



ECONOMIC DEVELOPMENT & COMMUNITY AFFAIRS POLICY COUNCIL

Meeting Packet

**Wednesday, March 10, 2010
10:45 A.M. – 12:00 P.M.
404 HOB**



The Florida House of Representatives
Economic Development & Community Affairs Policy Council

Larry Cretul
Speaker

Dave Murzin
Chair

AGENDA

March 10, 2010
404 House Office Building
10:45 a.m. – 12:00 p.m.

- I. CALL TO ORDER AND WELCOME REMARKS**

- II. CONSIDERATION OF THE FOLLOWING BILLS:**
 - CS/HB 123 Claims by Law Enforcement and Correctional Officers by Government Operations Appropriations Committee, Patterson
 - CS/HB 131 Absent Uniformed Services and Overseas Voters by Governmental Affairs Policy Committee, Adams
 - CS/HB 423 Seminole County Port Authority, Seminole County by Military & Local Affairs Policy Committee, Dorworth
 - HB 431 Peace Creek Drainage District, Polk County by Wood
 - HB 759 Northern Palm Beach County Improvement District, Palm Beach County by Domino
 - CS/HB 1207 Campaign Financing by Governmental Affairs Policy Committee, McKeel

- III. Presentation**
 - GrowFL - A Focus on Innovation and Entrepreneurship for Florida's Economy
 - Amy Evancho – President/ CEO of the Florida Economic Development Council
 - Tammie Nemecek - President/ CEO Economic Development Council of Collier County
 - Dr. Tom O'Neal - Associate VP for Research & Commercialization - UCF

- IV. ADJOURNMENT**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 123 Claims by Law Enforcement and Correctional Officers
SPONSOR(S): Government Operations Appropriations Committee and Patterson
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 212

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Governmental Affairs Policy Committee	11 Y, 0 N	Haug	Williamson
2)	Government Operations Appropriations Committee	10 Y, 0 N, As CS	Delaney	Topp
3)	Economic Development & Community Affairs Policy Council		Haug <i>EH</i>	Tinker <i>TBT</i>
4)				
5)				

SUMMARY ANALYSIS

Current law establishes a presumption for state and local firefighters and law enforcement, correctional and correctional probation officers regarding determinations of job-related disability. It provides that certain diseases (tuberculosis, heart disease and hypertension) acquired by such firefighters and officers are presumed to have been suffered in the line of duty. This presumption in law has the effect of shifting from the employee to the employer the burden of proving by competent evidence that the disabling disease resulted from the person's employment.

Current law also establishes similar presumptions for municipal police officers' pension systems and municipal firefighters' pension systems.

The bill provides that a law enforcement officer, correctional officer or correctional probation officer who suffers from tuberculosis, heart disease, or hypertension and who has departed from the prescribed course of treatment loses this presumption for workers' compensation claims filed under Ch. 440, F.S. The departure must be shown to have caused an aggravation of the disability causing condition. The change in presumption applies to any claim occurring on or after July 1, 2010.

The bill also provides a definition of "prescribed course of treatment," and provides for an independent medical examination in certain situations and specifies that only claims made prior to leaving the employment of the employing agency are eligible for a presumptive disability.

An insignificant increase in administrative costs is expected by the Division of Administrative Hearings and the Department of Financial Services; however, the Department noted there would be a small positive overall fiscal impact associated with the imposition of the requirement to follow a "prescribed course of treatment."

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:

BACKGROUND¹

The Florida Retirement System (FRS) was created in December 1970 to consolidate then-existing state-administered retirement systems for state and county officers and employees, teachers and Highway Patrol officers. The Judicial Retirement System was consolidated into the FRS in 1972. The FRS is the fourth largest public retirement system in the United States, covering 668,416 active employees, 289,602 Pension Plan annuitants (retirees and their surviving beneficiaries) and 32,921 participants of the Deferred Retirement Option Program (DROP).

As of June 30, 2009, about 181 Florida cities² are covering firefighters, police or general employees under the FRS and 221 independent special districts³ have members in the FRS. District school boards represent nearly half (48.38 percent) of the FRS membership, with community colleges (2.87 percent) and universities (3.63 percent) bringing the total for educational institutions to approximately 55 percent of the FRS membership. State employees (excluding university employees) represent 17.35 percent of the FRS. Remaining members are employed by local agencies, including counties (23.30 percent) as well as cities and special districts (4.46 percent) that have opted to join the FRS.

The active membership of the FRS Pension Plan is divided into five membership classes. As of June 30, 2009, the Regular Class consists of 582,671 members (87.17 percent of the membership); the Special Risk Class includes 75,640 members (11.32 percent), the Special Risk Administrative Support Class has 76 members (0.01 percent), the Elected Officers' Class has 2,304 members (0.34 percent) and the Senior Management Service Class has 7,725 members (1.16 percent). Each class is funded separately based upon the costs attributable to the members of that class except for the funding of DROP.

¹ Data provided in this section is based on a snapshot of the Florida Retirement System taken on June 30, 2009. These counts include members of the Teachers' Retirement System, State and County Officers and Employees' Retirement System and special retirement programs. [Department of Management Services HB 123 (2010) Substantive Bill Analysis (Jan. 19, 2010) pages 1-3 (on file with the Governmental Affairs Policy Committee).]

² In January 1, 1996, many cities and special districts were authorized by law to "opt out" of the FRS for new employees. Many chose to do so and, since that time, some have elected to rejoin the FRS. As of June 30, 2009, among the 181 cities participating in the FRS, there are 26 cities that have chosen to withdraw from the system and do not cover new members under the FRS.

³ This number includes 13 independent special districts closed to new FRS members since January 1996.

Special Risk Class

The Special Risk Class of the FRS consists of state and local government employees who meet the criteria for special risk membership. The class covers persons employed in law enforcement, firefighting, criminal detention and emergency and forensic medical care who meet statutory criteria for membership as set forth in s. 121.0515, F.S. As of June 30, 2009, Special Risk Class membership comprised nearly 11 percent of the active FRS membership (75,640 in the Special Risk Class and 76 members in the Special Risk Administrative Support Class).

The Special Risk Class under the FRS was created as the Legislature recognized that persons employed in certain categories of law enforcement, firefighting, criminal detention and emergency medical care positions must, as an essential function of their positions, perform work that is physically demanding or arduous, or work that requires extraordinary agility and mental acuity. The Legislature further found that as persons in such positions age, they may not be able to continue performing their duties without posing a risk to the health and safety of themselves, the public and their coworkers.⁴ In response, the Legislature established a special class to permit these employees to retire at an earlier age and with less service without suffering economic deprivation compared to Regular Class members with normal retirement after 30 years of service or age 62 and vested. The comparison of equivalent benefits was determined when 25 years at a 2 percent Special Risk Class accrual value resulted in 50 percent of the average final compensation compared to 48 percent of average final compensation for a Regular Class member with 30 years of service at a 1.60 percent per year accrual value.

The benefit improvements enjoyed by members of the Special Risk Class are funded by higher employer contributions. For the 2009-10 plan years the retirement portion of the employer contribution rate for the Special Risk Class is 19.76 percent.⁵

FRS members must meet specified eligibility requirements to qualify for membership in the Special Risk Class. These requirements limit membership to employees who meet the criteria for Special Risk membership as set forth in applicable s. 121.0515, F.S., and who are employed by an FRS employer in one of the following positions: 1) law enforcement officer; 2) firefighter; 3) correctional officer; 4) correctional probation officer; 5) emergency medical technician; 6) paramedic; 7) youth custody officer; and 8) specified professional health care and forensic positions who spend at least 75 percent of their time performing duties involving inmate or patient contact in the Departments of Corrections and Children and Family Services.

Disability

The FRS provides disability benefits for its active members who are totally and permanently disabled from useful employment. The level of disability benefit to which an eligible disabled member is minimally entitled depends upon membership class and whether the disabling injury or illness was job related. For special risk members retiring on or after July 1, 2000, the minimum in-line-of-duty disability benefit is 65 percent of member's average final compensation (AFC). For members of all other classes, if the disabling injury or illness occurs in the line of duty, the base benefit is 42 percent of the member's AFC as of the disability retirement date. If the disabling injury or illness did not occur in the line of duty, the benefit minimum is 25 percent of AFC, regardless of membership class.⁶

Any member of the FRS who is totally and permanently disabled due to a condition or impairment of health caused by an injury or illness that occurred before the member terminated employment is entitled to disability benefits.⁷ Certain criteria must be met:

- An FRS member is eligible for in-line-of-duty disability benefits from his/her first day on the job. In contrast, the member must have eight years of creditable service before becoming disabled

⁴ Section 121.0515(1), F.S.

⁵ Regardless of whether an individual member elects to participate in the FRS Pension Plan or the FRS Investment Plan, the employer pays the same contribution rate for each class or subclass of membership by blending the rates for both plans as required under the uniformed contribution rate system of the FRS as provided in Part III of Chapter 121. Under the FRS Investment Plan, the amount contributed to an individual member account increases from 9.00 percent to 20.00 percent when the member moves from the Regular Class to the Special Risk Class.

⁶ Section 121.091(4), F.S.

⁷ *Id.*

in order to receive disability retirement benefits for any disability occurring other than in the line of duty.

- For a member to be deemed “totally and permanently disabled,” the disabling injury or illness must prevent him/her from “performing useful and efficient service as an officer or employee.”
- To further qualify for in-line-of-duty disability benefits, the injury or illness must have arisen out of and in the performance of work-related duties as required by the FRS employer.

Proof of disability is required, including certification by two Florida-licensed physicians⁸ that the member’s disability is total and permanent (i.e., the member is prevented by reason of a medically determinable physical or mental impairment from engaging in gainful employment). It is the responsibility of the applicant to provide such proof. To qualify to receive the higher in-line-of-duty disability benefits, unless a legal presumption applies (such as is provided under s. 112.18, F.S.), the member also must show by competent evidence that the disability occurred in the line of duty.

Existing in-line-of-duty disability presumptions

Section 112.18, F.S., establishes a presumption for state and local firefighters, law enforcement, correctional and correctional probation officers regarding determinations of job-related disability. This statute provides that certain diseases (tuberculosis, heart disease and hypertension) acquired by these officers are presumed to have been suffered in the line of duty. This presumption in law has the effect of shifting from the employee to the employer the burden of proving by competent evidence that the disabling disease resulted from the person’s employment. The presumption applies to disability determinations under all public retirement systems providing disability coverage for firefighters, law enforcement officers, correctional officers and correctional probation officers, including the Florida Retirement System (FRS) and to disability determinations under the Worker’s Compensation Law (ch. 440, F.S.).

Sections 185.34 and 175.231, F.S., establish similar presumptions for municipal police officers’ pension systems and municipal firefighters’ pension systems.

Section 112.181, F.S., also is similar regarding presumptions as to firefighters, paramedics, emergency medical technicians, law enforcement officers and correctional officers who are disabled or die as a result of contracting hepatitis, meningococcal meningitis, or tuberculosis.

Death benefits also are provided to FRS members, surviving spouses or eligible dependents. Death benefits may be paid for an active member of the FRS who dies before retirement due to an injury or illness (including tuberculosis, heart disease, or hypertension). If the injury or illness arises out of and in the actual performance of duty required by his job, the member’s surviving spouse and/or eligible dependent(s) are entitled to in-line-of-duty death benefits.⁹ There are important differences in the laws applicable to death benefits, depending on whether the death is found to be due to an injury or illness “suffered in the line of duty.”

In-Line-of-Duty Death Benefits. Beginning with the first day of employment, an FRS member is eligible for in-line-of-duty death benefits that will pay a minimum monthly benefit to a survivor equal to half the member’s last monthly salary. If the deceased member would have been entitled to a higher retirement benefit based on service credit, the higher benefit would be payable to his/her spouse or eligible dependent(s).¹⁰

Non-Duty Death Benefits. If the death was NOT job-related:¹¹

- For FRS members who die before vesting, only accumulated member contributions, if any, are payable to designated beneficiaries.
- If the deceased member was eligible for normal retirement, the death benefit is the option 3 benefit amount (paying continuing benefits to a spouse and/or other eligible dependent for life). If the member was not eligible for normal retirement, the benefit is reduced just as if the

⁸ In limited situations certain out-of-state physicians may certify total and permanent disability (see ch. 2005-134, Laws of Florida).

⁹ Section 121.091(7), F.S.

¹⁰ *Id.*

¹¹ *Id.*

member had taken early retirement. However, for survivors of members with 20 years of creditable service at the time of death, a different benefit calculation method applies: Benefits are based on salary at the time of death and the penalty is applied against either the number of years before normal retirement age, or the number of years remaining in a full career of service, whichever affords the better benefit. In any case, the beneficiary can also defer benefits (just as if the member had chosen to defer benefits) in order to reduce or eliminate early retirement penalties.

Special Survivor Provisions. For non-duty and in-line-of-duty deaths, the surviving spouse or eligible dependent may purchase credit for any service, which could have been claimed by the member at the time of his/her death. If a member dies within 1 year of vesting, the surviving spouse or other eligible dependent may use the member's annual, sick, or compensatory leave, or purchasable service, to purchase enough service credit to vest the member posthumously (and entitle the surviving beneficiary to a death benefit).

Burden of Proof. Unless a legal presumption applies such as the one provided under s. 112.18, F.S., the eligible beneficiary must show by competent evidence that the death occurred in the line of duty to qualify to receive the higher in-line-of-duty death benefits.

Death benefits available under chapters 175 and 185, F.S.

If a police officer or firefighter has less than 10 years of service, his/her beneficiary receives a refund of his/her contributions without interest. If a police officer or firefighter has at least 10 years of service, his/her beneficiary is eligible to receive the member's accrued retirement benefit (a minimum of 2 percent x years of service x AFC) at his/her early (actuarially reduced) retirement date or at his/her normal (not reduced) retirement date for 10 years (120 monthly payments). No consideration is given to whether the death occurred in the line of duty or non-line of duty.

Death benefits available under chapter 112, F.S.

In addition to chapter 121, F.S., death benefits, chapter 112, F.S., contains several laws mandating death benefits for public employees under specified circumstances. Under s. 112.19, F.S., the following special death benefits are provided for law enforcement officers, correctional officers and correctional probation officers who are killed in the performance of duty:

- The sum of \$25,000 is payable for an officer who is accidentally killed in the line of duty.
- Another \$25,000 is payable if the officer is killed in "fresh pursuit" or in an emergency.
- Another \$75,000 is payable if the officer is unlawfully and intentionally killed or dies as a result of an unlawful and intentional act of another.
- If an officer employed by a state agency is killed in the line of duty as the result of an act of violence under riot conditions, \$1,000 is paid toward the funeral and burial expenses.
- If an officer employed by a political subdivision of the state is killed by another while performing his/her law enforcement duties or under riot conditions, the premium of the employer's health insurance plan is paid for the surviving spouse and minor dependent(s).
- Tuition expenses are waived for vocational or undergraduate education of children of officers killed accidentally in the line of duty or unlawfully or intentionally as described above.

Similar death benefits are available for firefighters under s. 112.191, F.S.

PROPOSED CHANGES

The bill adds the term correctional probation officer on lines 24 and 25. The change is a technical change for clarification only and does not impact the implementation of the law. The Division of Retirement has interpreted "state law enforcement" officers as used in s. 112.18, F.S., to include corrections officers and correctional probation officers based on a legislative intent letter dated 8/23/99 sent to the State Retirement Director from Representative Fasano, the sponsor of the legislation expanding the presumption to cover law enforcement officers.¹² Current law does not specify

¹² Department of Management Services HB 123 (2010) Substantive Bill Analysis dated January 19, 2010 (on file with the Governmental Operations Appropriations Committee).

correctional probation officers by name, but does by statutory reference, thus a technical clarification has been proposed.

In addition, the bill provides that a law enforcement officer, correctional officer or correctional probation officer who suffers from tuberculosis, heart disease, or hypertension and who has departed from the prescribed course of treatment loses this presumption for workers' compensation claims filed under ch. 440, F.S. The departure must be shown to have caused an aggravation of the disability causing condition. The change in presumption applies to any claim occurring on or after July 1, 2010.

The bill also provides a definition of "prescribed course of treatment,"¹³ and provides for an independent medical examination pursuant to s. 440.13(5) if there is a dispute, and specifies that only claims made prior to leaving the employment of the employing agency are eligible for a presumptive disability.

B. SECTION DIRECTORY:

Section 1. Amends s. 112.18, F.S., providing conditions under which a law enforcement, correctional, or correctional probation officer who suffers from a specified medical condition and has materially departed from the prescribed treatment for that condition loses a specified presumption for claims made on or after a specified date.

Section 2. Provides an effective date of July 1, 2010.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill could create additional administrative expenses. See FISCAL COMMENTS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill could create additional administrative expenses. See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Actuarial Statement of Fiscal Soundness:¹⁴

Actuaries Fiscal Note: There is no new fiscal impact for benefit improvement resulting from HB 123, the correctional probation officers added by this bill have been covered since the presumption for hypertension, heart disease and tuberculosis was expanded to include state law enforcement

¹³ "Prescribed course of treatment" means "prescribed medical courses of action and prescribed medicines for the specific disease or diseases claimed and as documented in the prescribing physician's medical records."

¹⁴ Robert Dezube, Enrolled Actuary, Milliamn, Inc., January 4, 2010 [Department of Management Services HB 123 (2010) Substantive Bill Analysis (Jan. 19, 2010) at 8 (on file with the Governmental Affairs Policy Committee)].

officers. There may be additional administrative expenses resulting from this bill; any changes in trends of ILOD disability benefits resulting from this bill will be measured by future valuations and experience studies.

The Division of Administrative Hearings noted that it is unlikely that the bill will have any fiscal impact; however, a small increase in the number of cases may be expected.¹⁵ The Division of Risk Management in the Department of Financial Services projected an increase in litigation as well, but anticipated a small positive fiscal impact overall.¹⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require cities or counties to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a shared state tax or premium sales tax received by cities or counties.

2. Other:

Actuarial Statement of Fiscal Soundness:¹⁷

- This bill complies with the requirements of Article X, Section 14 of the Constitution.
- This bill complies with the provisions of Chapter 112, Part VII, Florida Statutes.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 18, 2010, the Government Operations Appropriations Committee adopted an amendment, as follows:

- Provides clarification that the provisions pertaining to departures from a prescribed course of treatment are limited to workers' compensation claims filed under chapter 440, F.S.

The bill was reported favorably and the analysis has been updated to reflect the committee substitute.

¹⁵ Email dated February 9, 2010 received from Marilyn Lawrence, Budget Officer, Division of Administrative Hearings (on file with the Government Operations Appropriations Committee).

¹⁶ Department of Financial Services HB 123 (2010) Substantive Bill Analysis dated December 21, 2009 (on file with the Governmental Operations Appropriations Committee).

¹⁷ *Id.*

CS/HB 123: Claims by Law Enforcement and Correctional Officers

GENERAL BILL by Government Operations Appropriations Committee and Patterson

Claims by Law Enforcement and Correctional Officers: Provides conditions under which law enforcement officer, correctional officer, or correctional probation officer who suffers from specified medical condition & has materially departed from prescribed treatment for that condition shall lose specified presumption for workers' compensation claims made on or after specified date; defines "prescribed course of treatment"; provides for independent medical examinations in certain situations; provides that only claims made before leaving employment are eligible for specified presumption.

Effective Date: July 1, 2010

Bill Status: In House Council (Economic Development & Community Affairs Policy Council)

Referred Committees and Committee Actions:

- Governmental Affairs Policy Committee
On Agenda For: 02/03/2010 8:15 AM
Favorable (*final action*)
- Government Operations Appropriations Committee
On Agenda For: 02/18/2010 9:00 AM
Favorable With Committee Substitute (*final action*)
- Economic Development & Community Affairs Policy Council

Companion Bills:

CS/SB 212	Claims/Law Enforcement and Correctional Officers [WPSC]	Identical
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Bill Text:

Committee Substitute 1
Original Filed Version

Staff Analysis:

House Analysis	Government Operations Appropriations Committee	2/18/2010 2:59:52 PM
House Analysis	Government Operations Appropriations Committee	2/17/2010 5:30:04 PM
House Analysis	Governmental Affairs Policy Committee	2/4/2010 7:51:10 AM
House Analysis	Governmental Affairs Policy Committee	1/27/2010 3:53:04 PM

Vote History:

Bill History:

Event	Time	Member	Committee	Version
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CS/HB 123: Claims by Law Enforcement and Correctional Officers

H 1st Reading	03/02/2010 10:50 PM	N/A	N/A	c1
H 1st Reading	03/02/2010 10:50 PM	N/A	N/A	—
H Now In Economic Development & Community Affairs Policy Council	02/26/2010 05:35 PM	N/A	Economic Development & Community Affairs Policy Council	c1
H Referred to Economic Development & Community Affairs Policy Council	02/26/2010 05:35 PM	N/A	Economic Development & Community Affairs Policy Council	c1
H CS Filed	02/22/2010 12:55 PM	N/A	N/A	c1
H Laid on Table under Rule 7.20	02/22/2010 12:55 PM	N/A	N/A	—
H Reported out of Government Operations Appropriations Committee	02/22/2010 12:42 PM	N/A	Government Operations Appropriations Committee	—
H Favorable with CS by Government Operations Appropriations Committee	02/18/2010 10:16 AM	N/A	Government Operations Appropriations Committee	—
H Added to Government Operations Appropriations Committee agenda	02/11/2010 04:20 PM	N/A	Government Operations Appropriations Committee	—
H Now In Government Operations Appropriations Committee	02/04/2010 07:50 AM	N/A	Government Operations Appropriations Committee	—
H Reported out of Governmental Affairs Policy Committee	02/04/2010 07:50 AM	N/A	Governmental Affairs Policy Committee	—
H Favorable by Governmental Affairs Policy Committee	02/03/2010 09:30 AM	N/A	Governmental Affairs Policy Committee	—
H Added to Governmental Affairs Policy Committee agenda	01/27/2010 03:28 PM	N/A	Governmental Affairs Policy Committee	—
H Now In Governmental Affairs Policy Committee	10/12/2009 09:15 AM	N/A	Governmental Affairs Policy Committee	—
H Referred to Full Appropriations Council on Education & Economic Development	10/12/2009 09:15 AM	N/A	Full Appropriations Council on Education & Economic Development	—
H Referred to Military & Local Affairs Policy Committee	10/12/2009 09:15 AM	N/A	Military & Local Affairs Policy Committee	—
H Referred to Government Operations Appropriations Committee	10/12/2009 09:15 AM	N/A	Government Operations Appropriations Committee	—
H Referred to Governmental Affairs Policy Committee	10/12/2009 09:15 AM	N/A	Governmental Affairs Policy Committee	—
H Filed	09/17/2009 08:01 AM	Patterson	N/A	—

Statutes Referenced by this Bill:

112.18

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 123

Claims by Law Enforcement and Correctional Officers

SPONSOR(S): Patterson

TIED BILLS:

IDEN./SIM. BILLS: SB 212

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Governmental Affairs Policy Committee	11 Y, 0 N	Haug	Williamson
2)	Government Operations Appropriations Committee	10 Y, 0 N, As CS	Delaney	Topp
3)	Military & Local Affairs Policy Committee			
4)	Full Appropriations Council on Education & Economic Development			
5)				

SUMMARY ANALYSIS

Current law establishes a presumption for state and local firefighters and law enforcement, correctional and correctional probation officers regarding determinations of job-related disability. It provides that certain diseases (tuberculosis, heart disease and hypertension) acquired by such firefighters and officers are presumed to have been suffered in the line of duty. This presumption in law has the effect of shifting from the employee to the employer the burden of proving by competent evidence that the disabling disease resulted from the person's employment.

Current law also establishes similar presumptions for municipal police officers' pension systems and municipal firefighters' pension systems.

The bill provides that a law enforcement officer, correctional officer or correctional probation officer who suffers from tuberculosis, heart disease, or hypertension and who has departed from the prescribed course of treatment loses this presumption for workers' compensation claims filed under Ch. 440, F.S. The departure must be shown to have caused an aggravation of the disability causing condition. The change in presumption applies to any claim occurring on or after July 1, 2010.

The bill also provides a definition of "prescribed course of treatment," and provides for an independent medical examination in certain situations and specifies that only claims made prior to leaving the employment of the employing agency are eligible for a presumptive disability.

An insignificant increase in administrative costs is expected by the Division of Administrative Hearings and the Department of Financial Services; however, the Department noted there would be a small positive overall fiscal impact associated with the imposition of the requirement to follow a "prescribed course of treatment."

1 A bill to be entitled
 2 An act relating to claims by law enforcement and
 3 correctional officers; amending s. 112.18, F.S.; providing
 4 conditions under which a law enforcement officer,
 5 correctional officer, or correctional probation officer
 6 who suffers from a specified medical condition and has
 7 materially departed from the prescribed treatment for that
 8 condition shall lose a specified presumption for workers'
 9 compensation claims made on or after a specified date;
 10 defining the term "prescribed course of treatment";
 11 providing for independent medical examinations in certain
 12 situations; providing that only claims made before leaving
 13 employment are eligible for a specified presumption;
 14 providing an effective date.

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

17
 18 Section 1. Section 112.18, Florida Statutes, is amended to
 19 read:

20 112.18 Firefighters and law enforcement or correctional
 21 officers; special provisions relative to disability.—

22 (1) (a) Any condition or impairment of health of any
 23 Florida state, municipal, county, port authority, special tax
 24 district, or fire control district firefighter or any law
 25 enforcement officer, ~~or~~ correctional officer, or correctional
 26 probation officer as defined in s. 943.10(1), (2), or (3) caused
 27 by tuberculosis, heart disease, or hypertension resulting in
 28 total or partial disability or death shall be presumed to have

29 | been accidental and to have been suffered in the line of duty
 30 | unless the contrary be shown by competent evidence. However, any
 31 | such firefighter or law enforcement officer must ~~shall~~ have
 32 | successfully passed a physical examination upon entering into
 33 | any such service as a firefighter or law enforcement officer,
 34 | which examination failed to reveal any evidence of any such
 35 | condition. Such presumption does ~~shall~~ not apply to benefits
 36 | payable under or granted in a policy of life insurance or
 37 | disability insurance, unless the insurer and insured have
 38 | negotiated for such additional benefits to be included in the
 39 | policy contract.

40 | (b)1. For any workers' compensation claim filed under this
 41 | section and chapter 440 occurring on or after July 1, 2010, a
 42 | law enforcement officer, correctional officer, or correctional
 43 | probation officer as defined in s. 943.10(1), (2), or (3)
 44 | suffering from tuberculosis, heart disease, or hypertension is
 45 | presumed not to have incurred such disease in the line of duty
 46 | as provided in this section if the law enforcement officer,
 47 | correctional officer, or correctional probation officer:

48 | a. Departed in a material fashion from the prescribed
 49 | course of treatment of his or her personal physician and the
 50 | departure is demonstrated to have resulted in a significant
 51 | aggravation of the tuberculosis, heart disease, or hypertension
 52 | resulting in disability or increasing the disability or need for
 53 | medical treatment; or

54 | b. Was previously compensated pursuant to this section and
 55 | chapter 440 for tuberculosis, heart disease, or hypertension and
 56 | thereafter sustains and reports a new compensable workers'

57 compensation claim under this section and chapter 440, and the
58 law enforcement officer, correctional officer, or correctional
59 probation officer has departed in a material fashion from the
60 prescribed course of treatment of an authorized physician for
61 the preexisting workers' compensation claim and the departure is
62 demonstrated to have resulted in a significant aggravation of
63 the tuberculosis, heart disease, or hypertension resulting in
64 disability or increasing the disability or need for medical
65 treatment.

66 2. As used in this paragraph, "prescribed course of
67 treatment" means prescribed medical courses of action and
68 prescribed medicines for the specific disease or diseases
69 claimed and as documented in the prescribing physician's medical
70 records.

71 3. If there is a dispute as to the appropriateness of the
72 course of treatment prescribed by a physician under sub-
73 subparagraph 1.a. or sub-subparagraph 1.b. or whether a
74 departure in a material fashion from the prescribed course of
75 treatment is demonstrated to have resulted in a significant
76 aggravation of the tuberculosis, heart disease, or hypertension
77 resulting in disability or increasing the disability or need for
78 medical treatment, the law enforcement officer, correctional
79 officer, or correctional probation officer is entitled to seek
80 an independent medical examination pursuant to s. 440.13(5).

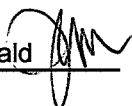

81 4. A law enforcement officer, correctional officer, or
82 correctional probation officer is not entitled to the
83 presumption provided in this section unless a claim for benefits
84 is made prior to leaving the employment of the employing agency.

85 (2) This section authorizes each governmental entity
 86 specified in subsection (1) ~~shall be construed to authorize the~~
 87 ~~above governmental entities~~ to negotiate policy contracts for
 88 life and disability insurance to include accidental death
 89 benefits or double indemnity coverage which shall include the
 90 presumption that any condition or impairment of health of any
 91 firefighter, law enforcement officer, or correctional officer
 92 caused by tuberculosis, heart disease, or hypertension resulting
 93 in total or partial disability or death was accidental and
 94 suffered in the line of duty, unless the contrary be shown by
 95 competent evidence.

96 Section 2. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 131 Absent Uniformed Services and Overseas Voters
SPONSOR(S): Governmental Affairs Policy Committee and Adams
TIED BILLS: **IDEN./SIM. BILLS:** SB 1682

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Governmental Affairs Policy Committee	12 Y, 0 N, As CS	McDonald	Williamson
2) Economic Development & Community Affairs Policy Council		McDonald 	Tinker 
3)			
4)			
5)			

SUMMARY ANALYSIS

The recent enactment of the Military and Overseas Voter Empowerment (MOVE) Act with the Military Defense Authorization Act (Public Law 111-84) expands the rights of voters subject to the Uniformed and Overseas Citizens Absentee Voting Act. At a minimum, the MOVE Act allows uniformed services members and their spouses and dependents absent from their place of residence whether inside or outside the United States, and civilians overseas to:

- Submit a request for and receive a voter registration application and an absentee ballot request form by mail or electronically,
- Receive from the supervisor of elections a blank (unvoted) absentee ballot by mail or electronically,
- Require the blank (unvoted) absentee ballot to be sent by mail or electronically no later than 45 days before an election, and
- Track via a free access system whether the voted absentee ballot has been received.

The bill adds a definition of "absent uniformed services voter" and amends the current definition of "overseas voter" to conform to changes in federal law. This definitional change makes clear that uniformed services voters who are stateside, but away from their place of residence, are governed the same under the Florida Election Code as are those voters who are overseas.

Upon receiving a request for an absentee ballot, the supervisor of elections must notify an absent uniformed services voter or overseas voter of the free access system designated by the department for determining absentee ballot status which is a new federal requirement. Timeframes for sending an absentee ballot and methods of transmission of the ballot to the absent uniformed voter and the overseas voter are amended to conform to recent changes in federal law. The bill requires the department to prescribe rules for a ballot to be sent to absent uniformed services voters and overseas voters if candidate certification for election cannot be accomplished within specified timeframes. It amends provisions relating to the federal postcard application to conform to the use of means other than mail to send an absentee ballot and to remove language regarding its two year effectiveness as registration, which was recently removed by changes to federal law.

The bill requires the supervisor of elections to record an overseas voter's e-mail address, if provided, in the voter's request for an absentee ballot, in the absentee ballot record. The bill then expands the information that a supervisor of elections must provide an overseas voter via e-mail to include confirmation of the ballot request and notification of the estimated date the ballot will be sent to the voter and confirmation of the receipt of the voted ballot.

The bill takes effect upon becoming a law.

There is an indeterminate fiscal impact on state expenditures and a possible minimal fiscal impact on local governments. See "Fiscal Comments."

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

The Florida Election Code (Chs. 97-106, F.S.)

An overseas voter¹ may request an absentee ballot or apply for voter registration with a Federal Post Card Application obtained from a Voting Assistance Officer or through the Federal Voter Assistance Program of the U.S. Department of Defense. Florida law specifies that the absentee ballot will be mailed if the ballots are available for mailing and if the registration information provided is in order. The postcard application request for an absentee ballot is effective for elections through the next two general elections.² Florida law also allows the overseas voter to request an absentee ballot by calling, mailing, faxing or e-mailing the supervisor of elections.

A supervisor of elections is required to record specific information for each request for any absentee ballot received; such as date of the request, date the ballot was delivered, date the ballot was received by the supervisor, and other information deemed necessary. The information is provided in electronic format, updated each day, and provided to the Division of Elections of the Department of State. Information collected is confidential and is made available only to the voter on request or to certain specified other groups.³

Under the Florida Election Code, an absentee ballot requested by an overseas voter who is qualified to vote must be mailed by the supervisor of elections not less than 35 days before the primary election

¹An overseas voter is defined in s. 97.021(22) and clarified in the definition of "uniformed services" in 97.21(38), F.S., as a member of the Army, Navy, Air Force, Marine Corps, Coast Guard, the commissioned corps of the Public Health Service, and the commissioned corps of the National Oceanic and Atmospheric Administration while in the active service who is a permanent resident of the state and is temporarily residing outside the territorial limits of the U.S. and the District of Columbia; a member of the Merchant Marine of the U.S. who is a permanent resident of the state and is temporarily residing outside the territorial limits of the U.S. and the District of Columbia; and, any other U.S. citizen who is a permanent resident of the state and is temporarily residing outside the territorial limits of the U.S. and the District of Columbia, who is qualified and registered to vote as provided by law. Florida elections law does not include a definition for "absent uniformed services voter" as is provided in the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA).

² See s. 101.694, F.S.

