion of a business resulting in a net increase in  
 259 employment of less than 10 percent at such business if the  
 260 merits of the individual project or the specific circumstances  
 261 in the community in relationship to the project warrant such  
 262 action. If the local governing body and Enterprise Florida,  
 263 Inc., make such a request, the request must be transmitted in  
 264 writing and the specific justification for the request must be  
 265 explained. If the director elects to grant the request, the  
 266 grant must be stated in writing and the reason for granting the  
 267 request must be explained.

268         3. The business activity or product for the applicant's  
 269 project is within an industry or industries that have been  
 270 identified by the office to be high-value-added industries that  
 271 contribute to the area and to the economic growth of the state  
 272 and that produce a higher standard of living for residents of  
 273 this state in the new global economy or that can be shown to  
 274 make an equivalent contribution to the area and state's economic  
 275 progress. The director must approve requests to waive the wage  
 276 requirement for brownfield areas designated under s. 376.80  
 277 unless it is demonstrated that such action is not in the public  
 278 interest.

279         Section 5. Paragraph (a) of subsection (2) and paragraph  
 280 (b) of subsection (3) of section 288.108, Florida Statutes, are

281 amended to read:

282 288.108 High-impact business.—

283 (2) DEFINITIONS.—As used in this section, the term:

284 (a) "Eligible high-impact business" means a business in  
 285 one of the high-impact sectors identified by Enterprise Florida,  
 286 Inc., and certified by the Office of Tourism, Trade, and  
 287 Economic Development as provided in subsection (5), which is  
 288 making a cumulative investment in the state of at least \$50 ~~\$100~~  
 289 million and creating at least 50 ~~100~~ new full-time equivalent  
 290 jobs in the state or a research and development facility making  
 291 a cumulative investment of at least \$25 ~~\$75~~ million and creating  
 292 at least 25 ~~75~~ new full-time equivalent jobs. Such investment  
 293 and employment must be achieved in a period not to exceed 3  
 294 years after the date the business is certified as a qualified  
 295 high-impact business.

296 (3) HIGH-IMPACT SECTOR PERFORMANCE GRANTS; ELIGIBLE  
 297 AMOUNTS.—

298 (b) The office may, in consultation with Enterprise  
 299 Florida, Inc., negotiate qualified high-impact business  
 300 performance grant awards for any single qualified high-impact  
 301 business. In negotiating such awards, the office shall consider  
 302 the following guidelines in conjunction with other relevant  
 303 applicant impact and cost information and analysis as required  
 304 in subsection (5). A qualified high-impact business making a  
 305 cumulative investment of \$50 million and creating 50 jobs may be  
 306 eligible for a total qualified high-impact business performance  
 307 grant of \$500,000 to \$1 million. A qualified high-impact  
 308 business making a cumulative investment of \$100 million and

309 creating 100 jobs may be eligible for a total qualified high-  
 310 impact business performance grant of \$1 million to \$2 million. A  
 311 qualified high-impact business making a cumulative investment of  
 312 \$800 million and creating 800 jobs may be eligible for a  
 313 qualified high-impact business performance grant of \$10 million  
 314 to \$12 million. A qualified high-impact business engaged in  
 315 research and development making a cumulative investment of \$25  
 316 million and creating 25 jobs may be eligible for a total  
 317 qualified high-impact business performance grant of \$700,000 to  
 318 \$1 million. A qualified high-impact business~~7~~ engaged in  
 319 research and development~~7~~ making a cumulative investment of \$75  
 320 million~~7~~ and creating 75 jobs may be eligible for a total  
 321 qualified high-impact business performance grant of \$2 million  
 322 to \$3 million. A qualified high-impact business~~7~~ engaged in  
 323 research and development~~7~~ making a cumulative investment of \$150  
 324 million~~7~~ and creating 150 jobs may be eligible for a qualified  
 325 high-impact business performance grant of \$3.5 million to \$4.5  
 326 million.

327 Section 6. Paragraphs (b) and (c) of subsection (3) of  
 328 section 288.1088, Florida Statutes, are amended, and subsections  
 329 (4) and (5) are added to that section, to read:

330 288.1088 Quick Action Closing Fund.—

331 (3)

332 (b) Within 22 calendar days after receiving the evaluation  
 333 and recommendation from Enterprise Florida, Inc., the director  
 334 of the Office of Tourism, Trade, and Economic Development shall  
 335 recommend to the Governor approval or disapproval of a project  
 336 for receipt of funds from the Quick Action Closing Fund. In

337 recommending a project, the director shall include proposed  
 338 performance conditions that the project must meet to obtain  
 339 incentive funds. The Governor shall provide the evaluation of  
 340 projects recommended for approval to the President of the Senate  
 341 and the Speaker of the House of Representatives and consult with  
 342 the President of the Senate and the Speaker of the House of  
 343 Representatives before giving final approval for a project. At  
 344 least 14 days before releasing funds for a project, the  
 345 Executive Office of the Governor shall recommend approval of the  
 346 ~~a~~ project and the release of funds by delivering notice of such  
 347 action pursuant to the legislative consultation and review  
 348 requirements set forth in s. 216.177. The recommendation must  
 349 include proposed performance conditions that the project must  
 350 meet in order to obtain funds. If the President of the Senate or  
 351 the Speaker of the House of Representatives timely advises the  
 352 Executive Office of the Governor, in writing, that such action  
 353 or proposed action exceeds the delegated authority of the  
 354 Executive Office of the Governor or is contrary to legislative  
 355 policy or intent, the Executive Office of the Governor shall  
 356 void the release of funds and instruct the Office of Tourism,  
 357 Trade, and Economic Development to immediately change such  
 358 action or proposed action until the Legislative Budget  
 359 Commission or the Legislature addresses the issue.

360 (c) Upon the approval of the Governor, the director of the  
 361 Office of Tourism, Trade, and Economic Development and the  
 362 business shall enter into a contract that sets forth the  
 363 conditions for payment of moneys from the fund. The contract  
 364 must include the total amount of funds awarded; the performance

365 conditions that must be met to obtain the award, including, but  
 366 not limited to, net new employment in the state, average salary,  
 367 and total capital investment; demonstrate a baseline of current  
 368 service and a measure of enhanced capability; the methodology  
 369 for validating performance; the schedule of payments from the  
 370 fund; and sanctions for failure to meet performance conditions.  
 371 The contract must provide that payment of moneys from the fund  
 372 is contingent upon sufficient appropriation of funds by the  
 373 Legislature ~~and upon sufficient release of appropriated funds by~~  
 374 ~~the Legislative Budget Commission.~~

375 (4) (a) A Quick Action Closing Fund business that, pursuant  
 376 to its contract, submits reports to the Office of Tourism,  
 377 Trade, and Economic Development on or after January 1, 2010, but  
 378 no later than June 30, 2011, on the status of the business's  
 379 compliance with the performance conditions of its contract may  
 380 submit a written request to the Office of Tourism, Trade, and  
 381 Economic Development for renegotiation of the contract. The  
 382 request must provide quantitative evidence demonstrating how  
 383 negative economic conditions in the business's industry have  
 384 prevented the business from complying with the terms and  
 385 conditions of the contract. The request must also include  
 386 proposed adjusted performance conditions that result in new job  
 387 creation and meet the requirements of subsection (2). Adjusted  
 388 performance conditions may not include any additional waiver  
 389 requests.

390 (b) Within 45 days after receiving a Quick Action Closing  
 391 Fund business's request to renegotiate its contract, the  
 392 director of the Office of Tourism, Trade, and Economic

393 Development must provide written notice to the business of  
 394 whether the request for renegotiation is granted or denied. In  
 395 making such a determination, the director shall consider the  
 396 extent to which negative economic conditions in the business's  
 397 industry occurred in the state, the proposed adjusted  
 398 performance conditions, and the business's efforts to comply  
 399 with the contract.

400 (c) Upon granting a business's request to renegotiate, the  
 401 Office of Tourism, Trade, and Economic Development, together  
 402 with Enterprise Florida, Inc., shall determine the economic  
 403 impact of the adjusted performance conditions and notify the  
 404 business of the adjusted award amount associated with the  
 405 proposed adjusted performance conditions. The Quick Action  
 406 Closing Fund business must renegotiate its contract with the  
 407 Office of Tourism, Trade, and Economic Development for the  
 408 adjusted amount and agree to return the difference between the  
 409 original Quick Action Closing Fund award and the adjusted award  
 410 without interest or penalties. When renegotiating a contract  
 411 with a Quick Action Closing Fund business, the Office of  
 412 Tourism, Trade, and Economic Development may extend the duration  
 413 of the contract for a period not to exceed 2 years. Any funds  
 414 returned pursuant to this paragraph shall be reappropriated to  
 415 the Office of Tourism, Trade, and Economic Development for the  
 416 Quick Action Closing Fund.

417 (d) This subsection expires June 30, 2011.

418 (5) Funds appropriated by the Legislature for purposes of  
 419 implementing this section shall be placed in reserve and may  
 420 only be released pursuant to the legislative consultation and



421 review requirements set forth in s. 216.177. Notwithstanding s.  
 422 216.301, funds appropriated for purposes of implementing this  
 423 section, whether released or in reserve, shall not revert on  
 424 June 30th of the fiscal year for which the funds are  
 425 appropriated but shall revert on June 30th of the second fiscal  
 426 year of the appropriation.

427 Section 7. Subsection (10) of section 288.9625, Florida  
 428 Statutes, is amended, subsection (11) is renumbered as  
 429 subsection (12), present subsection (12) is renumbered as  
 430 subsection (13) and amended, and a new subsection (11) is added  
 431 to that section, to read:

432 288.9625 Institute for the Commercialization of Public  
 433 Research.—There is established the Institute for the  
 434 Commercialization of Public Research.

435 (10) The institute shall ~~not develop or accrue any~~  
 436 ~~ownership, royalty, patent, or other such rights over or~~  
 437 ~~interest in companies or products in the institute and shall~~  
 438 maintain the secrecy of proprietary information.

439 (11)(a) The institute may accept public funds, including,  
 440 but not limited to, funds appropriated by the Legislature to the  
 441 Office of Tourism, Trade, and Economic Development for purposes  
 442 of, and enter into contracts for, the provision of seed capital  
 443 with companies whose technologies, products, or services are  
 444 developed with publicly funded research.

445 (b) The institute may negotiate the terms of any contract  
 446 and fund repayments as necessary to maximize the benefits to the  
 447 state as described in paragraph (13)(c). The amount of such  
 448 contract may not exceed \$250,000 and must be supported by at

449 least an equal monetary matching capital contribution from  
 450 private sources.

451 ~~(13)~~~~(12)~~ By December 1 of each year, the institute shall  
 452 issue an annual report concerning its activities to the  
 453 Governor, the President of the Senate, and the Speaker of the  
 454 House of Representatives. The report shall include the  
 455 following:

456 (a) Information on any assistance and activities provided  
 457 by the institute to assist publicly supported universities,  
 458 colleges, research institutes, and other publicly supported  
 459 organizations in the state.

460 (b) A description of the benefits to this state resulting  
 461 from the institute, including the number of businesses created,  
 462 associated industries started, the number of jobs created, and  
 463 the growth of related projects.

464 (c) A description of the benefits to the state resulting  
 465 from the provision of seed capital, including the number of  
 466 businesses created, the amount of additional capital raised, the  
 467 number of associated industries started, the number of jobs  
 468 created, and the growth of related research projects.

469 ~~(d)~~~~(e)~~ Independently audited financial statements,  
 470 including statements that show receipts and expenditures during  
 471 the preceding fiscal year for personnel, administration, and  
 472 operational costs of the institute.

473 Section 8. Subsections (1), (3), and (5) of section 14 of  
 474 chapter 2009-96, Laws of Florida, are amended to read:

475 Section 14. (1) Except as provided in subsection (4), and  
 476 in recognition of 2009 real estate market conditions, any permit

477 issued by the Department of Environmental Protection or a water  
 478 management district pursuant to part IV of chapter 373, Florida  
 479 Statutes, that has an expiration date of September 1, 2008,  
 480 through January 1, 2012, is extended and renewed for a period of  
 481 3 ~~2~~ years following its date of expiration. This extension  
 482 includes any local government-issued development order or  
 483 building permit. The 3-year ~~2-year~~ extension also applies to  
 484 build out dates including any build out date extension  
 485 previously granted under s. 380.06(19)(c), Florida Statutes.  
 486 This section shall not be construed to prohibit conversion from  
 487 the construction phase to the operation phase upon completion of  
 488 construction.

489 (3) The holder of a valid permit or other authorization  
 490 that is eligible for the 3-year ~~2-year~~ extension shall notify  
 491 the authorizing agency in writing no later than December 31,  
 492 2009, identifying the specific authorization for which the  
 493 holder intends to use the extension and the anticipated  
 494 timeframe for acting on the authorization.

495 (5) Permits extended under this section shall continue to  
 496 be governed by rules in effect at the time the permit was  
 497 issued, except when it can be demonstrated that the rules in  
 498 effect at the time the permit was issued would create an  
 499 immediate threat to public safety or health. This provision  
 500 shall apply to any modification of the plans, terms, and  
 501 conditions of the permit that lessens the environmental impact,  
 502 except that any such modification shall not extend the time  
 503 limit beyond 3 ~~2~~ additional years.

504 Section 9. This act shall take effect upon becoming a law.

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COUNCIL/COMMITTEE ACTION

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

---

1 Council/Committee hearing bill: Finance & Tax Council  
2 Representative(s) Weatherford offered the following:  
3

4       **Amendment (with title amendment)**

5       Remove everything after the enacting clause and insert:  
6       Section 1. Effective July 1, 2010, section 125.045,

7 Florida Statutes, is amended to read:

8       125.045 County economic development powers.—

9       (1) The Legislature finds and declares that this state  
10 faces increasing competition from other states and other  
11 countries for the location and retention of private enterprises  
12 within its borders. Furthermore, the Legislature finds that  
13 there is a need to enhance and expand economic activity in the  
14 counties of this state by attracting and retaining manufacturing  
15 development, business enterprise management, and other  
16 activities conducive to economic promotion, in order to provide  
17 a stronger, more balanced, and stable economy in the state; to  
18 enhance and preserve purchasing power and employment  
19 opportunities for the residents of this state; and to improve

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20 the welfare and competitive position of the state. The  
21 Legislature declares that it is necessary and in the public  
22 interest to facilitate the growth and creation of business  
23 enterprises in the counties of the state.

24 (2) The governing body of a county may expend public funds  
25 to attract and retain business enterprises, and the use of  
26 public funds toward the achievement of such economic development  
27 goals constitutes a public purpose. The provisions of this  
28 chapter which confer powers and duties on the governing body of  
29 a county, including any powers not specifically prohibited by  
30 law which can be exercised by the governing body of a county,  
31 must be liberally construed in order to effectively carry out  
32 the purposes of this section.

33 (3) For the purposes of this section, it constitutes a  
34 public purpose to expend public funds for economic development  
35 activities, including, but not limited to, developing or  
36 improving local infrastructure, issuing bonds to finance or  
37 refinance the cost of capital projects for industrial or  
38 manufacturing plants, leasing or conveying real property, and  
39 making grants to private enterprises for the expansion of  
40 businesses existing in the community or the attraction of new  
41 businesses to the community.

42 (4) A contract between the governing body of a county or  
43 other entity engaged in economic development activities on  
44 behalf of the county and an economic development agency must  
45 require the agency or entity receiving county funds to submit a  
46 report to the governing body of the county detailing how county  
47 funds were spent and detailing the results of the economic

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48 development agency's or entity's efforts on behalf of the  
49 county. The county shall include the report as an addendum to  
50 the county's annual financial audit.

51 (5) (a) By January 15, 2011, and annually thereafter, each  
52 county shall report to the Legislative Committee on  
53 Intergovernmental Relations or its successor entity the economic  
54 development incentives given to any business during the county's  
55 previous fiscal year. Economic development incentives include:

56 1. Direct financial incentives of monetary assistance  
57 provided to a business from the county or through an  
58 organization authorized by the county. Such incentives include  
59 grants, loans, equity investments, loan insurance and  
60 guarantees, and training subsidies.

61 2. Indirect incentives in the form of grants and loans  
62 provided to businesses and community organizations that provide  
63 support to businesses or promote business investment or  
64 development.

65 3. Fee-based or tax-based incentives, including credits,  
66 refunds, exemptions, and property tax abatement or assessment  
67 reductions.

68 4. Below-market rate leases or deeds for real property.

69 5. Any other inducement provided to a business in order  
70 for the business to create or retain jobs, relocate to or remain  
71 in the county, or expand its current operations in the county.

72 (b) A county shall report its economic development  
73 incentives in the format specified by the Legislative Committee  
74 on Intergovernmental Relations or its successor entity.

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75        (c) The Legislative Committee on Intergovernmental  
76 Relations or its successor entity shall compile the economic  
77 development incentives provided by each county in a manner that  
78 shows the total of each class of economic development incentives  
79 provided by each county and all counties.

80        (d) If a county did not provide any economic development  
81 incentives during its previous fiscal year, the governing body  
82 of the county must report to the Legislative Committee on  
83 Intergovernmental Relations or its successor entity that the  
84 county did not provide any incentives.

85        Section 2. Subsection (11) of section 159.803, Florida  
86 Statutes, is amended to read:

87        159.803 Definitions.—As used in this part, the term:

88        (11) "Florida First Business project" means any project  
89 which is certified by the Office of Tourism, Trade, and Economic  
90 Development as eligible to receive an allocation from the  
91 Florida First Business allocation pool established pursuant to  
92 s. 159.8083. The Office of Tourism, Trade, and Economic  
93 Development may certify those projects meeting the criteria set  
94 forth in s. 288.106(4)~~(3)~~(b) or any project providing a  
95 substantial economic benefit to this state.

