



ECONOMIC AFFAIRS COMMITTEE

MEETING PACKET

Thursday, February 16, 2012

11:30 a.m.

Reed Hall (102 HOB)

REVISED

**Dean Cannon
Speaker**

**Dorothy L. Hukill
Chair**



The Florida House of Representatives

Economic Affairs Committee

Dorothy L. Hukill, Chair

AGENDA

Thursday, February 16, 2012

Reed Hall (102 HOB)

11:30 am

- I. CALL TO ORDER AND WELCOME REMARKS
- II. CONSIDERATION OF THE FOLLOWING BILL(S):
 - CS/HB 409 ALIEN INSURERS BY INSURANCE & BANKING SUBCOMMITTEE, HOOPER
 - CS/CS/HB 505 MORTGAGES BY CIVIL JUSTICE SUBCOMMITTEE, INSURANCE & BANKING SUBCOMMITTEE, BERNARD
 - CS/HB 593 NORTH ST. LUCIE RIVER WATER CONTROL DISTRICT, ST. LUCIE COUNTY BY COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE, MAYFIELD
 - CS/HB 619 FORT PIERCE FARMS WATER CONTROL DISTRICT, ST. LUCIE COUNTY BY COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE, MAYFIELD
 - CS/CS/HB 1001 TIMESHARES BY JUDICIARY COMMITTEE, BUSINESS & CONSUMER AFFAIRS SUBCOMMITTEE, EISNAUGLE
 - HJR 1003 TANGIBLE PERSONAL PROPERTY TAX EXEMPTIONS BY EISNAUGLE
 - CS/HB 1005 TANGIBLE PERSONAL PROPERTY TAXATION BY FINANCE & TAX COMMITTEE, EISNAUGLE
 - CS/CS/HB 1011 WARRANTY ASSOCIATIONS BY GOVERNMENT OPERATIONS APPROPRIATIONS SUBCOMMITTEE, INSURANCE & BANKING SUBCOMMITTEE, ABRUZZO
 - CS/HB 1065 ANNUITIES BY INSURANCE & BANKING SUBCOMMITTEE, BROXSON
 - HB 1183 EAST COUNTY WATER CONTROL DISTRICT, LEE AND HENDRY COUNTIES BY KREGEL
 - CS/HB 1277 MONEY SERVICES BUSINESSES BY INSURANCE & BANKING SUBCOMMITTEE, DAVIS
 - HB 1297 CITY OF DANIA BEACH, BROWARD COUNTY BY JENNE
 - HB 1483 ALACHUA COUNTY BY CHESTNUT

HB 7039 TRANSPORTATION FACILITY DESIGNATIONS BY TRANSPORTATION & HIGHWAY SAFETY SUBCOMMITTEE, DRAKE

CS/HB 7065 PUB. REC./PERSONAL IDENTIFYING INFORMATION/TOLL FACILITIES BY STATE AFFAIRS COMMITTEE, TRANSPORTATION & HIGHWAY SAFETY SUBCOMMITTEE, DRAKE

HB 7075 MILITARY INSTALLATIONS BY COMMUNITY & MILITARY AFFAIRS SUBCOMMITTEE, WORKMAN

HB 7113 ADDITIONAL AD VALOREM TAX EXEMPTION FOR DEPLOYED SERVICEMEMBERS BY FINANCE & TAX COMMITTEE, PRECOURT

HB 7119 EARLY LEARNING PROGRAMS BY BUSINESS & CONSUMER AFFAIRS SUBCOMMITTEE, AHERN

III. CONSIDERATION OF THE FOLLOWING PROPOSED COMMITTEE BILL(S):

PCB EAC 12-04 -- EXEMPTIONS FROM LOCAL BUSINESS TAXES

IV. CONSIDERATION OF THE FOLLOWING PROPOSED COMMITTEE SUBSTITUTE(S):

PCS FOR HB 7043 -- OBSOLETE OR OUTDATED PROGRAMS AND REQUIREMENTS

PCS FOR HB 1373 -- COMMEMORATION OF THE 40TH ANNIVERSARY OF THE END OF THE UNITED STATES' INVOLVEMENT IN THE VIETNAM WAR

V. ADJOURNMENT

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 409 Alien Insurers
SPONSOR(S): Insurance & Banking Subcommittee and Hooper
TIED BILLS: IDEN./SIM. **BILLS:** CS/SB 1844