³ See s. 101.62(3), F.S.

and not less than 45 days before the general election.⁴ Forwardable mail is the method of transmission specified for voters who are entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act.⁵

If an overseas voter's request for an absentee ballot includes an e-mail address, the supervisor of elections must e-mail the voter a list of candidates who will be on the ballots. The list of candidates for the primary and general election must be sent no later than 30 days before each election. Information pertaining to whether the absentee ballot was sent or received is not required.^{6, 7}

Absentee ballots received from overseas voters are presumed to be mailed on the date provided on the outside of the return envelope regardless of the absence of a postmark date on the envelope or a date that is later than the election date.⁸

The Department of State is required to determine if secure electronic means can be established for receiving ballots from overseas voters. Additionally, if security can be established, the department is required to adopt rules authorizing a supervisor of elections to accept a request for an absentee ballot or a voted absentee ballot from an overseas voter by secure facsimile transmission (fax) or other secure electronic means. Acceptance of a voted ballot requires verification of the voter, security of the transmission, and the recording of each ballot.⁹ The department has adopted a rule allowing overseas voters to receive their blank ballot by mail, fax, or e-mail. Voted ballots, however, must be returned by mail or fax.¹⁰ As provided in law, the department may authorize other methods of returning voted ballots if it determines that secure methods can be established.

As of this date, the Department of State has authorized only one secured electronic transmission program. In the 2008 General Election, the Okaloosa County's Distance Balloting Pilot Program (ODEP) in conjunction with Operation BRAVO Foundation was implemented. Supervised absentee voting kiosks were established at U.S. military installations in Mildenhall, England; Ramstein, Germany; and Kadena, Japan. Each kiosk location permitted voting by secure electronic remote voting technology under the management and control of the Supervisor of Elections. These voting stations were connected by a secure Virtual Private Network (VPN) to a secure voting server in Florida. Ninety-three ballots using 23 different ballot styles were cast in the 2008 election.¹¹

Recent Changes in Federal Law Relating to Military and Overseas Voters

The Military and Overseas Voter Empowerment Act (MOVE) was signed into law on October 28, 2009 as part of the National Defense Authorization Act for Fiscal Year 2010¹². The MOVE Act amends the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) which pertains to absentee voting for members of the United States uniformed services and merchant marines who are overseas or absent stateside from their place of residence, their family members who are also absent, and U.S. citizens residing outside the U.S.¹³ Some provisions pertain to new requirements concerning state actions while others relate to the U.S. Department of Defense. Additionally, some requirements impact the November 2010 General Election while others take effect after the 2010 General Election. UOCAVA and MOVE pertain only to Federal elections. The following provisions take effect prior to the 2010 General Election:

- Each state must establish procedures that allow UOCAVA voters to request voter registration applications and absentee ballot applications by mail or electronically for general, special, primary, and runoff elections for Federal office. Voters must be able to state a preference for

⁴ See s. 101.62(4)(a), F.S.

⁵ See s. 101.62(4)(b), F.S.

⁶ Analysis of HB 131, Department of State, November 5, 2009, p.1.

⁷ See s. 101.6952(1), F.S.

⁸ See s. 101.6952(2), F.S.

⁹ See s. 101.697, F.S.

¹⁰ Rule 2.013, F.A.C.

¹¹ Analysis of HB 131, Department of State, November 5, 2009, p. 1.

¹² P.L. 111-084.

¹³ UOCAVA is 42 U.S.C. 1973ff et seq. and MOVE adds Part H to Title V.

how information is to be received. The state must transmit voter registration applications and absentee ballot applications based on the preference of the voter or in accordance with state law, if no preference is given, or if there is no state law, then by mail.

- Each state must designate at least one means of electronic communication for use by voters to request voter registration or absentee ballot application and for the state to send such information and to provide UOCAVA voters with election and voting information. The means of electronic communication must be included on all information and instructional materials sent with the ballot materials.
- Each state may provide a means of electronic communication for jurisdictions in the state to communicate with UOCAVA voters.
- Each state must develop procedures for transmitting blank ballots to UOCAVA voters, including military stateside, by mail and electronically; must include a means for the voter to designate how he or she wants to receive the ballot, by mail or electronically; and must send the requested information based on the stated preference. To the extent practicable, privacy and integrity of absentee ballots must be protected as well as the privacy of the identity and personal data of the voter throughout the transmission process.
- Each state chief election official must work with local jurisdictions to develop a free access system allowing a UOCAVA voter to determine if the voted absentee ballot was received by the election official.
- Absentee ballots must be sent 45 days before the primary and general elections -- applies to all UOCAVA voters. Provision for certain waivers regarding timeframes is established for states.
- Any runoff election must have a written plan to make absentee ballots available to UOCAVA voters with sufficient time to vote.
- The federal provision allowing one request to serve as a request to receive absentee ballots through the next two federal general elections is repealed.¹⁴

On December 31, 2010, the use of the Federal Write-In Absentee Ballot (FWAB) is expanded to include all special and primary elections as well as general elections for federal office.

Provision is made for financial assistance in implementing MOVE. There is a 5 percent match requirement.

Effect of the Bill

The bill adds a definition of "absent uniformed services voter" and amends the current definition of "overseas voter" to conform to changes in federal law. This definitional change makes clear that uniformed services voters who are stateside, but away from their place of residence, are governed the same under the Florida Election Code as are those voters who are overseas.

Upon receiving a request for an absentee ballot from an absent uniformed services voter or an overseas voter, the supervisor of elections must notify the absentee voter of the free access system designated by the department for determining absentee ballot status which is a new federal requirement. Timeframes for sending an absentee ballot and methods of transmission of the ballot to the absent uniformed voter and the overseas voter are amended to conform to recent changes in federal law, including the transmission of an absentee ballot by facsimile or electronic mail. The bill requires the department to prescribe rules for a ballot to be sent to absent uniformed services voters and overseas voters if candidate certification for election cannot be accomplished within specified timeframes. It also amends provisions relating to the federal postcard application to conform to the use of means other than mail to send an absentee ballot and to remove language regarding its two year effectiveness as registration, which was recently removed by changes to federal law.

The bill requires the supervisor of elections to record an overseas voter's e-mail address, if provided, in the voter's request for an absentee ballot, in the absentee ballot record. The bill then expands the information that a supervisor of elections must provide an overseas voter via e-mail to include

¹⁴ Florida law requires ballots to be sent through two general elections.

confirmation of the ballot request and notification of the estimated date the ballot will be sent to the voter and confirmation of the receipt of the voted ballot.

B. SECTION DIRECTORY:

Section 1. Amends s. 97.021, F.S., to add a definition for "absent uniformed services voter" and to amend the definition of "overseas voter" to conform to federal law related to military and overseas voters.

Section 2. Amends s. 98.0981, F.S., to correct a cross-reference.

Section 3. Amends s. 101.62, F.S., to require supervisors of elections to accept certain requests for absentee ballots; to require supervisors of elections to notify an absent uniformed services voter and overseas voter of the free access system designated by the department for determining absentee ballot status; and to authorize the department to prescribe rules for a ballot to be sent to absent uniformed services voters and overseas voters if candidate certification for election cannot be accomplished within specified timeframes.

Section 4. Amends s. 101.694, F.S., to require supervisors of elections to mail ballots upon receipt of the federal postcard application and to remove provisions relating to two year applicability of the application in compliance with changes in federal law.

Section 5. Amends s. 101.6952, F.S., to require a supervisor of elections to record the overseas voter's e-mail address in the absentee ballot record, confirm by e-mail the receipt of the ballot request and provide the estimated date for the ballot being sent, and confirm by e-mail the receipt of the voted absentee ballot.

Section 6. Amends s. 379.352, F.S., to correct a cross-reference.

Section 7. Provides that the bill takes effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

Indeterminate. See "Fiscal Comments."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Correspondence from the Florida Association of Supervisors of Elections indicates there is no cost associated with section 5 of the bill; however, some programming changes might be involved.¹⁵

Costs related to implementation of the "single free access system" for persons who vote absentee ballot to be able to access information on the status of their absentee ballots is indeterminate for the state and local levels at this time. The Department of State has been gathering information from vendors and others on various ways to implement the federal requirement. According to department staff, costs would be for programming and implementation changes needed for such a system; however, different implementation methodologies are being considered.¹⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill is exempt from mandate requirements because it is amending the elections laws.

2. Other:

Under section 5 of the Voting Rights Act, new legislation that implements a voting change, including, but not limited to, a change in the manner of voting, change in candidacy requirements and qualifications, change in the composition of the electorate that may vote for a candidate, or change affecting creation or abolition of an elective office, is subject to preclearance by the U.S. Department of Justice. The preclearance review is to determine if the change has a discriminatory purpose or effect that denies or abridges the right to vote on account of race, color or membership in a language minority group in a covered jurisdiction. Florida has five covered jurisdictions subject to preclearance: Collier, Hardee, Hendry, Hillsborough, and Monroe. If the Attorney General objects to the voting change, the legislation is unenforceable.

B. RULE-MAKING AUTHORITY:

The bill conforms current statutory authorization for department rulemaking authority for a ballot to be sent to specified voters if candidate certification for election cannot be accomplished within specified timeframes to changes in voter definitions and federal requirements for transmission of certain information to such voters.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2010, the Governmental Affairs Policy Committee reported HB 131 favorably as a committee substitute. The committee substitute addresses changes in Florida law needed to conform to the Military and Overseas Voter Empowerment Act and to encourage optimum election participation of Florida's absent uniformed military and overseas voter. The committee substitute differs from the original bill in the following ways:

¹⁵ Information received from Mr. Bill Cowles, Chair of the Legislative Committee, Florida Association of Supervisors of Elections, December 30, 2009. Correspondence on file with the Governmental Affairs Policy Committee.

¹⁶ Conversation with Department of State staff, January 25, 2010.

- Adds a definition of "absent uniformed services voter" and amends the definition of "overseas voter" to conform to federal changes.
- Requires the supervisor of elections to notify the absent uniformed services voter and overseas voter of the free access system for determining absentee ballot status. This is to be done when a request for an absentee ballot is received.
- Requires that no later than 45 days_(now 35 days in Florida law) before each election the supervisor of elections shall send an absentee ballot as requested.
- Provides that the voter designate in the absentee ballot request the method of transmission: forwardable mail, e-mail, or facsimile machine transmission. If not designated, it will be mailed.
- Authorizes the Department of State to prescribe rules for a ballot to be sent to absent uniformed services voters and overseas voters in the event that the department is unable to certify candidates for election in time to meet the 45 day timeframe.
- Deletes from the bill revisions to s. 101.697, F.S.
- Corrects cross-references.

1 A bill to be entitled
2 An act relating to absent uniformed services and overseas
3 voters; amending s. 97.021, F.S.; defining the term
4 "absent uniformed services voter"; revising the definition
5 of the term "overseas voter"; amending s. 98.0981, F.S.,
6 relating to statewide voter information; conforming a
7 cross-reference; amending s. 101.62, F.S.; requiring the
8 supervisor of elections to notify the absent uniformed
9 services voter and overseas voter of the free access
10 system for determining absentee ballot status; providing a
11 timeframe for an absentee ballot to be sent to each absent
12 uniformed services voter and overseas voter; providing
13 acceptable formats for requesting an absentee ballot;
14 modifying circumstances under which the department is
15 authorized to prescribe rules for a ballot to be sent to
16 absent uniformed services voters and overseas voters;
17 amending s. 101.694, F.S.; conforming timeframes for
18 sending an absentee ballot upon receipt of federal
19 postcard application to those prescribed in s. 101.62,
20 F.S.; deleting the requirement for a federal postcard
21 application request to be effective through two regularly
22 scheduled general elections pursuant to changes in federal
23 law; amending s. 101.6952, F.S.; revising responsibilities
24 of the supervisor of elections when an overseas voter's
25 request for an absentee ballot includes an e-mail address;
26 requiring the supervisor to record the e-mail address in
27 the absentee ballot record and, via e-mail, confirm that
28 the request was received, inform the voter of the

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29 | estimated date the absentee ballot will be sent, and
 30 | notify the voter when the voted absentee ballot is
 31 | received; amending s. 379.352, F.S., relating to
 32 | recreational licenses and permits; conforming cross-
 33 | references; providing an effective date.

34 |

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

36 |

37 | Section 1. Subsections (2) through (43) of section 97.021,
 38 | Florida Statutes, are renumbered as subsections (3) through
 39 | (44), respectively, a new subsection (2) is added to that
 40 | section, and present subsection (22) of that section is amended,
 41 | to read:

42 | 97.021 Definitions.—For the purposes of this code, except
 43 | where the context clearly indicates otherwise, the term:

44 | (2) "Absent uniformed services voter" means:

45 | (a) A member of a uniformed service on active duty who, by
 46 | reason of such active duty, is absent from the place of
 47 | residence where the member is otherwise qualified to vote;

48 | (b) A member of the merchant marine who, by reason of
 49 | service in the merchant marine, is absent from the place of
 50 | residence where the member is otherwise qualified to vote; or

51 | (c) A spouse or dependent of a member referred to in
 52 | paragraph (a) or paragraph (b) who, by reason of the active duty
 53 | or service of the member, is absent from the place of residence
 54 | where the spouse or dependent is otherwise qualified to vote.

55 | (23) ~~(22)~~ "Overseas voter" means:

56 | (a) An absent uniformed services voter who, by reason of

57 active duty or service, is absent from the United States on the
 58 date of the election involved ~~Members of the uniformed services~~
 59 ~~while in the active service who are permanent residents of the~~
 60 ~~state and are temporarily residing outside the territorial~~
 61 ~~limits of the United States and the District of Columbia;~~

62 (b) A person who resides outside the United States and is
 63 qualified to vote in the last place in which the person was
 64 domiciled before leaving the United States ~~Members of the~~
 65 ~~Merchant Marine of the United States who are permanent residents~~
 66 ~~of the state and are temporarily residing outside the~~
 67 ~~territorial limits of the United States and the District of~~
 68 ~~Columbia; or and~~

69 (c) A person who resides outside the United States and,
 70 but for such residence, would be qualified to vote in the last
 71 place in which the person was domiciled before leaving the
 72 United States ~~Other citizens of the United States who are~~
 73 ~~permanent residents of the state and are temporarily residing~~
 74 ~~outside the territorial limits of the United States and the~~
 75 ~~District of Columbia,~~

76
 77 ~~who are qualified and registered to vote as provided by law.~~

78 Section 2. Subsection (3) of section 98.0981, Florida
 79 Statutes, is amended to read:

80 98.0981 Reports; voting history; statewide voter
 81 registration system information; precinct-level election
 82 results; book closing statistics.-

83 (3) PRECINCT-LEVEL BOOK CLOSING STATISTICS.-After the date
 84 of book closing but before the date of an election as defined in

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85 s. 97.021(11)~~(10)~~ to fill a national, state, county, or district
 86 office, or to vote on a proposed constitutional amendment, the
 87 department shall compile the following precinct-level
 88 statistical data for each county:

89 (a) Precinct numbers.

90 (b) Total number of active registered voters by party for
 91 each precinct.

92 Section 3. Paragraph (c) is added to subsection (1) of
 93 section 101.62, Florida Statutes, and subsections (4) and (5) of
 94 that section are amended to read:

95 101.62 Request for absentee ballots.-

96 (1)

97 (c) Upon receiving a request for an absentee ballot from
 98 an absent uniformed services voter or overseas voter, the
 99 supervisor of elections shall notify the voter of the free
 100 access system that has been designated by the department for
 101 determining the status of his or her absentee ballot.

102 (2) A request for an absentee ballot to be mailed to a
 103 voter must be received no later than 5 p.m. on the sixth day
 104 before the election by the supervisor of elections. The
 105 supervisor of elections shall mail absentee ballots to voters
 106 requesting ballots by such deadline no later than 4 days before
 107 the election.

108 (4) (a) No later than 45 days before each election, the
 109 supervisor of elections shall send an absentee ballot as
 110 provided in subparagraph (b)2. to each absent uniformed services
 111 voter and to each overseas voter who has requested an absentee
 112 ballot. ~~To each absent qualified elector overseas who has~~

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113 ~~requested an absentee ballot, the supervisor of elections shall~~
 114 ~~mail an absentee ballot not less than 35 days before the primary~~
 115 ~~election and not less than 45 days before the general election.~~

116 (b) The supervisor shall provide an absentee ballot to
 117 each elector by whom a request for that ballot has been made by
 118 one of the following means:

119 1. By nonforwardable, return-if-undeliverable mail to the
 120 elector's current mailing address on file with the supervisor,
 121 unless the elector specifies in the request that:

122 a. The elector is absent from the county and does not plan
 123 to return before the day of the election;

124 b. The elector is temporarily unable to occupy the
 125 residence because of hurricane, tornado, flood, fire, or other
 126 emergency or natural disaster; or

127 c. The elector is in a hospital, assisted living facility,
 128 nursing home, short-term medical or rehabilitation facility, or
 129 correctional facility,

130

131 in which case the supervisor shall mail the ballot by
 132 nonforwardable, return-if-undeliverable mail to any other
 133 address the elector specifies in the request.

134 2. By forwardable mail, e-mail, or facsimile machine
 135 transmission to absent uniformed services voters and overseas
 136 voters who are entitled to vote by absentee ballot under the
 137 Uniformed and Overseas Citizens Absentee Voting Act. The absent
 138 uniformed services voter or overseas voter may designate in the
 139 absentee ballot request the preferred method of transmission. If
 140 the voter does not designate the method of transmission, the

141 absentee ballot shall be mailed.

142 3. By personal delivery before 7 p.m. on election day to
 143 the elector, upon presentation of the identification required in
 144 s. 101.043.

145 4. By delivery to a designee on election day or up to 5
 146 days prior to the day of an election. Any elector may designate
 147 in writing a person to pick up the ballot for the elector;
 148 however, the person designated may not pick up more than two
 149 absentee ballots per election, other than the designee's own
 150 ballot, except that additional ballots may be picked up for
 151 members of the designee's immediate family. For purposes of this
 152 section, "immediate family" means the designee's spouse or the
 153 parent, child, grandparent, or sibling of the designee or of the
 154 designee's spouse. The designee shall provide to the supervisor
 155 the written authorization by the elector and a picture
 156 identification of the designee and must complete an affidavit.
 157 The designee shall state in the affidavit that the designee is
 158 authorized by the elector to pick up that ballot and shall
 159 indicate if the elector is a member of the designee's immediate
 160 family and, if so, the relationship. The department shall
 161 prescribe the form of the affidavit. If the supervisor is
 162 satisfied that the designee is authorized to pick up the ballot
 163 and that the signature of the elector on the written
 164 authorization matches the signature of the elector on file, the
 165 supervisor shall give the ballot to that designee for delivery
 166 to the elector.

167 (5) In the event that the department ~~Elections Canvassing~~
 168 ~~Commission~~ is unable to certify candidates for the results of an

169 | election ~~for a state office~~ in time to comply with paragraph
 170 | (4) (a) subsection (4), the Department of State is authorized to
 171 | prescribe rules for a ballot to be sent to absent uniformed
 172 | services voters and electors overseas voters.

173 | Section 4. Subsection (1) of section 101.694, Florida
 174 | Statutes, is amended to read:

175 | 101.694 Mailing of ballots upon receipt of federal
 176 | postcard application.-

177 | (1) Upon receipt of a federal postcard application for an
 178 | absentee ballot executed by a person whose registration is in
 179 | order or whose application is sufficient to register or update
 180 | the registration of that person, the supervisor shall send the
 181 | ballot in accordance with s. 101.62(4) mail to the applicant a
 182 | ballot, if the ballots are available for mailing. The federal
 183 | postcard application request for an absentee ballot shall be
 184 | effective for all elections through the next two regularly
 185 | scheduled general elections.

186 | Section 5. Section 101.6952, Florida Statutes, is amended
 187 | to read:

188 | 101.6952 Absentee ballots for overseas voters.-

189 | (1) If an overseas voter's request for an absentee ballot
 190 | includes an e-mail address, the supervisor of elections shall:

191 | (a) Record the voter's e-mail address in the absentee
 192 | ballot record;

193 | (b) Confirm by e-mail that the absentee ballot request was
 194 | received and include in that e-mail the estimated date the
 195 | absentee ballot will be sent to the voter;

196 | (c) Inform the voter of the names of candidates who will

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197 | be on the ballots via electronic transmission. The supervisor of
 198 | elections shall e-mail to the voter the list of candidates for
 199 | the primary and general election not later than 30 days before
 200 | each election; and

201 | (d) Notify the voter by e-mail when the voted absentee
 202 | ballot is received by the supervisor of elections.

203 | (2) For absentee ballots received from overseas voters,
 204 | there is a presumption that the envelope was mailed on the date
 205 | stated on the outside of the return envelope, regardless of the
 206 | absence of a postmark on the mailed envelope or the existence of
 207 | a postmark date that is later than the date of the election.

208 | Section 6. Subsection (11) of section 379.352, Florida
 209 | Statutes, is amended to read:

210 | 379.352 Recreational licenses, permits, and authorization
 211 | numbers to take wild animal life, freshwater aquatic life, and
 212 | marine life; issuance; costs; reporting.-

213 | (11) When acting in its official capacity pursuant to this
 214 | section, neither the commission nor a subagent is deemed a
 215 | third-party registration organization, as defined in s.
 216 | 97.021(37)~~(36)~~, or a voter registration agency, as defined in s.
 217 | 97.021(41)~~(40)~~, and is not authorized to solicit, accept, or
 218 | collect voter registration applications or provide voter
 219 | registration services.

220 | Section 7. This act shall take effect July 1, 2010.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 423 Seminole County Port Authority, Seminole County
SPONSOR(S): Military & Local Affairs Policy Committee and Dorworth
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	14 Y, 0 N, As CS	Noriega	Hoagland
2)	Economic Development & Community Affairs Policy Council		Noriega <i>TN</i>	Tinker <i>TNT</i>
3)				
4)				
5)				

SUMMARY ANALYSIS

The Seminole County Port Authority (Authority) is a dependent special district of Seminole County created in 1965 by chapter 65-2270, Laws of Florida, to establish, construct, and manage the Port of Sanford. The Port of Sanford is comprised of approximately 120 acres located on the St. Johns River in Seminole County.

This bill repeals chs. 65-2270, 67-2073, 67-2074, 67-2078, 70-946, 71-923, 72-695, 72-696, 75-504, 76-487, and 88-447, L.O.F., and constitutes the codification of all special acts relating to the Authority's charter into a single, logically organized act, as required by section 189.429, F.S. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority.

The bill deletes outdated language and organizes previously authorized powers of the Authority, and makes minor, stylistic changes to some of the language of the charter.

In addition to codifying existing law, this bill also amends the Authority's charter in the following ways:

- authorizes the Board of Directors to designate authority to sign checks;
- eliminates outdated language pertaining to the provision of immediate funds; and
- eliminates the existing procurement methods for construction and supplies and directs the Board of Directors to establish a purchasing policy to address these procurement methods in accordance with Florida Statutes.

The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

This bill provides an effective date of 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

Background

The Seminole County Port Authority (Authority) is a dependent special district¹ of Seminole County created in 1965 by ch. 65-2270, Laws of Florida, to establish, construct, and manage the Port of Sanford, a barge port and industrial complex on the St. John's River. The Port of Sanford is comprised of approximately 120 acres of land and associated infrastructure (roads, signs, utilities, etc.), a 250 slip full-service marina, nearly 500,000 square feet of industrial and manufacturing space, a small business incubator, and other revenue-generating facilities.

According to Mr. Andrew Van Gaale, Administrator for the Authority, "the Port of Sanford was initially created to handle barge traffic via the 'Cross Florida Barge Canal,' which was planned to link the Port of Sanford with other ports throughout Florida. However, in 1970 the project was halted by Presidential decree and was never completed. Since then, the Port of Sanford has become a very successful public enterprise."

The Authority is governed by a nine-member Board of Directors appointed by the Seminole County Commission. The charter also directs certain operational duties such as membership, public meetings, and agency jurisdiction.

The Authority's goals and objectives are determined by the Board of Directors, and day-to-day activities are managed by an Administrator. Board of Directors' meetings are held monthly and are subject to Florida's Government-in-the-Sunshine Law. The Board of Directors submits the budget to the Seminole County Board of County Commissioners for approval.

The Board of County Commissioners may levy an annual tax on all taxable real and personal property, up to one-half mill, to enable the Authority to carry out its functions under the charter. Currently, no taxes are levied for these purposes.

¹ A dependent special district has at least one of the following characteristics: "(a) the membership of its governing body is identical to that of the governing body of a single county or a single municipality; (b) all members of its governing body are appointed by the governing body of a single county or a single municipality; (c) during their unexpired terms, members of the special district's governing body are subject to removal at will by the governing body of a single county or a single municipality; (d) the district has a budget that requires approval through an affirmative vote or can be vetoed by the governing body of a single county or a single municipality." § 189.403(2), F.S.

Also, according to Mr. Van Gaale, "public meetings are advertised and held monthly where all Port of Sanford business is handled. The Authority's 2009-2010 total budget is \$2,754,644. Revenue is primarily generated from building and land leases. The Port is completely debt free and operates as an enterprise fund. Surplus funds from the operation are transferred to the Seminole County Board of County Commissioners for use in their General Fund. To date, the Authority has transferred approximately \$4,440,000 in surplus funds to Seminole County."

Codification of Special District Charters

Codification is the process of compiling, updating and systematically arranging the special acts that comprise a special district's charter. Original provisions may be amended by subsequent special acts after these charters are created by the Legislature. Because special act amendments are not automatically incorporated into one special act, it is necessary to locate all special acts amending an original charter in order to determine the current status of a special district's charter. This can be a difficult and time-consuming process for persons interested in ascertaining the law governing a district. Codification of special district charters is important because it allows readers to refer to one special act to identify the charter of a district.

Codification of special district charters initially was authorized by the 1997 Legislature in ss. 189.429² and 191.015,³ F.S., both of which were amended in 1998. The laws currently provide for each district that has more than one special act to submit a draft codified charter, at its own expense, to the Legislature by December 1, 2004. Any codified act relating to a special district must provide for the repeal of all prior special acts relating to the district, and be filed with the Department of Community Affairs within 30 days after adoption pursuant to s. 189.418(2), F.S. The 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law: (1) shall not be construed to grant additional authority nor supersede the authority of an entity; (2) shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; (3) shall not be construed to modify, amend or alter any covenants, contracts or other obligations of any district with respect to bonded indebtedness; and (4) shall not be construed to affect a district's ability to levy and collect taxes, assessments, fees or charges for the purpose of redeeming or servicing the district's bonded indebtedness.

Although the deadline for submission of codified special district charters was prior to the 2005 legislative session, all special districts have not complied with this requirement, and proposed codification bills for other special districts have not been enacted by the Legislature or have been vetoed by the Governor. As a result, it is anticipated that proposed codification bills will continue to be filed.

Status Statement Language

Section 189.404(5), F.S., provides that after October 1, 1997, the charter of any newly created special district must contain and, as practical, must be amended to contain a reference to the status of the special district as dependent or independent. When necessary, the status statement must be amended to conform to the Department of Community Affairs' determination or declaratory statement regarding the status of the district.

Authority to Sign Checks

The Authority's charter provides that all warrants drawn for the disbursement of funds must be signed by the chairman and the treasurer.

Provision of Immediate Funds

Chapter 65-2270, L.O.F., authorized the Authority to borrow immediate funds for its administration and operations until the initial tax levy provided for is available. The total borrowed amount may not exceed \$60,000 for a period(s) of up to one year. Also, the Authority can issue its promissory notes, upon such terms, and at a rate of interest not exceeding 6 percent per year.

² Chapter 189, F.S., is known as the "Uniform Special District Accountability Act."

³ Chapter 191, F.S., is known as the "Independent Special Fire Control District Act."

Procurement Methods

Under its charter, the Authority is currently required to submit a Request For Proposals (RFP) for all construction, reconstruction, repairs, or work of any nature in excess of \$2,000, except for construction, reconstruction, repairs or work done by employees of the authority, or by labor supplied under agreement with federal or state governments. Also, the Authority is currently required to submit an RFP for all supplies, equipment, machinery, and materials in excess of \$1,000.

Florida Statutes contain several provisions regarding procurement, including provisions in chs. 255 and 287, F.S.

Section 255.20, F.S.,⁴ provides that “a county, municipality, special district as defined in chapter 189, or other political subdivision of the state seeking to construct or improve a public building, structure, or other public construction works must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than \$300,000. For electrical work, the local government must competitively award to an appropriately licensed contractor each project that is estimated in accordance with generally accepted cost-accounting principles to cost more than \$75,000.”

Chapter 287, F.S., provides guidelines for the procurement of personal property and services at the state level. In particular, the “Consultants’ Competitive Negotiation Act” (s. 287.055, F.S.), provides guidelines for competitive selection and negotiation based on five purchasing categories with specific threshold amounts as defined by s. 287.017, F.S.⁵

Effect of the Proposed Changes

This bill brings the Authority into compliance with the requirements of s. 189.429, F.S. In doing so, this bill repeals chs. 65-2270, 67-2073, 67-2074, 67-2078, 70-946, 71-923, 72-695, 72-696, 75-504, 76-487, and 88-447, L.O.F., and constitutes the codification of all special acts relating to the Authority’s charter into a single, logically organized act. Reenactment of existing law is permitted by this section, although this reenactment is not to be construed as a grant of additional authority. The statutory deadline for compliance with s. 189.429, F.S., was December 1, 2004.

The bill deletes outdated language and organizes previously authorized powers of the Authority, and makes minor, stylistic changes to some of the language of the charter.

In addition to codifying existing law, this bill also amends the Authority’s charter in the following ways:

- authorizes the Board of Directors to designate authority to sign checks;
- eliminates outdated language pertaining to the provision of immediate funds; and
- eliminates the existing procurement methods for construction and supplies and directs the Board of Directors to establish a purchasing policy to address these procurement methods in accordance with Florida Statutes.

Authority to Sign Checks

The bill adds language to provide that all warrants drawn for the disbursement of funds can also be signed by “such persons as set forth in the purchasing policy adopted by the authority in accordance with general law.”

⁴ Section 255.20, F.S., is titled “local bids and contracts for public construction works; specification of state-produced lumber.”

⁵ Section 287.017, F.S., provides for the following purchasing categories: Category One (\$15,000), Category Two (\$25,000), Category Three (\$50,000), Category Four (\$150,000), and Category Five (\$250,000).

Provision of Immediate Funds

This bill removes the language related to the provision of immediate funds. This language was necessary at the time of inception in 1965, but is now obsolete.

Procurement Methods/Purchasing Policy

The bill directs the Board of Directors to establish a purchasing policy to address procurement methods for construction and supplies in accordance with s. 255.20 and ch. 287, F.S., and eliminates specific chapter law requirements relating to expenditure amounts that would require an RFP. The bill also eliminates definitions that no longer apply to the "Award of contracts" section of the Authority's charter.

According to Mr. Van Gaale, "the Port operation requires various services and goods from electricians, plumbers, landscapers, heavy equipment operators, and excavation needs on any given day. These goods and services frequently exceed the Authority's \$2,000 limit, thus hindering the efficient operation of the Port by having to prepare an RFP package, advertise for two weeks, hold a bid opening, and award a contract that has to be approved by the Board of Directors during one of their monthly meetings. For example, if an air conditioning unit in one of the Authority's office leaseholds goes out in the middle of summer and the replacement cost exceeds \$2,000, the Authority would either have to begin the RFP process (which would take a month for approval and could disrupt business operations) or it would have to declare an emergency expenditure."

B. SECTION DIRECTORY:

Section 1: Provides guidelines for the reenactment of existing law.

Section 2: Amends, codifies, reenacts, and repeals chs. 65-2270, 67-2073, 67-2074, 67-2078, 70-946, 71-923, 72-695, 72-696, 75-504, 76-487, and 88-447, L.O.F.

Section 3: Recreates the Seminole County Port Authority, and reenacts the charter to include:

Section 1: Seminole County Port Authority.

- Governing board composition, terms, and quorum.
- Warrant signing authority and bonding of officers and employees.
- Meeting requirements.
- Prohibition on compensation; provision for reimbursements.
- Staffing.
- Fiscal year.

Section 2: Definitions.

Section 3: Powers.

- Projects.
- Waterways.
- Property acquisition.
- Borrowing money.
- Joint agreements.
- Contracts, leases, and agreements.
- Authority to fix, regulate, and collect rates and charges for services and facilities; project use guidelines; ability to impose sanctions.
- Authority to fix miscellaneous rates.
- Authority to solicit shipping and other business; promote commerce and increase tonnage through the Port of Sanford.
- Authority to receive and accept federal and state funds.
- Applications, agreements; foreign commerce.
- Authority to enter into contracts with the state, the United States government, or their agencies.
- Documents; authority to prepare and adopt a comprehensive plan.
- Franchising.
- Authority to enter into contracts with utility companies.

- Revenues; budgeting.
- Bonding authority.
- Authority for other necessary or proper actions.
- Authority for necessary or proper actions to be or to serve as a local governmental body within the meanings of the State Constitution and Florida Statutes.
- Authority to publicize, advertise, and promote the activities and projects authorized by the charter; authority to cooperate with other agencies, both public and private, to accomplish the purposes of the charter; ability to authorize reasonable expenditures for auditing purposes.
- Corporate seal.
- Legal rights.
- Eminent domain.
- Acceptance of grants, gifts, and donations.
- Entering into contracts, leases, or other transactions with any federal or state agency, the state, Seminole County, any incorporated area, or with any other public body of the state.

Section 4: Financial reports; audits; tax levy.

Section 5: Rules and regulations.

Section 6: Bonds eligible for legal investments.

Section 7: Rights of employees.

Section 8: Cooperation with other units, boards, agencies, and individuals.

Section 9: Award of contracts.

Section 10: Execution of documents; examination of claims.

Section 11: Records.

Section 12: Audits.

Section 13: Chapter 315, F.S., relating to port facilities financing, also applicable.

Section 14: Submerged lands.

Section 15: Declaration of purpose.

Section 16: Construction.

Section 17: Surplus funds.

Section 4: Provides an effective date of upon becoming a law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

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

IF YES, WHEN? October 21, 2009.

WHERE? In the *Sanford Herald*, a daily newspaper published in Seminole County.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN? Not applicable.

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

It appears that the provisions of this bill will not have an economic impact because this bill re-codifies the existing powers and operations of the Authority. The attached Economic Impact Statement indicates that there is no economic impact as a result of this bill.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

This bill authorizes issuing bonds upon the approval of freeholders who are qualified electors owning land in the district, which is consistent with Article VII, s. 12 of the Florida Constitution. However, limiting the electorate in bond and millage elections to persons who are the owners of freeholds not wholly exempt from taxation has been found unconstitutional under the Equal Protection Clause of the United States Constitution when applied to residents of units of local government exercising general governmental power.⁶ Therefore, it may be advisable to amend the bill by replacing the word "freeholders" with "electors" in section 3 ("Powers") of the bill.