96        Section 3. Effective July 1, 2010, subsection (9) of  
97 section 166.021, Florida Statutes, is amended to read:

98        166.021 Powers.—

99        (9) (a) The Legislature finds and declares that this state  
100 faces increasing competition from other states and other  
101 countries for the location and retention of private enterprises  
102 within its borders. Furthermore, the Legislature finds that

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103 there is a need to enhance and expand economic activity in the  
104 municipalities of this state by attracting and retaining  
105 manufacturing development, business enterprise management, and  
106 other activities conducive to economic promotion, in order to  
107 provide a stronger, more balanced, and stable economy in the  
108 state, to enhance and preserve purchasing power and employment  
109 opportunities for the residents of this state, and to improve  
110 the welfare and competitive position of the state. The  
111 Legislature declares that it is necessary and in the public  
112 interest to facilitate the growth and creation of business  
113 enterprises in the municipalities of the state.

114 (b) The governing body of a municipality may expend public  
115 funds to attract and retain business enterprises, and the use of  
116 public funds toward the achievement of such economic development  
117 goals constitutes a public purpose. The provisions of this  
118 chapter which confer powers and duties on the governing body of  
119 a municipality, including any powers not specifically prohibited  
120 by law which can be exercised by the governing body of a  
121 municipality, shall be liberally construed in order to  
122 effectively carry out the purposes of this subsection.

123 (c) For the purposes of this subsection, it constitutes a  
124 public purpose to expend public funds for economic development  
125 activities, including, but not limited to, developing or  
126 improving local infrastructure, issuing bonds to finance or  
127 refinance the cost of capital projects for industrial or  
128 manufacturing plants, leasing or conveying real property, and  
129 making grants to private enterprises for the expansion of



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130 businesses existing in the community or the attraction of new  
131 businesses to the community.

132 (d) A contract between the governing body of a  
133 municipality or other entity engaged in economic development  
134 activities on behalf of the municipality and an economic  
135 development agency must require the agency or entity receiving  
136 municipal funds to submit a report to the governing body of the  
137 municipality detailing how municipal funds were spent and  
138 detailing the results of the economic development agency's or  
139 entity's efforts on behalf of the municipality. The municipality  
140 shall include the report as an addendum to the municipality's  
141 annual financial audit.

142 (e)1. By January 15, 2011, and annually thereafter, each  
143 municipality having annual revenues or expenditures greater than  
144 \$250,000 shall report to the Legislative Committee on  
145 Intergovernmental Relations or its successor entity the economic  
146 development incentives given to any business during the  
147 municipality's previous fiscal year. Economic development  
148 incentives include:

149 a. Direct financial incentives of monetary assistance  
150 provided to a business from the municipality or through an  
151 organization authorized by the municipality. Such incentives  
152 include grants, loans, equity investments, loan insurance and  
153 guarantees, and training subsidies.

154 b. Indirect incentives in the form of grants and loans  
155 provided to businesses and community organizations that provide  
156 support to businesses or promote business investment or  
157 development.

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158 c. Fee-based or tax-based incentives, including credits,  
159 refunds, exemptions, and property tax abatement or assessment  
160 reductions.

161 d. Below-market rate leases or deeds for real property.

162 e. Any other inducement provided to a business in order  
163 for the business to create or retain jobs, relocate to or remain  
164 in the municipality, or expand its current operations in the  
165 municipality.

166 2. A municipality shall report its economic development  
167 incentives in the format specified by the Legislative Committee  
168 on Intergovernmental Relations or its successor entity.

169 3. The Legislative Committee on Intergovernmental  
170 Relations or its successor entity shall compile the economic  
171 development incentives provided by each municipality in a manner  
172 that shows the total of each class of economic development  
173 incentives provided by each municipality and all municipalities.

174 4. If a municipality did not provide any economic  
175 development incentives during its previous fiscal year, the  
176 governing body of the municipality must report to the  
177 Legislative Committee on Intergovernmental Relations or its  
178 successor entity that the municipality did not provide any  
179 incentives.

180 (f)(d) Nothing contained in This subsection does not limit  
181 shall be construed as a limitation on the home rule powers  
182 granted by the State Constitution to for municipalities.

183 Section 4. Subsection (7) of section 196.1995, Florida  
184 Statutes, is amended to read:

185 196.1995 Economic development ad valorem tax exemption.—

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186 (7) The authority to grant exemptions under this section  
187 expires ~~will expire~~ 10 years after the date such authority was  
188 approved in an election, but such authority may be renewed for  
189 subsequent another 10-year periods if each 10-year renewal is  
190 approved ~~period~~ in a referendum called and held pursuant to this  
191 section.

192 Section 5. Paragraph (h) of subsection (1) of section  
193 220.191, Florida Statutes, is amended to read:

194 220.191 Capital investment tax credit.—

195 (1) DEFINITIONS.—For purposes of this section:

196 (h) "Qualifying project" means:

197 1. A new or expanding facility in this state which creates  
198 at least 100 new jobs in this state and is in one of the high-  
199 impact sectors identified by Enterprise Florida, Inc., and  
200 certified by the office pursuant to s. 288.108(6), including,  
201 but not limited to, aviation, aerospace, automotive, and silicon  
202 technology industries;

203 2. A new or expanded facility in this state which is  
204 engaged in a target industry designated pursuant to the  
205 procedure specified in s. 288.106(2)(t) ~~(1)~~ ~~(e)~~ and which is  
206 induced by this credit to create or retain at least 1,000 jobs  
207 in this state, provided that at least 100 of those jobs are new,  
208 pay an annual average wage of at least 130 percent of the  
209 average private sector wage in the area as defined in s.  
210 288.106(2) ~~(1)~~, and make a cumulative capital investment of at  
211 least \$100 million after July 1, 2005. Jobs may be considered  
212 retained only if there is significant evidence that the loss of  
213 jobs is imminent. Notwithstanding subsection (2), annual credits

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214 against the tax imposed by this chapter shall not exceed 50  
215 percent of the increased annual corporate income tax liability  
216 or the premium tax liability generated by or arising out of a  
217 project qualifying under this subparagraph. A facility that  
218 qualifies under this subparagraph for an annual credit against  
219 the tax imposed by this chapter may take the tax credit for a  
220 period not to exceed 5 years; or

221 3. A new or expanded headquarters facility in this state  
222 which locates in an enterprise zone and brownfield area and is  
223 induced by this credit to create at least 1,500 jobs which on  
224 average pay at least 200 percent of the statewide average annual  
225 private sector wage, as published by the Agency for Workforce  
226 Innovation or its successor, and which new or expanded  
227 headquarters facility makes a cumulative capital investment in  
228 this state of at least \$250 million.

229 Section 6. Subsection (1) of section 288.018, Florida  
230 Statutes, is amended to read:

231 288.018 Regional Rural Development Grants Program.—

232 (1) The Office of Tourism, Trade, and Economic Development  
233 shall establish a matching grant program to provide funding to  
234 regionally based economic development organizations representing  
235 rural counties and communities for the purpose of building the  
236 professional capacity of their organizations. Such matching  
237 grants may also be used by an economic development organization  
238 to provide technical assistance to businesses within the rural  
239 counties and communities that it serves. The Office of Tourism,  
240 Trade, and Economic Development is authorized to approve, on an  
241 annual basis, grants to such regionally based economic

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242 development organizations. The maximum amount an organization  
243 may receive in any year will be \$35,000, or \$100,000 in a rural  
244 area of critical economic concern recommended by the Rural  
245 Economic Development Initiative and designated by the Governor,  
246 and must be matched each year by an equivalent amount of  
247 nonstate resources.

248 Section 7. Paragraph (j) of subsection (1) of section  
249 288.1045, Florida Statutes, is amended to read:

250 288.1045 Qualified defense contractor and space flight  
251 business tax refund program.—

252 (1) DEFINITIONS.—As used in this section:

253 (j) "Jobs" means full-time equivalent positions,  
254 including, but not limited to, positions obtained from a  
255 temporary employment agency or employee leasing company or  
256 through a union agreement or coemployment under a professional  
257 employer organization agreement, that—consistent with the use of  
258 such terms by the Agency for Workforce Innovation for the  
259 purpose of unemployment compensation tax, created or retained as  
260 a direct result directly from of a project in this state. This  
261 number does not include temporary construction jobs involved  
262 with the construction of facilities for the project.

263 Section 8. Section 288.106, Florida Statutes, is amended  
264 to read:

265 288.106 Tax refund program for qualified target industry  
266 businesses.—

267 (1) LEGISLATIVE FINDINGS AND DECLARATIONS.—The Legislature  
268 finds that retaining and expanding existing businesses in the  
269 state, encouraging the creation of new businesses in the state,

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270 attracting new businesses from outside the state, and generally  
271 providing conditions favorable for the growth of target  
272 industries creates high-quality, high-wage employment  
273 opportunities for residents of the state and strengthens the  
274 state's economic foundation. The Legislature also finds that  
275 incentives narrowly focused in application and scope tend to be  
276 more effective in achieving the state's economic development  
277 goals. The Legislature further finds that higher-wage jobs  
278 reduce the state's share of hidden costs, such as public  
279 assistance and subsidized health care associated with low-wage  
280 jobs. Therefore, the Legislature declares that it is the policy  
281 of the state to encourage the growth of higher-wage jobs and a  
282 diverse economic base by providing state tax refunds to  
283 qualified target industry businesses that originate or expand in  
284 the state or that relocate to the state.

285 (2)(1) DEFINITIONS.—As used in this section:

286 (a) "Account" means the Economic Development Incentives  
287 Account within the Economic Development Trust Fund established  
288 under s. 288.095.

289 (b)(u) "Authorized local economic development agency"  
290 means a any public or private entity, including an entity ~~these~~  
291 defined in s. 288.075, authorized by a county or municipality to  
292 promote the general business or industrial interests of that  
293 county or municipality.

294 (c)(b) "Average private sector wage in the area" means the  
295 statewide private sector average wage or the average of all  
296 private sector wages and salaries in the county or in the  
297 standard metropolitan area in which the business is located.

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298        ~~(d)(e)~~ "Business" means an employing unit, as defined in  
299        s. 443.036, that ~~which~~ is registered for unemployment  
300        compensation purposes with the state agency providing  
301        unemployment tax collection services under contract with the  
302        Agency for Workforce Innovation through an interagency agreement  
303        pursuant to s. 443.1316, or a subcategory or division of an  
304        employing unit that ~~which~~ is accepted by the state agency  
305        providing unemployment tax collection services as a reporting  
306        unit.

307        ~~(e)(d)~~ "Corporate headquarters business" means an  
308        international, national, or regional headquarters office of a  
309        multinational or multistate business enterprise or national  
310        trade association, whether separate from or connected with other  
311        facilities used by such business.

312        ~~(f)(n)~~ "Director" means the Director of the Office of  
313        Tourism, Trade, and Economic Development.

314        ~~(g)(f)~~ "Enterprise zone" means an area designated as an  
315        enterprise zone pursuant to s. 290.0065.

316        ~~(h)(g)~~ "Expansion of an existing business" means the  
317        expansion of an existing Florida business by or through  
318        additions to real and personal property, resulting in a net  
319        increase in employment of not less than 10 percent at such  
320        business.

321        ~~(i)(h)~~ "Fiscal year" means the fiscal year of the state.

322        ~~(j)(i)~~ "Jobs" means full-time equivalent positions,  
323        including, but not limited to, positions obtained from a  
324        temporary employment agency or employee leasing company or  
325        through a union agreement or coemployment under a professional

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326 employer organization agreement, that result ~~as that term is~~  
327 ~~consistent with terms used by the Agency for Workforce~~  
328 ~~Innovation and the United States Department of Labor for~~  
329 ~~purposes of unemployment compensation tax administration and~~  
330 ~~employment estimation, resulting~~ directly from a project in this  
331 state. The term does not include temporary construction jobs  
332 involved with the construction of facilities for the project or  
333 any jobs previously included in any application for tax refunds  
334 under s. 288.1045 or this section.

335 ~~(k)(j)~~ "Local financial support" means funding from local  
336 sources, public or private, that ~~which~~ is paid to the Economic  
337 Development Trust Fund and that ~~which~~ is equal to 20 percent of  
338 the annual tax refund for a qualified target industry business.  
339 A qualified target industry business may not provide, directly  
340 or indirectly, more than 5 percent of such funding in any fiscal  
341 year. The sources of such funding may not include, directly or  
342 indirectly, state funds appropriated from the General Revenue  
343 Fund or any state trust fund, excluding tax revenues shared with  
344 local governments pursuant to law.

345 ~~(l)(k)~~ "Local financial support exemption option" means  
346 the option to exercise an exemption from the local financial  
347 support requirement available to any applicant whose project is  
348 located in a brownfield area, a rural city, or a rural community  
349 ~~county with a population of 75,000 or fewer or a county with a~~  
350 ~~population of 125,000 or fewer which is contiguous to a county~~  
351 ~~with a population of 75,000 or fewer.~~ Any applicant that  
352 exercises this option is ~~shall~~ not be eligible for more than 80



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353 percent of the total tax refunds allowed such applicant under  
354 this section.

355 ~~(m)(1)~~ "New business" means a business that applies for a  
356 tax refund under this section before beginning operations which  
357 ~~heretofore did not exist in this state, first beginning~~  
358 ~~operations on a site located in this state and~~ that is a legal  
359 entity clearly separate from any other commercial or industrial  
360 operations owned by the same business.

361 ~~(n)(e)~~ "Office" means the Office of Tourism, Trade, and  
362 Economic Development.

363 ~~(o)(m)~~ "Project" means the creation of a new business or  
364 expansion of an existing business.

365 ~~(p)(q)~~ "Qualified target industry business" means a target  
366 industry business ~~that has been approved by the~~ office director  
367 to be eligible for tax refunds under ~~pursuant to~~ this section.

368 ~~(q)~~ "Return on investment" means the gain in state  
369 revenues as a percentage of the state's investment. The state's  
370 investment includes state grants, tax exemptions, tax refunds,  
371 tax credits, and other state incentives.

372 ~~(r)~~ "Rural county" means ~~a county with a population of~~  
373 ~~75,000 or fewer or a county with a population of 100,000 or~~  
374 ~~fewer which is contiguous to a county with a population of~~  
375 ~~75,000 or fewer.~~

376 ~~(r)(s)~~ "Rural city" means a city having ~~with~~ a population  
377 of 10,000 or fewer less, or a city having ~~with~~ a population of  
378 greater than 10,000 but fewer less than 20,000 that ~~which~~ has  
379 been determined by the office ~~of Tourism, Trade, and Economic~~  
380 ~~Development~~ to have economic characteristics such as, but not

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381 limited to, a significant percentage of residents on public  
382 assistance, a significant percentage of residents with income  
383 below the poverty level, or a significant percentage of the  
384 city's employment base in agriculture-related industries.

385 ~~(s)(t)~~ "Rural community" means:

386 1. A county having ~~with~~ a population of 75,000 or fewer.

387 2. A county having ~~with~~ a population of 125,000 or fewer  
388 that ~~which~~ is contiguous to a county having ~~with~~ a population of  
389 75,000 or fewer.

390 3. A municipality within a county described in  
391 subparagraph 1. or subparagraph 2.

392  
393 For purposes of this paragraph, population shall be determined  
394 in accordance with the most recent official estimate pursuant to  
395 s. 186.901.

396 ~~(t)(e)~~ "Target industry business" means a corporate  
397 headquarters business or any business that is engaged in one of  
398 the target industries identified pursuant to the following  
399 criteria developed by the office in consultation with Enterprise  
400 Florida, Inc.:

401 1. Future growth.—Industry forecasts should indicate  
402 strong expectation for future growth in both employment and  
403 output, according to the most recent available data. Special  
404 consideration should be given to businesses that export goods  
405 ~~Florida's growing access to, or provide services in,~~  
406 international markets and businesses that replace domestic and  
407 international ~~or to replacing imports of goods or services.~~

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408 2. Stability.—The industry should not be subject to  
409 periodic layoffs, whether due to seasonality or sensitivity to  
410 volatile economic variables such as weather. The industry should  
411 also be relatively resistant to recession, so that the demand  
412 for products of this industry is not typically necessarily  
413 subject to decline during an economic downturn.

414 3. High wage.—The industry should pay relatively high  
415 wages compared to statewide or area averages.

416 4. Market and resource independent.—The location of  
417 industry businesses should not be dependent on Florida markets  
418 or resources as indicated by industry analysis, except for  
419 businesses in the renewable energy industry. ~~Special~~  
420 ~~consideration should be given to the development of strong~~  
421 ~~industrial clusters which include defense and homeland security~~  
422 ~~businesses.~~

423 5. Industrial base diversification and strengthening.—The  
424 industry should contribute toward expanding or diversifying the  
425 state's or area's economic base, as indicated by analysis of  
426 employment and output shares compared to national and regional  
427 trends. Special consideration should be given to industries that  
428 strengthen regional economies by adding value to basic products  
429 or building regional industrial clusters as indicated by  
430 industry analysis. Special consideration should also be given to  
431 the development of strong industrial clusters that include  
432 defense and homeland security businesses.

433 6. Economic benefits.—The industry is expected to ~~should~~  
434 have strong positive impacts on or benefits to the state or ~~and~~  
435 regional economies.

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436  
437 The term does office, ~~in consultation with Enterprise Florida,~~  
438 ~~Inc., shall develop a list of such target industries annually~~  
439 ~~and submit such list as part of the final agency legislative~~  
440 ~~budget request submitted pursuant to s. 216.023(1). A target~~  
441 ~~industry business may not include any business industry engaged~~  
442 in retail industry activities; any electrical utility company;  
443 any phosphate or other solid minerals severance, mining, or  
444 processing operation; any oil or gas exploration or production  
445 operation; or any business firm subject to regulation by the  
446 Division of Hotels and Restaurants of the Department of Business  
447 and Professional Regulation. By January 1 of every 3rd year,  
448 beginning January 1, 2011, the office, in consultation with  
449 Enterprise Florida, Inc., economic development organizations,  
450 the State University System, local governments, employee and  
451 employer organizations, market analysts, and economists, shall  
452 review and, as appropriate, revise the list of such target  
453 industries and submit the list to the Governor, the President of  
454 the Senate, and the Speaker of the House of Representatives.

455 (u)(p) "Taxable year" means taxable year as defined in s.  
456 220.03(1)(y).

457 (3)(2) TAX REFUND; ELIGIBLE AMOUNTS.—

458 (a) There shall be allowed, from the account, a refund to  
459 a qualified target industry business for the amount of eligible  
460 taxes certified by the office that ~~director which~~ were paid by  
461 the such business. The total amount of refunds for all fiscal  
462 years for each qualified target industry business must be  
463 determined pursuant to subsection (4) ~~(3)~~. The annual amount of

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464 a refund to a qualified target industry business must be  
465 determined pursuant to subsection (6) ~~(5)~~.