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Cooper	Cooper
2) Economic Affairs Committee		Cooper <i>MC</i>	Tinker <i>TST</i>

SUMMARY ANALYSIS

The Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities authorized under the Florida Insurance Code. Regulatory oversight includes licensure, approval of rates and policy forms, market conduct and financial exams, solvency oversight, administrative supervision, and licensure of viatical settlement and premium finance companies, as provided in the Florida Insurance Code or ch. 636, F.S. The Florida Insurance Code contains provisions designed to prevent insurers from becoming insolvent and to protect policyholders. These provisions include minimum capital and surplus requirements and financial reporting requirements. Florida law requires that insurers and other risk-bearing entities obtain a certificate of authority (COA) prior to engaging in insurance transactions unless specifically exempted.

Current law provides an exemption from the requirement to obtain a COA for any insurer domiciled outside of the U.S. and covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S. A "nonresident" is defined as a person who resides in and maintains a physical place of domicile in a country other than the U.S., and which (s)he intends to maintain as her or his permanent home.

The law further specifies that the insurer or any affiliated person under common ownership or control with the insurer may not solicit, sell, or accept application for any insurance policy or contract for issue or delivery to any U.S. resident. For purposes of this exemption, a U.S. resident is a person who has:

- Had her or his principal place of domicile in the United States for 180 days or more in the 365 days prior to issuance or renewal of the policy;
- Registered to vote in any state;
- Made a statement of domicile in any state; or,
- Filed for homestead tax exemption on property in any state.

To also be eligible for the exemption, the insurer must register with the OIR and provide certain relevant information to the OIR on an annual basis. The law further requires that the exempt insurer include a disclosure on all certificates issued in Florida reflecting that the policy has not been approved by the OIR.

The bill makes three primary changes to existing law. First, it deletes the reference to affiliated persons from the restriction on insurers soliciting or selling policies, or accepting applications. Thus, an insurer who has an affiliate will not be disqualified from obtaining an exemption. Second, the bill modifies the definition of nonresident to include a trust or other entity organized and domiciled under the laws of a country other than the United States. Third, the bill creates an exemption from the COA requirements for an alien insurer issuing life insurance or annuity contracts covering only persons who are not residents of the U.S., if the insurer meets specified requirements.

The bill does not have a fiscal impact on state or local government. It may have a positive, yet indeterminate, fiscal impact on the private sector.

The bill takes effect upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0409b.EAC.DOCX

DATE: 2/14/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The Office of Insurance Regulation (OIR) is responsible for all activities concerning insurers and other risk bearing entities authorized under the Florida Insurance Code.¹ Regulatory oversight includes licensure, approval of rates and policy forms, market conduct and financial exams, solvency oversight, administrative supervision, and licensure of viatical settlement and premium finance companies, as provided in the Florida Insurance Code or ch. 636, F.S.² The OIR's Life and Health Financial Oversight unit monitors financial conditions through the use of internal financial analysis and on-site examinations.³ Periodic financial report submission is part of the monitoring process. The Florida Insurance Code contains provisions designed to prevent insurers from becoming insolvent and to protect policyholders. These provisions include minimum capital and surplus requirements⁴ and financial reporting requirements.⁵ Florida law requires that insurers and other risk-bearing entities obtain a certificate of authority (COA) prior to engaging in insurance transactions^{6,7} unless specifically exempted.⁸

Current law provides an exemption from the requirement to obtain a COA for any insurer domiciled outside of the U.S. and covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S.⁹ A "nonresident" is defined as a person who resides in and maintains a physical place of domicile in a country other than the U.S., and which (s)he intends to maintain as her or his permanent home.

The law requires that the exempt insurer include a disclosure on all certificates issued in Florida reflecting that the policy has not been approved by the OIR. The insurer or any affiliated person under common ownership or control with the insurer may not solicit, sell, or accept application for any insurance policy or contract for issue or delivery to any U.S. resident. For purposes of this subsection of statute, a U.S. resident is a person who has:

- Had her or his principal place of domicile in the United States for 180 days or more in the 365 days prior to issuance or renewal of the policy;
- Registered to vote in any state;
- Made a statement of domicile in any state; or,
- Filed for homestead tax exemption on property in any state.