In addition, sections 11 ("Records") and 12 ("Audits") of the bill include outdated language that refers to the "state auditor." It may be advisable to amend these sections to include references to s. 218.39, F.S., which addresses guidelines for the filing of annual financial audit reports.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On February 3, 2010, the Military & Local Affairs Policy Committee adopted the following four amendments and reported the bill favorably as a Committee Substitute:

- Amendment #1 clarified that the Seminole County Port Authority is a dependent district;
- Amendment #2 removed several references to ch. 65-2270, L.O.F., which is being repealed by this bill, and combined section 5 ("Additional powers") with section 3 ("Powers");
- Amendment #3 removed section 5 ("Additional powers") from the bill. This language became part of section 3 ("Powers") once Amendment #2 was adopted; and
- Amendment #4 provided specific statutory guidelines for the authority's procurement methods, including the amounts that would require the authority to do requests for proposals (RFPs).

⁶ See *Fair v. Fair*, 317 F.Supp. 859, 860 (D.C. Fla. 1970); see also *Tornillo v. Dade County School Board*, 458 F.2d 194 (U.S.C.A. 5th Cir. 1972) (finding unconstitutional Article VII, s. 9, Florida Constitution, limiting electorate in bond and millage elections to owners of freeholds not wholly exempt from taxation).

Also, this amendment removed definitions that no longer apply to the "Award of contracts" section of the Authority's charter.

This analysis reflects the four amendments adopted by the Military & Local Affairs Policy Committee.

1 A bill to be entitled
2 An act relating to the Seminole County Port Authority,
3 Seminole County; codifying, amending, reenacting, and
4 repealing chapters 65-2270, 67-2073, 67-2074, 67-2078, 70-
5 946, 71-923, 72-695, 72-696, 75-504, 76-487, and 88-447,
6 Laws of Florida; providing for warrants to be signed by
7 the chairperson, treasurer, or certain other persons;
8 providing that the authority may hold its books open for a
9 specified period after the end of the fiscal year;
10 providing that the authority shall comply with general law
11 for cost of construction and supplies; providing for
12 execution of documents and examination of claims;
13 providing for charter to supersede chapter 315, F.S., in
14 certain circumstances; providing an effective date.
15

16 Be It Enacted by the Legislature of the State of Florida:
17

18 Section 1. (1) The reenactment of existing law in this
19 act shall not be construed as a grant of additional authority to
20 or to supersede the authority of any entity pursuant to law.
21 Exceptions to law contained in any special act that are
22 reenacted pursuant to this act shall continue to apply.

23 (2) The reenactment of existing law in this act shall not
24 be construed to modify, amend, or alter any covenants,
25 contracts, or other obligations of the district with respect to
26 bonded indebtedness. Nothing pertaining to the reenactment of
27 existing law in this act shall be construed to affect the
28 ability of the district to levy and collect taxes, assessments,

29 fees, or charges for the purpose of redeeming or servicing
 30 bonded indebtedness of the district.

31 Section 2. Chapters 65-2270, 67-2073, 67-2074, 67-2078,
 32 70-946, 71-923, 72-695, 72-696, 75-504, 76-487, and 88-447, Laws
 33 of Florida, are amended, codified, reenacted, and repealed as
 34 provided herein.

35 Section 3. The Seminole County Port Authority is re-
 36 created, and its charter is re-created and reenacted to read:

37 Section 1. Seminole County Port Authority.—There is hereby
 38 created and established a body politic and corporate to be known
 39 as the Seminole County Port Authority (hereinafter referred to
 40 as the "authority"), a dependent special district. The facility
 41 to be operated by the authority shall be known as the Port of
 42 Sanford and is authorized to exercise the jurisdiction, powers,
 43 and duties herein granted.

44 (1) The governing body of the authority shall consist of
 45 nine members, eight of whom shall be appointed by the Board of
 46 County Commissioners of Seminole County. Such appointees shall
 47 be residents of Seminole County who are qualified electors, none
 48 of whom shall be an elected public official. One member shall be
 49 selected annually by the Board of County Commissioners of
 50 Seminole County from the board of county commissioners to serve
 51 as the ninth member whose term shall expire on the first Tuesday
 52 after the first Monday in January of the year next succeeding
 53 his or her appointment. The remaining eight members shall be
 54 appointed to serve terms of 4 years each. Each appointed member
 55 shall hold office until his or her successor has been appointed
 56 and has qualified. A vacancy occurring during the term of an

57 appointed member shall be filled only for the balance of the
 58 unexpired term.

59 (2) The authority shall elect one of its members as
 60 chairperson of the authority and a second member as vice
 61 chairperson of the authority. The authority shall also elect a
 62 secretary and a treasurer to perform such duties as the
 63 authority may direct.

64 (3) Five members of the authority shall constitute a
 65 quorum, and at least five members must approve any action to be
 66 taken by the authority. Resolutions adopted by the vote of at
 67 least five members of the authority shall become effective
 68 without further action by the authority. Each member of the
 69 authority shall have one vote. The yeas and nays shall be called
 70 and entered upon the minutes of each meeting upon the passage of
 71 each resolution or other action of the authority.

72 (4) All warrants drawn for the disbursement of funds of
 73 the authority shall be signed by its chairperson and treasurer
 74 or such persons as set forth in the purchasing policy adopted by
 75 the authority in accordance with general law. Bonds or
 76 additional bonds of the chairperson, the treasurer, and any
 77 person employed by the authority as hereinafter provided who
 78 handle or are responsible for public funds of the authority
 79 shall be provided by the authority in amounts approved by the
 80 Board of County Commissioners of Seminole County.

81 (5) The authority shall hold a regular meeting each month
 82 on a date and at a time in Seminole County fixed by resolution
 83 of the authority and properly recorded in its minutes. The
 84 authority may change its regular meeting date only after

85 appropriate public notice. Special meetings may be called upon
86 the call of its chairperson or any three members of the
87 authority. Such special meetings shall be held in Seminole
88 County and whenever possible appropriate public notice thereof
89 shall be given. All meetings of the authority shall be open to
90 the public.

91 (6) The members of the authority shall receive no
92 compensation but shall receive reimbursement for per diem and
93 travel expenses incurred in connection with their official
94 duties as provided in section 112.061, Florida Statutes.
95 Reimbursement of said per diem and expenses to members of the
96 authority shall be made only pursuant to approval of the
97 authority and proper travel expense vouchers.

98 (7) The authority shall employ and fix the compensation of
99 a managing director who shall manage the affairs of the
100 authority under the supervision and control of the authority.
101 The authority may employ such engineers, attorneys, certified
102 public accountants, consultants, and employees as the authority
103 may require, and fix and pay their compensation.

104 (8) The authority may do any and all things necessary to
105 accomplish the purposes of this act.

106 (9) The fiscal year of the authority shall end on
107 September 30th of each year.

108 Section 2. Definitions.--The following words and terms
109 shall be taken to include the following meanings when the
110 context shall require or permit:

111 (1) "Authority" shall mean the body politic created by
112 this act.

- 113 (2) "County" shall mean the County of Seminole.
- 114 (3) "City" shall mean any incorporated municipality.
- 115 (4) "State" shall mean the State of Florida and any
 116 department, corporation, agency, or instrumentality thereof.
- 117 (5) "Federal agency" shall mean and include the United
 118 States, the President of the United States, and any department
 119 or corporation, agency, or instrumentality thereof heretofore or
 120 hereafter created, designated, or established by the United
 121 States.
- 122 (6) "Projects" shall mean harbor, port, and shipping
 123 facilities of all kinds, including, but not limited to, harbors,
 124 channels, turning basins, anchorage areas, jetties, breakwaters,
 125 waterways, canals, locks, tidal basins, wharves, docks, piers,
 126 slips, bulkheads, public landings, warehouses, terminals,
 127 refrigerating and cold storage plants, railroads and motor
 128 terminals for passengers and freight, rolling stock, car
 129 ferries, boats, conveyors and appliances of all kinds for the
 130 handling, storage, inspection, and transportation and service
 131 buildings, roads, toll highways, tunnels, causeways, and bridges
 132 connected therewith or incident or auxiliary thereto, and may
 133 include all property, structures, facilities, rights, easements,
 134 and franchises relating to any such project and deemed necessary
 135 or convenient for the acquisition, construction, purchase, or
 136 operation thereof. The word "projects" shall also embrace
 137 capital projects for port facilities and industrial or
 138 manufacturing plants as contemplated by Section 10(c) of Article
 139 VII of the State Constitution and projects as defined and
 140 authorized under part II of chapter 159, Florida Statutes;

141 | provided, however, that such industrial or manufacturing plants
 142 | shall be located only on property owned by the authority on the
 143 | effective date of this act.

144 | (7) "Cost," as applied to improvements, shall mean the
 145 | cost of constructing or acquiring improvements and shall embrace
 146 | the cost of all labor and materials, the cost of all machinery
 147 | and equipment, financing charges, the cost of engineering and
 148 | legal expenses, plans, specifications, and such other expenses
 149 | as may be necessary or incident to such construction or
 150 | acquisition.

151 | (8) "Cost," as applied to a project acquired, constructed,
 152 | extended, or enlarged, shall include the purchase price of any
 153 | project acquired; the cost of improvements; the cost of such
 154 | construction, extension, or enlargements; the cost of all lands,
 155 | properties, rights, easements, and franchises acquired; the cost
 156 | of all machinery and equipment; financing charges; interest
 157 | during construction; and, if deemed advisable, for 1 year after
 158 | completion of construction, cost of investigations and audits,
 159 | and of engineering and legal services, and all other expenses
 160 | necessary or incident to determining the feasibility or
 161 | practicability of such acquisition or construction,
 162 | administrative expenses, and such other expenses as may be
 163 | necessary or incident to the financing herein authorized and to
 164 | the acquisition or construction of a project and the placing of
 165 | the same in operation. Any obligation or expense incurred by the
 166 | authority prior to the issuance of revenue bonds under the
 167 | provision of this act for engineering studies and for estimates
 168 | of cost and of revenues and for other technical, financial, or

169 | legal services in connection with the acquisition or
 170 | construction of any project may be regarded as a part of the
 171 | cost of such project.

172 | Section 3. Powers.—The authority shall have the following
 173 | specific powers, in addition to other powers otherwise
 174 | conferred:

175 | (1) To construct, acquire, establish, improve, extend,
 176 | enlarge, reconstruct, reequip, maintain, repair, and operate or
 177 | purchase any project as herein defined.

178 | (2) Subject to the jurisdiction of the United States and
 179 | the state, to construct, establish, and improve harbors; to
 180 | improve navigable waters; and to construct and maintain canals,
 181 | slips, turning basins, and channels, all upon such terms and
 182 | conditions as may be required by the United States and the
 183 | state.

184 | (3) To acquire for any project authorized by this act by
 185 | grant, purchase, gift, devise, condemnation by eminent domain
 186 | proceedings, exchange, or in any other manner, all property,
 187 | real or personal, or any estate or interest therein, upon such
 188 | terms and conditions as the authority shall by resolution fix
 189 | and determine. The right of eminent domain herein conferred
 190 | shall be exercised by the authority in the manner provided by
 191 | law.

192 | (4) To borrow money for any authorized purpose, evidencing
 193 | such obligation by promissory notes, mortgages upon all or any
 194 | part of its assets, revenue certificates, certificates of
 195 | indebtedness, or other appropriate financing documents. Any
 196 | obligation of the authority that pledges any of the fixed assets

197 | of the authority as security for such obligation or that pledges
 198 | the full faith and credit of the authority shall bear an
 199 | interest rate not to exceed the lawful rate as established by
 200 | law. Any obligation of the authority that does not directly
 201 | pledge any of its fixed assets or pledge its full faith and
 202 | credit, including, but not limited to, obligations contemplated
 203 | by chapter 159, Florida Statutes, shall bear interest at a rate
 204 | or rates to be established by the authority not exceeding 10
 205 | percent per annum.

206 | (5) To enter into joint arrangements with steamship lines,
 207 | railroads, or other transportation lines, or any contract,
 208 | private, or common carrier, if the authority shall deem it
 209 | advantageous so to do.

210 | (6) To make and enter into all contracts and agreements
 211 | and to do and perform all acts and deeds necessary and
 212 | incidental to the performance of its duties and the exercise of
 213 | its powers; to make and execute leases or agreements for the use
 214 | and occupation of the property and projects under its control on
 215 | such terms, conditions, and period of time as the authority may
 216 | determine, provided, however, that any lease or agreement for a
 217 | period exceeding 10 years shall be first authorized and approved
 218 | by the affirmative vote of not fewer than 5 members of the
 219 | authority; and to sell and dispose of such property and projects
 220 | as shall no longer be needed for the uses and purposes of the
 221 | authority on such terms and conditions as shall be prescribed by
 222 | resolution of the authority, provided, however, that before
 223 | disposing of any real property that was acquired from either the
 224 | city or county under the provisions of this act, the authority

225 | shall give written notice to the governmental unit from which
 226 | such real property was acquired. If said governmental unit
 227 | desires to accept a reconveyance of said real property, it shall
 228 | give the authority written notice of such intention within 30
 229 | days after the date of mailing of the authority's notice
 230 | regarding the disposal of such property and the authority shall
 231 | make the reconveyance of such property to said governmental unit
 232 | forthwith. If within such 30 days said governmental unit does
 233 | not notify the authority in writing of a desire to accept a
 234 | reconveyance of said property, or refuses to accept a
 235 | reconveyance of same, the authority may sell and dispose of same
 236 | on such terms and conditions as shall be prescribed by
 237 | resolution of the authority.

238 | (7) To the extent permitted by law to fix, regulate, and
 239 | collect rates and charges for the services and facilities
 240 | furnished by any project under its control; to establish, limit,
 241 | and control the use of any project as may be deemed necessary to
 242 | ensure the proper operation of the project; and to impose
 243 | sanctions to promote and enforce compliance with any rule or
 244 | regulation that the authority may adopt in the regulation of the
 245 | ports, harbors, wharves, docks, and other projects under its
 246 | control.

247 | (8) To fix the rates of wharfage, dockage, warehousing,
 248 | storage, and port and terminal charges for the use of the port
 249 | and harbor facilities located within said county and owned or
 250 | operated by said authority.

251 | (9) To solicit shipping and other business and do all
 252 | things necessary or advisable to promote commerce and increase

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253 tonnage through the Port of Sanford.

254 (10) To receive and accept from any federal or state
 255 agency grants for or in aid of the planning, development,
 256 construction, improvement, or operation of any project and to
 257 receive and accept contributions from any source of either
 258 money, property, labor, or other things of value.

259 (11) To make any and all applications required by the
 260 Treasury Department and other departments or agencies of the
 261 United States Government as a condition precedent to the
 262 establishment within the county of a free port, foreign trade
 263 zone, or area for the reception from foreign countries of
 264 articles of commerce; to expedite and encourage foreign commerce
 265 and the handling, processing, and delivery thereof into foreign
 266 commerce from the payment of custom duties and to enter into any
 267 agreements required by such departments or agencies in
 268 connection therewith; and to make like applications and
 269 agreements with respect to the establishment within said county
 270 of one or more bonded warehouses.

271 (12) To enter into any contract with the state, the United
 272 States Government, or any agency of said governments, which may
 273 be necessary in order to produce assistance, appropriations, and
 274 aid for the deepening, widening, and extending of channels and
 275 turning basins, and building and constructing slips, wharves,
 276 breakwaters, jetties, bulkheads, and any and all other harbor
 277 and navigation improvements and facilities.

278 (13) To make or cause to be made such surveys,
 279 investigations, studies, borings, maps, plans, drawings, and
 280 estimates of cost and revenues as it may deem necessary, and may

281 prepare and adopt a comprehensive plan or plans for the
 282 location, construction, improvement, and development of any
 283 project.

284 (14) To grant exclusive or nonexclusive franchises to
 285 persons, firms, or corporations for the operation of
 286 restaurants, cafeterias, bars, cigar and cigarette stands,
 287 newsstands, buses, taxicabs, vending machines, hotels, motels,
 288 service stations, and other concessions in, on, and in
 289 connection with any project owned and operated by the authority.
 290 In granting such franchises it shall be the duty of the
 291 authority to investigate and consider the qualifications and
 292 ability of the lessee or concessionaires to provide or perform
 293 the contemplated services for the public using the facilities
 294 and the revenues that will be derived therefrom by the authority
 295 and to exercise sound prudent business judgment on behalf of the
 296 authority with respect thereto, calling for bids when the
 297 interests of the public will best be served by such action.

298 (15) To enter into contracts with utility companies or
 299 others for the supplying by said utility companies or others of
 300 water, gas, sewerage services, electricity, and telephone
 301 service or any other services to or in connection with any
 302 project.

303 (16) To pledge by resolution or contract the revenues
 304 arising from the operation of any project or projects owned and
 305 operated by the authority to the payment of the cost of
 306 operation, maintenance, repair, improvement, extension, and
 307 enlargement of the project or projects from the operation of
 308 which such revenues are received and for the payment of

309 principal and interest on bonds issued in connection with any
 310 such project or projects, and to combine for financing purposes
 311 any two or more projects constructed or acquired by the
 312 authority under the provisions of this act. In any such case the
 313 authority may adopt separate budgets for the operation of such
 314 project or projects. In every such case such revenues shall be
 315 expended exclusively for the payment of the costs of operation,
 316 maintenance, repair, improvement, extension, and enlargement of
 317 the project or projects from the operation of which such
 318 revenues arise, for the performance of the authority's contracts
 319 in connection with such project or projects, and for the payment
 320 of principal and interest requirements of any bonds issued in
 321 connection with the project or projects. Any surplus of such
 322 funds remaining on hand at the end of any year shall be carried
 323 forward and may be expended in the succeeding year for the
 324 payment of the costs of operation of such project or projects or
 325 for the repair, improvement, and extension thereof as the
 326 authority may determine, unless such surplus has been pledged
 327 for the payment of principal and interest on bonds, as
 328 authorized in subsection (17), in which event any such surplus
 329 shall be applied in accordance with the resolution pledging the
 330 same.

331 (17) To issue general obligation bonds or revenue bonds of
 332 said authority for the purpose of paying all or a part of the
 333 cost of any one or more projects as herein defined, including
 334 the cost of enlargement, expansion, and development of such
 335 project whether the property used therefor has previously been
 336 acquired or not, and the cost of removing therefrom or

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337 relocating or reconstructing at another location any buildings,
338 structures, or facilities which in the opinion of such authority
339 constitute obstructions or hazards to the safe or efficient
340 operation of any such project, and for the purpose of paying off
341 and retiring any bonds issued or assumed under the provisions of
342 this act.

343 (a) The bonds of each issue shall be authorized by
344 resolution of the authority and shall be dated; shall bear
345 average interest at such rate or rates not exceeding the lawful
346 rate of interest as is established by law; shall mature at such
347 time or times not exceeding 40 years from their date or dates,
348 as may be determined by the authority; and may be made
349 redeemable before maturity, at the option of the authority, at
350 such price or prices and under such terms and conditions as may
351 be fixed by the authority prior to the issuance of the bonds.
352 The authority shall determine the form of bonds, including any
353 interest coupons to be attached thereto; the manner of execution
354 of the bonds; and fix the denomination or denominations of the
355 bonds and the place or places of payment of principle and
356 interest, which may be at any bank or trust company within or
357 without the state. The resolution authorizing the issuance of
358 the bonds shall contain such provisions relating to the use of
359 the proceeds from the sale of the bonds and for the protection
360 and security of holders of the bonds, including their rights and
361 remedies, and the rights, powers, privileges, duties, and
362 obligations of the authority with respect to the same, as shall
363 be determined by the authority. In case any officer whose
364 signature or facsimile of whose signature shall appear on any

365 bonds or coupons shall cease to be such officer before the
 366 delivery of such bonds, such signature or such facsimile shall
 367 nevertheless be valid and sufficient for all purposes the same
 368 as if he or she had remained in office until such delivery. All
 369 bonds issued under the provisions of this act shall have and are
 370 hereby declared to have all the qualities and incidents of
 371 negotiable instruments under the negotiable instruments law of
 372 the state. The bonds may be issued in coupon or in registered
 373 form, or both, as the authority may determine, and provision may
 374 be made for the registration of any coupon bonds as to principal
 375 alone and also as to both principal and interest and for the
 376 reconversion into coupons bonds of any bonds registered as to
 377 both principal and interest. The issuance of such bonds shall
 378 not be subject to any limitations or conditions contained in any
 379 other law.

380 (b) Prior to any sale of bonds the authority shall cause
 381 notice to be given by publication in some daily newspaper
 382 published and having a general circulation in the county that
 383 the authority will receive bids for the purchase of the bonds at
 384 the office of the authority in the county. Said notice shall be
 385 published twice and the first publication shall be given not
 386 less than 15 days prior to the date set for receiving the bids.
 387 Said notice shall specify the amount of the bonds offered for
 388 sale, shall state that the bids shall be sealed bids, and shall
 389 give the schedule of the maturities of the proposed bonds and
 390 such other pertinent information as may be prescribed in the
 391 resolution authorizing the issuance of such bonds or any
 392 resolution subsequent thereto. Bidders may be invited to name

393 the rate or rates of interest that the bonds are to bear or the
394 authority may name rates of interest and invite bids thereon. In
395 addition to publication of notice of the proposed sale the
396 authority shall also give notice in writing of the proposed sale
397 enclosing a copy of such advertisement to the chairperson of the
398 State Board of Administration and to at least three recognized
399 bond dealers in the state, such notices to be given not less
400 than 10 days prior to the date set for receiving the bids.

401 (c) All bonds and refunding bonds issued pursuant to this
402 chapter shall be sold at public sale and shall be awarded to the
403 bidder whose bid produces the lowest net interest cost to the
404 authority. The net interest cost of bids shall be determined by
405 taking the aggregate amount of interest at the rate or rates
406 specified in the bids, computed from the date of the bonds to
407 the date of the various stated maturities thereof, and deducting
408 therefrom the amount of any premium offered in excess of the par
409 value of the bonds or adding thereto the amount of any discount
410 offered below the par value of the bonds, with interest computed
411 on a 360-day-year basis. The authority shall reserve the right
412 to reject any or all bids. In no event shall said bonds be sold
413 at a net interest cost to the authority in excess of the rate as
414 is established by law. Pending the preparation of definitive
415 bonds, interim bonds may be issued to the purchaser or
416 purchasers of such bonds and may contain such terms and
417 conditions as the authority may determine.

418 (d) The authority shall require all bidders for said bonds
419 to enclose a certified or bank cashier's check, in the amount of
420 2 percent of the total par value of the bonds offered for sale,

421 drawn on an incorporated bank or trust company payable
 422 unconditionally to the order of the authority as a guarantee of
 423 good faith in the performance of each bid. The checks of the
 424 unsuccessful bidders shall be returned immediately upon the
 425 award of the bonds and the check of the successful bidder shall
 426 be retained by the authority and credited against the full
 427 purchase price of the bonds at the time of delivery or retained
 428 as and for liquidated damages in case of the failure of such
 429 bidder to fulfill the terms of his or her bid.

430 (e) No general obligation bonds shall be issued hereunder
 431 unless the issuance of such bonds shall have been approved by a
 432 majority of the votes cast in an election in which a majority of
 433 the freeholders residing in Seminole County who are qualified to
 434 vote in such election shall participate. Whenever the authority
 435 by resolution requests the Board of County Commissioners of
 436 Seminole County to hold such an election, said board may on
 437 behalf of the authority, hold, conduct, canvass, and announce
 438 the results of such election in accordance with the procedure
 439 prescribed by law for the issuance of county bonds. The expenses
 440 of such election shall be paid by the authority. In no event
 441 shall such general obligation bonds be construed or considered
 442 to be bonds of the County of Seminole but shall be solely bonds
 443 of said authority. If the resolution of the authority requests
 444 said board of county commissioners as a prerequisite to holding
 445 such bond election to provide for a special registration of
 446 freeholders who shall be qualified to participate in such
 447 election, the board of county commissioners may provide for such
 448 special registration of qualified electors who are freeholders

449 in Seminole County in the same manner provided by law for the
450 special registration of freeholders in county bond elections.
451 The expenses of conducting such special registration shall be
452 borne by the authority.

453 (18) To do all other acts and things necessary or proper
454 in the exercise of the powers herein granted.

455 (19) To do all acts or things necessary or proper to be
456 and serve as a local governmental body within the meaning of
457 Section 10(c) of Article VII of the State Constitution or as a
458 local agency under part II of chapter 159, Florida Statutes,
459 with respect to any project as defined therein, provided, that
460 projects as defined in part II of chapter 159, Florida Statutes,
461 shall be located only on property owned by the authority on the
462 effective date of this act; provided, further, that with respect
463 to port facilities (wherever located within Seminole County)
464 within the meaning of Section 10(c) of Article VII of the State
465 Constitution, the authority shall have the same powers as a
466 local agency under part II of chapter 159, Florida Statutes, as
467 are therein provided with respect to industrial or manufacturing
468 plants as fully and completely as if port facilities had been
469 expressly included within the definition of project therein.

470 (20) To publicize, advertise, and promote the activities
471 and projects authorized by this act; to make known to users and
472 potential users in the public the advantages, facilities,
473 resources, products, attractions, and attributes of the
474 activities and projects authorized by this act; to further
475 create a favorable climate of opinion concerning the activities
476 and projects authorized and indicated by this act; to cooperate,

477 including the grant or expenditure of funds, to and with other
 478 agencies, both public and private, in accomplishing the purposes
 479 authorized by this act; and in furtherance thereof, to authorize
 480 reasonable expenditures by a supporting voucher to be filed for
 481 audit for such authorized purposes, including, but not limited
 482 to, meals and hospitality.

483 (21) To adopt, use, and alter at will a corporate seal; to
 484 sue and be sued, implead and be impleaded, complain, and defend
 485 in all courts; to exercise the power of eminent domain to
 486 acquire property for any of its authorized purposes, including
 487 the taking of such property ancillary to said power in the
 488 manner from time to time provided by the laws of the state; to
 489 accept grants, gifts, and donations; and to enter into
 490 contracts, leases, or other transactions with any federal
 491 agency, the state, any agency of the state, the County of
 492 Seminole, any incorporated area, or with any other public body
 493 of the state.

494 Section 4. Financial reports; audits; tax levy.-

495 (1) The authority shall on or before November 30 of each
 496 year file an annual financial report for the fiscal year ended
 497 September 30 immediately preceding with the Board of County
 498 Commissioners of Seminole County. The authority shall on or
 499 before July 15 each year submit to the board of county
 500 commissioners a detailed budget for its operations in the
 501 succeeding fiscal year beginning October 1. The authority shall,
 502 with the board of county commissioners, fix a date and time on
 503 or before August 31 for a public hearing on the budget of the
 504 authority. The authority shall advertise a summary of the budget

505 one time in a newspaper of general circulation published in the
 506 county, and the advertisement shall state that the authority and
 507 the board of county commissioners will meet on a day fixed in
 508 the advertisement, not earlier than 1 week and not later than 2
 509 weeks from the date of the advertising for the purpose of
 510 hearing requests and complaints from the public regarding the
 511 budgets. The authority and the board of county commissioners
 512 shall meet upon the date fixed in the advertisement, and from
 513 day to day thereafter if deemed necessary, for the purpose of
 514 holding a public hearing and making whatever revisions in the
 515 budget that are deemed necessary. The board of county
 516 commissioners pursuant to the public hearing thereon may approve
 517 or disapprove the total of the budget of the authority. Upon the
 518 board's approval, the budget becomes fixed and the total thereof
 519 may be amended by the authority in the manner prescribed for
 520 county budgets in section 129.06(2), Florida Statutes. All
 521 expenses incurred in the fiscal year for which the budget is
 522 made shall be vouchered and charged on the financial records
 523 against the budget of that year, and to carry out this provision
 524 the authority may hold its books open for 60 days after the
 525 expiration of the fiscal year. It is unlawful for the authority
 526 to expend or contract for expenditures in any fiscal year more
 527 than the amount budgeted and in no case shall the total
 528 appropriation be exceeded. It is unlawful for the authority to
 529 incur indebtedness against the authority in excess of the
 530 expenditure allowed by law, or to pay any illegal charge against
 531 the authority, or to pay any claim against the authority not
 532 authorized by law and any member of the authority concurring in

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533 any such act shall be guilty of malfeasance in office and
 534 subject to suspension and removal from office as provided
 535 elsewhere herein. The Board of County Commissioners of Seminole
 536 County may levy an annual tax on all taxable real and personal
 537 property in such county in the budget amount so approved, which
 538 amount, however, shall not exceed one-half mill, for the
 539 operating and administrative expenses of the authority and for
 540 the construction, operation, maintenance, enlargement,
 541 expansion, improvement, or development of any project or
 542 projects herein specified, and for the purpose of enabling the
 543 authority to carry out its functions under this act.

544 (2) The board of county commissioners shall levy an annual
 545 tax on all taxable real and personal property in such county
 546 sufficient to meet the sinking fund requirements for the payment
 547 of the interest and principal on any general obligation bonds
 548 issued by the authority as the same become due.

549 (3) For the payment of the principal of and the interest
 550 on any general obligation bonds of the authority issued under
 551 the provisions of this act, the Board of County Commissioners of
 552 Seminole County shall levy annually, in the manner hereinafter
 553 provided, a special tax upon all taxable real and personal
 554 property within the county, in addition to the tax authorized by
 555 subsection (1), sufficient to pay such principal and interest as
 556 the same respectively become due and payable and the proceeds of
 557 all such taxes shall when collected and received by the
 558 authority be paid into a special fund and used for no other
 559 purpose than the payment of such principal and interest;
 560 provided, however, that there may be pledged to payment of such

561 principal and interest the surplus of the revenues of the
 562 project or projects, after payment of the costs of operation,
 563 maintenance, and repair thereof, and in the event of such pledge
 564 the amount of the annual tax levy herein provided for may be
 565 reduced in any year by the amount of such revenues actually
 566 received in the preceding year and then remaining on deposit to
 567 the credit of the special fund for the payment of such principal
 568 and interest.

569 (4) The levy, collection, and expenditure of such taxes is
 570 hereby declared to be for a lawful county purpose.

571 (5) The property appraiser shall assess taxes for the
 572 authority upon certification of the tax levy by the board of
 573 county commissioners and the tax collector of Seminole County
 574 shall, as and when collected, remit and deposit all moneys
 575 collected under the taxes hereby authorized to the authority in
 576 a bank or banks qualified as depositories of public funds, to be
 577 designated by such authority. Certified copies of tax
 578 resolutions executed in the name of the authority by its
 579 chairperson, and attested by its secretary, under its corporate
 580 seal, shall immediately be delivered to the Board of County
 581 Commissioners of Seminole County. Commissions of the property
 582 appraiser and tax collector shall be paid by the authority and
 583 shall be at the rates provided by law for the assessment and
 584 collection of county taxes.

585 (6) The property appraiser, tax collector, and Board of
 586 County Commissioners of Seminole County shall when requested by
 587 the authority, prepare from their official records and deliver
 588 to the authority any and all information that may be requested

589 at any time from him or her or them regarding the tax
 590 valuations, levies, assessments, or collections in such county,
 591 the cost of which shall be at the authority's expense.

592 (7) Misfeasance, malfeasance, or nonfeasance, or any act
 593 of impropriety reflecting upon the port authority, shall be
 594 cause for the suspension or removal of any member of the port
 595 authority. Removal may be effected by the Governor.

596 Section 5. Rules and regulations.—The authority shall have
 597 power to adopt rules and regulations with reference to all
 598 projects and matters under its control. All rules and
 599 regulations promulgated and all impositions and exactions made
 600 by the authority hereof shall be just and reasonable and
 601 consistent with public interest, and their application shall be
 602 subject to review by certiorari in any court of proper and
 603 competent jurisdiction. All rules and regulations of the
 604 authority shall be a matter of public record and copies thereof
 605 shall be dispensed by the authority at cost to all applicants
 606 therefor.

607 Section 6. Bonds eligible for legal investments.—
 608 Notwithstanding any provisions of any other law or laws to the
 609 contrary, all revenue bonds, general obligation bonds, or any
 610 combination of general obligation or revenue bonds, including
 611 refunding bonds, issued pursuant to this act shall constitute
 612 legal investments for savings banks, banks, trust companies,
 613 executors, administrators, trustees, guardians, and other
 614 fiduciaries, and for any board, body, agency or instrumentality
 615 of the state, or of any county, municipality, or other political

616 subdivision of the state; and shall be eligible as security for
 617 deposits for state, county, municipal and other public funds.

618 Section 7. Rights of employees.-All employees of the
 619 authority shall be employed and promoted in accordance with and
 620 under such rules and regulations as the authority may adopt from
 621 time to time.

622 Section 8. Cooperation with other units, boards, agencies,
 623 and individuals.-Express authority and power is hereby given and
 624 granted any county, municipality, drainage district, road and
 625 bridge district, school district, or any other political
 626 subdivision, board, commission or individual in, or of, the
 627 state to make and enter into with the authority, contracts,
 628 leases, conveyances, or other agreements within the provisions
 629 and purposes of this chapter. The authority is hereby expressly
 630 authorized to make and enter into contracts, leases,
 631 conveyances, and other agreements with any political
 632 subdivisions, agency, or instrumentality of the state and any
 633 and all federal agencies, corporations, and individuals, for the
 634 purpose of carrying out the provisions of this chapter.

635 Section 9. Award of contracts.-

636 (1) (a) The authority shall adopt a purchasing policy in
 637 accordance with section 255.20 and chapter 287, Florida
 638 Statutes, with bidding amounts not to exceed the limits
 639 contained therein.

640 (b) All construction, reconstruction, repairs,
 641 maintenance, or work of any nature made by the authority shall
 642 comply with the purchasing policy adopted by the authority in
 643 accordance with section 255.20, Florida Statutes. Nothing in

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644 this section shall be construed to limit the power of the
 645 authority to construct, repair, or improve its projects or
 646 facilities, or any part thereof, or any addition, betterment, or
 647 extension thereto, directly by the officers, agents, and
 648 employees of the authority, or otherwise than by contract.