466 (b) 1. Upon approval by the office director, a qualified  
467 target industry business shall be allowed tax refund payments  
468 equal to \$3,000 multiplied by ~~times~~ the number of jobs specified  
469 in the tax refund agreement under subparagraph (5) ~~(4)~~(a)1., or  
470 equal to \$6,000 multiplied by ~~times~~ the number of jobs if the  
471 project is located in a rural community ~~county~~ or an enterprise  
472 zone.

473 2.a. ~~Further~~, A qualified target industry business shall  
474 be allowed additional tax refund payments equal to \$1,000  
475 multiplied by ~~times~~ the number of jobs specified in the tax  
476 refund agreement under subparagraph (5) ~~(4)~~(a)1. ~~7~~ if such jobs  
477 pay an annual average wage of at least 150 percent of the  
478 average private sector wage in the area or if the local  
479 financial support is equal to that of the state's incentive  
480 award under subparagraph (b)1, or equal to \$2,000 multiplied by  
481 ~~times~~ the number of jobs if such jobs pay an annual average wage  
482 of at least 200 percent of the average private sector wage in  
483 the area.

484 b. A qualified target industry business shall be allowed a  
485 tax refund payment in addition to the payments authorized in  
486 sub-subparagraphs 1. and 2. equal to \$2,000 multiplied by the  
487 number of jobs specified in the tax refund agreement under  
488 subparagraph (5)(a)1., for one of the following:

489 i. If the business falls within one of the high-impact  
490 sectors designated under s. 288.108.

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491 ii. If the business increases exports of its goods through  
492 a Florida seaport or a Florida airport by at least 10 percent in  
493 value or tonnage in each of the years that the business receives  
494 a tax refund under this section. For purposes of this sub-  
495 subparagraph, Florida seaports are limited to the ports of  
496 Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft.  
497 Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St.  
498 Petersburg, Pensacola, Fernandina, and Key West.

499 (c) A qualified target industry business may not receive  
500 refund payments of more than 25 percent of the total tax refunds  
501 specified in the tax refund agreement under subparagraph  
502 (5)(4)(a)1. in any fiscal year. Further, a qualified target  
503 industry business may not receive more than \$1.5 million in  
504 refunds under this section in any single fiscal year, or more  
505 than \$2.5 million in any single fiscal year if the project is  
506 located in an enterprise zone. A qualified target industry  
507 business may not receive more than \$5 million in refund payments  
508 under this section in all fiscal years, or more than \$7.5  
509 million if the project is located in an enterprise zone. Funds  
510 made available pursuant to this section may not be expended in  
511 connection with the relocation of a business from one community  
512 to another community in this state unless the Office of Tourism,  
513 Trade, and Economic Development determines that without such  
514 relocation the business will move outside this state or  
515 determines that the business has a compelling economic rationale  
516 for the relocation and that the relocation will create  
517 additional jobs.

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518        ~~(d)(e)~~ After entering into a tax refund agreement under  
519 subsection ~~(5)~~ ~~(4)~~, a qualified target industry business may:

520            1. Receive refunds from the account for the following  
521 taxes due and paid by that business beginning with the first  
522 taxable year of the business that ~~which~~ begins after entering  
523 into the agreement:

524            a. Corporate income taxes under chapter 220.

525            b. Insurance premium tax under s. 624.509.

526            2. Receive refunds from the account for the following  
527 taxes due and paid by that business after entering into the  
528 agreement:

529            a. Taxes on sales, use, and other transactions under  
530 chapter 212.

531            b. Intangible personal property taxes under chapter 199.

532            c. Emergency excise taxes under chapter 221.

533            d. Excise taxes on documents under chapter 201.

534            e. Ad valorem taxes paid, as defined in s. 220.03(1).

535            f. State communications services taxes administered under  
536 chapter 202. This provision does not apply to the gross receipts  
537 tax imposed under chapter 203 and administered under chapter 202  
538 or the local communications services tax authorized under s.  
539 202.19.

540  
541 ~~The addition of state communications services taxes administered~~  
542 ~~under chapter 202 is remedial in nature and retroactive to~~  
543 ~~October 1, 2001. The office may make supplemental tax refund~~  
544 ~~payments to allow for tax refunds for communications services~~

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545 ~~taxes paid by an eligible qualified target industry business~~  
546 ~~after October 1, 2001.~~

547 (e) ~~(d)~~ However, a qualified target industry business may  
548 not receive a refund under this section for any amount of  
549 credit, refund, or exemption previously granted to that business  
550 for any of the such taxes listed in paragraph (d). If a refund  
551 for such taxes is provided by the office, which taxes are  
552 subsequently adjusted by the application of any credit, refund,  
553 or exemption granted to the qualified target industry business  
554 other than as provided in this section, the business shall  
555 reimburse the account for the amount of that credit, refund, or  
556 exemption. A qualified target industry business shall notify and  
557 tender payment to the office within 20 days after receiving any  
558 credit, refund, or exemption other than one provided in this  
559 section.

560 (f) Refunds made available under this section may not be  
561 expended in connection with the relocation of a business from  
562 one community to another community in the state unless the  
563 office determines that, without such relocation, the business  
564 will move outside the state or determines that the business has  
565 a compelling economic rationale for relocation and that the  
566 relocation will create additional jobs.

567 (g) ~~(e)~~ A qualified target industry business that  
568 fraudulently claims a refund under this section:

569 1. Is liable for repayment of the amount of the refund to  
570 the account, plus a mandatory penalty in the amount of 200  
571 percent of the tax refund which shall be deposited into the  
572 General Revenue Fund.



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573 2. Commits ~~is guilty of~~ a felony of the third degree,  
574 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

575 ~~(4)(3)~~ APPLICATION AND APPROVAL PROCESS.—

576 (a) To apply for certification as a qualified target  
577 industry business under this section, the business must file an  
578 application with the office before the business decides ~~has made~~  
579 ~~the decision~~ to locate a ~~new business~~ in this state or before  
580 the business decides ~~had made the decision~~ to expand its ~~an~~  
581 existing operations ~~business~~ in this state. The application must  
582 ~~shall~~ include, but need ~~is~~ not be limited to, the following  
583 information:

584 1. The applicant's federal employer identification number  
585 and, if applicable, ~~the applicant's~~ state sales tax registration  
586 number.

587 2. The proposed permanent location of the applicant's  
588 facility in this state at which the project ~~is or~~ is to be  
589 located.

590 3. A description of the type of business activity or  
591 product covered by the project, including a minimum of a five-  
592 digit NAICS code for all activities included in the project. As  
593 used in this paragraph, "NAICS" means those classifications  
594 contained in the North American Industry Classification System,  
595 as published in 2007 by the Office of Management and Budget,  
596 Executive Office of the President, and updated periodically.

597 4. The proposed number of net new full-time equivalent  
598 Florida jobs at the qualified target industry business as of  
599 December 31 of each year included in the project and the average  
600 wage of those jobs. If more than one type of business activity

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601 or product is included in the project, the number of jobs and  
602 average wage for those jobs must be separately stated for each  
603 type of business activity or product.

604 5. The total number of full-time equivalent employees  
605 employed by the applicant in this state, if applicable.

606 6. The anticipated commencement date of the project.

607 7. A brief statement explaining ~~concerning~~ the role that  
608 the estimated tax refunds to be requested will play in the  
609 decision of the applicant to locate or expand in this state.

610 8. An estimate of the proportion of the sales resulting  
611 from the project that will be made outside this state.

612 9. A resolution adopted by the governing board of the  
613 county or municipality in which the project will be located,  
614 which resolution recommends that the project ~~certain types of~~  
615 ~~businesses~~ be approved as a qualified target industry business  
616 and specifies ~~states~~ that the commitments of local financial  
617 support necessary for the target industry business exist. Before  
618 ~~In advance of~~ the passage of such resolution, the office may  
619 also accept an official letter from an authorized local economic  
620 development agency that endorses the proposed target industry  
621 project and pledges that sources of local financial support for  
622 such project exist. For the purposes of making pledges of local  
623 financial support under this subparagraph ~~subsection~~, the  
624 authorized local economic development agency shall be officially  
625 designated by the passage of a one-time resolution by the local  
626 governing board ~~authority~~.

627 10. Any additional information requested by the office.

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628 (b) To qualify for review by the office, the application  
629 of a target industry business must, at a minimum, establish the  
630 following to the satisfaction of the office:

631 1.a. The jobs proposed to be created ~~provided~~ under the  
632 application, pursuant to subparagraph (a)4., must pay an  
633 estimated annual average wage equaling at least 115 percent of  
634 the average private sector wage in the area where the business  
635 is to be located or the statewide private sector average wage.  
636 In determining the average annual wage, the office shall include  
637 only new proposed jobs, and wages for existing jobs shall be  
638 excluded from this calculation.

639 b. The office may waive the average wage requirement at  
640 the request of the local governing body recommending the project  
641 and Enterprise Florida, Inc. The office may waive the wage  
642 requirement ~~may only be waived~~ for a project located in a  
643 brownfield area designated under s. 376.80, ~~or in a rural city,~~  
644 rural community, or county or in an enterprise zone, or for a  
645 manufacturing project at any location within the state if the  
646 jobs proposed to be created pay an estimated annual average wage  
647 equaling at least 100 percent of the average private sector wage  
648 in the area where the business is to be located, and only if  
649 ~~when~~ the merits of the individual project or the specific  
650 circumstances in the community in relationship to the project  
651 warrant such action. If the local governing body and Enterprise  
652 Florida, Inc., make such a recommendation, it must be  
653 transmitted in writing, and the specific justification for the  
654 waiver recommendation must be explained. If the office ~~director~~  
655 elects to waive the wage requirement, the waiver must be stated

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656 in writing, and the reasons for granting the waiver must be  
657 explained.

658 2. The target industry business's project must result in  
659 the creation of at least 10 jobs at ~~the such~~ project and, in the  
660 case of ~~if~~ an expansion of an existing business, must result in  
661 a net increase in employment of at least 10 percent at the  
662 business. ~~Notwithstanding the definition of the term "expansion~~  
663 ~~of an existing business" in paragraph (1)(g),~~ At the request of  
664 the local governing body recommending the project and Enterprise  
665 Florida, Inc., the office may waive this requirement for a  
666 business ~~define an "expansion of an existing business"~~ in a  
667 rural community or ~~an~~ enterprise zone ~~as the expansion of a~~  
668 ~~business resulting in a net increase in employment of less than~~  
669 ~~10 percent at such business~~ if the merits of the individual  
670 project or the specific circumstances in the community in  
671 relationship to the project warrant such action. If the local  
672 governing body and Enterprise Florida, Inc., make such a  
673 request, the request must be transmitted in writing, and the  
674 specific justification for the request must be explained. If the  
675 office ~~director~~ elects to grant the request, the grant must be  
676 stated in writing, and the reason for granting the request must  
677 be explained.

678 3. The business activity or product for the applicant's  
679 project must be ~~is~~ within an industry ~~or industries that have~~  
680 ~~been~~ identified by the office as a target industry business ~~to~~  
681 ~~be high-value-added industries that contributes contribute to~~  
682 ~~the area and~~ to the economic growth of the state and the area in  
683 which the business is located, that produces ~~produce~~ a higher

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684 standard of living for residents of this state in the new global  
685 economy, or that can be shown to make an equivalent contribution  
686 to the area's area and state's economic progress. ~~The director~~  
687 ~~must approve requests to waive the wage requirement for~~  
688 ~~brownfield areas designated under s. 376.80 unless it is~~  
689 ~~demonstrated that such action is not in the public interest.~~

690 (c) Each application meeting the requirements of paragraph  
691 (b) must be submitted to the office for determination of  
692 eligibility. The office shall review and evaluate each  
693 application based on, but not limited to, the following  
694 criteria:

695 1. Expected contributions to the state's economy,  
696 consistent with the state strategic economic development plan  
697 adopted by Enterprise Florida, Inc., ~~taking into account the~~  
698 ~~long term effects of the project and of the applicant on the~~  
699 ~~state economy.~~

700 2. The return on investment of the proposed award of tax  
701 refunds under this section and the return on investment for  
702 state incentives proposed for the project. The Office of  
703 Economic and Demographic Research shall review and evaluate the  
704 methodology and model used to calculate the return on investment  
705 and report its findings by September 1 of every 3rd year,  
706 beginning September 1, 2010, to the President of the Senate and  
707 the Speaker of the House of Representatives ~~economic benefit of~~  
708 ~~the jobs created by the project in this state, taking into~~  
709 ~~account the cost and average wage of each job created.~~

710 3. The amount of capital investment to be made by the  
711 applicant in this state.

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712 4. The local financial commitment and support for the  
713 project.

714 5. The effect of the project on the ~~local community,~~  
715 ~~taking into account the~~ unemployment rate in ~~for~~ the county  
716 where the project will be located.

717 6. The effect of the award ~~any tax refunds granted~~  
718 ~~pursuant to this section~~ on the viability of the project and the  
719 probability that the project would ~~will~~ be undertaken in this  
720 state if such tax refunds are granted to the applicant, ~~taking~~  
721 ~~into account the expected long-term commitment of the applicant~~  
722 ~~to economic growth and employment in this state.~~

723 7. The expected long-term commitment of the applicant to  
724 economic growth and employment in ~~to~~ this state resulting from  
725 the project.

726 8. A review of the business's past activities in this  
727 state or other states, including whether such business has been  
728 subjected to criminal or civil fines and penalties. This  
729 subparagraph does not require the disclosure of confidential  
730 information.

731 (d) Applications shall be reviewed and certified pursuant  
732 to s. 288.061. The office shall include in its review  
733 projections of the tax refunds the business would be eligible to  
734 receive in each fiscal year based on the creation and  
735 maintenance of the net new Florida jobs specified in  
736 subparagraph (a)4. as of December 31 of the preceding state  
737 fiscal year. If appropriate, the office ~~director~~ shall enter  
738 into a written agreement with the qualified target industry  
739 business pursuant to subsection (5) ~~(4)~~.

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740 (e) The office director ~~may~~ not certify any target  
741 industry business as a qualified target industry business if the  
742 value of tax refunds to be included in that letter of  
743 certification exceeds the available amount of authority to  
744 certify new businesses as determined in s. 288.095(3). However,  
745 if the commitments of local financial support represent less  
746 than 20 percent of the eligible tax refund payments, or to  
747 otherwise preserve the viability and fiscal integrity of the  
748 program, the office director may certify a qualified target  
749 industry business to receive tax refund payments of less than  
750 the allowable amounts specified in paragraph (3)~~(2)~~(b). A letter  
751 of certification that approves an application must specify the  
752 maximum amount of tax refund that will be available to the  
753 qualified industry business in each fiscal year and the total  
754 amount of tax refunds that will be available to the business for  
755 all fiscal years.

756 (f) This section does not create a presumption that an  
757 applicant will ~~shall~~ receive any tax refunds under this section.  
758 However, the office may issue nonbinding opinion letters, upon  
759 the request of prospective applicants, as to the applicants'  
760 eligibility and the potential amount of refunds.

761 (5)~~(4)~~ TAX REFUND AGREEMENT.—

762 (a) Each qualified target industry business must enter  
763 into a written agreement with the office that ~~which~~ specifies,  
764 at a minimum:

765 1. The total number of full-time equivalent jobs in this  
766 state that will be dedicated to the project, the average wage of  
767 those jobs, the definitions that will apply for measuring the

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768 achievement of these terms during the pendency of the agreement,  
769 and a time schedule or plan for when such jobs will be in place  
770 and active in this state.

771 2. The maximum amount of tax refunds that ~~which~~ the  
772 qualified target industry business is eligible to receive on the  
773 project and the maximum amount of a tax refund that the  
774 qualified target industry business is eligible to receive for  
775 each fiscal year, based on the job creation and maintenance  
776 schedule specified in subparagraph 1.

777 3. That the office may review and verify the financial and  
778 personnel records of the qualified target industry business to  
779 ascertain whether that business is in compliance with this  
780 section.

781 4. The date by which, in each fiscal year, the qualified  
782 target industry business may file a claim under subsection (6)  
783 ~~(5)~~ to be considered to receive a tax refund in the following  
784 fiscal year.

785 5. That local financial support will be annually available  
786 and will be paid to the account. The office ~~director~~ may not  
787 enter into a written agreement with a qualified target industry  
788 business if the local financial support resolution is not passed  
789 by the local governing body ~~authority~~ within 90 days after the  
790 office ~~he or she~~ has issued the letter of certification under  
791 subsection (4) ~~(3)~~.

792 6. That the office may conduct a review of the business to  
793 evaluate whether the business is continuing to contribute to the  
794 area's or state's economy.



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795        7. That in the event the business does not complete the  
796 agreement, the business will provide the office with the reasons  
797 the business was unable to complete the agreement.

798        (b) Compliance with the terms and conditions of the  
799 agreement is a condition precedent for the receipt of a tax  
800 refund each year. The failure to comply with the terms and  
801 conditions of the tax refund agreement results in the loss of  
802 eligibility for receipt of all tax refunds previously authorized  
803 under this section and the revocation by the office ~~director~~ of  
804 the certification of the business entity as a qualified target  
805 industry business, unless the business is eligible to receive  
806 and elects to accept a prorated refund under paragraph (6) (e)  
807 ~~(5) (d)~~ or the office grants the business an economic recovery  
808 extension ~~economic stimulus exemption~~.

809        1. A qualified target industry business may submit, ~~in~~  
810 ~~writing,~~ a request to the office for an economic recovery  
811 extension ~~economic stimulus exemption~~. The request must provide  
812 quantitative evidence demonstrating how negative economic  
813 conditions in the business's industry, the effects of ~~the impact~~  
814 ~~of~~ a named hurricane or tropical storm, or specific acts of  
815 terrorism affecting the qualified target industry business have  
816 prevented the business from complying with the terms and  
817 conditions of its tax refund agreement.