Other exemption eligibility provisions require the insurer to:

- Register with the OIR.
- Provide the following information to the OIR on annual basis:
 - Names of the owners, officers and directors and number of employees.
 - Lines of insurance and types of products offered.
 - A statement from the applicable regulatory body of the insurer's domicile certifying that the insurer is licensed or registered in that domicile.
 - A copy of filings required by the insurer's domicile.

¹ Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the "Florida Insurance Code".

² s. 20.121(3)(a)2., F.S.

³ http://www.floir.com/lh/oir_LHFO_index.aspx

⁴ s. 624.4095, F.S.

⁵ s. 624.424, F.S.

⁶ s. 624.10, F.S.

⁷ s. 624.401, F.S.

⁸ s. 624.402, F.S.

⁹ s. 624.402(8), F.S.

The bill makes three primary changes to existing law. First, it deletes the reference to affiliated persons from the restriction on insurers soliciting or selling policies, or accepting applications. Thus, an insurer who has an affiliate will not be disqualified from obtaining an exemption. Second, the bill modifies the definition of nonresident to include a trust or other entity organized and domiciled under the laws of a country other than the United States. The bill also creates an exemption from the COA requirements for an alien insurer issuing life insurance or annuity contracts covering only persons who are not residents of the U.S., if the insurer meets the following requirements¹⁰:

- The insurer is an authorized insurer in its domiciliary country in the kinds of insurance proposed to be offered in this state; and:
 - Has been an insurer for at least the last 3 consecutive years; or
 - Is the wholly owned subsidiary of an authorized insurer; or is the wholly owned subsidiary of an already eligible authorized insurer as to the kind of insurance proposed to be issued in this state for a period of not less than the immediately preceding 3 years.
- Prior to the OIR granting eligibility to an alien insurer to issue policies and contracts in Florida, the insurer is required to meet the following requirements:
 - Submit a copy of its annual financial statement to the OIR in English and with all monetary values expressed in U.S. dollars.
 - Maintain a surplus of at least \$15 million in eligible investments for like funds of like domestic insurers or by investments permitted by the domiciliary regulator, if such investments are substantially similar in terms of quality, liquidity, and security to eligible investments for like funds of domestic insurers under part II of ch. 625, F.S.
 - Have a good reputation for providing service and paying claims.
 - Furnish to the OIR with annual and quarterly financial statements.
 - Allow access to the insurer's books and records pertaining to its operations in Florida, at the request of the OIR.
 - Provide certain disclosures to policy or contract applicants, such as the date the insurer was organized; the identity and rating assigned by each rating organization that has rated the insurer; the insurer does not hold a COA; the OIR does not exercise regulatory oversight over the insurer; the policy or contract is not covered by a guaranty association, and the identity and address of the regulatory authority exercising oversight of the insurer.

The OIR may waive the 3-year operating requirement if the insurer has "operated successfully" for at least one year prior and has a surplus of at least \$25 million. The bill also provides that these provisions do not impose upon the OIR any duty or responsibility to determine the actual financial condition or claims practices of an unauthorized insurer, and the status of eligibility, if granted, indicates only that the insurer appears to be financially sound and that the OIR has no credible evidence to the contrary. The bill provides that if the OIR has reason to believe that such an insurer is insolvent or is in unsound financial condition, or is no longer eligible to issue policies or contracts subject to the conditions of this subsection, the OIR may conduct an investigation or examination and may withdraw eligibility of the insurer.

The definition of nonresident is provided by a cross-reference to s. 624.402(8), F.S.

Eligible insurers issuing policies or contracts pursuant to this subsection are subject to part IX of ch. 626, F.S., and the OIR may take action against such insurers for violations of the Unfair Trade Practices Act. Insurers violating provisions of this new subsection are also subject to the penalties provided in ss. 624.15 and 626.910, F.S., relating to general penalties and penalties for unauthorized insurers.

All single-premium life insurance policies and single-premium annuity contracts issued to persons who are not residents of the United States and are not nonresidents illegally residing in the United States are subject to ch. 896, F.S., offenses related to financial transactions.