649 (c) All supplies, equipment, machinery, and materials
 650 purchased by the authority shall comply with the purchasing
 651 policy adopted by the authority in accordance with chapter 287,
 652 Florida Statutes.

653 (2) No member of the authority or officer or employee
 654 thereof shall either directly or indirectly be a party to, or be
 655 in any manner interested in, any contract or agreement with the
 656 authority for any matter, cause, or thing whatsoever in which
 657 such member shall have a financial interest or by reason whereof
 658 any liability or indebtedness shall in any way be created
 659 against such authority. If any contract or agreement shall be
 660 made in violation of the provisions of this section the same
 661 shall be null and void and no action shall be maintained thereon
 662 against the authority.

663 (3) Subject to the aforesaid provisions the authority may,
 664 without intending by this provision to limit any powers of the
 665 authority, enter into and carry out such contract, or establish
 666 or comply with such rules and regulations concerning labor and
 667 materials and other related matters in connection with any
 668 project, or portion thereof, as the authority may deem desirable
 669 or as may be requested by the Federal Government or state
 670 government assisting in the financing of its projects, port
 671 facilities, and facilities related thereto, or any part thereof;

672 provided that the provisions of this section shall not apply to
 673 any contract or agreement between the authority and any
 674 engineers, architects, attorneys, or for other professional
 675 services, or to any contract or agreement relating to fiscal
 676 advisors, fiscal agents, or investment bankers, relating to the
 677 financing of projects herein authorized.

678 Section 10. Execution of documents; examination of
 679 claims.-All instruments in writing necessary to be signed by the
 680 authority shall be executed by the chairperson and secretary and
 681 attested by the seal of the authority. No expenditure of funds
 682 of the authority shall be made except by voucher approved by the
 683 authority and signed by its chairperson and treasurer or such
 684 persons as set forth in the purchasing policy adopted by the
 685 authority in accordance with Florida Statutes. The authority
 686 shall provide for the examination of all payrolls, bills, and
 687 other claims and demands against the authority to determine
 688 before the same are paid that they are duly authorized, in
 689 proper form, correctly computed, legally due and payable, and
 690 that the authority has funds on hand to make payment.

691 Section 11. Records.-The authority shall keep accurate and
 692 sufficiently detailed financial records, including source
 693 documents and books of final entry, on forms and in a manner
 694 approved by the state auditor. Minutes shall be kept of each
 695 meeting of the authority and shall reflect all official actions
 696 of the authority. The minute book shall be properly indexed as
 697 to subject matter for easy reference thereto. All records of the
 698 authority shall be open for public inspection at the office of
 699 the authority during regular business hours, except that no

700 individual has the right to monopolize any particular record
 701 that might be referred to by a large number of persons or the
 702 use of which might be required by the officer or employee having
 703 charge of it.

704 Section 12. Audits.—The records shall be audited annually
 705 by the state auditor and the authority shall make all records
 706 necessary for said audit available to the state auditor at the
 707 time designated by him or her.

708 Section 13. Chapter 315, Florida Statutes, relating to
 709 port facilities financing, also applicable.—The provisions of
 710 chapter 315, Florida Statutes, relating to port facilities
 711 financing, shall also be applicable to the authority but where
 712 the provisions of said chapter 315 are inconsistent with the
 713 provisions of this act, the provisions of this act shall
 714 prevail.

715 Section 14. Submerged lands.—The authority shall negotiate
 716 with the trustees of the internal improvement board for the
 717 transfer of such islands and submerged lands belonging to the
 718 state to the authority as will serve a public purpose, subject
 719 to the riparian rights of the respective owners of the uplands
 720 adjacent thereto.

721 Section 15. Declaration of purpose.—The authority created
 722 by this act and the purposes that it is intended to serve are
 723 hereby found to be for a county and public purpose. The
 724 authority is hereby designated as a local governmental body
 725 within the meaning of Section 10(c) of Article VII of the State
 726 Constitution and as a local agency within the meaning of such
 727 term in part II of chapter 159, Florida Statutes, subject to the

728 specific limitations and additional grants of power provided in
 729 this act.

730 Section 16. Construction.—It is intended that the
 731 provisions of this act shall be liberally construed to
 732 accomplish the purposes provided for or intended to be provided
 733 for herein, and where strict construction would result in the
 734 defeat of the accomplishment thereof, the liberal construction
 735 shall be chosen.

736 Section 17. Surplus funds.—

737 (1) The Seminole County Port Authority at its discretion
 738 may transfer to the Seminole County General Fund any moneys
 739 derived from its operation which are declared to be surplus to
 740 the needs of the authority. Such transfer may be effected at any
 741 time or from time to time as determined by the authority.

742 (2) Such surplus moneys as designated in subsection (1)
 743 transferred to the general fund may be expended by the board of
 744 county commissioners for any legal purpose.

745 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS



BILL #: HB 431

Peace Creek Drainage District, Polk County

SPONSOR(S): Wood

TIED BILLS:

IDEN./SIM. BILLS: SB 1212

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	14 Y, 0 N	Fudge	Hoagland
2)	Agriculture & Natural Resources Policy Committee	8 Y, 0 N	Deslatte	Reese
3)	Natural Resources Appropriations Committee	12 Y, 0 N	Smith Brown	Dixon
4)	Economic Development & Community Affairs Policy Council		Fudge 	Tinker 
5)				

SUMMARY ANALYSIS

This bill dissolves the Peace Creek Drainage District (PCDD) and transfers all assets and indebtedness of the district, if any, to the Southwest Florida Water Management District effective July 1, 2010.

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:

The Peace Creek Drainage District (PCDD), located in Polk County, was established pursuant to ch. 6458, Laws of Florida (L.O.F.), in 1913, which provides the statutory framework for creating drainage districts. On April 6, 1915, the Board of Supervisors of the PCDD levied and assessed a tax amounting to 22.24848 percent of the benefits assessed to or against each tract or parcel within the PCDD declared to be benefitted by the PCDD. At that time a referendum was not required for the assessment. Also in 1915, the Legislature legalized and validated the assessment of lands in the PCDD. The jurisdiction of the PCDD covers approximately 45,000 total acres that are used primarily for agricultural purposes, and includes the Peace Creek Drainage Canal (Canal). The 34-mile long Canal was constructed by the PCDD around 1915 for the purpose of draining land for agricultural use. Construction of the Canal was funded by assessments levied against property owners in the PCDD. The PCDD has not levied any assessment or tax in decades or performed any canal maintenance. The PCDD is governed by a three-member board elected by the landowners within the PCDD. The owner of each one acre, or less, is entitled to one vote per acre. The board meets on an annual basis or at the call of the chair. The PCDD currently possesses the powers of a drainage district under ch. 298, F.S.

The PCDD states that there are no outstanding financial liabilities other than legal, accounting and secretary/treasurer billing for which it has not received a recent statement.

Section 189.4042(2), F.S., states that "for any independent district that has ad valorem taxation powers, the same procedure required to grant such independent district taxation powers shall also be required to dissolve or merge the district." As stated above, the Legislature passed a special act to "legalize and validate the assessment of lands in the Peace Creek Drainage District, in Polk County, Florida, for drainage purposes" Chapter 7090, L.O.F. Consequently, this local bill is the appropriate method to abolish the district.

The bill abolishes the PCDD on July 1, 2010.

B. SECTION DIRECTORY:

Section 1: Abolishes the Peace Creek Drainage District and transfers all assets and indebtedness, if any, to the Southwest Florida Water Management District.

Section 2: Repeals chapter laws affecting the district.

Section 3: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? October 31, 2009.

WHERE? In the *News Chief*, published in Polk 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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Southwest Florida Water Management District passed a resolution on August 25, 2009, supporting this bill. The District anticipates that expenditures for fiscal year 2011 will be \$250,000 and represent maintenance activities to improve the conveyance of the canal including sediment removal and regular aquatic vegetation removal. The anticipated fiscal year 2012 expenditures of \$200,000, include funds for the operation and maintenance of the canal.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

HB 431

2010

1 A bill to be entitled
2 An act relating to the Peace Creek Drainage District, Polk
3 County; abolishing the district; providing for transfer of
4 assets and indebtedness; repealing special acts relating
5 to the district; providing an effective date.

6
7 Be It Enacted by the Legislature of the State of Florida:

8
9 Section 1. The Peace Creek Drainage District, a district
10 existing under chapter 298, Florida Statutes, is abolished and
11 its assets and indebtedness, if any, in accordance with section
12 189.444, Florida Statutes, are transferred to the Southwest
13 Florida Water Management District on July 1, 2010.

14 Section 2. Chapters 7090 (1915), 13721 (1929), 19380
15 (1939), 19414 (1939), 19627 (1939), 20803 (1941), and 22881
16 (1945), Laws of Florida, are repealed.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 759


Northern Palm Beach County Improvement District, Palm Beach

County

SPONSOR(S): Domino

TIED BILLS:

IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Military & Local Affairs Policy Committee	9 Y, 0 N	Fudge	Hoagland
2)	Economic Development & Community Affairs Policy Council		Fudge 	Tinker TBT
3)				
4)				
5)				

SUMMARY ANALYSIS

The Northern Palm Beach Improvement District was created in 1959 in Palm Beach County. Today the district provides a range of services which include: storm water control, drought protection, water quality control, utilities construction, environmental services, landscaping, roadway construction, street lights, and maintenance of canals, waterways and lakes. The district is governed by a five-member Board of Supervisors. Three Supervisors are elected by the landowners within the boundaries of the service area, while the remaining two are popularly elected.

The bill revises the procedures for election of board members and provides a process for transitioning from landowner elected to popularly elected supervisors. However, one supervisor will remain landowner elected. The bill also exempts from landowner elections publicly owned lands not subject to assessments, lands not currently subject to assessment and land for which assessments have not been paid for the previous year.

The bill is effective upon becoming law.

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.

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

The Northern Palm Beach Improvement District was created in 1959 in Palm Beach County. Today the district provides a range of services which include: storm water control, drought protection, water quality control, utilities construction, environmental services, landscaping, roadway construction, street lights, and maintenance of canals, waterways and lakes. The district is funded from revenues generated from special assessments levied against only those lands where service is provided. The special assessments are included on landowners' property tax bills and are collected by the Palm Beach County Tax Collector. The district is governed by a five-member Board of Supervisors. Three Supervisors are elected by the landowners within the boundaries of the service area, while the remaining two are popularly elected. The district is governed by a five person board of supervisors who serve for four years. Seats 1, 3 and 4 are filled by landowner elections. Seats 2 and 5 are nonpartisan elected positions as defined by ch. 97, F.S.

Election of Supervisors

To qualify as a supervisor, a person must own property in the district and be a resident of the county in which the district is located, unless a district's special act provides otherwise. Section 298.11(2), Florida Statutes, provides that every acre of assessable land within a district represents one share, or vote. Each landowner within a district is entitled to one vote per acre of assessable land that he or she owns. Landowners owning less than one acre are entitled to one vote. The section allows proxy voting by landowners as well. Landowners owning more than one acre are entitled to one additional vote for any fraction of an acre greater than 1/2 acre, when all of the landowners' acreage has been aggregated for purposes of voting.

Section 298.76 Florida Statutes, authorizes special or local legislation:

- (a) Changing the method of voting for a board of supervisors for any water control district;
- (b) Providing a change in the term of office of the board of supervisors and changing the qualifications of the board of supervisors of any water control district; and
- (c) Changing the governing authority or governing board of any water control district.

In 2005, the district began transition the composition of the board from landowner elected to popularly elected by requiring that two of the board members be popularly elected. This bill continues that process by requiring four of the five board members be popularly elected.

Effect of Proposed Changes

The bill requires that the supervisors elected to seats 2 and 5 must be residents and electors of the District and sunsets, beginning in 2012, the requirement that the board member elected to seat 2 must reside south of PGA Boulevard and the member elected to seat 5 must reside north of PGA Boulevard.

Beginning with the landowner elections in 2010, those board members elected pursuant to landowner elections must be a resident of the State of Florida and either a resident of Palm Beach County or own, or have a beneficial interest in an entity that owns, real property within the district.

Beginning with the general election in 2012, seat 4 will be converted to a nonpartisan election and seats 4 and 5 must be residents of the district, must own, or have a beneficial interest in an entity that owns, real property within the district, and must be electors of the district.

Beginning with the general election in 2014, seat 3 will be converted to a nonpartisan elected position and seats 2 and 3 must be residents of the district, must own, or have a beneficial interest in an entity that owns, real property within the district, and must be electors of the district.

Upon conversion to nonpartisan elected positions, seats 2, 3, 4, and 5 shall qualify with the Palm Beach County Supervisor of elections pursuant to ch. 105, F.S., and be elected for a 4 year term by a plurality¹ of the electors within the jurisdictional boundary of the district who vote in their respective general elections. Each nonpartisan elected board member shall take office within 10 days after election. Candidates who do not collect campaign funds are not obligated to appoint a campaign treasurer pursuant to s. 106.021, F.S.² Any member who fails to maintain their residency requirement shall notify the district within 10 days. Any member who fails to reestablish residency within 30 days after such notice shall create an automatic vacancy for the member's seat. Any vacancies on the board shall be selected and appointed by a simple majority vote of the remaining members of the board.

The bill exempts from landowner elections: publicly owned lands not subject to assessments, lands not currently subject to assessment and land for which assessments have not been paid for the previous year.³

B. SECTION DIRECTORY:

Section 1: Amends the qualification and election procedures for members of the board of supervisors.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

¹ Allowing the plurality of votes to determine the winner would avoid the cost of a runoff election. For example, if there is more than one candidate for a position, a winner could be determined by who has the most votes, instead of requiring that the candidate receive a majority of the votes cast.

² This provision is similar to s. 99.061(3), F.S., which provides that "notwithstanding s. 106.021, a candidate who does not collect contributions and whose only expense is the filing fee or signature verification fee is not required to appoint a campaign treasurer or designate a primary campaign depository."

³ Section 298.12(1), F.S., provides that "[o]wners whose assessments have not been paid for the previous year are not entitled to vote."

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? November 11, 2009.

WHERE? In the *Palm Beach Post*, a daily newspaper published in Palm Beach County.

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

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Possible Exemption from General law

The bill provides that members of the board are elected by plurality vote of the electors. However, s. 105.051, F.S., requires a majority vote. This appears to be an exemption from general law.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Northern Palm Beach County
 3 Improvement District, Palm Beach County; amending chapter
 4 2000-467, Laws of Florida, as amended; revising procedures
 5 for the election of members of the district's board of
 6 supervisors; updating obsolete language; revising
 7 application of the definition of "electors"; revising
 8 board member qualification and residency requirements;
 9 excluding certain lands from those lands for which a
 10 landowner is entitled to a vote at a meeting of
 11 landowners; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. Sections 4 and 6 of section 3 of chapter 2000-
 16 467, Laws of Florida, as amended by chapters 2005-302 and 2006-
 17 330, Laws of Florida, are amended to read:

18 Section 4. Board of Supervisors; election, organization,
 19 powers, duties, and terms of office.-

20 (A) There is hereby ~~herby~~ created a Board of Supervisors
 21 of Northern Palm Beach County Improvement District, which shall
 22 be the governing body of said District.

23 (B) Said Board of Supervisors shall consist of five
 24 persons, who, except as herein otherwise provided, shall hold
 25 office for the term of 4 years and until their successors shall
 26 be duly elected and qualified.

27 (C) The first Board of Supervisors of the District shall
 28 be composed of five persons, two of whom shall hold office for 4

29 | years from June 1, 1959, two of whom shall hold office for 3
 30 | years from June 1, 1959, and one of whom shall hold office for 2
 31 | years from June 1, 1959. Within 30 days after this Act becomes a
 32 | law, the Clerk of the Circuit Court of Palm Beach County shall
 33 | call a special meeting of landowners of Northern Palm Beach
 34 | County Improvement District for the purpose of electing the
 35 | first Board of Supervisors for Northern Palm Beach County
 36 | Improvement District as herein provided. Notice of such special
 37 | meeting of landowners shall be given by the Clerk of the Circuit
 38 | Court of Palm Beach County by causing publication thereof to be
 39 | made once a week for 2 consecutive weeks prior to such meeting
 40 | in some newspaper published in Palm Beach County. Such special
 41 | meeting of landowners shall be held in some public place in Palm
 42 | Beach County, and the place, date, and hour of holding such
 43 | meeting and the purpose thereof shall be stated in the notice.
 44 | The landowners when assembled shall organize by electing a Chair
 45 | who shall preside at the meeting and a Secretary thereof. At
 46 | such meeting, each and every acre, or any fraction thereof, of
 47 | land in the District shall represent one share and each owner
 48 | shall be entitled to one vote by person or by written proxy for
 49 | every acre of land, or any fraction thereof, owned by him or her
 50 | in the District. The landowners shall first vote for the
 51 | Supervisors who are to hold office for the term of 4 years as
 52 | herein provided, and the persons receiving the highest number of
 53 | votes for such Supervisors shall be declared and elected as such
 54 | Supervisors. Said landowners ~~land owners~~ shall next vote for the
 55 | Supervisors who are to hold office for the term of 3 years as
 56 | provided herein, and the persons receiving the highest number of

57 | votes for such Supervisors shall be declared and elected as such
 58 | Supervisors. Said landowners shall next vote for the Supervisor
 59 | who is to hold office for the term of 2 years as herein
 60 | provided, and the person receiving the highest number of votes
 61 | for such Supervisor shall be declared and elected as such
 62 | Supervisor.

63 | (D) In 2005 ~~Upon the effective date of this act,~~ the
 64 | following procedures were made applicable ~~shall apply~~ to the
 65 | election of members, including appointees, to the Board of
 66 | Supervisors of the District:

67 | (1) The terms of two board members that expired ~~which~~
 68 | ~~expire~~ in 2005 were ~~shall be~~ extended until the date of the
 69 | general election in 2006. The seats were ~~shall be~~ numbered seats
 70 | 1 and 2, respectively. Seat 1 has ~~shall be filled for~~ a term of
 71 | 4 years and is filled pursuant to section 6(A) of this Act. Seat
 72 | 2 was ~~shall be~~ converted to a nonpartisan elected position ~~board~~
 73 | ~~member~~ as defined in ~~by~~ chapter 97 105, Florida Statutes.
 74 | Candidates for seat 2 ~~this position~~ shall qualify with the Palm
 75 | Beach County Supervisor of Elections pursuant to chapter 105,
 76 | Florida Statutes, and are ~~shall be~~ elected for a term of 4 years
 77 | by a plurality of the ~~District~~ electors within the District's
 78 | jurisdictional boundary who vote ~~voting~~ in said election. As
 79 | used in this Act, "electors" means ~~shall mean~~ registered voters
 80 | as defined in ~~by~~ section 97.041, Florida Statutes. The board
 81 | members elected to seats 1 and 2 shall each take office within
 82 | 10 days after ~~of~~ election, and each shall serve until expiration
 83 | of his or her ~~their~~ term, until his or her resignation or,
 84 | removal, or until the election of a new board member for that

85 position.

86 (2) The term of the board member that was to expire ~~which~~
 87 ~~expires~~ in 2006 was ~~shall be~~ extended until the date of the
 88 general election in 2006. The seat was ~~shall be~~ numbered seat 3
 89 and has. ~~Seat 3 shall be filled for~~ a term of 4 years as
 90 prescribed by section 6(A) of this Act. The board member elected
 91 to seat 3 shall take office within 10 days after ~~of~~ election and
 92 shall serve until expiration of his or her term, until his or
 93 her resignation or, removal, or until the election of a new
 94 board member for that position.

95 (3) The terms of the two board members that were to expire
 96 in 2007 were ~~shall be~~ extended until the date of the general
 97 election in 2008. The seats were ~~shall be~~ numbered seats 4 and
 98 5, respectively. Seat 4 was ~~shall be filled~~ for a term of 4
 99 years as prescribed by section 6(A) of this Act. Seat 5 was
 100 ~~shall be~~ converted to a nonpartisan elected position ~~board~~
 101 ~~member~~ as defined in ~~by~~ chapter 97 105, Florida Statutes.
 102 Candidates for seat 5 ~~this position~~ shall qualify with the Palm
 103 Beach County Supervisor of Elections pursuant to chapter 105,
 104 Florida Statutes, and are ~~shall be~~ elected for a term of 4 years
 105 by a plurality of the ~~District~~ electors within the District's
 106 jurisdictional boundary who vote ~~voting~~ in said election.
 107 ~~"Electors" shall mean registered voters as defined by section~~
 108 ~~97.041, Florida Statutes.~~ The board members elected to seats 4
 109 and 5 shall each take office within 10 days after ~~of~~ election,
 110 and each shall serve until expiration of his or her ~~their~~ term,
 111 until his or her resignation or, removal, or until the election
 112 of a new board member for that position.

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113 (E) Beginning with the general election in 2006, ~~Board of~~
 114 ~~Supervisor qualifications shall be:~~

115 ~~(1) the two members of the board elected to seats 2 and 5~~
 116 ~~by electors within the District's jurisdictional boundary must~~
 117 ~~shall be residents of the District and electors of the District~~
 118 ~~as defined by section 3(D)(1) of this act.~~

119 (F) Starting with the general election in 2006 and until
 120 the day immediately preceding commencement of the qualifying
 121 period for the general election in 2012, the one board member
 122 elected to seat 5 must shall be a resident whose residence is
 123 located north of PGA Boulevard, and the one board member elected
 124 to seat 2 must shall be a resident whose residence is located
 125 south of PGA Boulevard. For candidates who reside within the
 126 District and west of the current terminus of PGA Boulevard at
 127 the Beeline Highway or east of the terminus of PGA Boulevard at
 128 U.S. Highway 1, residency location shall be determined by
 129 extending the center line of PGA Boulevard at the applicable
 130 point of terminus due west to Lake Okeechobee and due east to
 131 the Atlantic Ocean. The residency qualification provisions in
 132 this subsection shall expire upon commencement of the qualifying
 133 period for the general election in 2012.

134 (G) Beginning with the landowner election in 2010, any
 135 member of the board elected pursuant to section 6(A) of this Act
 136 must be a resident of the State of Florida and either be a
 137 resident of Palm Beach County or own, or have a beneficial
 138 interest in an entity that owns, real property within the
 139 District. Any member who fails to maintain such residency or
 140 ownership requirements shall notify the district within 10 days

141 after such loss of residency or ownership interest. Failure to
 142 cure the qualification deficiency within 30 days after the
 143 deadline for provision of such notice shall create an automatic
 144 vacancy for that member's seat.

145 (H) Commencing with the qualifying period for the general
 146 election in 2012, the qualification and election procedures for
 147 seats 2, 3, 4, and 5 shall be as follows:

148 (1) Beginning with the general election in 2012, seat 4
 149 shall be converted to a nonpartisan elected position.

150 (2) Members elected to seats 4 and 5 must be residents of
 151 the District, must own, or have a beneficial interest in an
 152 entity that owns, real property within the District, and must be
 153 electors of the District.

154 (3) Beginning with the general election in 2014, seat 3
 155 shall be converted to a nonpartisan elected position.

156 (4) Members elected to seats 2 and 3 must be residents of
 157 the District, must own, or have a beneficial interest in an
 158 entity that owns, real property within the District, and must be
 159 electors of the District.

160 (5) Candidates seeking election to seats 4 and 5 in 2012
 161 and seats 2 and 3 in 2014 shall qualify with the Palm Beach
 162 County Supervisor of Elections pursuant to chapter 105, Florida
 163 Statutes, and shall be elected for a term of 4 years by a
 164 plurality of the electors within the jurisdictional boundary of
 165 the District who vote in their respective general elections.

166 (6) Each nonpartisan elected board member shall take
 167 office within 10 days after election and shall serve until
 168 expiration of his or her term, until his or her resignation or

169 removal, or until the election of a new board member for that
 170 position.

171 (I) Candidates who do not collect campaign funds are not
 172 obligated to appoint a campaign treasurer or establish a
 173 depository pursuant to section 106.021, Florida Statutes.

174 (J) Any board member holding a nonpartisan elected seat
 175 who fails to maintain his or her seat's qualifying or residency
 176 requirements shall notify the District within 10 days after such
 177 failure. A member's failure to reestablish such qualifying or
 178 residency requirements within 30 days after the deadline for
 179 provision of such notice shall create an automatic vacancy for
 180 that member's seat.

181 (K) For purposes of this Act, residency shall be
 182 determined by the location at which the candidate or member then
 183 permanently resides and presently intends to continue to
 184 permanently reside. ~~In the event any board member who is elected~~
 185 ~~by the electors fails to maintain residency within the District,~~
 186 ~~the member shall notify the District within 10 days of his or~~
 187 ~~her loss of residency. Failure to reestablish residency within~~
 188 ~~30 days of its loss will create an automatic vacancy for that~~
 189 ~~Board of Supervisors position.~~

190 ~~(2) The three members of the board elected pursuant to~~
 191 ~~section 6(A) of this act shall be residents of the State of~~
 192 ~~Florida. The board member who is elected to seat 3 shall be a~~
 193 ~~resident of the District or own property within the District.~~
 194 ~~Failure to maintain residency or land ownership requirements as~~
 195 ~~stated herein requires notification of the District within 10~~
 196 ~~days of loss of residency or land ownership. Failure to cure the~~

197 | ~~qualification deficiency within 30 days of notice will create an~~
 198 | ~~automatic vacancy.~~

199 | ~~(3) Candidates who do not collect campaign funds shall not~~
 200 | ~~be obligated to appoint a campaign treasurer or establish a~~
 201 | ~~depository pursuant to section 106.021, Florida Statutes.~~

202 | ~~(L)(F)~~ In the event of any vacancy on the board, an a
 203 | qualified individual who satisfies that seat's then applicable
 204 | qualifying and residency requirements shall be selected and
 205 | appointed by a simple majority vote of the remaining members of
 206 | the board. The appointee shall serve until the next general
 207 | election if the seat is filled by electors or until the next
 208 | annual landowners' meeting if the seat is filled pursuant to
 209 | section 6(A) of this Act, at which time. ~~At that election,~~ the
 210 | position shall ~~either~~ be open for election for either a full
 211 | term or the remainder of the vacated seat's term seat, whichever
 212 | is appropriate.

213 | ~~(M)(G)~~ As soon as practicable after each ~~their~~ election,
 214 | the Board of Supervisors of the District shall organize by
 215 | choosing one of their number President of the Board of
 216 | Supervisors and by electing some suitable person Secretary, who
 217 | may or may not be a member of said Board. The Secretary shall be
 218 | required to execute bond for the faithful performance of his or
 219 | her duties in such penal amount as the board may ~~my~~ determine.
 220 | The Board of Supervisors shall adopt a seal which shall be the
 221 | seal of the District. At each annual meeting of the landowners
 222 | of the District, the Board of Supervisors shall report all work
 223 | undertaken or completed during the preceding year, and the
 224 | status of the finances of the District.

225 (N)~~(H)~~ All Supervisors shall hold office until their
 226 successors shall be elected and qualified. Whenever any election
 227 shall be authorized or required by this Act to be held ~~by the~~
 228 ~~landowners~~ at any particular or stated time or day, and if for
 229 any reason such election shall not or cannot be held at such
 230 time or on such day, then in such event and in all and every
 231 such event, the power or duty to hold such election shall not
 232 cease or lapse, but such election shall be held thereafter as
 233 soon as practicable and consistent with this Act.

234 Section 6. Meetings of landowners; elections.-

235 (A) Commencing in ~~Each year during the month of November,~~
 236 ~~beginning with the month of November 2006,~~ a meeting of the
 237 landowners of the District shall be held annually in November
 238 for the purpose of ~~electing Supervisors and hearing reports of~~
 239 the Board of Supervisors and, when applicable, the holding of a
 240 ~~provided, however, that a meeting of the landowners shall be~~
 241 ~~held during the month of November 2005, for the purpose of~~
 242 ~~receiving reports of the Board of Supervisors and considering~~
 243 ~~any matters upon which the Board of Supervisors~~ election may
 244 ~~request the advice and views of the landowners.~~ The Board of
 245 Supervisors shall have the power to call special meetings of the
 246 landowners at any time to receive reports of the Board of
 247 Supervisors or consider and act upon any matter upon which the
 248 Board of Supervisors may request advice. Notice of all meetings
 249 of the landowners shall be given by the Board of Supervisors by
 250 causing publication thereof to be made for 2 consecutive weeks
 251 prior to such meeting in some newspaper published in Palm Beach
 252 County. The meetings of the landowners shall be held in some

253 public place in said County, and the place, day, and hour of
 254 holding such meetings shall be stated in the notice. The
 255 landowners when assembled shall organize by electing a Chair who
 256 shall preside at the meeting. The Secretary of the Board of
 257 Supervisors shall be the Secretary of such meeting. At all such
 258 meetings each and every acre, or any fraction thereof, of land
 259 in the District, ~~except publicly owned property against which~~
 260 ~~the District does not levy assessments,~~ shall represent one
 261 share, and each owner shall be entitled to one vote in person or
 262 by written proxy for every acre, or any fraction thereof, of
 263 land owned by him or her in the District, except for:

264 (1) Publicly owned lands against which the District does
 265 not levy assessments.

266 (2) Those lands that are not currently subject to the
 267 District's levy of assessments or lands for which assessments
 268 have not been paid for the previous year.

269
 270 The person receiving the highest number of votes for Supervisor
 271 shall be declared and elected as such Supervisor. Those
 272 landowners present or voting by proxy shall constitute a quorum
 273 at any meeting of the landowners.

274 (B) Guardians may represent their wards, and personal
 275 representatives may represent the estates of deceased persons.
 276 Trustees may represent lands held by them in trust, and private
 277 and municipal corporations may be represented by their officers
 278 or duly authorized agents. Guardians, personal representatives,
 279 trustees, and corporations may vote by proxy.

280 (C) To be eligible for election pursuant to this section,

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281 | a candidate for the office of Supervisor shall file a written
282 | notice of intention to be a candidate in the office of the
283 | District at least 30 days before the annual meeting of the
284 | landowners.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1207 Campaign Financing
SPONSOR(S): Governmental Affairs Policy Committee and McKeel
TIED BILLS: **IDEN./SIM. BILLS:**

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Governmental Affairs Policy Committee	9 Y, 4 N, As CS	McDonald	Williamson
2)	Economic Development & Community Affairs Policy Council		McDonald <i>JM</i>	Tinker <i>TBT</i>
3)				
4)				
5)				

SUMMARY ANALYSIS

On May 22, 2009, portions of Chapter 106, F.S., regulating "electioneering communications," were held unconstitutional by the United States District Court for the Northern District of Florida in Broward Coalition v. Browning.

The bill reenacts and amends provisions related to electioneering communications and electioneering communication organizations (ECOs) to do the following:

- Redefine "electioneering communication" to remove reference to issues, specify the allowable communication formats, regulate advocacy that is the functional equivalent of express advocacy, and provide timeframes for the communications.
- Remove reference to a specific number of persons who must be targeted in a geographic area in the definition of "electioneering communication" to only refer to targeting to "relevant electorate in the geographic area the candidate would represent if elected."
- Redefine "electioneering communications organization" to clarify that it includes only those organizations with "election-related activities" that are limited to electioneering communications and that its activities would not require the group to register as a political party, political committee, or committee of continuous existence.
- Amend the definition of "political committee" to remove the requirement that an ECO conform to specified requirements of a "political committee" when it is specifically exempt from the definition.
- Provide separate registration and reporting requirements for ECOs.
- Require an organization to register as an ECO upon receipt or expenditure of an aggregate amount exceeding \$5,000, rather than when it "anticipates receipt or expenditure of money."
- Increase the amount an individual can expend before being subject to regulation from \$100 to \$5,000.
- Remove provisions identified as an impermissible burden on speech.

The bill also revises provisions relating to use of local government funds for political advertising.

The bill authorizes the leader of each political party conference of the state House of Representatives and Senate to establish a separate, affiliated party committee to support the election of candidates of the leader's political party. Leader is defined as President of the Senate, Speaker of the House of Representatives, or the minority leader of either house of the Legislature, until a person is designated by a political party conference of members of either house to succeed to the position, at which time the designee becomes the leader for purposes of the affiliated party committee. Payment of assessments for candidates for state senator and member of the House of Representatives must be paid to the respective affiliated party committee of the Senate or House of Representatives. The bill provides that specified requirements and exemptions for political parties and state executive committees apply to an affiliated party committee. Finally, the bill removes the 28-day time limitation prior to a general election for contributions from political parties and affiliated party committees to candidates.

See "Fiscal Comments" for details on possible fiscal impacts.

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:

Electioneering Communications and Electioneering Communications Organizations

Summary of Current Law

Federal Law and Regulations

Political speech, political association, and political expression are protected by the First Amendment. Consequently, governments can regulate only those narrow categories of political speech that are "unambiguously related to the campaign of a particular . . . candidate."¹ Two categories fall within that narrow exception: "communications that in express terms advocate the election or defeat of a clearly identifiable candidate for federal office, also referred to as express advocacy"²; and communications that constitute "the functional equivalent of express advocacy."^{3,4}

The Bipartisan Campaign Reform Act of 2002 ("BCRA") amended the Federal Election Campaign Act by adding a new category of political communications, "electioneering communications," to those communications already governed by the Act. BCRA defines electioneering communications as broadcast, cable, or satellite communications that refer to a clearly identified candidate for Federal office, are publicly distributed within 60 days before a general election or 30 days before a primary election, and are targeted to the relevant electorate. Individuals and entities that make electioneering communications are subject to certain reporting requirements.

In 2007, the Supreme Court reviewed an as-applied challenge to the electioneering communications regulations of BCRA.⁵ In WRTLII, Wisconsin Right to Life, a non-profit corporation, sought to use its own general treasury funds to pay for broadcast advertisements that qualified as electioneering communications prohibited by BCRA. The Federal Election Commission contended that the 2003 U.S. Supreme Court decision in McConnell v. Federal Election Commission established the "constitutional

¹Buckley v. Valeo, 424 U.S. 1, 80 (1976).

²Id. at 44.

³McConnell v. Fed. Election Comm'n, 540 U.S. 93, 206 (2003).