818        2. Upon receipt of a request under subparagraph 1., the  
819 office ~~has~~ ~~director shall have~~ 45 days to notify the requesting  
820 business, in writing, whether ~~if~~ its extension ~~exemption~~ has  
821 been granted or denied. In determining whether ~~if~~ an extension  
822 ~~exemption~~ should be granted, the office ~~director~~ shall consider

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823 the extent to which negative economic conditions in the  
824 requesting business's industry have occurred in the state or the  
825 effects of ~~the impact of~~ a named hurricane or tropical storm or  
826 specific acts of terrorism affecting the qualified target  
827 industry business have prevented the business from complying  
828 with the terms and conditions of its tax refund agreement. The  
829 office shall consider current employment statistics for this  
830 state by industry, including whether the business's industry had  
831 substantial job loss during the prior year, when determining  
832 whether an extension ~~exemption~~ shall be granted.

833 3. As a condition for receiving a prorated refund under  
834 paragraph (6) (e) ~~(5) (d)~~ or an economic recovery extension  
835 ~~economic stimulus exemption~~ under this paragraph, a qualified  
836 target industry business must agree to renegotiate its tax  
837 refund agreement with the office to, at a minimum, ensure that  
838 the terms of the agreement comply with current law and office  
839 procedures governing application for and award of tax refunds.  
840 Upon approving the award of a prorated refund or granting an  
841 economic recovery extension ~~economic stimulus exemption~~, the  
842 office shall renegotiate the tax refund agreement with the  
843 business as required by this subparagraph. When amending the  
844 agreement of a business receiving an economic recovery extension  
845 ~~economic stimulus exemption~~, the office may extend the duration  
846 of the agreement for a period not to exceed 2 years.

847 4. A qualified target industry business may submit a  
848 request for an economic recovery extension ~~economic stimulus~~  
849 ~~exemption~~ to the office in lieu of any tax refund claim

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850 scheduled to be submitted after January 1, 2009, but before July  
851 1, 2012 ~~2011~~.

852 5. A qualified target industry business that receives an  
853 economic recovery extension ~~economic stimulus exemption~~ may not  
854 receive a tax refund for the period covered by the extension  
855 ~~exemption~~.

856 (c) The agreement must be signed by the director and by an  
857 authorized officer of the qualified target industry business  
858 within 120 days after the issuance of the letter of  
859 certification under subsection (4) ~~(3)~~, but not before passage  
860 and receipt of the resolution of local financial support. The  
861 office may grant an extension of this period at the written  
862 request of the qualified target industry business.

863 (d) The agreement must contain the following legend,  
864 clearly printed on its face in bold type of not less than 10  
865 points in size: "This agreement is not ~~neither~~ a general  
866 obligation of the State of Florida, nor is it backed by the full  
867 faith and credit of the State of Florida. Payment of tax refunds  
868 is ~~are~~ conditioned on and subject to specific annual  
869 appropriations by the Florida Legislature ~~of moneys~~ sufficient  
870 to pay amounts authorized in section 288.106, Florida Statutes."

871 (6) ~~(5)~~ ANNUAL CLAIM FOR REFUND.-

872 (a) To be eligible to claim any scheduled tax refund, a  
873 qualified target industry business that has entered into a tax  
874 refund agreement with the office under subsection (5) ~~(4)~~ must  
875 apply by January 31 of each fiscal year to the office for the  
876 tax refund scheduled to be paid from the appropriation for the  
877 fiscal year that begins on July 1 following the January 31

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878 claims-submission date. The office may, upon written request,  
879 grant a 30-day extension of the filing date.

880 (b) The claim for refund by the qualified target industry  
881 business must include a copy of all receipts pertaining to the  
882 payment of taxes for which the refund is sought and data related  
883 to achievement of each performance item specified in the tax  
884 refund agreement. The amount requested as a tax refund may not  
885 exceed the amount specified for the relevant fiscal year in that  
886 agreement.

887 (c) The office may waive the requirement for proof of  
888 taxes paid in future years for a qualified target industry  
889 business that provides the office with proof that, in a single  
890 year, the business has paid an amount of state taxes from the  
891 categories in paragraph (3)(d) that is at least equal to the  
892 total amount of tax refunds that the business may receive  
893 through successful completion of its tax refund agreement.

894 ~~(d)(e)~~ A tax refund may not be approved for a qualified  
895 target industry business unless the required local financial  
896 support has been paid into the account for that refund. If the  
897 local financial support provided is less than 20 percent of the  
898 approved tax refund, the tax refund must be reduced. In no event  
899 may the tax refund exceed an amount that is equal to 5 times the  
900 amount of the local financial support received. Further, funding  
901 from local sources includes any tax abatement granted to that  
902 business under s. 196.1995 or the appraised market value of  
903 municipal or county land conveyed or provided at a discount to  
904 that business. The amount of any tax refund for such business  
905 approved under this section must be reduced by the amount of any

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906 such tax abatement granted or the value of the land granted,~~†~~  
907 and the limitations in subsection (3) ~~(2)~~ and paragraph  
908 (4)~~(3)~~(e) must be reduced by the amount of any such tax  
909 abatement or the value of the land granted. A report listing all  
910 sources of the local financial support shall be provided to the  
911 office when such support is paid to the account.

912 ~~(e)~~(d) A prorated tax refund, less a 5-percent penalty,  
913 shall be approved for a qualified target industry business if  
914 ~~provided~~ all other applicable requirements have been satisfied  
915 and the business proves to the satisfaction of the office  
916 ~~director~~ that:

917 1. It has achieved at least 80 percent of its projected  
918 employment; and ~~that~~

919 2. The average wage paid by the business is at least 90  
920 percent of the average wage specified in the tax refund  
921 agreement, but in no case less than 115 percent of the average  
922 private sector wage in the area available at the time of  
923 certification, or 150 percent or 200 percent of the average  
924 private sector wage if the business requested the additional  
925 per-job tax refund authorized in paragraph (3)~~(2)~~(b) for wages  
926 above those levels. The prorated tax refund shall be calculated  
927 by multiplying the tax refund amount for which the qualified  
928 target industry business would have been eligible, if all  
929 applicable requirements had been satisfied, by the percentage of  
930 the average employment specified in the tax refund agreement  
931 which was achieved, and by the percentage of the average wages  
932 specified in the tax refund agreement which was achieved.

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933        ~~(f)(e)~~ The office director, with such assistance as may be  
934 required from ~~the office~~, the Department of Revenue, or the  
935 Agency for Workforce Innovation, shall, by June 30 following the  
936 scheduled date for submission of the tax refund claim, specify  
937 by written order the approval or disapproval of the tax refund  
938 claim and, if approved, the amount of the tax refund that is  
939 authorized to be paid to the qualified target industry business  
940 for the annual tax refund. The office may grant an extension of  
941 this date on the request of the qualified target industry  
942 business for the purpose of filing additional information in  
943 support of the claim.

944        ~~(g)(f)~~ The total amount of tax refund claims approved by  
945 the office director under this section in any fiscal year must  
946 not exceed the amount authorized under s. 288.095(3).

947        ~~(h)(g)~~ This section does not create a presumption that a  
948 tax refund claim will be approved and paid.

949        ~~(i)(h)~~ Upon approval of the tax refund under paragraphs  
950 ~~(e)~~, (d), and (e), and (f), the Chief Financial Officer shall  
951 issue a warrant for the amount specified in the written order.  
952 If the written order is appealed, the Chief Financial Officer  
953 may not issue a warrant for a refund to the qualified target  
954 industry business until the conclusion of all appeals of that  
955 order.

956        ~~(7)(6)~~ ADMINISTRATION.—

957        (a) The office may ~~is authorized to~~ verify information  
958 provided in any claim submitted for tax credits under this  
959 section with regard to employment and wage levels or the payment  
960 of the taxes to the appropriate agency or authority, including

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961 the Department of Revenue, the Agency for Workforce Innovation,  
962 or any local government or authority.

963 (b) To facilitate the process of monitoring and auditing  
964 applications made under this section ~~program~~, the office may  
965 provide a list of qualified target industry businesses to the  
966 Department of Revenue, to the Agency for Workforce Innovation,  
967 or to any local government or authority. The office may request  
968 the assistance of those entities with respect to monitoring  
969 jobs, wages, and the payment of the taxes listed in subsection  
970 (3) ~~(2)~~.

971 (c) Funds specifically appropriated for ~~the tax~~ refunds  
972 ~~refund program~~ for qualified target industry businesses under  
973 this section may not be used by the office for any purpose other  
974 than the payment of tax refunds authorized by this section.

975 (d) Beginning with tax refund agreements signed after July  
976 1, 2010, the office shall attempt to ascertain the causes for  
977 any business's failure to complete its agreement and shall  
978 report its findings and recommendations to the Governor, the  
979 President of the Senate, and the Speaker of the House of  
980 Representatives. The report shall be submitted by December 1 of  
981 each year beginning in 2011.

982 ~~(7) Notwithstanding paragraphs (4)(a) and (5)(c), the~~  
983 ~~office may approve a waiver of the local financial support~~  
984 ~~requirement for a business located in any of the following~~  
985 ~~counties in which businesses received emergency loans~~  
986 ~~administered by the office in response to the named hurricanes~~  
987 ~~of 2004: Bay, Brevard, Charlotte, DeSoto, Escambia, Flagler,~~  
988 ~~Glades, Hardee, Hendry, Highlands, Indian River, Lake, Lee,~~

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 1509 (2010)

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989 ~~Martin, Okaloosa, Okeechobee, Orange, Osceola, Palm Beach, Polk,~~  
990 ~~Putnam, Santa Rosa, Seminole, St. Lucie, Volusia, and Walton. A~~  
991 ~~waiver may be granted only if the office determines that the~~  
992 ~~local financial support cannot be provided or that doing so~~  
993 ~~would effect a demonstrable hardship on the unit of local~~  
994 ~~government providing the local financial support. If the office~~  
995 ~~grants a waiver of the local financial support requirement, the~~  
996 ~~state shall pay 100 percent of the refund due to an eligible~~  
997 ~~business. The waiver shall apply for tax refund applications~~  
998 ~~made for fiscal years 2004-2005, 2005-2006, and 2006-2007.~~

999 (8) EXPIRATION.—An applicant may not be certified as  
1000 qualified under this section after June 30, 2020 ~~2010~~. A tax  
1001 refund agreement existing on that date shall continue in effect  
1002 in accordance with its terms.

1003 Section 9. Paragraph (e) of subsection (1), subsection  
1004 (2), paragraphs (a) and (d) of subsection (4), and paragraph (b)  
1005 of subsection (5) of section 288.107, Florida Statutes, are  
1006 amended to read:

1007 288.107 Brownfield redevelopment bonus refunds.—

1008 (1) DEFINITIONS.—As used in this section:

1009 (e) "Eligible business" means:

1010 1. A qualified target industry business as defined in s.  
1011 288.106(2)(1)(e); or

1012 2. A business that can demonstrate a fixed capital  
1013 investment of at least \$2 million in mixed-use business  
1014 activities, including multiunit housing, commercial, retail, and  
1015 industrial in brownfield areas, or at least \$500,000 in



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1016 brownfield areas that do not require site cleanup, and that  
1017 ~~which~~ provides benefits to its employees.

1018 (f) "Jobs" means full-time equivalent positions,  
1019 including, but not limited to, positions obtained from a  
1020 temporary employment agency or employee leasing company or  
1021 through a union agreement or coemployment under a professional  
1022 employer organization agreement, that ~~as that term is consistent~~  
1023 ~~with terms used by the Agency for Workforce Innovation for the~~  
1024 ~~purpose of unemployment compensation tax, result~~ resulting  
1025 directly from a project in this state. The term does not include  
1026 temporary construction jobs involved with the construction of  
1027 facilities for the project and which are not associated with the  
1028 implementation of the site rehabilitation as provided in s.  
1029 376.80.

1030 (2) BROWNFIELD REDEVELOPMENT BONUS REFUND.—Bonus refunds  
1031 shall be approved by the office as specified in the final order  
1032 ~~issued by the director~~ and allowed from the account as follows:

1033 (a) A bonus refund of \$2,500 shall be allowed to any  
1034 qualified target industry business as defined in ~~by~~ s. 288.106  
1035 for each new Florida job created in a brownfield area that ~~which~~  
1036 is claimed on the qualified target industry business's annual  
1037 refund claim authorized in s. 288.106(6)~~(5)~~.

1038 (b) A bonus refund of up to \$2,500 shall be allowed to any  
1039 other eligible business as defined in subparagraph (1)(e)2. for  
1040 each new Florida job created in a brownfield area ~~that~~ ~~which~~ is  
1041 claimed under an annual claim procedure similar to the annual  
1042 refund claim authorized in s. 288.106(6)~~(5)~~. The amount of the

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1043 refund shall be equal to 20 percent of the average annual wage  
1044 for the jobs created.

1045 (4) PAYMENT OF BROWNFIELD REDEVELOPMENT BONUS REFUNDS.—

1046 (a) To be eligible to receive a bonus refund for new  
1047 Florida jobs created in a brownfield area, a business must have  
1048 been certified as a qualified target industry business under s.  
1049 288.106 or eligible business as defined in paragraph (1)(e) and  
1050 must have indicated on the qualified target industry business  
1051 tax refund application form submitted in accordance with s.  
1052 288.106(4)~~(3)~~ or other similar agreement for other eligible  
1053 business as defined in paragraph (1)(e) that the project for  
1054 which the application is submitted is or will be located in a  
1055 brownfield area and that the business is applying for  
1056 certification as a qualified brownfield business under this  
1057 section, and must have signed a qualified target industry  
1058 business tax refund agreement with the office that ~~which~~  
1059 indicates that the business has been certified as a qualified  
1060 target industry business located in a brownfield area and  
1061 specifies the schedule of brownfield redevelopment bonus refunds  
1062 that the business may be eligible to receive in each fiscal  
1063 year.

1064 (d) After entering into a tax refund agreement as provided  
1065 in s. 288.106 or other similar agreement for other eligible  
1066 businesses as defined in paragraph (1)(e), an eligible business  
1067 may receive brownfield redevelopment bonus refunds from the  
1068 account pursuant to s. 288.106(3)(d)~~(2)~~~~(e)~~.

1069 (5) ADMINISTRATION.—

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1070 (b) To facilitate the process of monitoring and auditing  
1071 applications made under this program, the office may provide a  
1072 list of qualified target industry businesses to the Department  
1073 of Revenue, to the Agency for Workforce Innovation, to the  
1074 Department of Environmental Protection, or to any local  
1075 government authority. The office may request the assistance of  
1076 those entities with respect to monitoring the payment of the  
1077 taxes listed in s. 288.106~~(3)(2)~~.

1078 Section 10. Paragraph (a) of subsection (2) and paragraph  
1079 (b) of subsection (3) of section 288.108, Florida Statutes, are  
1080 amended to read:

1081 288.108 High-impact business.—

1082 (2) DEFINITIONS.—As used in this section, the term:

1083 (a) "Eligible high-impact business" means a business in  
1084 one of the high-impact sectors identified by Enterprise Florida,  
1085 Inc., and certified by the Office of Tourism, Trade, and  
1086 Economic Development as provided in subsection (5), which is  
1087 making a cumulative investment in the state of at least \$50 ~~\$100~~  
1088 million and creating at least 50 ~~100~~ new full-time equivalent  
1089 jobs in the state or a research and development facility making  
1090 a cumulative investment of at least \$25 ~~\$75~~ million and creating  
1091 at least 25 ~~75~~ new full-time equivalent jobs. Such investment  
1092 and employment must be achieved in a period not to exceed 3  
1093 years after the date the business is certified as a qualified  
1094 high-impact business.

1095 (g) "Jobs" means full-time equivalent positions,  
1096 including, but not limited to, positions obtained from a  
1097 temporary employment agency or employee leasing company or

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1098 through a union agreement or coemployment under a professional  
1099 employer organization agreement, that as that term is consistent  
1100 with terms used by the Agency for Workforce Innovation and the  
1101 United States Department of Labor for purposes of unemployment  
1102 compensation tax administration and employment estimation,  
1103 result resulting directly from a project in this state. The term  
1104 does not include temporary construction jobs involved in the  
1105 construction of the project facility.

1106 (3) HIGH-IMPACT SECTOR PERFORMANCE GRANTS; ELIGIBLE  
1107 AMOUNTS.—

1108 (b) The office may, in consultation with Enterprise  
1109 Florida, Inc., negotiate qualified high-impact business  
1110 performance grant awards for any single qualified high-impact  
1111 business. In negotiating such awards, the office shall consider  
1112 the following guidelines in conjunction with other relevant  
1113 applicant impact and cost information and analysis as required  
1114 in subsection (5). A qualified high-impact business making a  
1115 cumulative investment of \$50 million and creating 50 jobs may be  
1116 eligible for a total qualified high-impact business performance  
1117 grant of \$500,000 to \$1 million. A qualified high-impact  
1118 business making a cumulative investment of \$100 million and  
1119 creating 100 jobs may be eligible for a total qualified high-  
1120 impact business performance grant of \$1 million to \$2 million. A  
1121 qualified high-impact business making a cumulative investment of  
1122 \$800 million and creating 800 jobs may be eligible for a  
1123 qualified high-impact business performance grant of \$10 million  
1124 to \$12 million. A qualified high-impact business engaged in  
1125 research and development making a cumulative investment of \$25

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1126 million and creating 25 jobs may be eligible for a total  
1127 qualified high-impact business performance grant of \$700,000 to  
1128 \$1 million. A qualified high-impact business, engaged in  
1129 research and development, making a cumulative investment of \$75  
1130 million, and creating 75 jobs may be eligible for a total  
1131 qualified high-impact business performance grant of \$2 million  
1132 to \$3 million. A qualified high-impact business, engaged in  
1133 research and development, making a cumulative investment of \$150  
1134 million, and creating 150 jobs may be eligible for a qualified  
1135 high-impact business performance grant of \$3.5 million to \$4.5  
1136 million.

1137 Section 11. Section 288.1088, Florida Statutes, is amended  
1138 to read:

1139 288.1088 Quick Action Closing Fund.—

1140 (3)(a) Enterprise Florida, Inc., shall review applications  
1141 pursuant to s. 288.061 and determine the eligibility of each  
1142 project consistent with the criteria in subsection (2).