¹⁰ In 2011, the Legislature repealed this exemption when it created the current law for alien insurers, ch. 2011-174, L.O.F.

The bill does not create an exception to the agent licensure requirements of ch. 626, F.S. An insurer issuing policies or contracts are required to appoint the agents the insurer uses to sell such policies or contracts as provided in ch. 626, F.S.

Policies and contracts issued pursuant to this subsection are not subject to the premium tax specified in s. 624.509, F.S., reflecting current practice for exempt entities.

B. SECTION DIRECTORY:

Section 1: Amends s. 624.402(8)(a), F.S., relating to exceptions, certificate of authority required.

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

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Expanding the current exemption from the COA requirement for insurers domiciled outside of the U.S. and covering only persons who, at the time of issuance or renewal, are nonresidents of the U.S. may further allow for a variety of insurance offerings. Nonresidents, in their domicile outside the U.S., may be able to purchase more health, life, property and casualty, supplemental, and other types of insurance coverage for the time they are in Florida, and for their property in the state. More nonresidents may also visit Florida to avail themselves of services covered under the policy or contract. Hence, revenue from tourism may increase.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have

to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2012, the Insurance & Banking Subcommittee adopted a strike-all amendment to HB 409.

The amendment replaced the language of the originally filed bill with the following:

- It deleted the reference to affiliated persons from the restriction on insurers soliciting or selling policies, or accepting applications.
- It modified the definition of nonresident to include a trust or other entity organized and domiciled under the laws of a country other than the United States.
- It restored (with minor revisions) the provisions relating to COA exemptions for life insurers and annuity providers that were repealed last year.
- It provided an effective date of becoming a law, instead of July 1, 2012.

The bill analysis has been updated to reflect changes made by the strike-all amendment.

1 A bill to be entitled

2 An act relating to alien insurers; amending s.
3 624.402, F.S.; revising a provision exempting alien
4 insurers from being required to obtain a certificate
5 of authority; deleting insurer's ownership of or
6 control over affiliated persons as disqualification
7 for exemptions; revising the definition of the term
8 "nonresident"; exempting alien life or annuity
9 insurers from obtaining a certificate of authority
10 based upon certain requirements; establishing
11 conditions; providing requirements to maintain
12 exemptions; authorizing the Office of Insurance
13 Regulation to conduct examinations or investigations;
14 providing application and enforcement authority with
15 respect to pt. IX of ch. 626, relating to unfair
16 insurance trade practices; exempting eligible insurers
17 from payment of premium taxes; requiring that certain
18 applications for a life insurance policy or annuity
19 contract contain specified statements; providing for
20 violations and penalties; providing an effective date.
21

22 Be It Enacted by the Legislature of the State of Florida:
23

24 Section 1. Subsection (8) of section 624.402, Florida
25 Statutes, is amended, and subsection (9) is added to that
26 section, to read:

27 624.402 Exceptions, certificate of authority required.—A
28 certificate of authority shall not be required of an insurer

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29 with respect to:

30 (8) (a) An insurer domiciled outside the United States
 31 covering only persons who, at the time of issuance ~~or renewal~~,
 32 are nonresidents of the United States if:

33 1. The insurer ~~or any affiliated person as defined in s.~~
 34 ~~624.04 under common ownership or control with the insurer~~ does
 35 not solicit, sell, or accept application for any insurance
 36 policy or contract to be delivered or issued for delivery to any
 37 person in any state;

38 2. The insurer registers with the office via a letter of
 39 notification upon commencing business from this state;

40 3. The insurer provides the following information, in
 41 English, to the office annually by March 1:

42 a. The name of the insurer; the country of domicile; the
 43 address of the insurer's principal office and office in this
 44 state; the names of the owners of the insurer and their
 45 percentage of ownership; the names of the officers and directors
 46 of the insurer; the name, e-mail, and telephone number of a
 47 contact person for the insurer; and the number of individuals
 48 who are employed by the insurer or its affiliates in this state;

49 b. The lines of insurance and types of products offered by
 50 the insurer;

51 c. A statement from the applicable regulatory body of the
 52 insurer's domicile certifying that the insurer is licensed or
 53 registered for those lines of insurance and types of products in
 54 that domicile; and