⁴Citizens United v. Fed. Election Comm'n, 530 F.Supp.2d 274 (D.C.C. 2008)(A film producer challenged provisions of BCRA as unconstitutional. The district court held that a movie about a presidential candidate was the functional equivalent of express advocacy. On September 9, 2009, the Supreme Court heard re-argument on the issue of contribution and expenditure limitations on corporations.)

⁵FEC v. Wisconsin Right to Life, Inc., 551 U.S. 449 (2007) ("WRTL II").

test for determining if an ad is the functional equivalent of express advocacy: whether the ad is intended to influence elections and has that effect.”⁶ The Court held that McConnell did not adopt any test as the standard for future as-applied challenges. The Court went on to reject the adoption of any test for as-applied challenges that depended on the speaker’s intent to affect an election. Instead, the Court required that “a court should find that an ad is the functional equivalent of express advocacy only if the ad is susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”⁷

Florida Law

“Legislatures have the power to regulate elections;”⁸ however, there are certain constraints established in federal law and in case law.

On May 22, 2009, portions of Chapter 106, F.S., regulating “electioneering communications,” were held unconstitutional by the United States District Court for the Northern District of Florida.⁹ The electioneering communications laws attempted to regulate communication that “refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, without expressly advocating the election or defeat of a candidate or the passage or defeat of an issue.”¹⁰ Any group that makes an electioneering communication must register as an electioneering communications organization. These organizations were required to register and report expenditures and contributions in the same manner as political committees supporting or opposing an issue or a candidate.

In the Broward Coalition decision, the court explained that there are two factors that must be met before a communication is deemed to be the functional equivalent of express advocacy. First, the speech must be “susceptible of no reasonable interpretation other than as an appeal to vote for or against a specific candidate.”¹¹ Second, the communication must be a “broadcast, cable, or satellite communication that refers to a clearly identified candidate within sixty days of a general election or thirty days of a primary election.”¹² Under this criteria, the court found that: 1) none of the plaintiffs issued communication via broadcast, cable, or satellite; 2) all of the speech at issue is susceptible of a reasonable interpretation other than an appeal to vote for or against a candidate; and 3) “plaintiff’s speech relating to ballot issues cannot, by definition, be express advocacy for a particular candidate.”¹³

Effect of Proposed Changes

The bill reenacts and revises the following provisions of law related to electioneering communications and electioneering communication organizations (ECOs) to address the concerns raised in the Broward Coalition decision:

- Redefines “electioneering communication” to conform with federal law and case law by removing reference to issues; only regulating advocacy that is the functional equivalent of express advocacy and providing guidelines for such advocacy; and providing the timeframes for such communications.
- Removes the reference to electioneering communication in the provision of law relating to telephone solicitations which are express advocacy since such solicitations cannot, by definition, be electioneering communications.

⁶ WRTL II, at 465.

⁷ In response to WRTL II, the FEC amended its regulations to allow electioneering communications if certain criteria were met.

⁸ Buckley v. Valeo, 424 U.S. 1, 13 (1976).

⁹ Broward Coalition v. Browning, 2009 WL 1457972, at *8.

¹⁰ Section 106.011(1)(a), F.S.

¹¹ WRTL II, at 470.

¹² Id. at 476.

¹³ Broward Coalition, 2009 WL 1457972, at *6.

- Removes reference to a specific number of persons who must be targeted¹⁴ in a geographic area (1,000 in current state law, 50,000 in federal law) in the definition of "electioneering communication" to only refer to targeting to "relevant electorate in the geographic area the candidate would represent if elected."
- Redefines "electioneering communications organization" to clarify that it includes only those organizations with "election-related activities" that are limited to electioneering communications and that its activities would not require the group to register as a political party, political committee, or committee of continuous existence.
- Amends the definition of "political committee" to remove caveat on an ECO not being a political committee but having to conform to specified requirements of a "political committee." This was addressed in the Broward Coalition decision as being "confusing" and also that such requirements were too onerous on ECOs.
- Amends political committee registration provisions to specifically and separately address registration of ECOs.¹⁵
- Narrows the requirement for an organization to register as an ECO to once an organization receives or expends an aggregate amount exceeding \$5,000,¹⁶ rather than "anticipates receipt or expenditure of money."¹⁷
- Increases the amount an individual can expend before being subject to regulation from \$100 to \$5,000.¹⁸
- Places in one section of law all provisions relating to reporting requirements for ECOs and tailors certain provisions to ECOs. This, in part, addresses concerns of the court that ECOs are treated like political committees when they are not political committees and that such treatment is onerous for such organizations.
- Removes provisions stricken by the Broward Coalition decision (ss. 106.08(4)(b) and (5)(d), F.S.) because of probable challenge as a regulation on contributions that is too far removed from the candidate to prevent corruption and, therefore, is an impermissible burden on speech.¹⁹
- Reenacts other provisions because of changes made in the definitions and other changes in the proposal that seem to negate concerns raised by the court.

The bill differs from the Broward Coalition decision and from current law in the following ways:

- In redefining the term "electioneering communication", the bill retains certain print media (newspaper, magazine, or direct mail) and adds telephone.
- A statement to be read by someone who places an electioneering communication telephone call is provided in a separate section of law from that for express advocacy telephone solicitations.

¹⁴ In the *Order Granting Motion for Preliminary Injunction* issued in Broward Coalition, 2008 WL 4791004, 21 Fla. L. Weekly Fed. D 420 (N.D.Fla., 2008), the court noted it would be impossible for plaintiffs to determine whether certain communications, issued through the internet or print, would be received by 1,000 or more persons. See also Alaska Right to Life Committee v. Miles, 441 F.3d 773, 783 (discussing Alaska electioneering law that required the communication to "address an issue of national, state, or local political importance" instead "targeted to the relevant electorate").

¹⁵ Section 106.03(1)(b), F.S., requires an ECO to register; however, other provisions in the registration requirements under s. 106.03, F.S., refer to political committees even though they are used for ECOs. The caveat in the exception of ECOs from the definition of "political committee" is used as authority for implementation of requirements under this section and other sections of ch. 106, F.S., as they would apply to ECOs.

¹⁶ Federal case law has established a "major purpose" test to determine whether an organization's campaign activity should be regulated. However, basing regulation on an organization's *relative* amount of activity may encourage advocacy groups to circumvent the law by hiding their electoral activity from view. In addition, such regulation would discriminate against small organizations, because advocacy "that would constitute a small organization's major purpose might only be considered one of several primary purposes at a larger entity." Human Life of Washington v. Brumsickle, 2009 WL 62144 (W.D.Wash., 2009).

¹⁷ Broward Coalition held that regulation based on an organizations anticipation of receiving or expending contributions constituted a prior restraint on the organizations communication. The amount of money specified brings the requirement more in line with federal requirements.

¹⁸ 2 U.S.C. s. 434(f) places the threshold for an individual at an amount of greater than \$10,000.

¹⁹ See e.g. Emily's List v. Federal Election Com'n, --- F.3d ---, 2009 WL 2972412 (D.C.Cir., 2009)(discussing the First Amendment right of individuals to spend funds to express their views about policy issues and the corresponding right of those individuals to band together and pool their resources as a non-profit organization to express their views).

- Addresses the types of communications by local governments subject to regulation that was not addressed by the Broward Coalition decision.

Affiliated Party Committees

Present Situation

Chapter 103, F.S., requires each political party of the state to be represented by a state executive committee. County executive committees and other committees may be established in accordance with the rules of the state executive committee. The selection of membership to executive committees is provided as well as the responsibilities. Certain information relating to officers, membership, bylaws, and rules and regulations must be filed by the state executive committees with the Department of State. County executive committees file officer and membership information with the state executive committee and with the respective supervisor of elections.²⁰ Responsibility for maintaining records on receipt and disbursement of all party funds is delineated as well as penalties for misappropriation of funds, unlawful expenditure of funds, or false or improper accounting for committee funds.²¹

Unless excluded in law, the state executive committee receives payment of assessments for candidates for office, including state senators and members of the House of Representatives.²²

No person or group of persons can use the name, abbreviation, or symbol of any political party or name of groups or committees associated with the political party that is filed by the political party with the Department of State.²³

Effect of Proposed Changes

The bill establishes the mechanism for the leader of each political party conference of the Florida House of Representatives and Senate to establish a separate, affiliated party committee to support the election of candidates of the leader's political party.²⁴ An affiliated party committee shall adopt bylaws to include, at a minimum, the designation of a treasurer; conduct campaigns for candidates who are members of the leader's political party; and establish an account to raise and expend funds. Such funds may not be expended or committed for expenditure unless authorized by the leader.

Payment of assessments for candidates for state senator and member of the House of Representatives must be paid to the respective affiliated party committee of the Florida Senate or Florida House of Representatives, if such a committee has been established.

An affiliated party committee is entitled to use the name, abbreviation, or symbol of the political party of its leader.

Chapter 106, F.S., is amended to provide that an affiliated party committee is required to file specified reports like an executive committee of a political party or a political party. Additionally, provisions relating to contributions and expenditures; disposition of surplus funds by candidates; requirements for political advertisements; use of closed captioning and descriptive narrative in all television broadcasts, telephone solicitation, polls and surveys relating to candidacies; and penalties that relate to state executive committees and political parties are amended to include an affiliated party committee. Funds contributed to an affiliated party committee cannot be deemed as designated for the partial or exclusive use of a leader of an affiliated party committee.

²⁰ Section 103.091, F.S.

²¹ Section 103.121, F.S.

²² Section 103.121(1)(b), F.S., provides that all party assessments are 2 percent of the annual salary of the office sought by the respective candidate.

²³ Section 103.081, F.S.

²⁴ The term "leader" means the President of the Senate, Speaker of the House of Representatives, or the minority leader of either house of the Legislature, until a person is designated by a political party conference of members of either house to succeed to the position, at which time the designee becomes the leader for purposes of the affiliated party committee.

Section 11.045, F.S., is amended to exclude contributions or expenditures made by or to an affiliated party committee, just as is done for a political party, from the definition of "expenditure" under this provision.

Sections 112.312 and 112.3215, F.S., are amended to exclude from the definition of "gift" contributions or expenditures by an affiliated party committee and to exclude from the definition of "expenditure," in the latter section, contributions or expenditures made by or to an affiliated party committee, just as is done for a political party in both of those sections.

Contributions by Political Parties to Candidates / Non-allocables

Present Situation

A candidate is limited to accepting an aggregate of \$50,000 (\$250,000 for a statewide candidate) from a political party, no more than half of which can be accepted before the 28-day period immediately preceding the general election.²⁵ The following items, known as "non-allocables," are excluded from the aggregate \$50,000 contribution limit (\$250,000 limit for statewide candidates): polling services, research services, costs for campaign staff, professional consulting services, and telephone calls.

Effect of Proposed Change

The bill includes affiliated party committee along with political party in the list from which the aggregate funds can be accepted by a candidate. It removes the 28-day time limitation prior to a general election for candidates to accept contributions from political parties and affiliated party committees.

B. SECTION DIRECTORY:

Section 1. Amends s. 103.081, F.S., to allow an affiliated party committee to use the name, abbreviation, or political party symbol of the party to which its leader belongs.

Section 2. Creates s. 103.092, F.S., to define the term "leader," provide for the establishment of affiliated party committees, and delineate duties and responsibilities of an affiliated party committee.

Section 3. Amends s. 103.121, F.S., to require that certain assessments going to the party county or state executive committees be redirected to the appropriate affiliated party committee.

Section 4. Amends s. 106.011, F.S., to revise the definition of "political committee," "independent expenditure," "person," "filing officer," "electioneering communication," and "electioneering communications organization;" and to re-enact "contribution" and "expenditure."

Section 5. Amends s. 106.021, F.S., to provide that certain expenditures by an affiliated party committee are not considered a contribution or expenditure to or for a candidate.

Section 6. Reenacts s. 106.022(1), F.S., relating to appointment of a registered agent; duties.

Section 7. Amends s. 106.025, F.S., to exempt an affiliated party committee from certain campaign fund raising requirements.

Section 8. Amends s. 106.03, F.S., to provide separate, distinct registration requirements for electioneering communications organizations.

Section 9. Amends s. 106.04, F.S., to require a committee of continuous existence to report receipts from and transfers to an affiliated party committee.

²⁵ Section 106.08(2), F.S.

Section 10. Amends s. 106.0701, F.S., to exempt affiliated party committees from certain filing requirements.

Section 11. Reenacts and amends s. 106.0703, F.S., to consolidate into one section reporting requirements for an electioneering communications organization.

Section 12. Amends s. 106.0705, F.S., to reenact a provision, add a reference to affiliated party committee, add cross-references, and add reference to "leader and treasurer" for required reports filed under the section.

Section 13. Reenacts and amends s. 106.071(1), F.S., to increase the aggregate amount of expenditures required for filing certain reports related to independent expenditures or electioneering communications.

Section 14. Amends s. 106.08, F.S., to remove certain limitations on contributions received by an electioneering communications organization, provide that an affiliated party committee is treated like a political party regarding limitations on contributions, delete the 28-day restriction on acceptance of certain funds preceding a general election, place certain restrictions on solicitation for and making of contributions, provide guidelines for acceptance of in-kind contributions, and add an affiliated party committee to entities subject to penalties.

Section 15. Creates s. 106.088, F.S., to require an oath or affirmation by the leader or treasurer of an affiliated party committee as a condition of receipt of a rebate of party assessments and to provide penalties for violation of oath or affirmation.

Section 16. Amends s. 106.113, F.S., to remove reference to electioneering communication and to prohibit specific appropriation or designated expenditure by a local government for the purpose of a political advertisement and to prohibit acceptance of such funds by a person for such advertisement.

Section 17. Amends s. 106.141, F.S., to add affiliated party committee to the groups that can receive not more than a specified amount of surplus funds being disposed of by any candidate.

Section 18. Amends s. 106.143, F.S., to require that an affiliated party, like a political party, must have a political advertisement offered by or on behalf of a candidate approved in advance by the candidate and the advertisement must contain certain information.

Section 19. Reenacts s. 106.1437, F.S., relating to miscellaneous advertisements.

Section 20. Reenacts and amends s. 106.1439, F.S., to provide disclaimers for electioneering communication telephone calls.

Section 21. Amends s. 106.147, F.S., to delete references to electioneering communication telephone calls and to add affiliated party committee to the list of entities included in the definition of "person."

Section 22. Amends s. 106.165, F.S., to add affiliated party committee to the list of entities that must use closed captioning and descriptive narratives in all television broadcasts.

Section 23. Amends s. 106.17, F.S., to add affiliated party committee to the list of entities that can authorize or conduct polls, surveys, and other such instruments relating to public office candidacy.

Section 24. Amends s. 106.23, F.S., to add affiliated party committee to the list of persons and organizations that may request and be provided with advisory opinions by the Division of Elections.

Section 25. Amends s. 106.265, F.S., to authorize the imposition of civil penalties by the Florida Elections Commission for certain violations by an affiliated party committee.

Section 26. Amends s. 106.27, F.S., to add affiliated party committee to the list of groups subject to certain civil actions by the Florida Elections Commission.

Section 27. Amends s. 106.29, F.S., to require filing of certain reports by an affiliated party committee, provide restrictions on certain expenditures and contributions, and to provide penalties.

Section 28. Amends s. 11.045, F.S., to exclude contributions or expenditures made by or to an affiliated party committee from the definition of "expenditure."

Section 29. Amends s. 112.312, F.S., to exclude from the definition of "gift" contributions or expenditures by an affiliated party committee.

Section 30. Amends s. 112.3215, F.S., to exclude contributions or expenditures made by or to an affiliated party committee from the definition of "expenditure."

Section 31. Provides a July 1, 2010 effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Assessments for candidates for the state Senate and state House of Representatives that currently go to the respective political parties instead would go to an affiliated party committee if one has been created pursuant to the bill.

D. FISCAL COMMENTS:

Any state government costs associated with requirements for affiliated party committees are estimated by the Department of State to be minimal. The provisions would entail only coding an entry for receiving such electronic reports and receiving and processing the reports as is currently done for other committees, candidates, and parties. The payment of the assessment to the applicable leader likewise would be minimal as the Department of State currently pays the political parties their assessment.

According to the Department of State, any litigation relating to the provisions in HB 1207 relating to electioneering communications and electioneering communications organizations largely depends upon the issue litigated and whether appeals would be taken. The department stated estimates would range from about \$50,000 at trial court level to upwards of \$300,000 for defense; plus, if the department loses

and has to pay attorney fees, it could easily go upwards of over \$2 million. The department also noted that the plaintiff's attorney fees in Broward Coalition were slightly over \$140,000.²⁶

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill is exempt from the mandate requirements because it is amending the elections laws.

2. Other:

On May 22, 2009, portions of Chapter 106, F.S., regulating "electioneering communications" were held to be unconstitutional by the United States District Court for the Northern District of Florida in Broward Coalition v. Browning. The court stated "because the Court has never held that the regulation of 'electioneering communications' beyond how that term is defined in [BCRA] is permissible, the outer limit of regulation tracks BCRA's definition: a broadcast, cable, or satellite communication that refers to a clearly identified candidate within sixty days of a general election or thirty days of a primary election."²⁷

The definition of "electioneering communication" contained in section 4 of HB 1207 includes types of communication beyond that in the definition in BCRA.

Under section 5 of the Voting Rights Act, new legislation that implements a voting change including but not limited to a change in the manner of voting, change in candidacy requirements and qualifications, change in the composition of the electorate that may vote for a candidate, or change affecting the creation or abolition of an elective office, is subject to preclearance by the U.S. Department of Justice. The preclearance review is to determine if the change has a discriminatory purpose or effect that denies or abridges the right to vote on account of race, color or membership in a language minority group in a covered jurisdiction. Florida has five covered jurisdictions subject to preclearance: Collier, Hardee, Hendry, Hillsborough, and Monroe. The legislation is unenforceable if the Attorney General objects to the voting change.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 3, 2010, the Governmental Affairs Policy Committee adopted six amendment to HB 1207 and reported the bill favorably as a committee substitute. The committee substitute differs from the original bill as follows:

- Amends requirements for the registration of electioneering communications organizations (ECOs) to clarify that an ECO files a statement of organization with the Division of Elections only when it is involved with elections at the state level and local level. Otherwise, the ECO files with the local government.
- Amends ECO reporting requirements to:
 - Clarify that if an ECO registered with the Department of State makes a contribution or expenditure to influence results of a county or municipal race that is not held when state and federal elections are being held, then the ECO must file reports with the local filing officer.

²⁶ Information on estimated fiscal impact of HB 1207 was provided by the Department of State, February 25, 2010.

²⁷ Broward Coalition, 2009 WL 1457972, at *6, citing, N.C. Right to Life, Inc. v. Leake, 525 F.3d 274, 282 (4th Cir. 2008).

- Authorize the filing officer to post the reporting schedule on its webpage.
- Provide that the registered agent of an ECO, like the treasurer, is included as a possibility for service of process.
- Update language to reflect current bank practices regarding statements versus cancelled checks.
- Clarify that an ECO must file a report even when no contributions or expenditures are made during a reporting period.
- Adds the term "affiliated party committee" to three provisions of law that had not been included in the original bill.

1 A bill to be entitled
2 An act relating to campaign financing; amending s.
3 103.081, F.S.; permitting the use of a political party's
4 name, abbreviation, or symbol by an affiliated party
5 committee under certain circumstances; creating s.
6 103.092, F.S.; providing for the establishment of
7 affiliated party committees; providing a definition;
8 delineating duties and responsibilities of such
9 committees; amending s. 103.121, F.S.; requiring certain
10 assessments to be paid to an affiliated party committee;
11 amending s. 106.011, F.S.; revising the definition of the
12 term "political committee" to remove certain reporting
13 requirements included in the exclusion of electioneering
14 communications organizations from the definition and to
15 allow contributions to an affiliated party committee;
16 adding an affiliated party committee to the list of
17 entities not considered a political committee under
18 chapter 106, F.S.; revising the definition of the term
19 "independent expenditure" to specify that certain
20 expenditures are not considered an independent
21 expenditure; revising the definition of the term "person"
22 to include an affiliated party committee; revising the
23 definition of the term "filing officer" to expand
24 applicability to electioneering communications
25 organizations; revising the definition of the term
26 "electioneering communication" to conform to certain
27 federal requirements and to delineate what constitutes
28 such a communication; revising the definition of the term

29 "electioneering communications organization"; amending s.
 30 106.021, F.S.; providing that certain expenditures by an
 31 affiliated party committee are not considered a
 32 contribution or expenditure to or for a candidate;
 33 amending s. 106.025, F.S.; exempting an affiliated party
 34 committee from certain campaign fund raising requirements;
 35 amending s. 106.03, F.S.; revising the registration
 36 requirements for electioneering communications
 37 organizations; revising the statement of organization
 38 requirements; revising rule adoption requirements relating
 39 to dissolution of political committees and electioneering
 40 communications organizations; amending s. 106.04, F.S.;
 41 requiring that a committee of continuous existence report
 42 receipts from and transfers to an affiliated party
 43 committee; amending s. 106.0701, F.S.; exempting an
 44 affiliated party committee from certain filing
 45 requirements; amending s. 106.0703, F.S.; consolidating
 46 reporting requirements in ch. 106, F.S., applicable to
 47 electioneering communications organizations; providing
 48 penalties; conforming provisions; amending s. 106.0705,
 49 F.S., relating to electronic filing of campaign
 50 treasurer's reports; conforming provisions; requiring an
 51 affiliated party committee to file certain reports with
 52 the Division of Elections; providing that a report filed
 53 by the leader and treasurer of an affiliated party
 54 committee is considered to be under oath; amending s.
 55 106.071, F.S.; increasing the aggregate amount of
 56 expenditures required for filing certain reports related

57 to independent expenditures or electioneering
 58 communications; amending s. 106.08, F.S.; removing certain
 59 limitations on contributions received by an electioneering
 60 communications organization; providing that an affiliated
 61 party committee is treated like a political party
 62 regarding limitations on contributions; deleting the 28-
 63 day restriction on acceptance of certain funds preceding a
 64 general election; placing certain restrictions on
 65 solicitation for and making of contributions; providing
 66 guidelines for acceptance of in-kind contributions; adding
 67 an affiliated party committee to entities subject to
 68 penalties; creating s. 106.088, F.S.; requiring the
 69 subscribing to an oath or affirmation prior to receipt of
 70 certain funds; providing the form of the oath; providing
 71 penalties; providing that undistributed funds shall be
 72 deposited into the General Revenue Fund; amending s.
 73 106.113, F.S., relating to expenditures by local
 74 governments; revising definitions; prohibiting a local
 75 government, or a person acting on behalf of a local
 76 government, from making a specific appropriation or
 77 designated expenditure of moneys under the jurisdiction or
 78 control of the local government; prohibiting certain
 79 persons or groups from accepting such moneys for the
 80 purpose of certain political advertisements; deleting an
 81 exception for certain electioneering communications;
 82 clarifying that certain provisions of state law do not
 83 preclude certain officials from expressing an opinion on
 84 an issue at any time; amending s. 106.141, F.S.; adding

85 affiliated party committees to the list of entities to
 86 which a candidate may donate surplus funds; amending s.
 87 106.143, F.S.; requiring an affiliated party committee,
 88 like a political party, to obtain advance approval by a
 89 candidate for political advertisements; amending s.
 90 106.1439, F.S.; providing identification requirements for
 91 certain electioneering communications; providing an
 92 exception for telephone calls; amending s. 106.147, F.S.,
 93 relating to telephone solicitation disclosure
 94 requirements; removing requirements relating to
 95 electioneering communication, to conform; revising the
 96 definition of the term "person" to include an affiliated
 97 party committee; providing penalties; amending s. 106.165,
 98 F.S.; adding affiliated party committees to the entities
 99 that must use closed captioning and descriptive narrative
 100 in all television broadcasts; amending s. 106.17, F.S.;
 101 adding affiliated party committees to those entities
 102 authorized to conduct polls and surveys relating to
 103 candidacies; amending s. 106.23, F.S.; providing that an
 104 affiliated party committee shall be provided an advisory
 105 opinion by the Division of Elections when requested;
 106 amending s. 106.265, F.S.; authorizing the imposition of
 107 civil penalties by the Florida Elections Commission for
 108 certain violations by an affiliated party committee;
 109 amending s. 106.27, F.S.; adding affiliated party
 110 committees to those entities subject to certain
 111 determinations and legal disposition by the Florida
 112 Elections Commission; amending s. 106.29, F.S.; requiring

113 filing of certain reports by an affiliated party
 114 committee; providing restrictions on certain expenditures
 115 and contributions; providing penalties; amending s.
 116 11.045, F.S., relating to lobbying before the Legislature;
 117 excluding contributions and expenditures by an affiliated
 118 party committee from the definition of the term
 119 "expenditure"; amending s. 112.312, F.S.; providing that
 120 certain activities pertaining to an affiliated party
 121 committee are excluded from the definition of the term
 122 "gift"; amending s. 112.3215, F.S., relating to lobbying
 123 before the executive branch or the Constitution Revision
 124 Commission; excluding contributions and expenditures by an
 125 affiliated party committee from the definition of the term
 126 "expenditure"; reenacting ss. 106.011(1)(b), (3), (4),
 127 (18), and (19), 106.022(1), 106.03(1)(b), 106.04(5),
 128 106.0703, 106.0705(2)(b), 106.071(1), 106.08(7), 106.1437,
 129 106.1439, and 106.17, F.S., relating to definitions,
 130 registered office and agent requirements, registration
 131 requirements, prohibited activities for committees of
 132 continuous existence, additional reporting requirements,
 133 electronic filing requirements, expenditure reports,
 134 penalties for violations pertaining to limitations on
 135 contributions, miscellaneous advertisements,
 136 electioneering communications disclaimers and penalties
 137 for failure to include disclaimers, and polls and surveys
 138 pertaining to candidacies, to cure and conform; providing
 139 an effective date.

140

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

142 |

143 | Section 1. Subsection (4) is added to section 103.081,
144 | Florida Statutes, to read:

145 | 103.081 Use of party name; political advertising.-

146 | (4) Notwithstanding any other provision of law to the
147 | contrary, an affiliated party committee shall be entitled to use
148 | the name, abbreviation, or symbol of the political party of its
149 | leader as defined in s. 103.092.

150 | Section 2. Section 103.092, Florida Statutes, is created
151 | to read:

152 | 103.092 Affiliated party committees.-

153 | (1) For purposes of this section, the term "leader" means
154 | the President of the Senate, the Speaker of the House of
155 | Representatives, or the minority leader of either house of the
156 | Legislature, until a person is designated by a political party
157 | conference of members of either house to succeed to any such
158 | position, at which time the designee becomes the leader for
159 | purposes of this section.

160 | (2) The leader of each political party conference of the
161 | House of Representatives and the Senate may establish a
162 | separate, affiliated party committee to support the election of
163 | candidates of the leader's political party. The affiliated party
164 | committee is subject to the same provisions of chapter 106 as a
165 | political party.

166 | (3) Each affiliated party committee shall:

167 | (a) Adopt bylaws to include, at a minimum, the designation
168 | of a treasurer.

169 (b) Conduct campaigns for candidates who are members of
 170 the leader's political party.

171 (c) Establish an account.

172 (d) Raise and expend funds. Such funds may not be expended
 173 or committed to be expended except when authorized by the leader
 174 of the affiliated party committee.

175 Section 3. Paragraph (b) of subsection (1) of section
 176 103.121, Florida Statutes, is amended to read:

177 103.121 Powers and duties of executive committees.--

178 (1)

179 (b) The county executive committee shall receive payment
 180 of assessments upon candidates to be voted for in a single
 181 county except state senators, state ~~and members of the House of~~
 182 ~~representatives,~~ and representatives to the Congress of the
 183 United States; an affiliated party committee controlled by a
 184 leader of the Senate as defined in s. 103.092 shall receive
 185 payment of assessments upon candidates for the office of state
 186 senator and an affiliated party committee controlled by a leader
 187 of the House of Representatives as defined in s. 103.092 shall
 188 receive payment of assessments upon candidates for the office of
 189 state representative; and the state executive committees shall
 190 receive all other assessments authorized. All party assessments
 191 shall be 2 percent of the annual salary of the office sought by
 192 the respective candidate. All such committee assessments shall
 193 be remitted to the state executive committee of the appropriate
 194 party and distributed in accordance with subsection (5), except
 195 that assessments for candidates for the office of state senator
 196 or state representative shall be remitted to the appropriate

197 | affiliated party committee.

198 | Section 4. Paragraph (a) of subsection (1) of section of
 199 | section 106.011, Florida Statutes, is amended, paragraph (b) of
 200 | subsection (1) of that section is reenacted and amended,
 201 | subsections (3) and (4) of that section are reenacted,
 202 | subsections (5), (8), and (14) of that section are amended, and
 203 | subsections (18) and (19) of that section are reenacted and
 204 | amended, to read:

205 | 106.011 Definitions.—As used in this chapter, the
 206 | following terms have the following meanings unless the context
 207 | clearly indicates otherwise:

208 | (1) (a) "Political committee" means:

209 | 1. A combination of two or more individuals, or a person
 210 | other than an individual, that, in an aggregate amount in excess
 211 | of \$500 during a single calendar year:

212 | a. Accepts contributions for the purpose of making
 213 | contributions to any candidate, political committee, committee
 214 | of continuous existence, affiliated party committee, or
 215 | political party;

216 | b. Accepts contributions for the purpose of expressly
 217 | advocating the election or defeat of a candidate or the passage
 218 | or defeat of an issue;

219 | c. Makes expenditures that expressly advocate the election
 220 | or defeat of a candidate or the passage or defeat of an issue;
 221 | or

222 | d. Makes contributions to a common fund, other than a
 223 | joint checking account between spouses, from which contributions
 224 | are made to any candidate, political committee, committee of

225 continuous existence, affiliated party committee, or political
 226 party;

227 2. The sponsor of a proposed constitutional amendment by
 228 initiative who intends to seek the signatures of registered
 229 electors.

230 (b) Notwithstanding paragraph (a), the following entities
 231 are not considered political committees for purposes of this
 232 chapter:

233 1. Organizations which are certified by the Department of
 234 State as committees of continuous existence pursuant to s.
 235 106.04, national political parties, ~~and~~ the state and county
 236 executive committees of political parties, and affiliated party
 237 committees regulated by chapter 103.

238 2. Corporations regulated by chapter 607 or chapter 617 or
 239 other business entities formed for purposes other than to
 240 support or oppose issues or candidates, if their political
 241 activities are limited to contributions to candidates, political
 242 parties, affiliated party committees, or political committees or
 243 expenditures in support of or opposition to an issue from
 244 corporate or business funds and if no contributions are received
 245 by such corporations or business entities.

246 3. Electioneering communications organizations as defined
 247 in subsection (19) ~~however, such organizations shall be~~
 248 ~~required to register with and report expenditures and~~
 249 ~~contributions, including contributions received from committees~~
 250 ~~of continuous existence, to the Division of Elections in the~~
 251 ~~same manner, at the same time, and subject to the same penalties~~
 252 ~~as a political committee supporting or opposing an issue or a~~

253 ~~legislative candidate, except as otherwise specifically provided~~
 254 ~~in this chapter.~~

255 (3) "Contribution" means:

256 (a) A gift, subscription, conveyance, deposit, loan,
 257 payment, or distribution of money or anything of value,
 258 including contributions in kind having an attributable monetary
 259 value in any form, made for the purpose of influencing the
 260 results of an election or making an electioneering
 261 communication.

262 (b) A transfer of funds between political committees,
 263 between committees of continuous existence, between
 264 electioneering communications organizations, or between any
 265 combination of these groups.

266 (c) The payment, by any person other than a candidate or
 267 political committee, of compensation for the personal services
 268 of another person which are rendered to a candidate or political
 269 committee without charge to the candidate or committee for such
 270 services.

271 (d) The transfer of funds by a campaign treasurer or
 272 deputy campaign treasurer between a primary depository and a
 273 separate interest-bearing account or certificate of deposit, and
 274 the term includes any interest earned on such account or
 275 certificate.

276
 277 Notwithstanding the foregoing meanings of "contribution," the
 278 word shall not be construed to include services, including, but
 279 not limited to, legal and accounting services, provided without
 280 compensation by individuals volunteering a portion or all of

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281 their time on behalf of a candidate or political committee. This
 282 definition shall not be construed to include editorial
 283 endorsements.

284 (4) (a) "Expenditure" means a purchase, payment,
 285 distribution, loan, advance, transfer of funds by a campaign
 286 treasurer or deputy campaign treasurer between a primary
 287 depository and a separate interest-bearing account or
 288 certificate of deposit, or gift of money or anything of value
 289 made for the purpose of influencing the results of an election
 290 or making an electioneering communication. However,
 291 "expenditure" does not include a purchase, payment,
 292 distribution, loan, advance, or gift of money or anything of
 293 value made for the purpose of influencing the results of an
 294 election when made by an organization, in existence prior to the
 295 time during which a candidate qualifies or an issue is placed on
 296 the ballot for that election, for the purpose of printing or
 297 distributing such organization's newsletter, containing a
 298 statement by such organization in support of or opposition to a
 299 candidate or issue, which newsletter is distributed only to
 300 members of such organization.

301 (b) As used in this chapter, an "expenditure" for an
 302 electioneering communication is made when the earliest of the
 303 following occurs:

304 1. A person enters into a contract for applicable goods or
 305 services;

306 2. A person makes payment, in whole or in part, for the
 307 production or public dissemination of applicable goods or
 308 services; or

309 3. The electioneering communication is publicly
 310 disseminated.

311 (5) (a) "Independent expenditure" means an expenditure by a
 312 person for the purpose of expressly advocating the election or
 313 defeat of a candidate or the approval or rejection of an issue,
 314 which expenditure is not controlled by, coordinated with, or
 315 made upon consultation with, any candidate, political committee,
 316 or agent of such candidate or committee. An expenditure for such
 317 purpose by a person having a contract with the candidate,
 318 political committee, or agent of such candidate or committee in
 319 a given election period shall not be deemed an independent
 320 expenditure.