1143 Enterprise Florida, Inc., in consultation with the Office of  
1144 Tourism, Trade, and Economic Development, may waive these  
1145 criteria based on extraordinary circumstances or in rural areas  
1146 of critical economic concern if the project would significantly  
1147 benefit the local or regional economy.

1148 (b) Enterprise Florida, Inc., shall evaluate individual  
1149 proposals for high-impact business facilities and forward  
1150 recommendations regarding the use of moneys in the fund for such  
1151 facilities to the director of the Office of Tourism, Trade, and  
1152 Economic Development. Such evaluation and recommendation must  
1153 include, but need not be limited to:

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- 1154 1. A description of the type of facility or  
1155 infrastructure, its operations, and the associated product or  
1156 service associated with the facility.
- 1157 2. The number of full-time-equivalent jobs that will be  
1158 created by the facility and the total estimated average annual  
1159 wages of those jobs or, in the case of privately developed rural  
1160 infrastructure, the types of business activities and jobs  
1161 stimulated by the investment.
- 1162 3. The cumulative amount of investment to be dedicated to  
1163 the facility within a specified period.
- 1164 4. A statement of any special impacts the facility is  
1165 expected to stimulate in a particular business sector in the  
1166 state or regional economy or in the state's universities and  
1167 community colleges.
- 1168 5. A statement of the role the incentive is expected to  
1169 play in the decision of the applicant business to locate or  
1170 expand in this state or for the private investor to provide  
1171 critical rural infrastructure.
- 1172 6. A report evaluating the quality and value of the  
1173 company submitting a proposal. The report must include:
- 1174 a. A financial analysis of the company, including an  
1175 evaluation of the company's short-term liquidity ratio as  
1176 measured by its assets to liability, the company's profitability  
1177 ratio, and the company's long-term solvency as measured by its  
1178 debt-to-equity ratio;
- 1179 b. The historical market performance of the company;
- 1180 c. A review of any independent evaluations of the company;

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1181 d. A review of the latest audit of the company's financial  
1182 statement and the related auditor's management letter; and

1183 e. A review of any other types of audits that are related  
1184 to the internal and management controls of the company.

1185 ~~(c)(b)~~ Within 22 calendar days after receiving the  
1186 evaluation and recommendation from Enterprise Florida, Inc., the  
1187 director of the Office of Tourism, Trade, and Economic  
1188 Development shall recommend to the Governor approval or  
1189 disapproval of a project for receipt of funds from the Quick  
1190 Action Closing Fund. In recommending a project, the director  
1191 shall include proposed performance conditions that the project  
1192 must meet to obtain incentive funds. The Governor shall provide  
1193 the evaluation of projects recommended for approval to the  
1194 President of the Senate and the Speaker of the House of  
1195 Representatives and consult with the President of the Senate and  
1196 the Speaker of the House of Representatives before giving final  
1197 approval for a project. At least 14 days before releasing funds  
1198 for a project, the Executive Office of the Governor shall  
1199 recommend approval of the a project and the release of funds by  
1200 delivering notice of such action pursuant to the legislative  
1201 consultation and review requirements set forth in s. 216.177.  
1202 The recommendation must include proposed performance conditions  
1203 that the project must meet in order to obtain funds. If the  
1204 President of the Senate or the Speaker of the House of  
1205 Representatives timely advises the Executive Office of the  
1206 Governor, in writing, that such action or proposed action  
1207 exceeds the delegated authority of the Executive Office of the  
1208 Governor or is contrary to legislative policy or intent, the

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1209 Executive Office of the Governor shall void the release of funds  
1210 and instruct the Office of Tourism, Trade, and Economic  
1211 Development to immediately change such action or proposed action  
1212 until the Legislative Budget Commission or the Legislature  
1213 addresses the issue.

1214 ~~(d)(e)~~ Upon the approval of the Governor, the director of  
1215 the Office of Tourism, Trade, and Economic Development and the  
1216 business shall enter into a contract that sets forth the  
1217 conditions for payment of moneys from the fund. The contract  
1218 must include the total amount of funds awarded; the performance  
1219 conditions that must be met to obtain the award, including, but  
1220 not limited to, net new employment in the state, average salary,  
1221 and total capital investment; demonstrate a baseline of current  
1222 service and a measure of enhanced capability; the methodology  
1223 for validating performance; the schedule of payments from the  
1224 fund; and sanctions for failure to meet performance conditions.  
1225 The contract must provide that payment of moneys from the fund  
1226 is contingent upon sufficient appropriation of funds by the  
1227 Legislature ~~and upon sufficient release of appropriated funds by~~  
1228 ~~the Legislative Budget Commission.~~

1229 ~~(e)(d)~~ Enterprise Florida, Inc., shall validate contractor  
1230 performance. Such validation shall be reported within 6 months  
1231 after completion of the contract to the Governor, President of  
1232 the Senate, and the Speaker of the House of Representatives.

1233 (4) (a) A Quick Action Closing Fund business that, pursuant  
1234 to its contract, submits reports to the Office of Tourism,  
1235 Trade, and Economic Development on or after January 1, 2010, but  
1236 no later than June 30, 2011, on the status of the business's



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1237 compliance with the performance conditions of its contract may  
1238 submit a written request to the Office of Tourism, Trade, and  
1239 Economic Development for renegotiation of the contract. The  
1240 request must provide quantitative evidence demonstrating how  
1241 negative economic conditions in the business's industry have  
1242 prevented the business from complying with the terms and  
1243 conditions of the contract. The request must also include  
1244 proposed adjusted performance conditions that result in new job  
1245 creation and meet the requirements of subsection (2). Adjusted  
1246 performance conditions may not include any additional waiver  
1247 requests.

1248 (b) Within 45 days after receiving a Quick Action Closing  
1249 Fund business's request to renegotiate its contract, the  
1250 director of the Office of Tourism, Trade, and Economic  
1251 Development must provide written notice to the business of  
1252 whether the request for renegotiation is granted or denied. In  
1253 making such a determination, the director shall consider the  
1254 extent to which negative economic conditions in the business's  
1255 industry occurred in the state, the proposed adjusted  
1256 performance conditions, and the business's efforts to comply  
1257 with the contract.

1258 (c) Upon granting a business's request to renegotiate, the  
1259 Office of Tourism, Trade, and Economic Development, together  
1260 with Enterprise Florida, Inc., shall determine the economic  
1261 impact of the adjusted performance conditions and notify the  
1262 business of the adjusted award amount associated with the  
1263 proposed adjusted performance conditions. The Quick Action  
1264 Closing Fund business must renegotiate its contract with the

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1265 Office of Tourism, Trade, and Economic Development for the  
1266 adjusted amount and agree to return the difference between the  
1267 original Quick Action Closing Fund award and the adjusted award  
1268 without interest or penalties. When renegotiating a contract  
1269 with a Quick Action Closing Fund business, the Office of  
1270 Tourism, Trade, and Economic Development may extend the duration  
1271 of the contract for a period not to exceed 2 years. Any funds  
1272 returned pursuant to this paragraph shall be reappropriated to  
1273 the Office of Tourism, Trade, and Economic Development for the  
1274 Quick Action Closing Fund.

1275 (d) This subsection expires June 30, 2011.

1276 (5) Funds appropriated by the Legislature for purposes of  
1277 implementing this section shall be placed in reserve and may  
1278 only be released pursuant to the legislative consultation and  
1279 review requirements set forth in s. 216.177. Notwithstanding s.  
1280 216.301, funds appropriated for purposes of implementing this  
1281 section, whether released or in reserve, shall not revert on  
1282 June 30th of the fiscal year for which the funds are  
1283 appropriated but shall revert on June 30th of the second fiscal  
1284 year of the appropriation.

1285 Section 12. Paragraph (s) of subsection (2) of section  
1286 288.1089, Florida Statutes, is amended to read:

1287 288.1089 Innovation Incentive Program.—

1288 (2) As used in this section, the term:

1289 (k) "Jobs" means full-time equivalent positions,  
1290 including, but not limited to, positions obtained from a  
1291 temporary employment agency or employee leasing company or  
1292 through a union agreement or coemployment under a professional

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1293 ~~employer organization agreement, that as that term is consistent~~  
1294 ~~with terms used by the Agency for Workforce Innovation and the~~  
1295 ~~United States Department of Labor for purposes of unemployment~~  
1296 ~~compensation tax administration and employment estimation,~~  
1297 result ~~resulting~~ directly from a project in this state. The term  
1298 does not include temporary construction jobs.

1299 (s) "Rural area" means a rural city or ~~rural community,~~  
1300 ~~or rural county~~ as defined in s. 288.106.

1301 Section 13. Section 290.00677, Florida Statutes, is  
1302 amended to read:

1303 290.00677 Rural enterprise zones; special qualifications.-

1304 (1) Notwithstanding the enterprise zone residency  
1305 requirements set out in s. 212.096(1)(c), eligible businesses as  
1306 defined in ~~by~~ s. 212.096(1)(a) ~~rural~~ located in rural enterprise  
1307 zones as defined in ~~by~~ s. 290.004 ~~may~~ receive the basic minimum  
1308 credit provided under s. 212.096 for creating a new job and  
1309 hiring a person residing within the jurisdiction of a rural  
1310 community county ~~county~~, as defined in ~~by~~ s. 288.106(2)(1)(~~r~~). All  
1311 other provisions of s. 212.096, including, but not limited to,  
1312 those relating to the award of enhanced credits, apply to such  
1313 businesses.

1314 (2) Notwithstanding the enterprise zone residency  
1315 requirements set out in s. 220.03(1)(q), businesses as defined  
1316 in ~~by~~ s. 220.03(1)(c) ~~rural~~ located in rural enterprise zones as  
1317 defined in s. 290.004 ~~may~~ receive the basic minimum credit  
1318 provided under s. 220.181 for creating a new job and hiring a  
1319 person residing within the jurisdiction of a rural community  
1320 county ~~county~~, as defined in ~~by~~ s. 288.106(2)(1)(~~r~~). All other

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1321 provisions of s. 220.181, including, but not limited to, those  
1322 relating to the award of enhanced credits, apply to such  
1323 businesses.

1324 Section 14. Effective July 1, 2010, section 373.441,  
1325 Florida Statutes, is amended to read:

1326 373.441 Role of counties, municipalities, and local  
1327 pollution control programs in permit processing; delegation.—

1328 (1) The department ~~in consultation with the water~~  
1329 ~~management districts~~ shall, by December 1, 1994, adopt rules to  
1330 guide the participation of counties, municipalities, and local  
1331 pollution control programs in an efficient, streamlined  
1332 permitting system. Such rules must ~~shall~~ seek to increase  
1333 governmental efficiency, ~~shall~~ maintain environmental standards,  
1334 and ~~shall~~ include consideration of ~~the following~~:

1335 (a) Provisions under which the environmental resource  
1336 permit program are ~~shall be~~ delegated, upon approval of the  
1337 department ~~and the appropriate water management districts~~, only  
1338 to a county, municipality, or local pollution control program  
1339 that ~~which~~ has the financial, technical, and administrative  
1340 capabilities and desire to implement and enforce the program;

1341 (b) Provisions under which a locally delegated permit  
1342 program may have stricter environmental standards than state  
1343 standards;

1344 (c) Provisions for identifying and reconciling any  
1345 duplicative permitting by January 1, 1995;

1346 (d) Provisions for timely and cost-efficient notification  
1347 by the reviewing agency of permit applications, and permit  
1348 requirements, to counties, municipalities, local pollution

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1349 control programs, the department, or water management districts,  
1350 as appropriate;

1351 (e) Provisions for ensuring the consistency of permit  
1352 applications with local comprehensive plans;

1353 (f) Provisions for the partial delegation of the  
1354 environmental resource permit program to counties,  
1355 municipalities, or local pollution control programs, and  
1356 standards and criteria to be employed in the implementation of  
1357 such delegation by counties, municipalities, and local pollution  
1358 control programs;

1359 (g) Special provisions under which the environmental  
1360 resource permit program may be delegated to counties having with  
1361 populations of 75,000 or fewer less, or municipalities with, or  
1362 local pollution control programs serving, populations of 50,000  
1363 or fewer less; and

1364 (h) Provisions for the applicability of chapter 120 to  
1365 local government programs when the environmental resource permit  
1366 program is delegated to counties, municipalities, or local  
1367 pollution control programs; and

1368 (i) Provisions for a local government to petition the  
1369 Governor and Cabinet for the review of a request for a  
1370 delegation of authority which has not been approved or denied  
1371 within 1 year after being initiated.

1372 (2) Any denial by the department of a local government's  
1373 request for a delegation of authority must provide specific  
1374 detail of those statutory or rule provisions that were not  
1375 satisfied. Such detail shall also include specific actions that  
1376 can be taken in order to allow for the delegation of authority.

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1377 A local government, upon being denied a request for a delegation  
1378 of authority, may petition the Governor and Cabinet for a review  
1379 of the request. The Governor and Cabinet may reverse the  
1380 decision of the department and may provide any necessary  
1381 conditions to allow the delegation of authority to occur.

1382 (3) Delegation of authority shall be approved if the local  
1383 government meets the requirements set forth in rule 62-344,  
1384 Florida Administrative Code. This section does not require a  
1385 local government to seek delegation of the environmental  
1386 resource permit program.

1387 ~~(4)(2)~~ Nothing in this section affects or modifies land  
1388 development regulations adopted by a local government to  
1389 implement its comprehensive plan pursuant to chapter 163.

1390 ~~(5)(3)~~ The department shall review environmental resource  
1391 permit applications for electrical distribution and transmission  
1392 lines and other facilities related to the production,  
1393 transmission, and distribution of electricity which are not  
1394 certified under ss. 403.52-403.5365, the Florida Electric  
1395 Transmission Line Siting Act, regulated under this part.

1396 Section 15. Effective July 1, 2010, subsection (41) is  
1397 added to section 403.061, Florida Statutes, to read:

1398 403.061 Department; powers and duties.—The department  
1399 shall have the power and the duty to control and prohibit  
1400 pollution of air and water in accordance with the law and rules  
1401 adopted and promulgated by it and, for this purpose, to:

1402 (41) Expand the use of online self-certification for  
1403 appropriate exemptions and general permits issued by the  
1404 department or the water management districts if such expansion

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1405 is economically feasible. Notwithstanding any other provisions  
1406 of law, a local government may not specify the method or form  
1407 for documenting that a project qualifies for an exemption or  
1408 meets the requirements for a permit under chapter 161, chapter  
1409 253, chapter 373, or this chapter. This preclusion of local  
1410 government authority extends to Internet-based department  
1411 programs that provide for self-certification.

1412  
1413 The department shall implement such programs in conjunction with  
1414 its other powers and duties and shall place special emphasis on  
1415 reducing and eliminating contamination that presents a threat to  
1416 humans, animals or plants, or to the environment.

1417 Section 16. (1) Except as provided in subsection (4), a  
1418 development order issued by a local government, building permit,  
1419 and any permit issued by the Department of Environmental  
1420 Protection or by a water management district pursuant to part IV  
1421 of chapter 373, Florida Statutes, which has an expiration date  
1422 from September 1, 2008, through January 1, 2012, is extended and  
1423 renewed for a period of 2 years following its previously  
1424 scheduled date of expiration. This 2-year extension also applies  
1425 to build-out dates including any extension of a build-out date  
1426 that was granted previously under s. 380.06(19)(c), Florida  
1427 Statutes. This section does not prohibit conversion from the  
1428 construction phase to the operation phase upon completion of  
1429 construction. This extension is in addition to a 2-year permit  
1430 extension under s. 14 of chapter 2009-96, Laws of Florida.

1431 (2) The commencement and completion dates for any required  
1432 mitigation associated with a phased construction project are

Amendment No.

1433 extended such that mitigation takes place in the same timeframe  
1434 relative to the phase as originally permitted.

1435 (3) The holder of a valid permit or other authorization  
1436 that is eligible for the 2-year extension must notify the  
1437 authorizing agency in writing by December 31, 2010, identifying  
1438 the specific authorization for which the holder intends to use  
1439 the extension and the anticipated timeframe for acting on the  
1440 authorization.

1441 (4) The extension provided for in subsection (1) does not  
1442 apply to:

1443 (a) A permit or other authorization under any programmatic  
1444 or regional general permit issued by the Army Corps of  
1445 Engineers.

1446 (b) A permit or other authorization held by an owner or  
1447 operator determined to be in significant noncompliance with the  
1448 conditions of the permit or authorization as established through  
1449 the issuance of a warning letter or notice of violation, the  
1450 initiation of formal enforcement, or other equivalent action by  
1451 the authorizing agency.

1452 (c) A permit or other authorization, if granted an  
1453 extension that would delay or prevent compliance with a court  
1454 order.

1455 (5) Permits extended under this section shall continue to  
1456 be governed by rules in effect at the time the permit was  
1457 issued, except if it can be demonstrated that the rules in  
1458 effect at the time the permit was issued would create an  
1459 immediate threat to public safety or health. This provision  
1460 applies to any modification of the plans, terms, and conditions



Amendment No.

1461 of the permit which lessens the environmental impact, except  
1462 that any such modification does not extend the time limit beyond  
1463 2 additional years.

1464 (6) This section does not impair the authority of a county  
1465 or municipality to require the owner of a property that has  
1466 notified the county or municipality of the owner's intention to  
1467 receive the extension of time granted by this section to  
1468 maintain and secure the property in a safe and sanitary  
1469 condition in compliance with applicable laws and ordinances.

1470 Section 17. (1) The Legislature finds that it is in the  
1471 best interests of the state to identify surplus properties and  
1472 dispose of properties owned by the state which are unnecessary  
1473 to achieving the state's responsibilities which may cost more to  
1474 maintain than the revenue generated, which serve no public  
1475 purpose, or from which the state could derive a substantially  
1476 similar public purpose under private ownership.

1477 (2) On or before July 1, 2010, and annually thereafter,  
1478 all state agencies owning or operating state-owned real property  
1479 shall submit inventory data to the Department of Environmental  
1480 Protection in a format prescribed by the department.

1481 (3) By October 1, 2010, and annually thereafter, the  
1482 Department of Environmental Protection shall submit to the  
1483 Governor, the President of the Senate, and the Speaker of the  
1484 House of Representatives a report that lists state-owned real  
1485 property recommended for disposition.