55 d. A copy of the filings required by the applicable
 56 regulatory body of the insurer's country of domicile in that

57 | country's official language or in English, if available;

58 | 4. All certificates, policies, or contracts issued in this
 59 | state showing coverage under the insurer's policy include the
 60 | following statement in a contrasting color and at least 10-point
 61 | type: "The policy providing your coverage and the insurer
 62 | providing this policy have not been approved by the Florida
 63 | Office of Insurance Regulation"; and

64 | 5. In the event the insurer ceases to do business from
 65 | this state, the insurer will provide written notification to the
 66 | office within 30 days after cessation.

67 | (b) For purposes of this subsection, "nonresident" means
 68 | either a trust or other entity organized and domiciled under the
 69 | laws of a country other than the United States or a person who
 70 | resides in and maintains a physical place of domicile in a
 71 | country other than the United States, which he or she recognizes
 72 | as and intends to maintain as his or her permanent home. A
 73 | nonresident does not include an unauthorized immigrant present
 74 | in the United States. Notwithstanding any other provision of
 75 | law, it is conclusively presumed, for purposes of this
 76 | subsection, that a person is a resident of the United States if
 77 | such person has:

78 | 1. Had his or her principal place of domicile in the
 79 | United States for 180 days or more in the 365 days prior to
 80 | issuance or renewal of the policy;

81 | 2. Registered to vote in any state;

82 | 3. Made a statement of domicile in any state; or

83 | 4. Filed for homestead tax exemption on property in any
 84 | state.

85 (c) Subject to the limitations provided in this
 86 subsection, services, including those listed in s. 624.10, may
 87 be provided by the insurer or an affiliated person as defined in
 88 s. 624.04 under common ownership or control with the insurer.

89 (d) An alien insurer transacting insurance in this state
 90 without complying with this subsection shall be in violation of
 91 this chapter and subject to the penalties provided in s. 624.15.

92 (9) (a) Life insurance policies or annuity contracts
 93 solicited, sold, or issued in this state by an insurer domiciled
 94 outside the United States, covering only persons who, at the
 95 time of issuance, are nonresidents of the United States,
 96 provided:

97 1. The insurer must currently be an authorized insurer in
 98 its country of domicile as to the kind or kinds of insurance
 99 proposed to be offered and must have been such an insurer for
 100 not fewer than the immediately preceding 3 years, or must be the
 101 wholly owned subsidiary of such authorized insurer, or must be
 102 the wholly owned subsidiary of an already eligible authorized
 103 insurer as to the kind or kinds of insurance proposed for a
 104 period of not fewer than the immediately preceding 3 years.
 105 However, the office may waive the 3-year requirement if the
 106 insurer has operated successfully for a period of at least the
 107 immediately preceding year and has capital and surplus of not
 108 less than \$25 million.

109 2. Before the office may grant eligibility, the requesting
 110 insurer shall furnish the office with a duly authenticated copy
 111 of its current annual financial statement, in English, and with
 112 all monetary values therein expressed in United States dollars,

113 at an exchange rate then current and shown in the statement, in
 114 the case of statements originally made in the currencies of
 115 other countries, and with such additional information relative
 116 to the insurer as the office may request.

117 3. The insurer must have and maintain surplus as to
 118 policyholders of not less than \$15 million. Any such surplus as
 119 to policyholders shall be represented by investments consisting
 120 of eligible investments for like funds of like domestic insurers
 121 under part II of chapter 625; however, any such surplus as to
 122 policyholders may be represented by investments permitted by the
 123 domestic regulator of such alien insurance company if the
 124 investments are substantially similar in terms of quality,
 125 liquidity, and security to eligible investments for like funds
 126 of like domestic insurers under part II of chapter 625.

127 4. The insurer must be of good reputation as to the
 128 providing of service to its policyholders and the payment of
 129 losses and claims.

130 5. To maintain eligibility, the insurer shall furnish the
 131 office within the time period specified in s. 624.424(1)(a) a
 132 duly authenticated copy of its current annual and quarterly
 133 financial statements, in English, and with all monetary values
 134 therein expressed in United States dollars, at an exchange rate
 135 then current and shown in the statement, in the case of
 136 statements originally made in the currencies of other countries,
 137 and with such additional information relative to the insurer as
 138 the office may request.