321 (b) An expenditure for the purpose of expressly advocating
 322 the election or defeat of a candidate which is made by the
 323 national, state, or county executive committee of a political
 324 party, including any subordinate committee of the ~~a national,~~
 325 ~~state, or county committee of a~~ political party, an affiliated
 326 party committee, a ~~or by any~~ political committee, ~~a~~ ~~or~~ committee
 327 of continuous existence, or any other person, shall not be
 328 considered an independent expenditure if the committee or
 329 person:

330 1. Communicates with the candidate, the candidate's
 331 campaign, or an agent of the candidate acting on behalf of the
 332 candidate, including any pollster, media consultant, advertising
 333 agency, vendor, advisor, or staff member, concerning the
 334 preparation of, use of, or payment for, the specific expenditure
 335 or advertising campaign at issue; or

336 2. Makes a payment in cooperation, consultation, or

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337 | concert with, at the request or suggestion of, or pursuant to
 338 | any general or particular understanding with the candidate, the
 339 | candidate's campaign, a political committee supporting the
 340 | candidate, or an agent of the candidate relating to the specific
 341 | expenditure or advertising campaign at issue; or

342 | 3. Makes a payment for the dissemination, distribution, or
 343 | republication, in whole or in part, of any broadcast or any
 344 | written, graphic, or other form of campaign material prepared by
 345 | the candidate, the candidate's campaign, or an agent of the
 346 | candidate, including any pollster, media consultant, advertising
 347 | agency, vendor, advisor, or staff member; or

348 | 4. Makes a payment based on information about the
 349 | candidate's plans, projects, or needs communicated to a member
 350 | of the committee or person by the candidate or an agent of the
 351 | candidate, provided the committee or person uses the information
 352 | in any way, in whole or in part, either directly or indirectly,
 353 | to design, prepare, or pay for the specific expenditure or
 354 | advertising campaign at issue; or

355 | 5. After the last day of qualifying for statewide or
 356 | legislative office, consults about the candidate's plans,
 357 | projects, or needs in connection with the candidate's pursuit of
 358 | election to office and the information is used in any way to
 359 | plan, create, design, or prepare an independent expenditure or
 360 | advertising campaign, with:

361 | a. Any officer, director, employee, or agent of a
 362 | national, state, or county executive committee of a political
 363 | party or an affiliated party committee that has made or intends
 364 | to make expenditures in connection with or contributions to the

365 candidate; or

366 b. Any person whose professional services have been
 367 retained by a national, state, or county executive committee of
 368 a political party or an affiliated party committee that has made
 369 or intends to make expenditures in connection with or
 370 contributions to the candidate; or

371 6. After the last day of qualifying for statewide or
 372 legislative office, retains the professional services of any
 373 person also providing those services to the candidate in
 374 connection with the candidate's pursuit of election to office;
 375 or

376 7. Arranges, coordinates, or directs the expenditure, in
 377 any way, with the candidate or an agent of the candidate.

378 (8) "Person" means an individual or a corporation,
 379 association, firm, partnership, joint venture, joint stock
 380 company, club, organization, estate, trust, business trust,
 381 syndicate, or other combination of individuals having collective
 382 capacity. The term includes a political party, affiliated party
 383 committee, political committee, or committee of continuous
 384 existence.

385 (14) "Filing officer" means the person before whom a
 386 candidate qualifies, the agency or officer with whom a political
 387 committee or an electioneering communications organization
 388 registers, or the agency by whom a committee of continuous
 389 existence is certified.

390 (18) (a) "Electioneering communication" means any
 391 communication publicly distributed by a television station,
 392 radio station, cable television system, satellite system,

393 ~~newspaper, magazine, direct mail, or telephone a paid expression~~
 394 ~~in any communications media prescribed in subsection (13) by~~
 395 ~~means other than the spoken word in direct conversation that:~~

396 1. ~~Refers to or depicts a clearly identified candidate for~~
 397 ~~office or contains a clear reference indicating that an issue is~~
 398 ~~to be voted on at an election,~~ without expressly advocating the
 399 election or defeat of a candidate but that is susceptible of no
 400 reasonable interpretation other than an appeal to vote for or
 401 against a specific candidate; ~~or the passage or defeat of an~~
 402 ~~issue.~~

403 2. Is made within 30 days before a primary or special
 404 primary election or 60 days before any other election for the
 405 office sought by the candidate; and

406 3. ~~Is For communications referring to or depicting a~~
 407 ~~clearly identified candidate for office, is targeted to the~~
 408 relevant electorate. ~~A communication is considered targeted if~~
 409 ~~1,000 or more persons in the geographic area the candidate would~~
 410 ~~represent if elected will receive the communication.~~

411 3. ~~For communications containing a clear reference~~
 412 ~~indicating that an issue is to be voted on at an election, is~~
 413 ~~published after the issue is designated a ballot position or 120~~
 414 ~~days before the date of the election on the issue, whichever~~
 415 ~~occurs first.~~

416 (b) The term "electioneering communication" does not
 417 include:

418 1. A communication disseminated through a means of
 419 communication other than a television station, radio station,
 420 cable television system, satellite system, newspaper, magazine,

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421 direct mail, telephone, or statement or depiction by an
422 organization, in existence prior to the time during which a
423 candidate named or depicted qualifies ~~or an issue identified is~~
424 ~~placed on the ballot~~ for that election, made in that
425 organization's newsletter, which newsletter is distributed only
426 to members of that organization.

427 2. A communication in a news story, commentary, or
428 editorial distributed through the facilities of any radio
429 station, television station, cable television system, or
430 satellite system, unless the facilities are owned or controlled
431 by any political party, political committee, or candidate. A
432 news story distributed through the facilities owned or
433 controlled by any political party, political committee, or
434 candidate may nevertheless be exempt if it represents a bona
435 fide news account communicated through a licensed broadcasting
436 facility and the communication is part of a general pattern of
437 campaign-related news accounts that give reasonably equal
438 coverage to all opposing candidates in the area ~~An editorial~~
439 ~~endorsement, news story, commentary, or editorial by any~~
440 ~~newspaper, radio, television station, or other recognized news~~
441 ~~medium.~~

442 3. A communication that constitutes a public debate or
443 forum that includes at least two opposing candidates for an
444 office or one advocate and one opponent of an issue, or that
445 solely promotes such a debate or forum and is made by or on
446 behalf of the person sponsoring the debate or forum, provided
447 that:

448 a. The staging organization is either:

449 (I) A charitable organization that does not make other
 450 electioneering communications and does not otherwise support or
 451 oppose any political candidate or political party; or

452 (II) A newspaper, radio station, television station, or
 453 other recognized news medium; and

454 b. The staging organization does not structure the debate
 455 to promote or advance one candidate or issue position over
 456 another.

457 (c) For purposes of this chapter, an expenditure made for,
 458 or in furtherance of, an electioneering communication shall not
 459 be considered a contribution to or on behalf of any candidate.

460 (d) For purposes of this chapter, an electioneering
 461 communication shall not constitute an independent expenditure
 462 nor be subject to the limitations applicable to independent
 463 expenditures.

464 (19) "Electioneering communications organization" means
 465 any group, other than a political party, affiliated party
 466 committee, political committee, or committee of continuous
 467 existence, whose election-related activities are limited to
 468 making expenditures for electioneering communications or
 469 accepting contributions for the purpose of making electioneering
 470 communications and whose activities would not otherwise require
 471 the group to register as a political party, political committee,
 472 or committee of continuous existence under this chapter.

473 Section 5. Subsection (3) of section 106.021, Florida
 474 Statutes, is amended to read:

475 106.021 Campaign treasurers; deputies; primary and
 476 secondary depositories.-

477 (3) No contribution or expenditure, including
 478 contributions or expenditures of a candidate or of the
 479 candidate's family, shall be directly or indirectly made or
 480 received in furtherance of the candidacy of any person for
 481 nomination or election to political office in the state or on
 482 behalf of any political committee except through the duly
 483 appointed campaign treasurer of the candidate or political
 484 committee, subject to the following exceptions:

485 (a) Independent expenditures;

486 (b) Reimbursements to a candidate or any other individual
 487 for expenses incurred in connection with the campaign or
 488 activities of the political committee by a check drawn upon the
 489 campaign account and reported pursuant to s. 106.07(4). After
 490 July 1, 2004, the full name and address of each person to whom
 491 the candidate or other individual made payment for which
 492 reimbursement was made by check drawn upon the campaign account
 493 shall be reported pursuant to s. 106.07(4), together with the
 494 purpose of such payment;

495 (c) Expenditures made indirectly through a treasurer for
 496 goods or services, such as communications media placement or
 497 procurement services, campaign signs, insurance, or other
 498 expenditures that include multiple integral components as part
 499 of the expenditure and reported pursuant to s. 106.07(4)(a)13.;
 500 or

501 (d) Expenditures made directly by any political committee,
 502 affiliated party committee, or political party regulated by
 503 chapter 103 for obtaining time, space, or services in or by any
 504 communications medium for the purpose of jointly endorsing three

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505 or more candidates, and any such expenditure shall not be
 506 considered a contribution or expenditure to or on behalf of any
 507 such candidates for the purposes of this chapter.

508 Section 6. Subsection (1) of section 106.022, Florida
 509 Statutes, is reenacted to read:

510 106.022 Appointment of a registered agent; duties.—

511 (1) Each political committee, committee of continuous
 512 existence, or electioneering communications organization shall
 513 have and continuously maintain in this state a registered office
 514 and a registered agent and must file with the division a
 515 statement of appointment for the registered office and
 516 registered agent. The statement of appointment must:

517 (a) Provide the name of the registered agent and the
 518 street address and phone number for the registered office;

519 (b) Identify the entity for whom the registered agent
 520 serves;

521 (c) Designate the address the registered agent wishes to
 522 use to receive mail;

523 (d) Include the entity's undertaking to inform the
 524 division of any change in such designated address;

525 (e) Provide for the registered agent's acceptance of the
 526 appointment, which must confirm that the registered agent is
 527 familiar with and accepts the obligations of the position as set
 528 forth in this section; and

529 (f) Contain the signature of the registered agent and the
 530 entity engaging the registered agent.

531 Section 7. Subsection (2) of section 106.025, Florida
 532 Statutes, is amended to read:

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533 106.025 Campaign fund raisers.-

534 (2) This section shall not apply to any campaign fund
 535 raiser held on behalf of a political party by the state or
 536 county executive committee or an affiliated party committee of
 537 such party, provided that the proceeds of such campaign fund
 538 raiser are reported pursuant to s. 106.29.

539 Section 8. Paragraph (b) of subsection (1) of section
 540 106.03, Florida Statutes, is reenacted and amended, and
 541 subsections (2), (4), and (7) of that section are amended, to
 542 read:

543 106.03 Registration of political committees and
 544 electioneering communications organizations.-

545 (1)

546 (b)1. Each electioneering communications organization that
 547 receives ~~anticipates receiving~~ contributions or makes ~~making~~
 548 expenditures during a calendar year in an aggregate amount
 549 exceeding \$5,000 shall file a statement of organization as
 550 provided in subparagraph 2. ~~subsection (3)~~ by expedited delivery
 551 within 24 hours after its organization or, if later, within 24
 552 hours after the date on which it receives ~~has information that~~
 553 ~~causes the organization to anticipate that it will receive~~
 554 contributions or makes ~~make~~ expenditures for an electioneering
 555 communication in excess of \$5,000.

556 2.a. In a statewide, legislative, or multicounty election,
 557 an electioneering communications organization shall file a
 558 statement of organization with the Division of Elections.

559 b. In a countywide election or any election held on less
 560 than a countywide basis, except as described in sub-subparagraph

561 c., an electioneering communications organization shall file a
 562 statement of organization with the supervisor of elections of
 563 the county in which the election is being held.

564 c. In a municipal election, an electioneering
 565 communications organization shall file a statement of
 566 organization with the officer before whom municipal candidates
 567 qualify.

568 d. Any electioneering communications organization that
 569 would be required to file a statement of organization in two or
 570 more locations by reason of the organization's intention to
 571 support or oppose candidates at state or multicounty and local
 572 levels of government need only file a statement of organization
 573 with the Division of Elections.

574 (2) The statement of organization shall include:

575 (a) The name, mailing address, and street address of the
 576 committee or electioneering communications organization;

577 (b) The names, street addresses, and relationships of
 578 affiliated or connected organizations;

579 (c) The area, scope, or jurisdiction of the committee or
 580 electioneering communications organization;

581 (d) The name, mailing address, street address, and
 582 position of the custodian of books and accounts;

583 (e) The name, mailing address, street address, and
 584 position of other principal officers, including the treasurer
 585 and deputy treasurer ~~including officers and members of the~~
 586 ~~finance committee, if any;~~

587 (f) The name, address, office sought, and party
 588 affiliation of:

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- 589 1. Each candidate whom the committee is supporting;
 590 2. Any other individual, if any, whom the committee is
 591 supporting for nomination for election, or election, to any
 592 public office whatever;
- 593 (g) Any issue or issues the committee ~~such organization~~ is
 594 supporting or opposing;
- 595 (h) If the committee is supporting the entire ticket of
 596 any party, a statement to that effect and the name of the party;
- 597 (i) A statement of whether the committee is a continuing
 598 one;
- 599 (j) Plans for the disposition of residual funds which will
 600 be made in the event of dissolution;
- 601 (k) A listing of all banks, safe-deposit boxes, or other
 602 depositories used for committee or electioneering communications
 603 organization funds; ~~and~~
- 604 (l) A statement of the reports required to be filed by the
 605 committee or the electioneering communications organization with
 606 federal officials, if any, and the names, addresses, and
 607 positions of such officials; and
- 608 (m) A statement of whether the electioneering
 609 communications organization was formed as a newly created
 610 organization during the current calendar quarter or was formed
 611 from an organization existing prior to the current calendar
 612 quarter. For purposes of this subsection, calendar quarters end
 613 the last day of March, June, September, and December.
- 614 (4) Any change in information previously submitted in a
 615 statement of organization shall be reported to the agency or
 616 officer with whom such committee or electioneering

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617 | communications organization is required to register ~~pursuant to~~
 618 | ~~subsection (3)~~, within 10 days following the change.

619 | (7) The Division of Elections shall adopt ~~promulgate~~ rules
 620 | to prescribe the manner in which ~~inactive~~ committees and
 621 | electioneering communications organizations may be dissolved and
 622 | have their registration canceled. Such rules shall, at a
 623 | minimum, provide for:

624 | (a) Notice which shall contain the facts and conduct which
 625 | warrant the intended action, including but not limited to
 626 | failure to file reports and limited activity.

627 | (b) Adequate opportunity to respond.

628 | (c) Appeal of the decision to the Florida Elections
 629 | Commission. Such appeals shall be exempt from the
 630 | confidentiality provisions of s. 106.25.

631 | Section 9. Paragraph (c) of subsection (4) of section
 632 | 106.04, Florida Statutes, is amended, and subsection (5) of that
 633 | section is reenacted, to read:

634 | 106.04 Committees of continuous existence.—

635 | (4)

636 | (c) All committees of continuous existence shall file
 637 | their reports with the Division of Elections. Reports shall be
 638 | filed in accordance with s. 106.0705 and shall contain the
 639 | following information:

640 | 1. The full name, address, and occupation of each person
 641 | who has made one or more contributions, including contributions
 642 | that represent the payment of membership dues, to the committee
 643 | during the reporting period, together with the amounts and dates
 644 | of such contributions. For corporations, the report must provide

645 as clear a description as practicable of the principal type of
 646 business conducted by the corporation. However, if the
 647 contribution is \$100 or less, the occupation of the contributor
 648 or principal type of business need not be listed. However, for
 649 any contributions that represent the payment of dues by members
 650 in a fixed amount aggregating no more than \$250 per calendar
 651 year, pursuant to the schedule on file with the Division of
 652 Elections, only the aggregate amount of such contributions need
 653 be listed, together with the number of members paying such dues
 654 and the amount of the membership dues.

655 2. The name and address of each political committee or
 656 committee of continuous existence from which the reporting
 657 committee received, or the name and address of each political
 658 committee, committee of continuous existence, affiliated party
 659 committee, or political party to which it made, any transfer of
 660 funds, together with the amounts and dates of all transfers.

661 3. Any other receipt of funds not listed pursuant to
 662 subparagraph 1. or subparagraph 2., including the sources and
 663 amounts of all such funds.

664 4. The name and address of, and office sought by, each
 665 candidate to whom the committee has made a contribution during
 666 the reporting period, together with the amount and date of each
 667 contribution.

668 5. The full name and address of each person to whom
 669 expenditures have been made by or on behalf of the committee
 670 within the reporting period; the amount, date, and purpose of
 671 each such expenditure; and the name and address, and office
 672 sought by, each candidate on whose behalf such expenditure was

673 made.

674 6. The full name and address of each person to whom an
 675 expenditure for personal services, salary, or reimbursement for
 676 authorized expenses has been made, including the full name and
 677 address of each entity to whom the person made payment for which
 678 reimbursement was made by check drawn upon the committee
 679 account, together with the amount and purpose of such payment.

680 7. Transaction information from each credit card statement
 681 that will be included in the next report following receipt
 682 thereof by the committee. Receipts for each credit card purchase
 683 shall be retained by the treasurer with the records for the
 684 committee account.

685 8. The total sum of expenditures made by the committee
 686 during the reporting period.

687 (5) No committee of continuous existence shall make an
 688 electioneering communication, contribute to any candidate or
 689 political committee an amount in excess of the limits contained
 690 in s. 106.08(1), or participate in any activity which is
 691 prohibited by this chapter. If any violation occurs, it shall be
 692 punishable as provided in this chapter for the given offense. No
 693 funds of a committee of continuous existence shall be expended
 694 on behalf of a candidate, except by means of a contribution made
 695 through the duly appointed campaign treasurer of a candidate. No
 696 such committee shall make expenditures in support of, or in
 697 opposition to, an issue unless such committee first registers as
 698 a political committee pursuant to this chapter and undertakes
 699 all the practices and procedures required thereof; provided such
 700 committee may make contributions in a total amount not to exceed

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701 25 percent of its aggregate income, as reflected in the annual
 702 report filed for the previous year, to one or more political
 703 committees registered pursuant to s. 106.03 and formed to
 704 support or oppose issues.

705 Section 10. Subsection (5) of section 106.0701, Florida
 706 Statutes, is amended to read:

707 106.0701 Solicitation of contributions on behalf of s. 527
 708 or s. 501(c)(4) organizations; reporting requirements; civil
 709 penalty; exemption.-

710 (5) The filing requirements of subsection (1) do not apply
 711 to an individual acting on behalf of his or her own campaign, ~~or~~
 712 a political party, or an affiliated party committee of which the
 713 individual is a member.

714 Section 11. Section 106.0703, Florida Statutes, is
 715 reenacted and amended to read:

716 106.0703 Electioneering communications organizations;
 717 ~~additional~~ reporting requirements; certification and filing;
 718 penalties.-

719 (1)(a) Each electioneering communications organization
 720 shall file regular reports of all contributions received and all
 721 expenditures made by or on behalf of the organization. Reports
 722 shall be filed on the 10th day following the end of each
 723 calendar quarter from the time the organization is registered.
 724 However, if the 10th day following the end of a calendar quarter
 725 occurs on a Saturday, Sunday, or legal holiday, the report shall
 726 be filed on the next following day that is not a Saturday,
 727 Sunday, or legal holiday. Quarterly reports shall include all
 728 contributions received and expenditures made during the calendar

729 quarter that have not otherwise been reported pursuant to this
 730 section.

731 (b) Following the last day of candidates qualifying for
 732 office, the reports shall be filed on the 32nd, 18th, and 4th
 733 days immediately preceding the primary election and on the 46th,
 734 32nd, 18th, and 4th days immediately preceding the general
 735 election.

736 (c) When a special election is called to fill a vacancy in
 737 office, all electioneering communications organizations making
 738 contributions or expenditures to influence the results of the
 739 special election shall file reports with the filing officer on
 740 the dates set by the Department of State pursuant to s. 100.111.

741 (d) In addition to the reports required by paragraph (a),
 742 an electioneering communications organization that is registered
 743 with the Department of State and that makes a contribution or
 744 expenditure to influence the results of a county or municipal
 745 election that is not being held at the same time as a state or
 746 federal election must file reports with the county or municipal
 747 filing officer on the same dates as county or municipal
 748 candidates or committees for that election. The electioneering
 749 communications organization must also include the expenditure in
 750 the next report filed with the Division of Elections pursuant to
 751 this section following the county or municipal election.

752 (e) The filing officer shall make available to each
 753 electioneering communications organization a schedule
 754 designating the beginning and end of reporting periods as well
 755 as the corresponding designated due dates.

756 (2)(a) Except as provided in s. 106.0705, the reports
 757 required of an electioneering communications organization shall
 758 be filed with the filing officer not later than 5 p.m. of the
 759 day designated. However, any report postmarked by the United
 760 States Postal Service no later than midnight of the day
 761 designated shall be deemed to have been filed in a timely
 762 manner. Any report received by the filing officer within 5 days
 763 after the designated due date that was delivered by the United
 764 States Postal Service shall be deemed timely filed unless it has
 765 a postmark that indicates that the report was mailed after the
 766 designated due date. A certificate of mailing obtained from and
 767 dated by the United States Postal Service at the time of
 768 mailing, or a receipt from an established courier company, which
 769 bears a date on or before the date on which the report is due,
 770 shall be proof of mailing in a timely manner. Reports shall
 771 contain information of all previously unreported contributions
 772 received and expenditures made as of the preceding Friday,
 773 except that the report filed on the Friday immediately preceding
 774 the election shall contain information of all previously
 775 unreported contributions received and expenditures made as of
 776 the day preceding the designated due date. All such reports
 777 shall be open to public inspection.

778 (b)1. Any report that is deemed to be incomplete by the
 779 officer with whom the electioneering communications organization
 780 files shall be accepted on a conditional basis. The treasurer of
 781 the electioneering communications organization shall be
 782 notified, by certified mail or other common carrier that can
 783 establish proof of delivery for the notice, as to why the report

784 is incomplete. Within 7 days after receipt of such notice, the
 785 treasurer must file an addendum to the report providing all
 786 information necessary to complete the report in compliance with
 787 this section. Failure to file a complete report after such
 788 notice constitutes a violation of this chapter.

789 2. Notice is deemed sufficient upon proof of delivery of
 790 written notice to the mailing or street address of the treasurer
 791 or registered agent of the electioneering communication
 792 organization on record with the filing officer.

793 (3) (a) Each report required by this section must contain:

794 1. The full name, address, and occupation, if any, of each
 795 person who has made one or more contributions to or for such
 796 electioneering communications organization within the reporting
 797 period, together with the amount and date of such contributions.
 798 For corporations, the report must provide as clear a description
 799 as practicable of the principal type of business conducted by
 800 the corporation. However, if the contribution is \$100 or less,
 801 the occupation of the contributor or the principal type of
 802 business need not be listed.

803 2. The name and address of each political committee from
 804 which or to which the reporting electioneering communications
 805 organization made any transfer of funds, together with the
 806 amounts and dates of all transfers.

807 3. Each loan for electioneering communication purposes to
 808 or from any person or political committee within the reporting
 809 period, together with the full names, addresses, and occupations
 810 and principal places of business, if any, of the lender and
 811 endorsers, if any, and the date and amount of such loans.

812 | 4. A statement of each contribution, rebate, refund, or
 813 | other receipt not otherwise listed under subparagraphs 1.-3.

814 | 5. The total sums of all loans, in-kind contributions, and
 815 | other receipts by or for such electioneering communications
 816 | organization during the reporting period. The reporting forms
 817 | shall be designed to elicit separate totals for in-kind
 818 | contributions, loans, and other receipts.

819 | 6. The full name and address of each person to whom
 820 | expenditures have been made by or on behalf of the
 821 | electioneering communications organization within the reporting
 822 | period and the amount, date, and purpose of each expenditure.

823 | 7. The full name and address of each person to whom an
 824 | expenditure for personal services, salary, or reimbursement for
 825 | expenses has been made and that is not otherwise reported,
 826 | including the amount, date, and purpose of the expenditure.

827 | 8. The total sum of expenditures made by the
 828 | electioneering communications organization during the reporting
 829 | period.

830 | 9. The amount and nature of debts and obligations owed by
 831 | or to the electioneering communications organization that relate
 832 | to the conduct of any electioneering communication.

833 | 10. Transaction information for each credit card purchase.
 834 | Receipts for each credit card purchase shall be retained by the
 835 | electioneering communications organization.

836 | 11. The amount and nature of any separate interest-bearing
 837 | accounts or certificates of deposit and identification of the
 838 | financial institution in which such accounts or certificates of
 839 | deposit are located.

840 12. The primary purposes of an expenditure made indirectly
 841 through an electioneering communications organization for goods
 842 and services, such as communications media placement or
 843 procurement services and other expenditures that include
 844 multiple components as part of the expenditure. The primary
 845 purpose of an expenditure shall be that purpose, including
 846 integral and directly related components, that comprises 80
 847 percent of such expenditure.

848 (b) The filing officer shall make available to any
 849 electioneering communications organization a reporting form
 850 which the electioneering communications organization may use to
 851 indicate contributions received by the electioneering
 852 communications organization but returned to the contributor
 853 before deposit.

854 (4) The treasurer of the electioneering communications
 855 organization shall certify as to the correctness of each report,
 856 and each person so certifying shall bear the responsibility for
 857 the accuracy and veracity of each report. Any treasurer who
 858 willfully certifies the correctness of any report while knowing
 859 that such report is incorrect, false, or incomplete commits a
 860 misdemeanor of the first degree, punishable as provided in s.
 861 775.082 or s. 775.083.

862 (5) The electioneering communications organization
 863 depository shall provide statements reflecting deposits and
 864 expenditures from the account to the treasurer, who shall retain
 865 the records pursuant to s. 106.06. The records maintained by the
 866 depository with respect to the account shall be subject to
 867 inspection by an agent of the Division of Elections or the

868 Florida Elections Commission at any time during normal banking
 869 hours, and such depository shall furnish certified copies of any
 870 such records to the Division of Elections or the Florida
 871 Elections Commission upon request.

872 (6) Notwithstanding any other provisions of this chapter,
 873 in any reporting period during which an electioneering
 874 communications organization has not received funds, made any
 875 contributions, or expended any reportable funds, the treasurer
 876 shall file a written report with the filing officer by the
 877 prescribed reporting date that no reportable contributions or
 878 expenditures were made during the reporting period.

879 (7) (a) Any electioneering communications organization
 880 failing to file a report on the designated due date shall be
 881 subject to a fine as provided in paragraph (b) for each late
 882 day. The fine shall be assessed by the filing officer and the
 883 moneys collected shall be deposited:

884 1. In the General Revenue Fund, in the case of an
 885 electioneering communications organization that registers with
 886 the Division of Elections; or

887 2. In the general revenue fund of the political
 888 subdivision, in the case of an electioneering communications
 889 organization that registers with an officer of a political
 890 subdivision.

891
 892 No separate fine shall be assessed for failure to file a copy of
 893 any report required by this section.

894 (b) Upon determining that a report is late, the filing
 895 officer shall immediately notify the electioneering

896 communications organization as to the failure to file a report
 897 by the designated due date and that a fine is being assessed for
 898 each late day. The fine shall be \$50 per day for the first 3
 899 days late and, thereafter, \$500 per day for each late day, not
 900 to exceed 25 percent of the total receipts or expenditures,
 901 whichever is greater, for the period covered by the late report.
 902 However, for the reports immediately preceding each primary and
 903 general election, the fine shall be \$500 per day for each late
 904 day, not to exceed 25 percent of the total receipts or
 905 expenditures, whichever is greater, for the period covered by
 906 the late report. Upon receipt of the report, the filing officer
 907 shall determine the amount of the fine which is due and shall
 908 notify the electioneering communications organization. The
 909 filing officer shall determine the amount of the fine due based
 910 upon the earliest of the following:

- 911 1. When the report is actually received by such officer.
- 912 2. When the report is postmarked.
- 913 3. When the certificate of mailing is dated.
- 914 4. When the receipt from an established courier company is
 915 dated.
- 916 5. When the electronic receipt issued pursuant to s.
 917 106.0705 or other electronic filing system authorized in this
 918 section is dated.

919

920 Such fine shall be paid to the filing officer within 20 days
 921 after receipt of the notice of payment due, unless appeal is
 922 made to the Florida Elections Commission pursuant to paragraph
 923 (c). Notice is deemed sufficient upon proof of delivery of

924 written notice to the mailing or street address on record with
 925 the filing officer. An officer or member of an electioneering
 926 communications organization shall not be personally liable for
 927 such fine.

928 (c) The treasurer of an electioneering communications
 929 organization may appeal or dispute the fine, based upon, but not
 930 limited to, unusual circumstances surrounding the failure to
 931 file on the designated due date, and may request and shall be
 932 entitled to a hearing before the Florida Elections Commission,
 933 which shall have the authority to waive the fine in whole or in
 934 part. The Florida Elections Commission must consider the
 935 mitigating and aggravating circumstances contained in s.
 936 106.265(1) when determining the amount of a fine, if any, to be
 937 waived. Any such request shall be made within 20 days after
 938 receipt of the notice of payment due. In such case, the
 939 treasurer of the electioneering communications organization
 940 shall, within the 20-day period, notify the filing officer in
 941 writing of his or her intention to bring the matter before the
 942 commission.

943 (d) The appropriate filing officer shall notify the
 944 Florida Elections Commission of the repeated late filing by an
 945 electioneering communications organization, the failure of an
 946 electioneering communications organization to file a report
 947 after notice, or the failure to pay the fine imposed. The
 948 commission shall investigate only those alleged late filing
 949 violations specifically identified by the filing officer and as
 950 set forth in the notification. Any other alleged violations must

951 be stated separately and reported by the division to the
 952 commission under s. 106.25(2).

953 (8) ~~In addition to the reporting requirements in s.~~
 954 ~~106.07,~~ An electioneering communications organization shall,
 955 within 2 days after receiving its initial password or secure
 956 sign-on from the Department of State allowing confidential
 957 access to the department's electronic campaign finance filing
 958 system, electronically file the periodic ~~campaign finance~~
 959 reports that would have been required pursuant to this section
 960 ~~s. 106.07~~ for reportable activities that occurred since the date
 961 of the last general election.

962 Section 12. Paragraph (b) of subsection (2) of section
 963 106.0705, Florida Statutes, is reenacted and amended, and
 964 subsections (3) and (4) of that section are amended, to read:

965 106.0705 Electronic filing of campaign treasurer's
 966 reports.—

967 (2)

968 (b) Each political committee, committee of continuous
 969 existence, electioneering communications organization,
 970 affiliated party committee, or state executive committee that is
 971 required to file reports with the division under s. 106.04, s.
 972 106.07, s. 106.0703, or s. 106.29, as applicable, must file such
 973 reports with the division by means of the division's electronic
 974 filing system.

975 (3) Reports filed pursuant to this section shall be
 976 completed and filed through the electronic filing system not
 977 later than midnight of the day designated. Reports not filed by
 978 midnight of the day designated are late filed and are subject to

979 the penalties under s. 106.04(8), s. 106.07(8), s. 106.0703(7),
 980 or s. 106.29(3), as applicable.

981 (4) Each report filed pursuant to this section is
 982 considered to be under oath by the candidate and treasurer, ~~or~~
 983 the chair and treasurer, or the leader and treasurer under s.
 984 103.092, whichever is applicable, and such persons are subject
 985 to the provisions of s. 106.04(4)(d), s. 106.07(5), s.
 986 106.0703(4), or s. 106.29(2), as applicable. Persons given a
 987 secure sign-on to the electronic filing system are responsible
 988 for protecting such from disclosure and are responsible for all
 989 filings using such credentials, unless they have notified the
 990 division that their credentials have been compromised.

991 Section 13. Subsection (1) of section 106.071, Florida
 992 Statutes, is reenacted and amended to read:

993 106.071 Independent expenditures; electioneering
 994 communications; reports; disclaimers.—

995 (1) Each person who makes an independent expenditure with
 996 respect to any candidate or issue, and each individual who makes
 997 an expenditure for an electioneering communication which is not
 998 otherwise reported pursuant to this chapter, which expenditure,
 999 in the aggregate, is in the amount of \$5,000 ~~\$100~~ or more, shall
 1000 file periodic reports of such expenditures in the same manner,
 1001 at the same time, subject to the same penalties, and with the
 1002 same officer as a political committee supporting or opposing
 1003 such candidate or issue. The report shall contain the full name
 1004 and address of the person making the expenditure; the full name
 1005 and address of each person to whom and for whom each such
 1006 expenditure has been made; the amount, date, and purpose of each

1007 such expenditure; a description of the services or goods
 1008 obtained by each such expenditure; the issue to which the
 1009 expenditure relates; and the name and address of, and office
 1010 sought by, each candidate on whose behalf such expenditure was
 1011 made.

1012 Section 14. Subsections (1) , (2), (4), (5), and (6) of
 1013 section 106.08, Florida Statutes, are amended, and subsection
 1014 (7) of that section is reenacted and amended, to read:

1015 106.08 Contributions; limitations on.—

1016 (1)(a) Except for political parties or affiliated party
 1017 committees, no person, political committee, or committee of
 1018 continuous existence may, in any election, make contributions in
 1019 excess of \$500 to any candidate for election to or retention in
 1020 office or to any political committee supporting or opposing one
 1021 or more candidates. Candidates for the offices of Governor and
 1022 Lieutenant Governor on the same ticket are considered a single
 1023 candidate for the purpose of this section.

1024 (b)1. The contribution limits provided in this subsection
 1025 do not apply to contributions made by a state or county
 1026 executive committee of a political party or affiliated party
 1027 committee regulated by chapter 103 or to amounts contributed by
 1028 a candidate to his or her own campaign.

1029 2. Notwithstanding the limits provided in this subsection,
 1030 an unemancipated child under the age of 18 years of age may not
 1031 make a contribution in excess of \$100 to any candidate or to any
 1032 political committee supporting one or more candidates.

1033 (c) The contribution limits of this subsection apply to
 1034 each election. For purposes of this subsection, the primary

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1035 | election and general election are separate elections so long as
 1036 | the candidate is not an unopposed candidate as defined in s.
 1037 | 106.011(15). However, for the purpose of contribution limits
 1038 | with respect to candidates for retention as a justice or judge,
 1039 | there is only one election, which is the general election.