1486 Section 18. Except as otherwise provided, this act shall  
1487 take effect upon becoming a law.

1488

Amendment No.

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**T I T L E   A M E N D M E N T**

Remove the entire title and insert:

An act relating to economic development; amending s. 125.045, F.S.; requiring an agency or entity that receives county funds for economic development purposes pursuant to a contract to submit a report on the use of the funds; requiring the county to include the report in its annual financial audit; requiring counties to report on the provision of economic development incentives to businesses to the Legislative Committee on Intergovernmental Relations or successor entity; amending s. 159.803, F.S.; conforming cross-references; amending s. 166.021, F.S.; requiring an agency or entity that receives municipal funds for economic development purposes pursuant to a contract to submit a report on the use of the funds; requiring the municipality to include the report in its annual financial audit; requiring municipalities to report on the provision of economic development incentives to businesses to the Legislative Committee on Intergovernmental Affairs or successor entity; amending s. 196.1995, F.S.; authorizing counties and municipalities to extend economic development ad valorem tax exemptions under certain circumstances; amending s. 220.191, F.S.; conforming cross-references; amending s. 288.018, F.S.; revising the allowable uses for matching grants awarded under the Regional Rural Development Grants Program; amending s. 288.1045, F.S.; revising the definition of

Amendment No.

1517 "jobs"; amending s. 288.106, F.S.; providing legislative  
1518 findings and declarations; revising and providing  
1519 definitions; revising the amounts of tax refund payments  
1520 allowable under the tax refund program for qualified  
1521 target industry businesses; revising criteria for the  
1522 waiver of wage requirements under the tax refund program  
1523 for qualified target industry businesses; establishing a  
1524 schedule for the Office of Tourism, Trade, and Economic  
1525 Development to review and revise the list of target  
1526 industries and submit a report to the Governor and  
1527 Legislature; revising the criteria for evaluating  
1528 applications for the program; requiring consideration of  
1529 the state's return on investment in evaluating  
1530 applications for participation in the program; requiring  
1531 the Office of Economic and Demographic Research to submit  
1532 reports to the Legislature evaluating the calculation of  
1533 the state's return on investment for the program;  
1534 requiring that additional provisions be included in tax  
1535 refund agreements; redesignating the economic-stimulus  
1536 exemption as the "economic recovery extension"; revising  
1537 the date by which qualified target industry businesses may  
1538 request economic recovery extensions; authorizing waiver  
1539 of a requirement that qualified target industry businesses  
1540 annually provide proof of taxes paid under certain  
1541 conditions; requiring the Office of Tourism, Trade, and  
1542 Economic Development to submit reports to the Governor and  
1543 Legislature concerning the failure of qualified target  
1544 industry businesses to complete their tax refund

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 1509 (2010)

Amendment No.

1545 | agreements; deleting obsolete provisions; revising the  
1546 | date by which a target industry business may be certified  
1547 | as qualified for the program; conforming cross-references;  
1548 | amending s. 288.107, F.S.; conforming cross-references;  
1549 | revising the definition of "jobs"; amending s. 288.108,  
1550 | F.S.; redefining the term "eligible high-impact business"  
1551 | for purposes of high-impact sector performance grants;  
1552 | revising the guidelines for negotiating the award of high-  
1553 | impact sector performance grants; revising the definition  
1554 | of "jobs"; amending s. 288.1088, F.S.; revising the  
1555 | process for legislative consultation and review of Quick  
1556 | Action Closing Fund projects; authorizing certain Quick  
1557 | Action Closing Fund businesses to request renegotiation of  
1558 | their contracts; providing for review and approval of the  
1559 | requests; providing for the return of funds under certain  
1560 | circumstances; providing for the reappropriation of  
1561 | returned funds; providing for expiration; requiring that  
1562 | certain funds be placed in reserve; providing for the  
1563 | release of funds; providing for the reversion of funds;  
1564 | amending s. 288.1089, F.S.; conforming provisions to  
1565 | changes made by the act; revising the definition of  
1566 | "jobs"; amending s. 290.00677, F.S.; conforming provisions  
1567 | to changes made by the act; amending s. 373.441, F.S.;  
1568 | revising provisions relating to adoption of rules relating  
1569 | to permitting; requiring the Department of Environmental  
1570 | Protection to adopt rules that authorize a local  
1571 | government to petition the Governor and Cabinet for  
1572 | certain delegation requests; requiring the Department of

Amendment No.

1573 Environmental Protection detail the statutes or rules that  
1574 were not satisfied by a local government that made a  
1575 request for delegation and to detail actions that could be  
1576 taken to allow for delegation; authorizing a local  
1577 government to petition the Governor and Cabinet to review  
1578 the denial of a delegation request; providing that a  
1579 delegation of authority must be approved if it meets  
1580 certain rule requirements; amending s. 403.061, F.S.;  
1581 directing the Department of Environmental Protection to  
1582 expand the use of online self-certification for certain  
1583 exemptions and permits; limiting the authority of a local  
1584 government the method or form for documenting that a  
1585 project qualifies for an exemption or meets the  
1586 requirements for a permit; extending the expiration dates  
1587 of certain permits issued by the Department of  
1588 Environmental Protection or a water management district;  
1589 extending certain previously granted build-out dates;  
1590 providing an effective date.  
1591

Amendment No. 1a

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Finance & Tax Council  
2 Representative(s) Aubuchon offered the following:

3  
4           **Amendment to Amendment (1) by Representative Weatherford**  
5 **(with title amendment)**

6           Between lines 95 and 96, insert:

7           Section 2. Subsection (6) of section 212.20, Florida  
8 Statutes, is amended to read:

9  
10           212.20 Funds collected, disposition; additional powers of  
11 department; operational expense; refund of taxes adjudicated  
12 unconstitutionally collected.-

13           (6) Distribution of all proceeds under this chapter and s.  
14 202.18(1)(b) and (2)(b) shall be as follows:

15           (a) Proceeds from the convention development taxes  
16 authorized under s. 212.0305 shall be reallocated to the  
17 Convention Development Tax Clearing Trust Fund.

Amendment No. 1a

18 (b) Proceeds from discretionary sales surtaxes imposed  
19 pursuant to ss. 212.054 and 212.055 shall be reallocated to the  
20 Discretionary Sales Surtax Clearing Trust Fund.

21 (c) Proceeds from the fees imposed under ss.  
22 212.05(1)(h)3. and 212.18(3) shall remain with the General  
23 Revenue Fund.

24 (d) The proceeds of all other taxes and fees imposed  
25 pursuant to this chapter or remitted pursuant to s. 202.18(1)(b)  
26 and (2)(b) shall be distributed as follows:

27 1. In any fiscal year, the greater of \$500 million, minus  
28 an amount equal to 4.6 percent of the proceeds of the taxes  
29 collected pursuant to chapter 201, or 5.2 percent of all other  
30 taxes and fees imposed pursuant to this chapter or remitted  
31 pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in  
32 monthly installments into the General Revenue Fund.

33 2. After the distribution under subparagraph 1., 8.814  
34 percent of the amount remitted by a sales tax dealer located  
35 within a participating county pursuant to s. 218.61 shall be  
36 transferred into the Local Government Half-cent Sales Tax  
37 Clearing Trust Fund. Beginning July 1, 2003, the amount to be  
38 transferred shall be reduced by 0.1 percent, and the department  
39 shall distribute this amount to the Public Employees Relations  
40 Commission Trust Fund less \$5,000 each month, which shall be  
41 added to the amount calculated in subparagraph 3. and  
42 distributed accordingly.

43 3. After the distribution under subparagraphs 1. and 2.,  
44 0.095 percent shall be transferred to the Local Government Half-

Amendment No. 1a

45 cent Sales Tax Clearing Trust Fund and distributed pursuant to  
46 s. 218.65.

47 4. After the distributions under subparagraphs 1., 2., and  
48 3., 2.0440 percent of the available proceeds shall be  
49 transferred monthly to the Revenue Sharing Trust Fund for  
50 Counties pursuant to s. 218.215.

51 5. After the distributions under subparagraphs 1., 2., and  
52 3., 1.3409 percent of the available proceeds shall be  
53 transferred monthly to the Revenue Sharing Trust Fund for  
54 Municipalities pursuant to s. 218.215. If the total revenue to  
55 be distributed pursuant to this subparagraph is at least as  
56 great as the amount due from the Revenue Sharing Trust Fund for  
57 Municipalities and the former Municipal Financial Assistance  
58 Trust Fund in state fiscal year 1999-2000, no municipality shall  
59 receive less than the amount due from the Revenue Sharing Trust  
60 Fund for Municipalities and the former Municipal Financial  
61 Assistance Trust Fund in state fiscal year 1999-2000. If the  
62 total proceeds to be distributed are less than the amount  
63 received in combination from the Revenue Sharing Trust Fund for  
64 Municipalities and the former Municipal Financial Assistance  
65 Trust Fund in state fiscal year 1999-2000, each municipality  
66 shall receive an amount proportionate to the amount it was due  
67 in state fiscal year 1999-2000.

68 6. Of the remaining proceeds:

69 a. In each fiscal year, the sum of \$29,915,500 shall be  
70 divided into as many equal parts as there are counties in the  
71 state, and one part shall be distributed to each county. The  
72 distribution among the several counties must begin each fiscal



Amendment No. 1a

73 year on or before January 5th and continue monthly for a total  
74 of 4 months. If a local or special law required that any moneys  
75 accruing to a county in fiscal year 1999-2000 under the then-  
76 existing provisions of s. 550.135 be paid directly to the  
77 district school board, special district, or a municipal  
78 government, such payment must continue until the local or  
79 special law is amended or repealed. The state covenants with  
80 holders of bonds or other instruments of indebtedness issued by  
81 local governments, special districts, or district school boards  
82 before July 1, 2000, that it is not the intent of this  
83 subparagraph to adversely affect the rights of those holders or  
84 relieve local governments, special districts, or district school  
85 boards of the duty to meet their obligations as a result of  
86 previous pledges or assignments or trusts entered into which  
87 obligated funds received from the distribution to county  
88 governments under then-existing s. 550.135. This distribution  
89 specifically is in lieu of funds distributed under s. 550.135  
90 before July 1, 2000.

91 b. The department shall distribute \$166,667 monthly  
92 pursuant to s. 288.1162 to each applicant that has been  
93 certified as a "facility for a new professional sports  
94 franchise" or a "facility for a retained professional sports  
95 franchise" pursuant to s. 288.1162. Up to \$41,667 shall be  
96 distributed monthly by the department to each applicant that has  
97 been certified as a "facility for a retained spring training  
98 franchise" pursuant to s. 288.1162; however, not more than  
99 \$416,670 may be distributed monthly in the aggregate to all  
100 certified facilities for a retained spring training franchise.

Amendment No. 1a

101 Distributions must begin 60 days following such certification  
102 and shall continue for not more than 30 years. This paragraph  
103 may not be construed to allow an applicant certified pursuant to  
104 s. 288.1162 to receive more in distributions than actually  
105 expended by the applicant for the public purposes provided for  
106 in s. 288.1162(6).

107 c. Beginning 30 days after notice by the Office of  
108 Tourism, Trade, and Economic Development to the Department of  
109 Revenue that an applicant has been certified as the professional  
110 golf hall of fame pursuant to s. 288.1168 and is open to the  
111 public, \$166,667 shall be distributed monthly, for up to 300  
112 months, to the applicant.

113 d. Beginning 30 days after notice by the Office of  
114 Tourism, Trade, and Economic Development to the Department of  
115 Revenue that the applicant has been certified as the  
116 International Game Fish Association World Center facility  
117 pursuant to s. 288.1169, and the facility is open to the public,  
118 \$83,333 shall be distributed monthly, for up to 168 months, to  
119 the applicant. This distribution is subject to reduction  
120 pursuant to s. 288.1169. A lump sum payment of \$999,996 shall be  
121 made, after certification and before July 1, 2000.

122 e. Beginning when the National Swimming Center at Cape  
123 Coral is open to the public, but no earlier than July 1, 2012,  
124 \$125,000 shall be distributed monthly, for up to 240 months, to  
125 the National Swimming Center at Cape Coral.

126 7. All other proceeds must remain in the General Revenue  
127 Fund.

128

Amendment No. 1a

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130

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131

**T I T L E   A M E N D M E N T**

132

Remove line 1512 and insert:

133

under certain circumstances; amending s. 212.20, F.S.; providing

134

for distribution of proceeds; amending s. 220.191, F.S.;

Amendment No. 2a

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Finance & Tax Council

2 Representative(s) Fitzgerald offered the following:

3  
4 **Amendment to Amendment (1) by Representative Weatherford**  
5 **(with title amendment)**

6 Between lines 247 and 248, insert:

7 Section 7. Effective July 1, 2010, section 288.064,  
8 Florida Statutes, is created to read:

9 288.064 Small Business Sustainability Program.-

10 (1) The Small Business Sustainability Program is  
11 established within the Office of Tourism, Trade, and Economic  
12 Development to facilitate the use of existing federal, state,  
13 and local financial resources by providing local governments and  
14 nonprofit organizations with the financial assistance to sustain  
15 small businesses during times of economic distress. Funds  
16 appropriated for the program may be used to match or guarantee  
17 loans made available by the federal Small Business  
18 Administration or other governmental entities.

Amendment No. 2a

19       (2) (a) The program shall provide for short-term or long-  
20 term loans, loan guarantees, and loan-loss reserves to  
21 facilitate loans to small businesses. As used in this section,  
22 the term "small business" means any business with 10 or fewer  
23 employees.

24       (b) A request for a loan or loan guarantee must be made by  
25 application to the Office of Tourism, Trade, and Economic  
26 Development. A loan or loan guarantee shall be made pursuant to  
27 agreements specifying the terms and conditions agreed to between  
28 the applicant and the Office of Tourism, Trade, and Economic  
29 Development. A loan or loan guarantee is a legal obligation of  
30 the applicant. All repayments of principal and interest shall be  
31 returned to the loan fund and made available for loans to other  
32 applicants. Preference for loans or loan guarantees shall be  
33 given first to meet matching requirements of the Small Business  
34 Administration or other federal entity making or guaranteeing  
35 loans to small businesses.

36       (3) The Office of Tourism, Trade, and Economic Development  
37 shall manage the funds and establish loan and loan guarantee  
38 practices that include, but are not limited to, procedures for  
39 establishing loan interest rates, uses of funding, application  
40 procedures, and application review procedures. The Office of  
41 Tourism, Trade, and Economic Development has the final authority  
42 to approve any loan or guarantee provided under this section.

43       (4) Notwithstanding s. 216.301, any undisbursed balance of  
44 the funds appropriated for the program at the end of a fiscal  
45 year do not revert but shall be carried forward and remain

Amendment No. 2a

46 available for expenditure for the program during the following  
47 fiscal year.

48 (5) The Office of Tourism, Trade, and Economic Development  
49 may adopt rules to administer this section.

50 Section 8. Effective July 1, 2010, the sum of \$25 million  
51 is appropriated from the General Revenue Fund to the Office of  
52 Tourism, Trade, and Economic Development for the purpose of  
53 administering the Small Business Sustainability Program pursuant  
54 to s. 288.064, Florida Statutes, during the 2010-2011 fiscal  
55 year.

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

60

61

Remove line 1515 and insert:

62

under the Regional Rural Development Grants Program; creating s.

63

288.064, F.S.; establishing the Small Business Sustainability

64

Program in the Office of Tourism, Trade, and Economic

65

Development; providing for the award of loans and loan

66

guarantees to small businesses; providing for administration of

67

the program; providing for the carryforward of undisbursed

68

funds; authorizing the office to adopt rules; providing an

69

appropriation

Amendment No. 3a

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Finance & Tax Council  
2 Representative(s) Fitzgerald offered the following:

3  
4 **Amendment to Amendment (1) by Representative Weatherford**  
5 **(with title amendment)**

6 Between lines 1485 and 1486, insert:

7 Section 18. Effective July 1, 2010:

8 (1) The sum of \$17 million is appropriated from the  
9 General Revenue Fund to the Department of Environmental  
10 Protection for the purpose of carrying out the Drinking Water  
11 State Revolving Fund Program established pursuant to s.  
12 403.8532, Florida Statutes, during the 2010-2011 fiscal year.

13 (2) The sum of \$22 million is appropriated from the  
14 General Revenue Fund to the Department of Environmental  
15 Protection for the purpose of carrying out the Clean Water State  
16 Revolving Fund Program established pursuant to s. 403.1835,  
17 Florida Statutes, during the 2010-2011 fiscal year.

Amendment No. 3a

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

23

Remove line 1590 and insert:

24

Providing appropriations; providing an effective date.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 7213    PCB EDCA 10-02    Florida Infrastructure Fund Partnership  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council, Murzin and Eisnaugle  
**TIED BILLS:** \_\_\_\_\_    **IDEN./SIM. BILLS:** \_\_\_\_\_

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.:	Economic Development & Community Affairs Policy Council	12 Y, 2 N	Tecler	Tinker
1)	Finance & Tax Council		Diez-Arguelles	Langston
2)				
3)				
4)				
5)				

**SUMMARY ANALYSIS**

The bill creates the Florida Infrastructure Fund Partnership ("Partnership"), a contingent tax credit program designed to leverage investment and private funding for state infrastructure projects. The Partnership is authorized to raise \$350 million in private funds for direct investment in infrastructure projects, including water or wastewater systems, communication systems, power systems, transportation systems, renewable energy systems, ancillary or support systems, or other strategic infrastructure needs. Tax credits are available for redemption no earlier than 2023 and are used only as a guarantee on an investment partner's principal investment. The Florida Opportunity Fund would serve as the general partner of the program. A separate entity, the Florida Infrastructure Investment Trust would administer the tax credit program.