1040 | (2) (a) A candidate may not accept contributions from
 1041 | national, state, or including any subordinate committee of a
 1042 | ~~national, state, or county committee of a political party, and~~
 1043 | county executive committees of a political party, including any
 1044 | subordinate committee of such political party or affiliated
 1045 | party committees, which contributions in the aggregate exceed
 1046 | \$50,000, ~~no more than \$25,000 of which may be accepted prior to~~
 1047 | ~~the 28-day period immediately preceding the date of the general~~
 1048 | ~~election.~~

1049 | (b) A candidate for statewide office may not accept
 1050 | contributions from national, state, or county executive
 1051 | committees of a political party, including any subordinate
 1052 | committee of the a national, state, or county committee of a
 1053 | political party, or affiliated party committees, which
 1054 | contributions in the aggregate exceed \$250,000, ~~no more than~~
 1055 | ~~\$125,000 of which may be accepted prior to the 28-day period~~
 1056 | ~~immediately preceding the date of the general election.~~ Polling
 1057 | services, research services, costs for campaign staff,
 1058 | professional consulting services, and telephone calls are not
 1059 | contributions to be counted toward the contribution limits of
 1060 | paragraph (a) or this paragraph. Any item not expressly
 1061 | identified in this paragraph as nonallocable is a contribution
 1062 | in an amount equal to the fair market value of the item and must

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1063 be counted as allocable toward the contribution limits of
 1064 paragraph (a) or this paragraph. Nonallocable, in-kind
 1065 contributions must be reported by the candidate under s. 106.07
 1066 and by the political party or affiliated party committee under
 1067 s. 106.29.

1068 (4)(a) Any contribution received by the chair, campaign
 1069 treasurer, or deputy campaign treasurer of a political committee
 1070 supporting or opposing a candidate with opposition in an
 1071 election or supporting or opposing an issue on the ballot in an
 1072 election on the day of that election or less than 5 days prior
 1073 to the day of that election may not be obligated or expended by
 1074 the committee until after the date of the election.

1075 ~~(b) Any contribution received by an electioneering~~
 1076 ~~communications organization on the day of an election or less~~
 1077 ~~than 5 days prior to the day of that election may not be~~
 1078 ~~obligated or expended by the organization until after the date~~
 1079 ~~of the election and may not be expended to pay for any~~
 1080 ~~obligation arising prior to the election.~~

1081 (5) (a) A person may not make any contribution through or
 1082 in the name of another, directly or indirectly, in any election.

1083 (b) Candidates, political committees, affiliated party
 1084 committees, and political parties may not solicit contributions
 1085 from any religious, charitable, civic, or other causes or
 1086 organizations established primarily for the public good.

1087 (c) Candidates, political committees, affiliated party
 1088 committees, and political parties may not make contributions, in
 1089 exchange for political support, to any religious, charitable,

1090 civic, or other cause or organization established primarily for
 1091 the public good. It is not a violation of this paragraph for:

1092 1. A candidate, political committee, affiliated party
 1093 committee, or political party executive committee to make gifts
 1094 of money in lieu of flowers in memory of a deceased person;

1095 2. A candidate to continue membership in, or make regular
 1096 donations from personal or business funds to, religious,
 1097 political party, affiliated party committee, civic, or
 1098 charitable groups of which the candidate is a member or to which
 1099 the candidate has been a regular donor for more than 6 months;
 1100 or

1101 3. A candidate to purchase, with campaign funds, tickets,
 1102 admission to events, or advertisements from religious, civic,
 1103 political party, affiliated party committee, or charitable
 1104 groups.

1105 ~~(d) An electioneering communications organization may not~~
 1106 ~~accept a contribution from an organization exempt from taxation~~
 1107 ~~under s. 527 or s. 501(c)(4) of the Internal Revenue Code, other~~
 1108 ~~than a political committee, committee of continuous existence,~~
 1109 ~~or political party, unless the contributing organization has~~
 1110 ~~registered as if the organization were an electioneering~~
 1111 ~~communications organization pursuant to s. 106.03 and has filed~~
 1112 ~~all campaign finance reports required of electioneering~~
 1113 ~~communications organizations pursuant to ss. 106.07 and~~
 1114 ~~106.0703.~~

1115 (6) (a) A political party or affiliated party committee may
 1116 not accept any contribution that has been specifically
 1117 designated for the partial or exclusive use of a particular

1118 candidate. Any contribution so designated must be returned to
 1119 the contributor and may not be used or expended by or on behalf
 1120 of the candidate. Funds contributed to an affiliated party
 1121 committee shall not be deemed as designated for the partial or
 1122 exclusive use of a leader as defined in s. 103.092.

1123 (b)1. A political party or affiliated party committee may
 1124 not accept any in-kind contribution that fails to provide a
 1125 direct benefit to the political party or affiliated party
 1126 committee. A "direct benefit" includes, but is not limited to,
 1127 fundraising or furthering the objectives of the political party
 1128 or affiliated party committee.

1129 2.a. An in-kind contribution to a state political party
 1130 may be accepted only by the chairperson of the state political
 1131 party or by the chairperson's designee or designees whose names
 1132 are on file with the division in a form acceptable to the
 1133 division prior to the date of the written notice required in
 1134 sub-subparagraph b. An in-kind contribution to a county
 1135 political party may be accepted only by the chairperson of the
 1136 county political party or by the county chairperson's designee
 1137 or designees whose names are on file with the supervisor of
 1138 elections of the respective county prior to the date of the
 1139 written notice required in sub-subparagraph b. An in-kind
 1140 contribution to an affiliated party committee may be accepted
 1141 only by the leader of the affiliated party committee as defined
 1142 in s. 103.092 or by the leader's designee or designees whose
 1143 names are on file with the division in a form acceptable to the
 1144 division prior to the date of the written notice required in
 1145 sub-subparagraph b.

1146 b. A person making an in-kind contribution to a state
 1147 ~~political party~~ or county political party or affiliated party
 1148 committee must provide prior written notice of the contribution
 1149 to a person described in sub-subparagraph a. The prior written
 1150 notice must be signed and dated and may be provided by an
 1151 electronic or facsimile message. However, prior written notice
 1152 is not required for an in-kind contribution that consists of
 1153 food and beverage in an aggregate amount not exceeding \$1,500
 1154 which is consumed at a single sitting or event if such in-kind
 1155 contribution is accepted in advance by a person specified in
 1156 sub-subparagraph a.

1157 c. A person described in sub-subparagraph a. may accept an
 1158 in-kind contribution requiring prior written notice only in a
 1159 writing that is signed and dated before the in-kind contribution
 1160 is made. Failure to obtain the required written acceptance of an
 1161 in-kind contribution to a state or county political party or
 1162 affiliated party committee constitutes a refusal of the
 1163 contribution.

1164 d. A copy of each prior written acceptance required under
 1165 sub-subparagraph c. must be filed with the division at the time
 1166 the regular reports of contributions and expenditures required
 1167 under s. 106.29 are filed by the state executive committee, and
 1168 county executive committee, and affiliated party committee.

1169 e. An in-kind contribution may not be given to a state or
 1170 county political party or affiliated party committee unless the
 1171 in-kind contribution is made as provided in this subparagraph.

1172 (7) (a) Any person who knowingly and willfully makes or
 1173 accepts no more than one contribution in violation of subsection

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1174 (1) or subsection (5), or any person who knowingly and willfully
 1175 fails or refuses to return any contribution as required in
 1176 subsection (3), commits a misdemeanor of the first degree,
 1177 punishable as provided in s. 775.082 or s. 775.083. If any
 1178 corporation, partnership, or other business entity or any
 1179 political party, affiliated party committee, political
 1180 committee, committee of continuous existence, or electioneering
 1181 communications organization is convicted of knowingly and
 1182 willfully violating any provision punishable under this
 1183 paragraph, it shall be fined not less than \$1,000 and not more
 1184 than \$10,000. If it is a domestic entity, it may be ordered
 1185 dissolved by a court of competent jurisdiction; if it is a
 1186 foreign or nonresident business entity, its right to do business
 1187 in this state may be forfeited. Any officer, partner, agent,
 1188 attorney, or other representative of a corporation, partnership,
 1189 or other business entity, or of a political party, affiliated
 1190 party committee, political committee, committee of continuous
 1191 existence, electioneering communications organization, or
 1192 organization exempt from taxation under s. 527 or s. 501(c)(4)
 1193 of the Internal Revenue Code, who aids, abets, advises, or
 1194 participates in a violation of any provision punishable under
 1195 this paragraph commits a misdemeanor of the first degree,
 1196 punishable as provided in s. 775.082 or s. 775.083.

1197 (b) Any person who knowingly and willfully makes or
 1198 accepts two or more contributions in violation of subsection (1)
 1199 or subsection (5) commits a felony of the third degree,
 1200 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 1201 If any corporation, partnership, or other business entity or any

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1202 political party, affiliated party committee, political
 1203 committee, committee of continuous existence, or electioneering
 1204 communications organization is convicted of knowingly and
 1205 willfully violating any provision punishable under this
 1206 paragraph, it shall be fined not less than \$10,000 and not more
 1207 than \$50,000. If it is a domestic entity, it may be ordered
 1208 dissolved by a court of competent jurisdiction; if it is a
 1209 foreign or nonresident business entity, its right to do business
 1210 in this state may be forfeited. Any officer, partner, agent,
 1211 attorney, or other representative of a corporation, partnership,
 1212 or other business entity, or of a political committee, committee
 1213 of continuous existence, political party, affiliated party
 1214 committee, or electioneering communications organization, or
 1215 organization exempt from taxation under s. 527 or s. 501(c)(4)
 1216 of the Internal Revenue Code, who aids, abets, advises, or
 1217 participates in a violation of any provision punishable under
 1218 this paragraph commits a felony of the third degree, punishable
 1219 as provided in s. 775.082, s. 775.083, or s. 775.084.

1220 Section 15. Section 106.088, Florida Statutes, is created
 1221 to read:

1222 106.088 Independent expenditures; contribution limits;
 1223 restrictions on affiliated party committees.-

1224 (1) As a condition of receiving a rebate of party
 1225 assessments under s. 103.121(1)(b), the leader or treasurer of
 1226 an affiliated party committee as defined in s. 103.092 shall
 1227 take and subscribe to an oath or affirmation in writing. During
 1228 the qualifying period for state candidates and prior to
 1229 distribution of such funds, a printed copy of the oath or

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1230 affirmation shall be filed with the Secretary of State and shall
 1231 be substantially in the following form:

1232

1233 State of Florida

1234 County of _____

1235

1236 Before me, an officer authorized to administer oaths, personally
 1237 appeared ... (name) ..., to me well known, who, being sworn, says
 1238 that he or she is the ... (title) ... of the ... (name of
 1239 party) (name of chamber) ... affiliated party committee;
 1240 that the affiliated party committee has not made, either
 1241 directly or indirectly, an independent expenditure in support of
 1242 or opposition to a candidate or elected public official in the
 1243 prior 6 months; that the affiliated party committee will not
 1244 make, either directly or indirectly, an independent expenditure
 1245 in support of or opposition to a candidate or elected public
 1246 official, through and including the upcoming general election;
 1247 and that the affiliated party committee will not violate the
 1248 contribution limits applicable to candidates under s. 106.08(2),
 1249 Florida Statutes.

1250 ... (Signature of committee officer) ...

1251 ... (Address) ...

1252 Sworn to and subscribed before me this _____ day of _____,

1253 ... (year) ..., at _____ County, Florida.

1254 ... (Signature and title of officer administering oath) ...

1255 (2) (a) Any affiliated party committee found to have
 1256 violated the provisions of the oath or affirmation prior to
 1257 receiving funds shall be ineligible to receive the rebate for

1258 | that general election year.

1259 | **(b) Any affiliated party committee found to have violated**
 1260 | **the provisions of the oath or affirmation after receiving funds**
 1261 | **shall be ineligible to receive the rebate from candidates**
 1262 | **qualifying for the following general election cycle.**

1263 | **(3) Any funds not distributed to the affiliated party**
 1264 | **committee pursuant to this section shall be deposited into the**
 1265 | **General Revenue Fund of the state.**

1266 | Section 16. Section 106.113, Florida Statutes, is amended
 1267 | to read:

1268 | 106.113 Expenditures by local governments.-

1269 | (1) As used in this section, the term-

1270 | ~~(a)~~ "local government" means:

1271 | **(a)1-** A county, municipality, school district, or other
 1272 | political subdivision in this state; and

1273 | **(b)2-** Any department, agency, board, bureau, district,
 1274 | commission, authority, or similar body of a county,
 1275 | municipality, school district, or other political subdivision of
 1276 | this state.

1277 | ~~(b) "Public funds" means all moneys under the jurisdiction~~
 1278 | ~~or control of the local government.~~

1279 | (2) A local government or a person acting on behalf of
 1280 | local government may not make a specific appropriation or
 1281 | designated expenditure of moneys under the jurisdiction or
 1282 | control of the local government ~~expend or authorize the~~
 1283 | ~~expenditure of~~, and a person or group may not accept such
 1284 | moneys, public funds for the purpose of a political
 1285 | advertisement or electioneering communication concerning an

1286 | issue, referendum, or amendment, including any state question,
 1287 | that is subject to a vote of the electors. ~~This subsection does~~
 1288 | ~~not apply to an electioneering communication from a local~~
 1289 | ~~government or a person acting on behalf of a local government~~
 1290 | ~~which is limited to factual information.~~

1291 | (3) With the exception of the prohibitions specified in
 1292 | subsection (2), this section does not preclude an elected
 1293 | official of the local government from expressing an opinion on
 1294 | any issue at any time.

1295 | Section 17. Paragraph (a) of subsection (4) of section
 1296 | 106.141, Florida Statutes, is amended to read:

1297 | 106.141 Disposition of surplus funds by candidates.—

1298 | (4) (a) Except as provided in paragraph (b), any candidate
 1299 | required to dispose of funds pursuant to this section shall, at
 1300 | the option of the candidate, dispose of such funds by any of the
 1301 | following means, or any combination thereof:

1302 | 1. Return pro rata to each contributor the funds that have
 1303 | not been spent or obligated.

1304 | 2. Donate the funds that have not been spent or obligated
 1305 | to a charitable organization or organizations that meet the
 1306 | qualifications of s. 501(c)(3) of the Internal Revenue Code.

1307 | 3. Give not more than \$10,000 of the funds that have not
 1308 | been spent or obligated to the affiliated party committee or
 1309 | political party of which such candidate is a member, except that
 1310 | a candidate for the Florida Senate may give not more than
 1311 | \$30,000 of such funds to the affiliated party committee or
 1312 | political party of which the candidate is a member.

1313 | 4. Give the funds that have not been spent or obligated:

1314 a. In the case of a candidate for state office, to the
 1315 state, to be deposited in either the Election Campaign Financing
 1316 Trust Fund or the General Revenue Fund, as designated by the
 1317 candidate; or

1318 b. In the case of a candidate for an office of a political
 1319 subdivision, to such political subdivision, to be deposited in
 1320 the general fund thereof.

1321 Section 18. Paragraph (a) of subsection (4) of section
 1322 106.143, Florida Statutes, is amended to read:

1323 106.143 Political advertisements circulated prior to
 1324 election; requirements.—

1325 (4)(a) Any political advertisement, including those paid
 1326 for by a political party or affiliated party committee, other
 1327 than an independent expenditure, offered by or on behalf of a
 1328 candidate must be approved in advance by the candidate. Such
 1329 political advertisement must expressly state that the content of
 1330 the advertisement was approved by the candidate and must state
 1331 who paid for the advertisement. The candidate shall provide a
 1332 written statement of authorization to the newspaper, radio
 1333 station, television station, or other medium for each such
 1334 advertisement submitted for publication, display, broadcast, or
 1335 other distribution.

1336 Section 19. Section 106.1437, Florida Statutes, is
 1337 reenacted to read:

1338 106.1437 Miscellaneous advertisements.—Any advertisement,
 1339 other than a political advertisement, independent expenditure,
 1340 or electioneering communication, on billboards, bumper stickers,
 1341 radio, or television, or in a newspaper, a magazine, or a

1342 periodical, intended to influence public policy or the vote of a
 1343 public official, shall clearly designate the sponsor of such
 1344 advertisement by including a clearly readable statement of
 1345 sponsorship. If the advertisement is broadcast on television,
 1346 the advertisement shall also contain a verbal statement of
 1347 sponsorship. This section shall not apply to an editorial
 1348 endorsement.

1349 Section 20. Section 106.1439, Florida Statutes, is
 1350 reenacted and amended to read:

1351 106.1439 Electioneering communications; disclaimers.—

1352 (1) Any electioneering communication, other than a
 1353 telephone call, shall prominently state: "Paid electioneering
 1354 communication paid for by ... (Name and address of person paying
 1355 for the communication)...."

1356 (2) Any electioneering communication telephone call shall
 1357 identify the persons or organizations sponsoring the call by
 1358 stating either: "Paid for by ... (insert name of persons or
 1359 organizations sponsoring the call)...." or "Paid for on behalf
 1360 of ... (insert name of persons or organizations authorizing
 1361 call)...." This subsection does not apply to any telephone call
 1362 in which the individual making the call is not being paid and
 1363 the individuals participating in the call know each other prior
 1364 to the call.

1365 (3) ~~(2)~~ Any person who fails to include the disclaimer
 1366 prescribed in this section in any electioneering communication,
 1367 that is required to contain such disclaimer commits a
 1368 misdemeanor of the first degree, punishable as provided in s.
 1369 775.082 or s. 775.083.

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1370 Section 21. Paragraphs (a) and (e) of subsection (1) and
 1371 subsection (3) of section 106.147, Florida Statutes, are amended
 1372 to read:

1373 106.147 Telephone solicitation; disclosure requirements;
 1374 prohibitions; exemptions; penalties.-

1375 (1) (a) Any ~~electioneering communication telephone call or~~
 1376 ~~any~~ telephone call supporting or opposing a candidate, elected
 1377 public official, or ballot proposal must identify the persons or
 1378 organizations sponsoring the call by stating either: "paid for
 1379 by _____" (insert name of persons or organizations sponsoring
 1380 the call) or "paid for on behalf of _____" (insert name of
 1381 persons or organizations authorizing call). This paragraph does
 1382 not apply to any telephone call in which both the individual
 1383 making the call is not being paid and the individuals
 1384 participating in the call know each other prior to the call.

1385 ~~(c) Any electioneering communication paid for with public~~
 1386 ~~funds must include a disclaimer containing the words "paid for~~
 1387 ~~by ... (Name of the government entity paying for the~~
 1388 ~~communication)...."~~

1389 (3) (a) Any person who willfully violates any provision of
 1390 this section commits a misdemeanor of the first degree,
 1391 punishable as provided in s. 775.082 or s. 775.083.

1392 (b) For purposes of paragraph (a), the term "person"
 1393 includes any candidate; any officer of any political committee,
 1394 committee of continuous existence, affiliated party committee,
 1395 or political party executive committee; any officer, partner,
 1396 attorney, or other representative of a corporation, partnership,
 1397 or other business entity; and any agent or other person acting

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1398 on behalf of any candidate, political committee, committee of
 1399 continuous existence, affiliated party committee, political
 1400 party executive committee, or corporation, partnership, or other
 1401 business entity.

1402 Section 22. Section 106.165, Florida Statutes, is amended
 1403 to read:

1404 106.165 Use of closed captioning and descriptive narrative
 1405 in all television broadcasts.—Each candidate, political party,
 1406 affiliated party committee, and political committee must use
 1407 closed captioning and descriptive narrative in all television
 1408 broadcasts regulated by the Federal Communications Commission
 1409 that are on behalf of, or sponsored by, a candidate, political
 1410 party, affiliated party committee, or political committee or
 1411 must file a written statement with the qualifying officer
 1412 setting forth the reasons for not doing so. Failure to file this
 1413 statement with the appropriate qualifying officer constitutes a
 1414 violation of the Florida Election Code and is under the
 1415 jurisdiction of the Florida Elections Commission. The Department
 1416 of State may adopt rules in accordance with s. 120.54 which are
 1417 necessary to administer this section.

1418 Section 23. Section 106.17, Florida Statutes, is reenacted
 1419 and amended to read:

1420 106.17 Polls and surveys relating to candidacies.—Any
 1421 candidate, political committee, committee of continuous
 1422 existence, electioneering communication organization, affiliated
 1423 party committee, or state or county executive committee of a
 1424 political party may authorize or conduct a political poll,
 1425 survey, index, or measurement of any kind relating to candidacy

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1426 for public office so long as the candidate, political committee,
 1427 committee of continuous existence, electioneering communication
 1428 organization, affiliated party committee, or political party
 1429 maintains complete jurisdiction over the poll in all its
 1430 aspects.

1431 Section 24. Subsection (2) of section 106.23, Florida
 1432 Statutes, is amended to read:

1433 106.23 Powers of the Division of Elections.—

1434 (2) The Division of Elections shall provide advisory
 1435 opinions when requested by any supervisor of elections,
 1436 candidate, local officer having election-related duties,
 1437 political party, affiliated party committee, political
 1438 committee, committee of continuous existence, or other person or
 1439 organization engaged in political activity, relating to any
 1440 provisions or possible violations of Florida election laws with
 1441 respect to actions such supervisor, candidate, local officer
 1442 having election-related duties, political party, affiliated
 1443 party committee, committee, person, or organization has taken or
 1444 proposes to take. Requests for advisory opinions must be
 1445 submitted in accordance with rules adopted by the Department of
 1446 State. A written record of all such opinions issued by the
 1447 division, sequentially numbered, dated, and indexed by subject
 1448 matter, shall be retained. A copy shall be sent to said person
 1449 or organization upon request. Any such person or organization,
 1450 acting in good faith upon such an advisory opinion, shall not be
 1451 subject to any criminal penalty provided for in this chapter.
 1452 The opinion, until amended or revoked, shall be binding on any
 1453 person or organization who sought the opinion or with reference

1454 | to whom the opinion was sought, unless material facts were
 1455 | omitted or misstated in the request for the advisory opinion.

1456 | Section 25. Subsections (1) and (2) of section 106.265,
 1457 | Florida Statutes, are amended to read:

1458 | 106.265 Civil penalties.—

1459 | (1) The commission is authorized upon the finding of a
 1460 | violation of this chapter or chapter 104 to impose civil
 1461 | penalties in the form of fines not to exceed \$1,000 per count.
 1462 | In determining the amount of such civil penalties, the
 1463 | commission shall consider, among other mitigating and
 1464 | aggravating circumstances:

1465 | (a) The gravity of the act or omission;

1466 | (b) Any previous history of similar acts or omissions;

1467 | (c) The appropriateness of such penalty to the financial
 1468 | resources of the person, political committee, committee of
 1469 | continuous existence, affiliated party committee, or political
 1470 | party; and

1471 | (d) Whether the person, political committee, committee of
 1472 | continuous existence, affiliated party committee, or political
 1473 | party has shown good faith in attempting to comply with the
 1474 | provisions of this chapter or chapter 104.

1475 | (2) If any person, political committee, committee of
 1476 | continuous existence, affiliated party committee, or political
 1477 | party fails or refuses to pay to the commission any civil
 1478 | penalties assessed pursuant to the provisions of this section,
 1479 | the commission shall be responsible for collecting the civil
 1480 | penalties resulting from such action.

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1481 Section 26. Subsection (2) of section 106.27, Florida
 1482 Statutes, is amended to read:

1483 106.27 Determinations by commission; legal disposition.—

1484 (2) Civil actions may be brought by the commission for
 1485 relief, including permanent or temporary injunctions,
 1486 restraining orders, or any other appropriate order for the
 1487 imposition of civil penalties provided by this chapter. Such
 1488 civil actions shall be brought by the commission in the
 1489 appropriate court of competent jurisdiction, and the venue shall
 1490 be in the county in which the alleged violation occurred or in
 1491 which the alleged violator or violators are found, reside, or
 1492 transact business. Upon a proper showing that such person,
 1493 political committee, committee of continuous existence,
 1494 affiliated party committee, or political party has engaged, or
 1495 is about to engage, in prohibited acts or practices, a permanent
 1496 or temporary injunction, restraining order, or other order shall
 1497 be granted without bond by such court, and the civil fines
 1498 provided by this chapter may be imposed.

1499 Section 27. Section 106.29, Florida Statutes, is amended
 1500 to read:

1501 106.29 Reports by political parties and affiliated party
 1502 committees; restrictions on contributions and expenditures;
 1503 penalties.—

1504 (1) The state executive committee and each county
 1505 executive committee of each political party and any affiliated
 1506 party committee regulated by chapter 103 shall file regular
 1507 reports of all contributions received and all expenditures made
 1508 by such committee. Such reports shall contain the same

1509 information as do reports required of candidates by s. 106.07
 1510 and shall be filed on the 10th day following the end of each
 1511 calendar quarter, except that, during the period from the last
 1512 day for candidate qualifying until the general election, such
 1513 reports shall be filed on the Friday immediately preceding both
 1514 the primary election and the general election. In addition to
 1515 the reports filed under this section, the state executive
 1516 committee, ~~and~~ each county executive committee, and each
 1517 affiliated party committee shall file a copy of each prior
 1518 written acceptance of an in-kind contribution given by the
 1519 committee during the preceding calendar quarter as required
 1520 under s. 106.08(6). Each state executive committee and
 1521 affiliated party committee shall file the original and one copy
 1522 of its reports with the Division of Elections. Each county
 1523 executive committee shall file its reports with the supervisor
 1524 of elections in the county in which such committee exists. Any
 1525 state or county executive committee or affiliated party
 1526 committee failing to file a report on the designated due date
 1527 shall be subject to a fine as provided in subsection (3). No
 1528 separate fine shall be assessed for failure to file a copy of
 1529 any report required by this section.

1530 (2) The chair and treasurer of each state or county
 1531 executive committee shall certify as to the correctness of each
 1532 report filed by them on behalf of such committee. The leader and
 1533 treasurer of each affiliated party committee under s. 103.092
 1534 shall certify as to the correctness of each report filed by them
 1535 on behalf of such committee. Any committee chair, leader, or
 1536 treasurer who certifies the correctness of any report while

1537 knowing that such report is incorrect, false, or incomplete
 1538 commits a felony of the third degree, punishable as provided in
 1539 s. 775.082, s. 775.083, or s. 775.084.

1540 (3)(a) Any state or county executive committee or
 1541 affiliated party committee failing to file a report on the
 1542 designated due date shall be subject to a fine as provided in
 1543 paragraph (b) for each late day. The fine shall be assessed by
 1544 the filing officer, and the moneys collected shall be deposited
 1545 in the General Revenue Fund.

1546 (b) Upon determining that a report is late, the filing
 1547 officer shall immediately notify the chair of the executive
 1548 committee or the leader of the affiliated party committee as
 1549 defined in s. 103.092 as to the failure to file a report by the
 1550 designated due date and that a fine is being assessed for each
 1551 late day. The fine shall be \$1,000 for a state executive
 1552 committee, \$1,000 for an affiliated party committee, and \$50 for
 1553 a county executive committee, per day for each late day, not to
 1554 exceed 25 percent of the total receipts or expenditures,
 1555 whichever is greater, for the period covered by the late report.
 1556 However, if an executive committee or an affiliated party
 1557 committee fails to file a report on the Friday immediately
 1558 preceding the general election, the fine shall be \$10,000 per
 1559 day for each day a state executive committee is late, \$10,000
 1560 per day for each day an affiliated party committee is late, and
 1561 \$500 per day for each day a county executive committee is late.
 1562 Upon receipt of the report, the filing officer shall determine
 1563 the amount of the fine which is due and shall notify the chair
 1564 or leader as defined in s. 103.092. The filing officer shall

1565 determine the amount of the fine due based upon the earliest of
 1566 the following:

- 1567 1. When the report is actually received by such officer.
- 1568 2. When the report is postmarked.
- 1569 3. When the certificate of mailing is dated.
- 1570 4. When the receipt from an established courier company is
 1571 dated.
- 1572 5. When the electronic receipt issued pursuant to s.
 1573 106.0705 is dated.
- 1574

1575 Such fine shall be paid to the filing officer within 20 days
 1576 after receipt of the notice of payment due, unless appeal is
 1577 made to the Florida Elections Commission pursuant to paragraph
 1578 (c). An officer or member of an executive committee shall not be
 1579 personally liable for such fine.

1580 (c) The chair of an executive committee or the leader of
 1581 an affiliated party committee as defined in s. 103.092 may
 1582 appeal or dispute the fine, based upon unusual circumstances
 1583 surrounding the failure to file on the designated due date, and
 1584 may request and shall be entitled to a hearing before the
 1585 Florida Elections Commission, which shall have the authority to
 1586 waive the fine in whole or in part. Any such request shall be
 1587 made within 20 days after receipt of the notice of payment due.
 1588 In such case, the chair of the executive committee or the leader
 1589 of the affiliated party committee as defined in s. 103.092
 1590 shall, within the 20-day period, notify the filing officer in
 1591 writing of his or her intention to bring the matter before the
 1592 commission.

1593 (d) The appropriate filing officer shall notify the
 1594 Florida Elections Commission of the repeated late filing by an
 1595 executive committee or affiliated party committee, the failure
 1596 of an executive committee or affiliated party committee to file
 1597 a report after notice, or the failure to pay the fine imposed.

1598 (4) Any contribution received by a state or county
 1599 executive committee or affiliated party committee less than 5
 1600 days before an election shall not be used or expended in behalf
 1601 of any candidate, issue, affiliated party committee, or
 1602 political party participating in such election.

1603 (5) No state or county executive committee or affiliated
 1604 party committee, in the furtherance of any candidate or
 1605 political party, directly or indirectly, shall give, pay, or
 1606 expend any money, give or pay anything of value, authorize any
 1607 expenditure, or become pecuniarily liable for any expenditure
 1608 prohibited by this chapter. However, the contribution of funds
 1609 by one executive committee to another or to established party
 1610 organizations for legitimate party or campaign purposes is not
 1611 prohibited, but all such contributions shall be recorded and
 1612 accounted for in the reports of the contributor and recipient.

1613 (6) (a) The national, state, and county executive
 1614 committees of a political party and affiliated party committees
 1615 may not contribute to any candidate any amount in excess of the
 1616 limits contained in s. 106.08(2), and all contributions required
 1617 to be reported under s. 106.08(2) by the national executive
 1618 committee of a political party shall be reported by the state
 1619 executive committee of that political party.

1620 (b) A violation of the contribution limits contained in s.

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1621 106.08(2) is a misdemeanor of the first degree, punishable as
 1622 provided in s. 775.082 or s. 775.083. A civil penalty equal to
 1623 three times the amount in excess of the limits contained in s.
 1624 106.08(2) shall be assessed against any executive committee
 1625 found in violation thereof.

1626 Section 28. Paragraph (d) of subsection (1) of section
 1627 11.045, Florida Statutes, is amended to read:

1628 11.045 Lobbying before the Legislature; registration and
 1629 reporting; exemptions; penalties.-

1630 (1) As used in this section, unless the context otherwise
 1631 requires:

1632 (d) "Expenditure" means a payment, distribution, loan,
 1633 advance, reimbursement, deposit, or anything of value made by a
 1634 lobbyist or principal for the purpose of lobbying. The term
 1635 "expenditure" does not include contributions or expenditures
 1636 reported pursuant to chapter 106 or federal election law,
 1637 campaign-related personal services provided without compensation
 1638 by individuals volunteering their time, any other contribution
 1639 or expenditure made by or to a political party or affiliated
 1640 party committee, or any other contribution or expenditure made
 1641 by an organization that is exempt from taxation under 26 U.S.C.
 1642 s. 527 or s. 501(c)(4).

1643 Section 29. Paragraph (b) of subsection (12) of section
 1644 112.312, Florida Statutes, is amended to read:

1645 112.312 Definitions.-As used in this part and for purposes
 1646 of the provisions of s. 8, Art. II of the State Constitution,
 1647 unless the context otherwise requires:

1648 (12)

- 1649 (b) "Gift" does not include:
- 1650 1. Salary, benefits, services, fees, commissions, gifts,
- 1651 or expenses associated primarily with the donee's employment,
- 1652 business, or service as an officer or director of a corporation
- 1653 or organization.
- 1654 2. Contributions or expenditures reported pursuant to
- 1655 chapter 106, campaign-related personal services provided without
- 1656 compensation by individuals volunteering their time, or any
- 1657 other contribution or expenditure by a political party or
- 1658 affiliated party committee.
- 1659 3. An honorarium or an expense related to an honorarium
- 1660 event paid to a person or the person's spouse.
- 1661 4. An award, plaque, certificate, or similar personalized
- 1662 item given in recognition of the donee's public, civic,
- 1663 charitable, or professional service.
- 1664 5. An honorary membership in a service or fraternal
- 1665 organization presented merely as a courtesy by such
- 1666 organization.
- 1667 6. The use of a public facility or public property, made
- 1668 available by a governmental agency, for a public purpose.
- 1669 7. Transportation provided to a public officer or employee
- 1670 by an agency in relation to officially approved governmental
- 1671 business.
- 1672 8. Gifts provided directly or indirectly by a state,
- 1673 regional, or national organization which promotes the exchange
- 1674 of ideas between, or the professional development of,
- 1675 governmental officials or employees, and whose membership is
- 1676 primarily composed of elected or appointed public officials or

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1677 staff, to members of that organization or officials or staff of
 1678 a governmental agency that is a member of that organization.

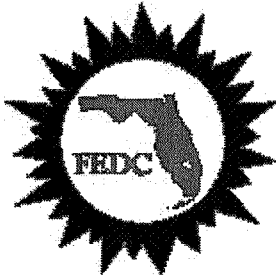
1679 Section 30. Paragraph (d) of subsection (1) of section
 1680 112.3215, Florida Statutes, is amended to read:

1681 112.3215 Lobbying before the executive branch or the
 1682 Constitution Revision Commission; registration and reporting;
 1683 investigation by commission.—

1684 (1) For the purposes of this section:

1685 (d) "Expenditure" means a payment, distribution, loan,
 1686 advance, reimbursement, deposit, or anything of value made by a
 1687 lobbyist or principal for the purpose of lobbying. The term
 1688 "expenditure" does not include contributions or expenditures
 1689 reported pursuant to chapter 106 or federal election law,
 1690 campaign-related personal services provided without compensation
 1691 by individuals volunteering their time, any other contribution
 1692 or expenditure made by or to a political party or an affiliated
 1693 party committee, or any other contribution or expenditure made
 1694 by an organization that is exempt from taxation under 26 U.S.C.
 1695 s. 527 or s. 501(c)(4).