The Revenue Estimating Conference adopted an annualized negative indeterminate impact. This bill exposes the state to contingent tax credits ranging from \$0 to \$350 million, beginning in 2023 at the earliest.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### PRESENT SITUATION

##### **The Florida Opportunity Fund**

The Florida Opportunity Fund, Inc. ("Fund") was created by the Florida Legislature in 2007 to mobilize and increase venture capital available to Florida businesses. Sections 288.9621 - 288.9625 F.S., collectively referred to as the Florida Capital Formation Act, provided for the authorization of the entity. Initially, the Fund was set up as a "fund-of-funds" program that emphasized investment in seed capital and early stage venture capital funds. However in 2009, the Florida Legislature expanded the Fund's mandate under the Florida Capital Formation Act to create direct investment programs that invest in individual businesses and infrastructure projects. The fund may not use its original appropriation of \$29.5 million to make direct investments but may raise private capital or utilize other public funding sources. In 2010, the Fund launched a direct investment program with the Florida Energy and Climate Commission, a state entity within the Executive Office of the Governor. The progress of direct investments must be included in the fund's annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The Fund is organized as a private, not-for-profit corporation under Chapter 617, F.S., and administered by Enterprise Florida. Enterprise Florida selects a five-person appointment committee, which selects a board of directors for the Fund. The board then selects a Florida Opportunity Fund investment manager. Currently, the Fund is managed by Florida First Partners, a joint venture between the Credit Suisse Customized Fund Investment Group ("CFIG") and Florida-based MILCOM Venture Partners ("MVP"). CFIG serves various client types including the states of Indiana and Oregon, endowments, family offices, and high net worth individuals. MVP is a venture capital firm focused on the intersection of the commercial and defense markets. MVP manages two venture capital funds: MILCOM Technologies, a seed-stage investment fund; and OnPointTechnologies, an early-stage venture capital fund.

##### **Infrastructure Funding in Florida**

Infrastructure may be defined as the physical structures or facilities a society utilizes to facilitate the operation of its economy. Permanent assets, such as infrastructure, are a precondition to modern transportation, communication, and commerce. Infrastructure encompasses a wide range of assets, such as port facilities, water and wastewater systems, transportation systems and communication

systems. Due to the large size and cost, and often monopolistic characteristics of these assets, infrastructure projects have historically been financed, built, owned and operated by state and local governments. Today, public entities solicit grants, borrow capital or issue bonds to pay for public infrastructure projects.

## **Contingent Tax Programs**

Contingent tax credits help to raise money for state-affiliated venture capital initiatives without immediately affecting state revenues. Contingent tax credit programs are statutory state guarantees established to incentivize venture capital investment into state target industries. Seven states, Arkansas, Iowa, Michigan, Ohio, Oklahoma, South Carolina and Utah, have adopted programs authorizing the issuance of contingent tax credits to investors in state-sponsored fund of funds. However, there are not any states that have created infrastructure funding programs similar to the one proposed in this bill.

## **EFFECTS OF PROPOSED CHANGES**

### **Florida Infrastructure Fund Partnership**

The bill creates s. 288.9627, F.S., which authorizes The Florida Opportunity Fund ("Fund") to facilitate the creation of the Florida Infrastructure Fund Partnership ("Partnership"). The bill provides that the Partnership is organized and operated under ch. 620, F.S., as a private, for-profit, limited partnership or limited liability partnership and is not an instrumentality of the state.

The Fund is authorized to loan no more than \$350,000 to the Partnership for use in paying initial expenses incurred in the organization of the partnership and the solicitation of investment partners (or "partners"). Further, the Fund, as general partner, is responsible for managing the business affairs of the Partnership, including, but not limited to:

- The engagement of its investment manager(s) to assist with the management of the Partnership.
- Soliciting and negotiating the terms, contracting, and receiving of investment capital.
- Receiving investment returns, paying investment partners, approving investment, and providing financial and strategic returns.

The bill authorizes the Partnership to make direct investments in Florida-based infrastructure projects that foster economic development and meet a critical infrastructure need of the state. Infrastructure projects eligible for investment include systems and facilities related to water and wastewater, power, transportation, communications and renewable energy.<sup>1</sup> Capital for such investments must be raised by the Partnership through "commitment agreements" with investment partners approved by the Fund's board.<sup>2</sup> The bill provides for the issuance of certificates for future contingent tax credits to guarantee the return of investment capital from the Partnership to the Partnership's investment partners.<sup>3</sup> Contingent tax credits would only be used to guarantee the principal investment to the partners, but not any profit. The bill also requires that the total principal investment payable to the Partnership and the total amount of contingent tax credits to be issued by the Department of Revenue shall not exceed \$350 million. However, if the Partnership fails to obtain investment commitments totaling at least \$75

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<sup>1</sup> The bill defines "Infrastructure project" to mean a capital project in the state for a facility or other infrastructure need of the state, a county, or a municipality with respect to any of the following: water or wastewater systems, communication system, power system, transportation system, renewable energy system, ancillary or support system for any of these types of projects, or other strategic infrastructure of the state, the county or municipality.

<sup>2</sup> The bill defines "commitment agreement" to mean a contract between the partnership and an investment partner under which the partner commits to providing a specified amount of investment capital in exchange for an ownership interest in the partnership.

<sup>3</sup> The certificates are issued by the Florida Infrastructure Investment Trust, described later in this analysis.

million by December 31, 2011, then the Partnership must cancel all agreements and return investment amounts back to the investment partners.

### Limits on Investments

The Partnership may only invest in infrastructure projects:

- That fulfill a critical need of the state;
- That raised equity or debt capital from other sources. The total amount invested in such infrastructure projects must be at least twice the amount invested by the Partnership; and
- Where measures or restrictions are legally in place to ensure that no infrastructure project will be fraudulently closed.

The Partnership may not invest more than 20 percent of its total funds available for investment in any single infrastructure project.

In addition, the Partnership must make investments in infrastructure projects based on an evaluation of the following factors:

1. The written business plan for the project, including all expected revenue sources.
2. The likelihood of the project in attracting operating capital from investors, grants, or other lenders.
3. The management team for the proposed project.
4. The project's job creation potential in this state.
5. The financial resources of the company proposing the project.
6. The presence of reasonable safeguards to ensure the project provides a continuing benefit for residents of the state.
7. Other factors deemed by the partnership to be relevant to the likelihood of the success of the project and not inconsistent with this section.

In addition, the bill prohibits the Partnership and the Florida Opportunity Fund from pledging the credit or taxing power of the state or any political subdivision of the state. Obligations of the Partnership and the Fund are not obligations of the state or any political subdivision of the state. Further, the bill forbids the Partnership or the Fund from making its debts payable out of any resources except those of the Partnership or the Fund.

The bill also provides that the Partnership shall not accept any investment from or make any investment in any infrastructure project with a financial institution or company identified in s. 215.472, F.S., regarding terrorist nations or any scrutinized company as that term is defined in s. 215.473, F.S., relating to Iran and Sudan.

### Reporting Requirements

The bill requires an annual report to be issued by the Partnership concerning the Partnership's activities to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The annual report, at a minimum, must include:

- An accounting of the amount of investments raised and disbursed by the Partnership and the progress of the Partnership, including the progress of infrastructure projects that have been provided direct investment by the Partnership.

- A description of the benefits to this state resulting from the Partnership, including a list of infrastructure projects and the benefit of those projects to the state or region, the number of businesses and associated industries positively affected; the number, types, and average annual wage of jobs created or maintained, and the positive impact on Florida's economy.
- Independently audited financial statements, including statements that show receipts and expenditures during the preceding fiscal year for the operational costs of the Partnership.

### **The Florida Infrastructure Investment Trust**

The bill also creates s. 288.9628, F.S., to establish the Florida Infrastructure Investment Trust ("Trust"), a state beneficiary public trust, to be governed by an independent board of trustees ("board"). The board would be comprised of the Chief Financial Officer; the Executive Director of the Office of Trade, Tourism, and Economic Development and the Vice Chair of Enterprise Florida, Inc., or their respective designees. The bill allows an administrative officer to act on behalf of the Trust under the direction of the board. The bill prohibits board members and the administrative officer from receiving compensation and having a financial interest in any investment partner.

The bill authorizes the Trust to engage consultants and retain professional services, issue and sell certificates, expend funds and invest funds, and contract, bond or insure against loss. Additionally, the Trust may seek reimbursements for expenses by charging a fee of no more than .25 percent for the issuance of certificates to investment partners.

The bill authorizes the Trust to issue certificates for redeemable tax credits to partners that make equity investments in the Partnership. Certificates issued by the Trust and related tax credits shall not exceed a total aggregate of \$350 million of tax credits. Further, a certificate issued by the trust must have a specific calendar year maturity date designated by the trust of not less than twelve years after the date of issuance.

### Notification

On the maturity date of the certificate, the bill provides that if an investor has not received its full principal investment, the Partnership must provide written notification of this circumstance to each partner.

The notification must include:

- An estimate of the fair market value of the Partnership's assets.
- The total capital investment of all partners.
- The total amount of distributions received by the partners.
- The amount of the tax credit for which the partner is entitled to be issued.

### Election of Tax Credits

Upon receipt of notice from the Partnership, the bill provides each partner a one-time election to:

1. Receive a tax credit certificate equaling its net capital investment;
2. Authorize the Trust to sell the tax credits on behalf of the partner with the proceeds of the sale to be paid by the Trust to the partner; or
3. Maintain the investment in the Partnership.

The bill requires the partner to provide written notification to the Partnership and the Trust of its election within 30 days after the partner's receipt of notification from the Partnership. Failing to provide a timely notice will result in the investment partner being deemed to have elected to maintain investment in the Partnership.

#### Issuance of Tax Credits

In the event that a partner becomes entitled to claim a tax credit under the program, the bill provides that the partnership will certify the amount of credit, the applicable taxpayer, and the tax against which the credit can be applied to the Department of Revenue ("DOR"). The bill requires that tax credits certified with DOR may not exceed the investment partner's "net capital investment"<sup>4</sup>. Also, the bill stipulates that the amount of tax credits claimed for a certificate in a calendar year may not exceed 25 percent of the amount for which the certificate is issued. The bill requires the partner to agree in writing to transfer its interest in the Partnership to the Florida Opportunity Fund before receiving the tax credit.

#### Sale of Tax Credits

The bill allows the Florida Infrastructure Investment Trust to sell certificates on behalf of investment partners. The bill authorizes the Trust to sell a certificate in an amount no more than the lesser of the initial amount of the certificate issued or in an amount no greater than 107 percent above the partner's net capital investment. Further, the bill prohibits partners with tax liabilities to the state from selling such certificates through the Trust. Before receiving the proceeds of the Trust's sale of tax credits, the bill requires the partner to agree in writing to transfer its interest in the Partnership to the Florida Opportunity Fund.

The bill stipulates that within 30 days following the Trust's sale of the tax credits, the Trust must notify the Partnership and apply to DOR for the issuance of a tax credit certificate or certificates in the name of the person or persons who purchased the credits. If the partner's tax credits have been sold by the trust to more than one person, the bill requires DOR to issue tax credit certificates to such persons in such amounts as designated by the trust in the application. Further, if the trust is unable to sell the partner's tax credits within 90 days, the bill provides the investment partner with the option to modify the election choice. The bill provides deadlines and administrative instructions for processing the application.

#### Tax Offset

The bill provides that tax credits issued by DOR can be used by their owner as an offset against any state taxes owed to the state under chapter 212, F.S, chapter 220, F.S., or chapter 624, F.S., i.e., sales, corporate, and premium insurance taxes, respectively. However, the owner of the tax credit may elect to claim the tax credit as a refund of taxes paid rather than applied as an offset against eligible taxes.

The bill requires Department of Revenue to provide the Trust with a written assurance that the certificates issued by the Trust will be honored by the Department. Further, the bill allows the Department of Revenue to provide information relative to tax credits to the Florida Infrastructure Fund Partnership and the Florida Infrastructure Investment Trust.

The bill provides for an effective date of July 1, 2010.

#### B. SECTION DIRECTORY:

**Section 1:** Amends s. 288.9621, F.S., revising the short title.

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<sup>4</sup> The bill defines "net capital investment" to mean an amount equal to the difference between the total investment capital actually advanced by the investment partner to the partnership and the amount of the aggregate actual distributions received by the investment partner.

**Section 2:** Amends s. 288.9622, F.S., relating to the findings and intent of the Legislature.

**Section 3:** Amends s. 288.9623, F.S., to provide certain definitions.

**Section 4:** Creates s. 288.9627, F.S., authorizing the creation of the Florida Infrastructure Fund Partnership and providing duties and limitations of the Partnership.

**Section 5:** Creates s. 288.9628, F.S., authorizing the creation of the Florida Infrastructure Investment Trust, establishing duties for the Trust, issuance of certificates, and applications for tax credits.

**Section 6:** Amends s. 213.053, F.S., to create paragraph (z) relating to confidentiality and information sharing.

**Section 7:** Provides for an effective date of July 1, 2010.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The Revenue Estimating Conference adopted an annualized negative indeterminate impact. This bill exposes the state to contingent tax credits ranging from \$0 to \$350 million, beginning in 2023 at the earliest.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

This bill does not affect local tax revenue sources; however, an infrastructure project built in a local municipality may provide an indeterminate but positive fiscal impact.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The economic impact on the private sector could be positive or negative depending on the Florida Infrastructure Fund Partnership's ability to target and fund projects with a high potential for success.

### 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 an 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 a state tax shared with counties or municipalities.



2. Other:

None

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### **IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to capital formation for infrastructure  
 3           projects; amending ss. 288.9621, 288.9622, and 288.9623,  
 4           F.S.; conforming a short title, revising legislative  
 5           findings and intent, and providing definitions for the  
 6           Florida Capital Formation Act; conforming cross-  
 7           references; creating s. 288.9627, F.S.; providing for  
 8           creation of the Florida Infrastructure Fund Partnership;  
 9           providing the partnership's purpose and duties; providing  
 10          for management of the partnership by the Florida  
 11          Opportunity Fund; authorizing the fund to lend moneys to  
 12          the partnership; requiring the partnership to raise funds  
 13          from investment partners; providing for commitment  
 14          agreements with and issuance of certificates to investment  
 15          partners; authorizing the partnership to invest in certain  
 16          infrastructure projects; requiring the partnership to  
 17          submit an annual report to the Governor and Legislature;  
 18          prohibiting the partnership and the fund from pledging the  
 19          credit or taxing power of the state or its political  
 20          subdivisions; prohibiting the partnership from investing  
 21          in projects with or accepting investments from certain  
 22          companies; creating s. 288.9628, F.S.; creating the  
 23          Florida Infrastructure Investment Trust; providing for  
 24          powers and duties, a board of trustees, and an  
 25          administrative officer of the trust; providing for the  
 26          trust's issuance of certificates to investment partners  
 27          who invest in the partnership; specifying that the  
 28          certificates are redeemable for tax credits under certain

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29 conditions; authorizing the trust to charge fees; limiting  
 30 the amount of tax credits issued; providing for the  
 31 redemption or sale of certificates; providing for the  
 32 issuance of the tax credits by the Department of Revenue;  
 33 specifying the taxes against which the credits may be  
 34 applied; limiting the period within which tax credits may  
 35 be used; providing for the state's obligation for use of  
 36 the tax credits; limiting the liability of the fund;  
 37 requiring the department to provide a certain written  
 38 assurance to the trust under certain circumstances;  
 39 amending s. 213.053, F.S.; authorizing the department to  
 40 provide tax credit information to the partnership and the  
 41 trust; providing an effective date.

42

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

44

45 Section 1. Section 288.9621, Florida Statutes, is amended  
 46 to read:

47 288.9621 Short title.—This part ~~Sections 288.9621–288.9625~~  
 48 may be cited as the "Florida Capital Formation Act."

49 Section 2. Subsections (1) and (2) of section 288.9622,  
 50 Florida Statutes, are amended to read:

51 288.9622 Findings and intent.—

52 (1) The Legislature finds and declares that there is a  
 53 need to increase the availability of seed capital and early  
 54 stage venture equity capital for emerging companies in the  
 55 state, including, without limitation, enterprises in life  
 56 sciences, information technology, advanced manufacturing

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57 processes, aviation and aerospace, and homeland security and  
 58 defense, as well as other strategic technologies and  
 59 infrastructure funding.

60 (2) It is the intent of the Legislature that this part ~~ss-~~  
 61 ~~288.9621-288.9625~~ serve to mobilize private investment in a  
 62 broad variety of venture capital partnerships in diversified  
 63 industries and geographies; retain private sector investment  
 64 criteria focused on rate of return; use the services of highly  
 65 qualified managers in the venture capital industry regardless of  
 66 location; facilitate the organization of the Florida Opportunity  
 67 Fund as an investor in seed and early stage businesses,  
 68 infrastructure projects, venture capital funds, infrastructure  
 69 funds, and angel funds; and precipitate capital investment and  
 70 extensions of credit to and in the Florida Opportunity Fund.

71 Section 3. Section 288.9623, Florida Statutes, is amended  
 72 to read:

73 288.9623 Definitions.— As used in this part, the term ~~ss-~~  
 74 ~~288.9621-288.9625~~:

75 (1) "Board" means the board of directors of the Florida  
 76 Opportunity Fund.

77 (2) "Certificate" means a contract between the trust and  
 78 an investment partner under which the partner, under certain  
 79 conditions, may redeem such certificate for a tax credit to  
 80 guarantee the partner's investment in the partnership.

81 (3) "Commitment agreement" means a contract between the  
 82 partnership and an investment partner under which the partner  
 83 commits to providing a specified amount of investment capital in  
 84 exchange for an ownership interest in the partnership.

85 (4)+2 "Fund" means the Florida Opportunity Fund.

86 (5) "Infrastructure project" means a capital project in  
 87 the state for a facility or other infrastructure need of the  
 88 state, a county, or a municipality with respect to any of the  
 89 following: water or wastewater system, communication system,  
 90 power system, transportation system, renewable energy system,  
 91 ancillary or support system for any of these types of projects,  
 92 or other strategic infrastructure of the state, the county, or  
 93 the municipality.

94 (6) "Investment partner" or "partner" means a person,  
 95 other than the partnership, the fund, or the trust, who  
 96 purchases an ownership interest in the partnership.

97 (7) "Partnership" means the Florida Infrastructure Fund  
 98 Partnership.

99 (8) "Tax credit" means a credit issued against the taxes  
 100 specified in s. 288.9628(7)(b).

101 (9) "Trust" means the Florida Infrastructure Investment  
 102 Trust.