1696 Section 31. This act shall take effect July 1, 2010.



Florida Economic Development Council, Inc.

Executive Committee

Tammie Nemecek
Chairman

Deborah Wilkinson
Chairman Elect

Ray Gilley
Immediate Past Chairman

Michael Meidel, CEcD
Vice Chairman, Finance & Budget

Danita Andrews
Vice Chairman, Education

Ed Schons
Vice Chairman, Membership

Andra Cornelius, CEcD
Vice Chairman, Regional Relations

Todd Kocourek
Appointment to the Executive Committee

Amy Evancho
President/CEO

Regional Directors

Northwest Region - Bill Stanton

North Central Region - Jim Poole

Northeast Region - Lindsey Ballas, CEcD

Tampa Bay Region - Jennifer Taylor

East Central Region - Bill Neron

Southwest Region - Donald Root

South Central Region - Cour Curatolo

Southeast Region - Kelly Smallridge

Chairman's Appointments

Kathy Baylis, CEcD
Beth Kirkland, CEcD
Bill Lambert

Ex-Officio

John A. Adams, Jr., Ph.D
Chris Hart
Peter Tokar

March 8, 2010

Dear Representative,

The Florida Economic Development Council (FEDC) wants to thank you for giving us the opportunity to present one of our top priorities for this Legislative Session. Our priority is the continuation of the technical assistance component of the Economic Gardening program for Florida's small businesses.

The visionary leadership from last year's Special Legislative Session created a statewide pilot program for Economic Gardening. This program has already resulted in significant progress for helping second-stage companies. In August 2009, the RFP was announced to solicit proposals to implement the pilot program. In a competitive process, the Florida Economic Gardening Institute (FEGI) at the University of Central Florida was selected in November 2009, and in just 120 days after selection and signing of the contract, the GrowFL program has made a tremendous difference in engaging more than 200 companies, processing more than 100 online applications, selecting and accepting 35 firms that will create many of Florida's future job opportunities. In fact, based on preliminary projections supplied by companies enrolled in the program, GrowFL has the potential to create 1,500 jobs over the next 18 months, as well as increasing sales by \$200 million. Research also shows that 40 percent of Florida's job growth will come from second-stage growth companies over the next five years. Support for our state's second-stage companies is needed now more than ever. These are **Florida** companies that will be expanding and growing based on the resources provided through this program.

Because the pilot program will end this October, on behalf of FEDC, we encourage you to continue the wonderful vision you had during the 2009 Special Session and expand the scope of reach to more Stage 2 companies. The continued success of this type of growth for companies through economic gardening will provide short and long-term solutions for diversifying our economy and creating high wage jobs.

Best regards,

Amy L. Evancho
President & CEO
Florida Economic Development Council



Florida Economic Development Council (FEDC) 2010 Legislative Agenda

Introduction:

This Legislative Priorities Agenda represents the Florida Economic Development Council's (FEDC) positions on economic development issues, especially as they relate to the state's annual legislative session. This document is intended to guide the FEDC Board, members and statewide stakeholders with respect to specific legislative priorities and legislation. It is subject to modification as new legislation is introduced.

This summary is prepared by the FEDC's Legislative Affairs Committee and is reviewed by and voted on by the FEDC Board of Directors. A glossary of economic development terms follows the legislative agenda.

We would like to thank Enterprise Florida, Florida Chamber of Commerce, OTTED, Workforce Florida, Associated Industries of Florida, Space Florida and the many Counties and other organizations that assisted in the formation of this year's legislative agenda.

FEDC PRIORITIES:

1. **Support funding for Florida's Economic Development Transportation Fund (Road Fund) without offsets for individual projects at \$20 million.** *This is one of Florida's oldest and most successful economic development incentive programs and is designed to keep our state competitive in attracting high wage jobs. Because of rising costs and increased project activity, more allocation is needed in order to improve our competitiveness.*
2. **Support funding Florida's Economic Development TOOL KIT such as funding for technical assistance in the Economic Gardening Program.** *These incentives (investments) are critical after a community is "short listed" in the site selection process. Short list competitors are usually equal and incentives offered by the competing states often "tip the scale" toward a single location. Economic Gardening is a new pilot program launched in 2009 and has proved to be successful in the first quarter of grants given to qualified "Stage 2" companies.*
3. **Support the funding for Quick Response Training Program (\$5 million) and restore the program funding to Recurring.** *The best investment we can make is in our workforce. Training programs such as QRT ensure that Florida has an available and appropriately skilled workforce to meet the demands of our growing high wage employers.*
4. **Support Qualified Target Industry Tax Refund Program 5-year Reauthorization.** *These incentives are critical in keeping Florida competitive. **FEDC does not support Removal of the Ad valorem taxes.** Businesses to be able to receive refunds for "Ad valorem taxes paid as defined in S.220.03(1) should continue.*

FEDC SUPPORT:

ECONOMIC DEVELOPMENT STIMULUS & INVESTMENTS PROGRAMS

1. **Support funding Florida's Economic Development TOOL KIT including funding for the Rural Community Development, Economic Development QTI/QDC, Military Base Protection, Space, Defense & Rural Infrastructure Programs.** *These incentives (investments) are critical after a community is "short listed" in the site selection process. Short list competitors are usually equal and incentives offered by the competing states often "tip the scale" toward a single location.*
2. **Targeted Opportunities Tax Refund on Business Machinery and Equipment: Reduce Threshold.** *Currently the cost of a piece of equipment or a business machine must exceed \$5,000 before a refund of sales taxes paid can be applied for as part of the Enterprise Zone program. The incentive would have more value if the purchase price threshold were reduced to \$2,500. OPPAGA proposed a similar recommendation, down to \$500, in Report 05-54 as a mechanism for increasing the value of the incentives offered to businesses for locating in an enterprise zone.*
3. **Support funding of Florida's Quick Action Closing Fund at \$50 million.** *A number of states including Virginia, North Carolina, South Carolina, Georgia, Tennessee, Texas, and Pennsylvania have closing funds available for use in highly competitive job creation situations. Having a closing fund would ensure, as provided in section 288.1088, Florida Statutes, that sufficient resources are available to respond to extraordinary economic opportunities and to compete effectively for high-impact business facilities, critical private infrastructure in rural areas, and key businesses in economically distressed urban or rural communities.*
4. **Through formal alliances with the Governor's Office of Film & Entertainment and the Florida Chamber, support legislation renewing and enhancing the current Entertainment Incentive at \$75 million annually for five (5) years.** *The Film and Entertainment Industry is important to Florida's economy as a major driver of employment and personal income, attracting revenue from other states and countries to be spent locally on wages and film and entertainment production services. This legislation will allow Florida to further develop and sustain the workforce and infrastructure for film, entertainment and digital media production. It also modifies the current program to be monetized as a transferable tax credit instead of the current cash rebate approach.*
5. **Tax Credit for Computer Equipment.** *As Florida's agenda is to diversify the economic base with high tech industries, many companies in these industries have noted that the significant investment in this equipment in Florida is not eligible as a tax credit. As we do for manufacturing equipment, computer equipment needs to be added as an eligible tax credit item.*
6. **Through formal alliances with the Florida Chamber, Enterprise Florida, and others, endorse the creation of a Florida Cost and Benefit Analysis of Legislation.** *Support legislation filed by Representative Steve Crisafulli that authorizes the presiding officers of the House and Senate to request special impact sessions of the Revenue Estimating Conference to consider cost and benefit analysis of legislation.*

7. **Through formal alliances with the Florida Chamber, Enterprise Florida, and others, endorse the Expedited Permitting legislation.** *The Florida Legislature should look at ways to ensure that its current expedited permitting statutes are used to their greatest extent. This will enable companies to relocate, retain and expand their workforce and grow their capital investment.*
8. **Rural Economic Development - Rural Zone for Rural Catalyst Sites:** *The 2004 statewide strategic plan for economic development, "Roadmap to Florida's Future" provides a rural priority; a rural rainmaker or catalyst project within each of the state's three designated Rural Area of Critical Economic Concern (RACEC). The 2005 Legislature provided funding to determine the appropriate target industry clusters in each RACEC, locate appropriate sites, help move those sites to being ready for construction (i.e. infrastructure planned for, funding identified and preclearance permitting completed.) and to market those sites. To date target industry clusters have been identified, sites have been prioritized and the initial preclearance permitting meeting has been held with the agencies of the Rural Economic Development Initiative (REDI). Each catalyst site has benefitted from a Rural Infrastructure Fund award.*

RESEARCH & DEVELOPMENT

9. **Through formal alliances with the Florida Chamber, Enterprise Florida, and others, endorse the creation of a Florida R&D Tax Credit to improve the state's business climate for growth-generating R&D activity.** *Florida has enjoyed success in attracting research institutes and further diversifying its economy. To truly leverage the investments that have been made and to move towards a more vibrant and entrepreneurial economy, it is imperative that a R&D tax credit be created for the state of Florida. Per Enterprise Florida, research shows that the federal credit is an effective tool for stimulating additional research and development which in turn leads to faster economic growth. It has also been shown to induce \$1-\$3 of investment for every dollar of taxes foregone.*
10. **Through formal alliances with the Florida Chamber, Enterprise Florida, and others, support the creation of the Florida Research Commercialization Matching Grant program at \$5 million annually to accelerate the commercialization of advanced technologies and create successful start-up companies in Florida.** *This program is designed to accelerate the commercialization of technology for start-up businesses, offering grant money to companies that have received Phase 2 grants from the Federal SBIR and STTR programs. The program would provide matching grants of up to 25% to Phase 2 awardees to help speed their commercialization processes.*
11. **FEDC supports the continued legislative support of the Florida Institute for the Commercialization of Public Research (the Institute) with \$10 million for the period of 2009-2014 for operations enabling development and funding of startup technology companies based on publically supported research.** *The Institute is Florida's One-Stop-Shop for investors, entrepreneurs and corporate partners who seek to identify new opportunities based on technologies developed through publicly-funded research. The Institute facilitates new venture creation through commercially-viable technologies in major industries that are driving the global economy, including, life science, information technology, aviation and aerospace, homeland security/defense, renewable energy, clean-tech, and other emerging sectors.*

BUSINESS CLIMATE

12. **Support full funding for EFI's operations, including marketing.** *As Florida's economic development agency, Enterprise Florida and its initiatives and incentives are vital to the success of economic development projects throughout the state.*
13. **Enhance business expansion/attraction programs to include Limited Liability Corporations (LLCs).** *Provide LLCs with the ability to use current tax incentives—made available to other corporations—by providing for the assignment of benefits among the associated partners of the LLC.*
14. **Update and replace all references for incentive programs in statutes from the old 1987 Standard Industrial Classification System (SIC) to the new 2007 North American Industrial Classification System (NAICS).** *Portions of the Florida Statutes dealing with incentives for business development continue to reference the Standard Industrial Classification System (SIC) that was replaced in 1997 by the federal government with the North American Industrial Classification System (NAICS). Replace all references to SIC with NAICS in State Statutes relating to incentive programs at the appropriate classification level.*
15. **Streamline & Expedite Permitting.** *Slow review and approval times by state agencies negatively impacts economic development projects. Align regulatory processes within all state agencies to ensure that permitting timelines are shortened and duplication is removed.*
16. **Support Capital Access for Small Business.** *A possible solution is for the State of Florida to establish a loan fund of \$10,000,000 for loans to small Florida exporting companies reviewed by FEFC and deemed worthy of receiving the FEFC loan guarantee. The FEFC loan guarantee is a one year revolving guarantee for short term loans to cover the costs associated with fulfillment of a foreign buyer order. Such loan fund should be administrated by an acceptable bank, selected by FEFC, with financial stability and proven ability to properly administer loans in compliance with all Federal and State regulations.*
17. **AMENDMENT 4. FEDC will oppose Amendment 4 on the 2010 ballot, which if passed will lead to higher taxes, fewer jobs and more lawsuits.**

PHARMACEUTICAL AND MEDICAL DEVICE INDUSTRIES

18. **Eliminate Duplication and potentially conflicting requirements by exempting state permitting requirements and fees for those Pharmaceutical, Biopharmaceutical, and Contract Research and Mfg. Organizations regulated by U.S. Food and Drug Administration.** *FDA already enforces Federal Law related to these products. There is no need for the State of Florida to duplicate these efforts.*

MULTI-MODAL TRANSPORTATION

19. **Implementation of commuter rail projects will result in overall social and environmental benefits, improve the quality of life in the state, stimulate economic growth, create new employment opportunities, and serve as a positive growth-management catalyst.** *Transportation options, cleaner air, and increased connectivity and partnership between communities benefit everyone. This will become an integral part of Florida's balanced transportation system and, with concurrent development of improvements to roadways and bus transit, will greatly enhance the mobility of the traveling public. Commuter rail is good for business, as it spurs economic development by allowing business, research, and education*

centers to tap into geographically broader talent pools to support the Governor's office efforts to obtain full support and funding from Washington, D.C including continued support from Florida's Congressional Delegation, for High Speed Rail funding.

AVIATION & AEROSPACE

20. **Support the Commercial Launch Zone and Space and Aerospace Catalyst and Enhancement (SPACE) Act to further statewide economic development and job creation in the aerospace industry.** *These programs would allow Space Florida to be more competitive with other states when competing for business in the space and aerospace industry. Customers could not only be those in the business of launching rockets but also those that develop payload for those rockets which will bring entire new markets into play in Florida (i.e. pharmaceutical, biotechnology, etc.) The SPACE Act can be the catalyst to aid in replacing jobs that will be lost with the Space Shuttle retirement in 2010. In addition, the creation of the Commercial Launch Zone will provide the opportunity for communities throughout Florida to participate in and encourage job creation in the aviation and aerospace industry.*

NUMERIC NUTRIENT CRITERIA

21. **The U.S. Environmental Protection Agency has proposed scientifically indefensible water quality regulations, called numeric nutrient criteria, that would apply only to the state of Florida and which could take effect as soon as October of 2010.** *These rules have the potential to increase Floridians' water bills by tens of billions of dollars and cause regulatory gridlock without providing any appreciable environmental benefit. FEDC opposes the imposition of these arbitrary and onerous federal regulations on the state of Florida.*

FEDC Legislative Priorities Glossary of Terms

Transportation

Transportation Infrastructure Finance and Innovation Act (TIFIA) - is a credit program which will provide secondary and subordinate capital for up to one-third of project costs, and provide assistance such as direct loans, lines of credit or guarantees of private loans. The program is designed for large-scale projects (over \$100 million) of "National Significance."

Rural Area of Critical Concern (RACEC) – is a designation by the State of Florida. Portions of Immokalee are included in the South Central RACEC. The Legislature has earmarked funding to help the three RACEC regions perform economic research, site selection, and marketing to produce a catalytic economic opportunity and a regional site within each RACEC.

Workforce Housing

Sadowski Trust Fund - enacted in 1992, this affordable housing legislation created a dedicated revenue source by increasing the documentary stamp tax by 20 cents. The monies from the doc stamp are split between the Florida Housing Finance Corporation and all counties and entitlement municipalities. The monies are split approximately 70/30 between local government and the state, respectively and utilized for affordable housing programs.

Community Workforce Housing Innovation Program (CWHIP) – enacted in 2006, CWHIP is an affordable housing pilot program to promote the creation of public-private partnerships to finance, build and manage workforce housing and requires the coordinated efforts of all levels of government as well as private sector developers, financiers, business interests and service providers.

Education

Small Business Development Center (SBDC) Network - is a statewide partnership between higher education and economic development organizations dedicated to providing emerging and established business owners with assistance enabling overall growth and increased profitability that contributes to the economic prosperity of the state.

Centers of Excellence – are designed to bridge the gap between academia and industry and give university-produced innovations a helpful push toward commercial viability. The program should benefit industry by providing a stream of innovation from R&D resources normally too expensive for private enterprise. Meanwhile, university programs should reap benefits in the form of royalties, new workforce options (for graduates), training, and potential funding for future projects. Overall, the Centers will enrich Florida's high-tech industries and help fulfill the State's education, capital and workforce needs.

Economic Development

Qualified Target Industry Tax Refund (QTI) - is available for companies that create high wage jobs in targeted high value-added industries. This incentive includes refunds on corporate income, sales, ad valorem, intangible personal property, insurance premium, and certain other taxes. Pre-approved applicants who create jobs in Florida receive tax refunds of \$3,000 per net new Florida full-time equivalent job created; \$6,000 in an Enterprise Zone or rural county. For businesses paying 150 percent of the average annual wage, add \$1,000 per job; for businesses paying 200 percent of the average annual salary, add \$2,000 per job. The local community where the company locates contributes 20 percent of the total tax refund. There is a cap of \$5 million per single qualified applicant in all years, and no more than 25 percent of the total refund approved may be taken in any single fiscal year. New or expanding businesses in selected targeted industries or corporate headquarters are eligible.

Quick Response Training Incentives (QRT) - is a customer-driven training program designed to assist new value-added businesses and provide existing Florida businesses the necessary training for expansion. A local training provider—community college, area technical center or university—is available to assist with application and program development or delivery. If the company has a training program, a state training provider will manage the training program and serve as the fiscal agent for the grant funds. Reimbursable training expenses include: instructors'/trainers' salaries, curriculum development,

textbooks/manuals, and materials/supplies. This program is customized, flexible and responsive to individual company needs.

Incumbent Worker Training Program (IWT) - is a program that provides training to currently employed workers to keep Florida's workforce competitive in a global economy and to retain existing businesses. The program is available to all Florida businesses that have been in operation for at least one year prior to application and require training for existing employees.

Economic Development Transportation Fund - commonly referred to as the "Road Fund," is an incentive tool designed to alleviate transportation problems that adversely impact a specific company's location or expansion decision. These grants are limited to \$2 million and are awarded to the local government for public transportation facility improvements.

Florida Research Commercialization Matching Grant Program – is designed to help accelerate the commercialization of advanced technologies and help create successful start-up companies domiciled in Florida.

Quick Action Closing Fund – is a discretionary funding tool that helps diversify Florida's economy by enabling the state to respond quickly to extraordinary economic opportunities and compete effectively for projects that involve significant capital investment and the creation of hundreds of higher-wage jobs.

Rural Infrastructure Fund - is a resource available to rural communities in Florida to facilitate the planning, preparation and financing of infrastructure projects in rural communities which will result in job creation, capital investment, and the strengthening and diversification of rural economies by promoting tourism, trade and economic development. Eligible projects may also include improving any inadequate infrastructure that has resulted in regulatory action that prohibits economic or community growth or reducing the costs to community users of proposed infrastructure improvements that exceed such costs in comparable communities.

Rural Community Development Revolving Loan Program - provides financial assistance to local governments in the form of either a loan or loan guaranty. The purpose of the program is to provide financial assistance for a specific project that will lead to the creation of new jobs and increase the economic vitality and diversification of Florida's rural counties.

Florida Innovation Incentive Fund - was established to attract targeted research and development or "innovation business" projects that support the growth of high-technology innovation clusters and high-wage jobs in Florida.

Florida Entertainment Incentive Financial Incentive Program – commonly referred to as the "film incentive", this incentive is in its fifth year. It currently provides from 10 – 22% cash rebate on a qualified production's expenditures associated with Florida resident wages and services or supplied provided by Florida businesses and vendors (10% on wages only for digital media projects). There are three "queues" with different spending thresholds, limitations, requirements, and rebate percentages depending on the type of production. A 5% bonus is offered for "off-season" production (excluding digital media) and a 2% bonus is available to "family-friendly" production as defined by statute. Productions eligible to apply include motion pictures, television pilots, movies and series, commercials, music videos, independent films, and interactive digital media entertainment.



History of Economic Gardening

Economic Gardening embraces strategies to grow existing 2nd Stage businesses. It is an innovative entrepreneur-centered economic growth strategy that offers balance to the traditional economic practice of business recruitment, often referred to as "economic hunting."

It was pioneered by Chris Gibbons in 1989 in the City of Littleton, Colorado, a community that in the ensuing 15 years saw a 136 percent increase in new jobs. While it was introduced as a demonstration program to deal with the sudden erosion of economic conditions following the relocation of the largest employer in the city at that time, it has emerged as a prototype for a rapidly expanding movement to generate truly sustainable economic growth for communities, regions and states.

The Florida Economic Gardening Institute

FEGI was created by a Special Session of the 2009 Florida Legislature, funding a program of One-on-One Technical Assistance Program for 2nd Stage Growth Companies. The program was funded in November of 2009 to be headquartered at the University of Central Florida's Office of Research & Commercialization in Orlando (the same team that has been nationally recognized for its network of business incubators).

FEGI has established partnerships with Enterprise Florida, Workforce Florida, the Florida High Tech Corridor Council, the Florida Economic Development Council and the Edward Lowe Foundation to identify and qualify 2nd Stage

Immediate Results from GrowFL

In just its first 120 days, the program:

- Engaged more than 200 companies
- Processed more than 100 online applications
- Selected and accepted 35 companies for its technical assistance program
- Deployed an experienced "Jump Start" team of technical assistance professionals
- Began delivering services to its first 25 companies while continuing to add more to the system
- Initiated selection and training of a resident Florida Technical Assistance Team
- Conducted 8 CEO Peer-to-Peer Roundtables in 5 communities statewide
- Provided 12 CEO Forums in 5 communities statewide

Florida Economic Gardening Institute leaders participated in over 20 Economic Gardening events in 8 communities across the state, including regional business and jobs summits.

CEO Testimonials ...

"My main concern as a defense contractor whose primary focus is advanced learning technologies is the budget for R&D. As a firm in 'No Man's Land' I need all the help I can get."

Waymon Armstrong, CEO of Engineering & Computer Simulation, Orlando

"I've got a great team, great story, and great client base. I just need some assistance in getting my company to the next level. I'm open to new ideas and ways of thinking that will help my company – and all of Southwest Florida – prosper."

Jim Cossetta, CEO of 4What Interactive, Naples

"Florikan worked with the Economic Gardening Team to solve 2 difficult and pressing business issues regarding supply chain and strategic marketing decisions. The support and information we received back was superior to that obtained from many consulting firms we worked with in the past. The information and support was provided swiftly and comprehensively. Our organization has benefited tremendously from this work."

Jon Rosenthal, CEO Florikan, Tampa Bay

"From both the CEO round table and the economic gardening program, Blue Orb has grown substantially. When you have folks with companies here in Central Florida able to help you grow your own company that's a huge benefit."

Pete McAlindon, CEO of Blue Orb, Orlando

"I need to look at other channels and strategic partnerships to leverage my sales in 2010. I certainly don't know all the prospective partners that I could leverage. I

What Lies Ahead ...

Aggressive recruiting of 2nd Stage Growth Companies ... there are 5,000 that qualify in Florida. It will require vetting 1,000 to recruit 300 that can be accommodated for the One-on-One Technical Assistance program.

Economists estimate that 40% of Florida's job growth will come from 2nd Stage Growth Companies over the next five years. The GrowFL program has the potential to create 1,500 jobs over the next 18 months based on the preliminary projections supplied by companies enrolled in the program.

Further, it is estimated these companies have the potential to increase sales by \$200 million over the next 18 months based on the preliminary projections supplied by companies enrolled in the program.

Funding GrowFL for the future has the potential for even greater Return-on-Investment by:

1. capitalizing on the existing infrastructure of the program;
2. distributing recruiting responsibilities while maintaining a centralized Technical Assistance Quality Control mechanism at FEGI; and,
3. serving a greater number of 2nd Stage Growth Companies per dollar invested without the need for expanded infrastructure.

March 3, 2010

What States and Cities Are Doing to Help Small Businesses

By ELIZABETH OLSON

While Washington debates how to help the country's struggling small businesses, states and municipalities have stepped up with an array of initiatives to stanch closings and save jobs.

The local approaches are as varied as subsidizing wages for new hires, running a \$100,000 regional business-plan competition and giving out grants to help small manufacturers reposition themselves. Some states and cities are using federal stimulus dollars, and others are mixing federal, state and private dollars.

Here are some examples:

A 100 Percent Hiring Subsidy

San Francisco is using federal stimulus funds to give immediate aid to small-business owners. Its \$25 million program reimburses owners for 100 percent of the wages for certain new hires. So far, restaurants, cafes, delivery services and even law firms have hired nearly 1,800 people through the program, called Jobs Now.

Employers do have to pay for Social Security and unemployment insurance, and the program requires those hired to have been unemployed for 30 days or longer. More than 800 businesses have signed up for the program, and the city is pushing to extend it beyond its September expiration.

At first, said Steven B. Falk, chief executive of the San Francisco Chamber of Commerce, "businesses had to warm up to the idea of turning to the government for hiring. Now, small businesses are telling me this is the motivation that pushed them to hire."

Encouraging Customer Loyalty

A Cleveland-area small-business council is trying to shore up its 17,000 member businesses with a program that encourages consumers to patronize locally owned enterprises instead of big-box chains or Internet sites.

Last year, the Council of Smaller Enterprises began a Web site called "I Buy NEO" — that's Northeast Ohio — where consumers can search for discounts and bargains at participating local businesses. So far, about 300 businesses as diverse as art galleries and home-improvement stores have signed up to offer rebates or discounts. About 11,000 cards, which cost \$10, have been sold. "When a resident buys locally," said Dan Roman, the council's director,

“independent studies have found 68 cents of each dollar stays in the community.” The current average for the region is 43 cents.

There is no charge for small businesses to join, and about two dozen companies have been signing up each month. Even though the program’s \$150,000 budget for marketing, Web development, printing and postage is modest, Mr. Roman says, sales activity tied to the loyalty cards has increased 40 percent over the last six months.

Training for Laid-Off Workers

Last June, the Michigan Small Business and Technology Center began to train laid-off workers to start new ventures.

So far, 527 people have taken the course, which the center offers in partnership with the Ewing Marion Kauffman Foundation. To date, 160 people in the Michigan program have introduced new business ventures, and more than 125 owners of existing businesses have enrolled in separate courses to bolster their chances of surviving. Another 1,000 would-be entrepreneurs are expected to complete the program this year.

The unemployed workers, many laid off from the auto industry, come to the program with an idea for a small business and must search for capital on their own. The program, said a spokeswoman, Jennifer Deamud, “preps the company for a loan and makes connections for the owner.”

Of course, the training is no guarantee of success. Only about half of the enterprises are likely to survive beyond three years, according to the Kauffman Foundation, which has been offering training since March 2009, in New York City, Philadelphia, Kansas, Missouri, Colorado and Minnesota.

When Tracy Pospeshil, 37, of Fenton, Mich., lost his job at an automotive supply company, he enrolled in Michigan’s program and started a new business last spring selling engine-warming heaters for trucks and buses. He says he’s on track to make a mid-five-figure income by this summer.

Helping Small Manufacturers Retool

Connecticut is using state money to set up a matching grants pilot program to help its small manufacturers — many of them in the aerospace industry — aim at the growing medical products market. The state budgeted \$250,000 and is accepting applications for grants of \$5,000 to \$25,000, said Deborah Santy, director of the Connecticut Small Business Innovation and Research Office.

Firms applying must provide at least three years of financial information, be located in Connecticut and be registered as a manufacturing company and keep their manufacturing in the state. Ms. Santy said she had received more than 60 applications for the program so far. Kristen Muschett, chief executive of aerospace test-equipment maker Habco, said

the \$35,000 matching grant was helping her explore the feasibility of manufacturing and marketing a new machine that helps stroke victims and other neurologically impaired patients learn to walk again.

Providing On-Site Financial Expertise

Last year, North Carolina began a \$600,000 pilot program called BizBoost to help the Charlotte area rebound from the big-bank layoffs. The program has provided financial guidance to 158 small businesses, typically with 10 or fewer employees, since last fall.

In January, Gov. Beverly Perdue announced the program would be expanded to the entire state, with \$2.4 million in state and federal funds that will be used to add additional experts, including accountants and managers with small-business experience. The goal is to help small businesses with the nitty-gritty of managing cash flow and lining up financing. "We are helping businesses manage their customer base, restructure their debt and position themselves to grow," said George McAllister, regional director of the North Carolina Small Business and Technology Development Center.

Still, Mr. McAllister conceded, it is hard to measure the program's success. One client, John Meeks, owner of AppleBlossom Insulators, said his insulation business got help from a BizBoost expert who did a financial analysis of his books, developed cash-flow projections, helped him ready his finances to seek an angel investor and helped him produce a 5 percent increase in revenue in a tough year.

Loans and a Business-Plan Competition

In Missouri, Charlie A. Dooley, chief executive of St. Louis County, had heard complaints from owners who could not get bank loans, so he decided to spearhead a new small-business loan program called Boost. The program is administered by the St. Louis County Economic Council and uses county funds and a \$5 million line of credit from PNC Bank, a Pittsburgh-based financial institution that had recently bought a St. Louis bank.

The program is aimed at owners who want to purchase land, machinery, equipment or buildings but do not have adequate income or net worth to qualify for conventional bank loans. The maximum loan is \$500,000, and in the few weeks since Boost was announced, Mr. Dooley said, more than 100 owners have applied.

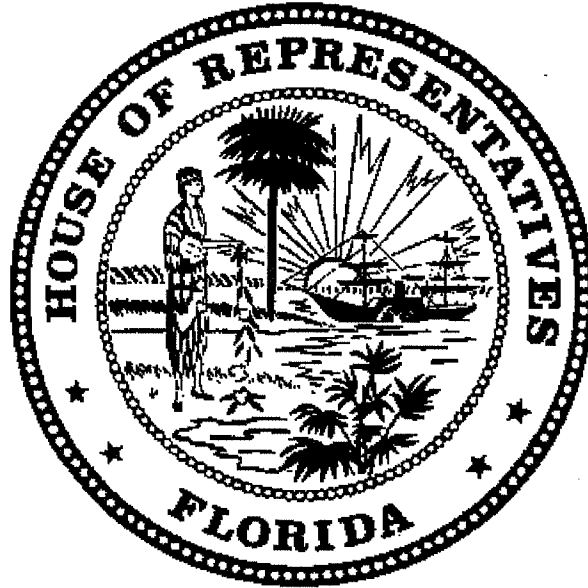
The county also started a business-plan competition featuring \$100,000 in cash prizes and in-kind professional services. The competition, with money provided by the St. Louis-based financial services firm, Edward Jones, will announce its winners in June. So far, it has received applications from more than two dozen hopefuls, including would-be microbrewers and laid-off scientists.

Helping Businesses Expand

Last year, Florida introduced a state-financed program to help businesses keep their employees by expanding their customer base. The GrowFL program helps established companies identify new markets, research industry developments and maximize their use of social media. The program has a team of business analysts whose assistance is free to companies with at least \$1 million in annual sales and 10 or more employees.

So far, the program, operated by the Florida Economic Gardening Institute, has enrolled 13 companies, including a Jacksonville industrial pump manufacturer that is trying to locate new customers after sales declines forced it to lay off workers. Another 72 established companies are in the pipeline for help. Gov. Charlie Crist has asked the legislature to add \$3 million to the program's \$1.5 million budget.

Other areas, including Portland, Ore., have started similar programs.



ECONOMIC DEVELOPMENT & COMMUNITY AFFAIRS POLICY COUNCIL

Amendment Packet

**Wednesday, March 10, 2010
10:45 A.M. – 12:00 P.M.
404 HOB**

LARRY CRETUL
Speaker

DAVE MURZIN
Chair

COUNCIL/COMMITTEE AMENDMENT
Bill No. CS/HB 131 (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: Economic Development &
2 Community Affairs Policy Council
3 Representative Hooper offered the following:

4

5 **Amendment**

6 Remove line 220 and insert:

7 Section 7. 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 _____

1 Council/Committee hearing bill: Economic Development &
2 Community Affairs Policy Council
3 Representative(s) Dorworth offered the following:
4

5 **Amendment**

6 Remove lines 433-450 and insert:

7
8 the electors residing in Seminole County who are qualified to
9 vote in such election shall participate. Whenever the authority
10 by resolution requests the Board of County Commissioners of
11 Seminole County to hold such an election, said board may on
12 behalf of the authority, hold, conduct, canvass, and announce
13 the results of such election in accordance with the procedure
14 prescribed by law for the issuance of county bonds. The expenses
15 of such election shall be paid by the authority. In no event
16 shall such general obligation bonds be construed or considered
17 to be bonds of the County of Seminole but shall be solely bonds
18 of said authority. If the resolution of the authority requests
19 said board of county commissioners as a prerequisite to holding

COUNCIL/COMMITTEE AMENDMENT

Bill No. CS/HB 423 (2010)

Amendment No. 1

20 such bond election to provide for a special registration of
21 electors who shall be qualified to participate in such election,
22 the board of county commissioners may provide for such special
23 registration of qualified electors who are electors in Seminole
24 County in the same manner provided by law for the special
25 registration of electors in county bond elections.

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: Economic Development &
2 Community Affairs Policy Council
3 Representative(s) Dorworth offered the following:
4

5 **Amendment**

6 Remove lines 691-707 and insert:
7

8 Section 11. Records.—The authority shall keep accurate and
9 sufficiently detailed financial records, and follow uniform
10 accounting and financial practices, pursuant to sections 11.47
11 and 218.33, Florida Statutes. Minutes shall be kept of each
12 meeting of the authority pursuant to section 286.011, Florida
13 Statutes. All records of the authority shall be open for public
14 inspection pursuant to chapter 119, Florida Statutes.

15 Section 12. Audits.— The records shall be audited in
16 accordance with section 218.39, Florida Statutes.

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: Economic Development &
2 Community Affairs Policy Council
3 Representative McKeel offered the following:

4
5
6
7
8

Amendment

Remove line 983 and insert:
the chair and treasurer, the treasurer under s. 106.0703, or the
leader and treasurer under s.