103 Section 4. Section 288.9627, Florida Statutes, is created  
 104 to read:

105 288.9627 Florida Infrastructure Fund Partnership;  
 106 creation; duties.—

107 (1) The Florida Opportunity Fund shall facilitate the  
 108 creation of the Florida Infrastructure Fund Partnership, which  
 109 shall be organized and operated under chapter 620 as a private,  
 110 for-profit limited partnership or limited liability partnership  
 111 with the fund as a general partner. The partnership shall manage  
 112 its business affairs and conduct business consistent with its

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113 organizing documents and the purposes described in this section.  
 114 However, the partnership is not an instrumentality of the state.

115 (2) The primary purpose of the partnership is to raise  
 116 investment capital and invest the capital in infrastructure  
 117 projects in the state that promote the economic development of  
 118 the state, a county, or a municipality.

119 (3) (a) The fund, as a general partner of the partnership,  
 120 shall manage the partnership's business affairs, including, but  
 121 not limited to:

122 1. Hiring one or more investment managers to assist with  
 123 management of the partnership.

124 2. Soliciting and negotiating the terms of, contracting  
 125 for, and receiving investment capital with the assistance of the  
 126 investment managers or other service providers.

127 3. Receiving investment returns.

128 4. Disbursing returns to investment partners.

129 5. Approving investments in order to provide financial  
 130 returns together with strategic returns designed to satisfy the  
 131 state's, the county's, or the municipality's infrastructure  
 132 needs; result in a significant potential to create or retain  
 133 jobs in this state; and further diversify the state's economy.

134 6. Engaging in other activities necessary to operate the  
 135 partnership.

136 (b) The fund may lend up to \$350,000 to the partnership to  
 137 pay the initial expenses of organizing the partnership and  
 138 soliciting investment partners.

139 (4) (a) The partnership shall raise funds from investment  
 140 partners for investment in infrastructure projects in the state

141 by entering into commitment agreements with such partners on  
 142 terms approved by the fund's board.

143 (b) The Florida Infrastructure Investment Trust shall,  
 144 pursuant to s. 288.9628, concurrently with the execution of a  
 145 commitment agreement with an investment partner, issue a  
 146 certificate redeemable for a contingent tax credit to guarantee  
 147 the partner's investment in the partnership.

148 (c) The partnership shall provide a copy of each  
 149 commitment agreement to the trust upon execution of the  
 150 agreement by all parties.

151 (d) The partnership may enter into commitment agreements  
 152 with investment partners beginning July 1, 2010. The total  
 153 principal investment payable to the partnership under all  
 154 commitment agreements, and the corresponding amount of the  
 155 certificates issued by the trust under s. 288.9628, may not  
 156 exceed the total aggregate amount of \$350 million. However, if  
 157 the partnership does not obtain commitment agreements totaling  
 158 at least \$75 million by December 1, 2011, the partnership must  
 159 cancel any executed agreement and return the investment capital  
 160 of each investment partner who executed an agreement.

161 (5) (a) The partnership may only invest in an  
 162 infrastructure project:

163 1. That fulfills a critical infrastructure need of the  
 164 state.

165 2. That raises enough equity or debt capital from other  
 166 sources so that the total amount invested in the project is at  
 167 least twice the amount invested by the partnership.

168 3. For which legal measures exist, appropriate to the

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169 individual project, to ensure that the project is not  
 170 fraudulently closed to the detriment of the residents of the  
 171 state.

172 (b) The partnership may not invest more than 20 percent of  
 173 its total available investment capital in any single  
 174 infrastructure project.

175 (6) The partnership may only invest in an infrastructure  
 176 project based on an evaluation of the following:

177 (a) A written business plan for the project, including all  
 178 expected revenue sources.

179 (b) The likelihood of the project's attracting operating  
 180 capital from investment partners, grants, or other lenders.

181 (c) The management team for the proposed project.

182 (d) The project's potential for job creation in the state.

183 (e) The financial resources of the entity proposing the  
 184 project.

185 (f) The existence of reasonable safeguards to ensure that  
 186 the project provides a continuing benefit for residents of the  
 187 state.

188 (g) Other factors not inconsistent with this section that  
 189 are deemed by the partnership as relevant to the likelihood of  
 190 the project's success.

191 (7) By December 1 of each year beginning in 2010, the  
 192 partnership shall submit an annual report of its activities to  
 193 the Governor, the President of the Senate, and the Speaker of  
 194 the House of Representatives. The annual report must include, at  
 195 a minimum:

196 (a) An accounting of the amounts of investment capital



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197 raised and disbursed by the partnership and the progress of the  
 198 partnership, including the progress of each infrastructure  
 199 project in which the partnership has invested.

200 (b) A description of the benefits to the state that result  
 201 from the partnership's investments, including a list of  
 202 infrastructure projects; the benefits of those projects to the  
 203 state, the county, or the municipality; the number of businesses  
 204 and associated industries positively affected; the number,  
 205 types, and average annual wages of the jobs created or retained;  
 206 and the positive impact on the state's economy.

207 (c) Independently audited financial statements, including  
 208 statements that show receipts and expenditures during the  
 209 preceding fiscal year for the operational costs of the  
 210 partnership.

211 (8) The partnership and the fund may not pledge the credit  
 212 or taxing power of the state or any political subdivision  
 213 thereof and may not make their debts payable from any moneys or  
 214 resources except those of the partnership or the fund. An  
 215 obligation of the partnership or the fund is not an obligation  
 216 of the state or any political subdivision thereof but is an  
 217 obligation of the partnership or the fund, payable exclusively  
 218 from the partnership's or the fund's resources.

219 (9) The partnership may not invest in an infrastructure  
 220 project with, or accept investment capital from, a company  
 221 described in s. 215.472 or a scrutinized company as defined in  
 222 s. 215.473. The entity owning an infrastructure project in which  
 223 the partnership has invested must provide reasonable assurances  
 224 to the partnership that the entity will not provide such company

225 or scrutinized company with an ownership interest in the  
 226 infrastructure project.

227 Section 5. Section 288.9628, Florida Statutes, is created  
 228 to read:

229 288.9628 Florida Infrastructure Investment Trust;  
 230 creation; duties; issuance of certificates; applications for tax  
 231 credits.—

232 (1)(a) There is created the Florida Infrastructure  
 233 Investment Trust, which shall be organized as a state  
 234 beneficiary public trust to be administered by a board of  
 235 trustees. The powers and duties of the board of trustees under  
 236 this section are deemed to be performed for essential public  
 237 purposes.

238 (b) The board of trustees shall consist of the Chief  
 239 Financial Officer, the director of the Office of Tourism, Trade,  
 240 and Economic Development, and the vice chair of Enterprise  
 241 Florida, Inc., or their designees. The board of trustees shall  
 242 appoint an administrative officer who may act on behalf of the  
 243 trust under the direction of the board of trustees.

244 (c) Members of the board of trustees and its  
 245 administrative officer shall serve without compensation. Neither  
 246 a member nor the administrative officer may have a financial  
 247 interest in any investment partner.

248 (2) The trust may hire consultants, retain professional  
 249 services, issue certificates, sell certificates in accordance  
 250 with paragraph (5)(b), expend funds, invest funds, contract,  
 251 bond or insure against loss, or perform any other act necessary  
 252 to administer this section.

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253       (3) (a) The trust shall, pursuant to s. 288.9627 and this  
 254 section, issue certificates redeemable for contingent tax  
 255 credits to investment partners who make equity investments in  
 256 the Florida Infrastructure Fund Partnership.

257       (b) The trust may seek reimbursement of its reasonable  
 258 costs and expenses from the partnership by charging a fee for  
 259 the issuance of certificates to investment partners of up to  
 260 0.25 percent of the aggregate investment capital committed to  
 261 the partnership by the investment partners who are issued  
 262 certificates.

263       (c) All certificates issued by the trust may not exceed  
 264 the total aggregate amount specified in s. 288.9627(4)(d).

265       (d) A certificate may only be issued concurrently with a  
 266 commitment agreement between the investment partner and the  
 267 partnership. A certificate issued by the trust must include a  
 268 specific calendar year maturity date designated by the trust of  
 269 at least 12 years after issuance. A contingent tax credit may  
 270 not be claimed or redeemed except by an investment partner or  
 271 purchaser in accordance with this section and the terms of a  
 272 certificate issued by the trust.

273       (e) Once the total amount of the investment capital  
 274 committed by an investment partner in his or her commitment  
 275 agreement is provided to the partnership by the partner, the  
 276 certificate is binding, and the partnership, the trust, and the  
 277 Department of Revenue may not modify, terminate, or rescind the  
 278 certificate.

279       (4) (a) The partnership shall provide written notice to  
 280 each investment partner if, on the maturity date of his or her

281 certificate, the partner's net capital investment is greater  
 282 than zero. The notice must include, at a minimum:  
 283 1. A good faith estimate of the fair market value of the  
 284 partnership's assets as of the date of the notice.  
 285 2. The total capital investment of all investment partners  
 286 as of the date of the notice.  
 287 3. The total amount of distributions received by the  
 288 investment partners.  
 289 4. The amount of the tax credit the investment partner is  
 290 entitled to be issued by the Department of Revenue.

291  
 292 For purposes of this section, an investment partner's net  
 293 capital investment is an amount equal to the difference between  
 294 the total investment capital actually advanced by the investment  
 295 partner to the partnership and the amount of the aggregate  
 296 actual distributions received by the investment partner.

297 (b) The partnership shall concurrently provide a copy of  
 298 each investment partner's notice to the trust.

299 (c) Upon receipt of the notice from the partnership, each  
 300 affected investment partner may make a one-time election to:

301 1. Have a tax credit issued to the investment partner;  
 302 2. If the investment partner does not have a tax liability  
 303 for any of the taxes specified in paragraph (7) (b), have the  
 304 trust sell the partner's certificate on his or her behalf with  
 305 the proceeds of the sale to be paid to the partner by the trust;

306 or

307 3. Maintain the investment partner's investment in the  
 308 partnership.

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309 (d) Except as provided in paragraph (6)(d), the election  
 310 made by an investment partner under paragraph (c) is final and  
 311 may not be revoked or modified.

312 (e) An investment partner must provide written notice to  
 313 the partnership and the trust of his or her election within 30  
 314 days after his or her receipt of the notice from the  
 315 partnership. If an investment partner fails to provide notice  
 316 within 30 days, the investment partner is deemed to have elected  
 317 to maintain his or her investment in the partnership under  
 318 subparagraph (c)3.

319 (5)(a) If an investment partner elects to have a tax  
 320 credit issued to him or her, the trust shall apply to the  
 321 Department of Revenue on the partner's behalf for issuance of  
 322 the tax credit in his or her name. In order to receive the tax  
 323 credit, the investment partner must agree in writing to transfer  
 324 his or her ownership interest in the partnership to the fund.

325 (b) If an investment partner elects to have the trust sell  
 326 his or her certificate, the trust shall exercise its best  
 327 efforts to sell the certificate. In order to receive the  
 328 proceeds from the trust's sale of the certificate, the  
 329 investment partner must agree in writing to transfer his or her  
 330 ownership interest in the partnership to the fund. A purchaser's  
 331 payment for the certificate, or any portion thereof, shall be  
 332 made to the trust on behalf of the investment partner or, upon  
 333 the partner's request, directly to the investment partner. The  
 334 trust may sell a certificate in an amount that does not exceed  
 335 the lesser of:

336 1. The amount of the certificate issued to the investment  
 337 partner; or

338 2. The amount necessary to yield proceeds to the  
 339 investment partner equal to his or her net capital investment as  
 340 of the date of the partnership's notice, except that the  
 341 aggregate amount of a certificate sold under this subparagraph  
 342 may not exceed 107 percent of the investment partner's net  
 343 capital investment.

344 (6) (a) Within 30 days after receipt of an investment  
 345 partner's election to be issued a tax credit under paragraph  
 346 (5) (a), or within 30 days after the sale of a partner's  
 347 certificate under paragraph (5) (b), the trust shall apply to the  
 348 Department of Revenue for issuance of the tax credit on behalf  
 349 of the partner or on behalf of the certificate's purchaser, as  
 350 applicable. However, the trust's failure to timely submit an  
 351 application to the Department of Revenue does not affect the  
 352 investment partner's or certificate purchaser's eligibility for  
 353 the tax credit.

354 (b) The trust's application for a tax credit must include  
 355 the partnership's certification of the amount of tax credit to  
 356 be issued, the identity of the taxpayer to whom the tax credit  
 357 is to be issued, and the tax against which the credit shall be  
 358 applied. The Department of Revenue shall issue the tax credit  
 359 within 30 days after receipt of a timely and complete  
 360 application.

361 (c) If an investment partner's certificate is sold by the  
 362 trust under paragraph (5) (b) to more than one purchaser, the

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363 Department of Revenue shall issue tax credits to such purchasers  
 364 in such amounts as designated by the trust in the application.

365 (d) The trust shall provide the investment partner with  
 366 written notice if the trust is unable to sell the partner's  
 367 certificate within 90 days after the partner's election. Within  
 368 30 days after receipt of such notice, the investment partner  
 369 may:

370 1. Revoke his or her prior election and make a new  
 371 election under paragraph (4) (c); or

372 2. Modify the election and have a tax credit issued to him  
 373 or her for the amount of any unsold credit. Within 30 days after  
 374 such modified election, the trust shall apply to the Department  
 375 of Revenue in accordance with paragraph (a) for issuance of tax  
 376 credits on behalf of the investment partner in the amount of any  
 377 unsold credit and on behalf of the purchasers in the amount of  
 378 their purchased credit.

379 (7) (a) The amount of the tax credits certified to the  
 380 Department of Revenue may not exceed the investment partner's  
 381 net capital investment. However, the amount of tax credits that  
 382 may be claimed for a certificate in a calendar year may not  
 383 exceed 25 percent of the amount for which the certificate is  
 384 issued.

385 (b) A tax credit issued by the Department of Revenue under  
 386 this section may be used by the owner of the credit as an offset  
 387 against any taxes owed to the state under chapter 212, chapter  
 388 220, or chapter 624. The offset may be applied by the owner on  
 389 any return for an eligible tax due on or after the date that the  
 390 credit is issued by the Department of Revenue but within 7 years

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391 after the credit is issued. The owner of the tax credit may  
 392 elect to have the amount authorized in the credit, or any  
 393 portion thereof, claimed as a refund of taxes paid rather than  
 394 applied as an offset against eligible taxes, if such election is  
 395 made within 7 years after the credit is issued.

396 (c) To the extent that a tax credit issued under this  
 397 section is used by its owner either as a credit against taxes  
 398 due or to obtain payment from the state, the amount of such  
 399 credit becomes an obligation to the state by the partnership,  
 400 secured exclusively by the ownership interest transferred to the  
 401 fund by the investment partner whose investment generated the  
 402 tax credit. In such case, the state's recovery is limited to  
 403 such forfeited ownership interest. The Department of Revenue  
 404 shall account for tax credits used under this section and make  
 405 such information available to the partnership. The fund, as  
 406 general partner, is not liable to the state for repayment of the  
 407 used tax credits from the fund's separate assets unrelated to  
 408 its interest in the partnership.

409 (8) The Department of Revenue, upon the request of the  
 410 trust, shall provide the trust with a written assurance that the  
 411 certificates issued by the trust will be honored by the  
 412 Department of Revenue as provided in this section.

413 Section 6. Paragraph (z) is added to subsection (8) of  
 414 section 213.053, Florida Statutes, to read:

415 213.053 Confidentiality and information sharing.-

416 (8) Notwithstanding any other provision of this section,  
 417 the department may provide:



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418 (z) Information relative to tax credits under ss. 288.9627  
 419 and 288.9628 to the Florida Infrastructure Fund Partnership and  
 420 the Florida Infrastructure Investment Trust.

421  
 422 Disclosure of information under this subsection shall be  
 423 pursuant to a written agreement between the executive director  
 424 and the agency. Such agencies, governmental or nongovernmental,  
 425 shall be bound by the same requirements of confidentiality as  
 426 the Department of Revenue. Breach of confidentiality is a  
 427 misdemeanor of the first degree, punishable as provided by s.  
 428 775.082 or s. 775.083.

429 Section 7. This act shall take effect July 1, 2010.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7213 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

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

---

1 Council/Committee hearing bill: Finance and Tax  
2 Representative(s) Eisnaugle offered the following:

3  
4 **Amendment**  
5 Remove line 163 and insert:  
6 1. That fulfills a critical infrastructure need in the  
7

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7213 (2010)

Amendment No. 2

COUNCIL/COMMITTEE ACTION

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

---

1 Council/Committee hearing bill: Finance & Tax Council  
2 Representative(s) Eisnaugle offered the following:

3  
4  
5  
6

**Amendment**

Remove lines 302-303 and insert:

2. Have the

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7213 (2010)

Amendment No. 3

COUNCIL/COMMITTEE ACTION

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

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1 Council/Committee hearing bill: Finance and Tax  
2 Representative(s) Eisnaugle offered the following:

3

4 **Amendment**

5 Remove lines 340-343 and insert:  
6 of the date of the partnership's notice.

Amendment No. 4

COUNCIL/COMMITTEE ACTION

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

---

1 Council/Committee hearing bill: Finance and Tax  
2 Representative(s) Eisnaugle offered the following:

3  
4 **Amendment**

5 Remove lines 379-384 and insert:

6 (7) (a) The Department of Revenue may not issue more than  
7 \$350 million in tax credits. The Trust may not approve tax  
8 credits in excess of the total capital invested through  
9 commitment agreements.

10 (b) The amount of tax credits that may be applied or  
11 claimed against state taxes in any one state fiscal year by a  
12 tax credit owner may not exceed an amount equal to \$87.5 million  
13 multiplied by a fraction the numerator of which is the amount of  
14 credits issued to such owner by the Department of Revenue and  
15 the denominator of which is the amount of all credits issued by  
16 the Department Revenue to all tax credit owners.

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 7213 (2010)

Amendment No. 5

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Finance & Tax Council  
 2 Representative(s) Eisnaugle offered the following:

3  
 4  
 5  
 6  
 7  
 8  
 9

**Amendment**

Between lines 412 and 413, insert:

(9) The provisions of Chapter 517 do not apply to the  
certificates and credits transferred or sold pursuant to this  
section.