139 6. An insurer receiving eligibility under this subsection
 140 shall agree to make its books and records pertaining to its

141 operations in this state available for inspection during normal
 142 business hours at the request of the office.

143 7. The insurer shall notify the applicant in clear and
 144 conspicuous language:

145 a. The date of organization of the insurer.

146 b. The identity of and rating assigned by each recognized
 147 insurance company rating organization that has rated the insurer
 148 or, if applicable, that the insurer is unrated.

149 c. That the insurer does not hold a certificate of
 150 authority issued in this state and that the office does not
 151 exercise regulatory oversight over the insurer.

152 d. The identity and address of the regulatory authority
 153 exercising oversight of the insurer.

154
 155 This paragraph does not impose upon the office any duty or
 156 responsibility to determine the actual financial condition or
 157 claims practices of an unauthorized insurer, and the status of
 158 eligibility, if granted by the office, indicates only that the
 159 insurer appears to be financially sound and to have satisfactory
 160 claims practices and that the office has no credible evidence to
 161 the contrary.

162 (b) If at any time the office has reason to believe that
 163 an insurer issuing policies or contracts pursuant to this
 164 subsection is insolvent or is in unsound financial condition,
 165 does not make reasonably prompt payment of benefits, or is no
 166 longer eligible under the conditions specified in this
 167 subsection, the office may conduct an examination or
 168 investigation in accordance with s. 624.316, s. 624.3161, or s.

169 624.320 and, if the findings of such examination or
 170 investigation warrant, may withdraw the eligibility of the
 171 insurer to issue policies or contracts pursuant to this
 172 subsection without having a certificate of authority issued by
 173 the office.

174 (c) This subsection does not provide an exception to the
 175 agent licensure requirements of chapter 626. Any insurer issuing
 176 policies or contracts pursuant to this subsection shall appoint
 177 the agents that the insurer uses to sell such policies or
 178 contracts as provided in chapter 626.

179 (d) An insurer issuing policies or contracts pursuant to
 180 this subsection is subject to part IX of chapter 626, and the
 181 office may take such actions against the insurer for a violation
 182 as are provided in that part.

183 (e) Policies and contracts issued pursuant to this
 184 subsection are not subject to the premium tax specified in s.
 185 624.509.

186 (f) Applications for life insurance coverage offered under
 187 this subsection must contain, in contrasting color and not less
 188 than 12-point type, the following statement on the same page as
 189 the applicant's signature:

191 This policy is primarily governed by the laws of a
 192 foreign country. As a result, all of the rating and
 193 underwriting laws applicable to policies filed in this
 194 state do not apply to this coverage, which may result
 195 in your premiums being higher than would be
 196 permissible under a Florida-approved policy. Any

197 purchase of individual life insurance should be
 198 considered carefully, as future medical conditions may
 199 make it impossible to qualify for another individual
 200 life policy. If the insurer issuing your policy
 201 becomes insolvent, this policy is not covered by the
 202 Florida Life and Health Insurance Guaranty
 203 Association. For information concerning individual
 204 life coverage under a Florida-approved policy, consult
 205 your agent or the Florida Department of Financial
 206 Services.

207
 208 (g) All life insurance policies and annuity contracts
 209 issued pursuant to this subsection must contain on the first
 210 page of the policy or contract, in contrasting color and not
 211 less than 10-point type, the following statement:

212
 213 The benefits of the policy providing your coverage are
 214 governed primarily by the law of a country other than
 215 the United States.

216
 217 (h) All single-premium life insurance policies and single-
 218 premium annuity contracts issued to persons who are not
 219 residents of the United States and are not nonresidents
 220 illegally residing in the United States pursuant to this
 221 subsection shall be subject to the provisions chapter 896.

222 (i) For purposes of this subsection, "nonresident" means a
 223 trust or other entity or person as defined in paragraph (8) (b).

224 (j) An alien insurer transacting insurance in this state

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225 | without complying with this subsection shall be in violation of
226 | this chapter and subject to the penalties provided in s. 624.15.
227 | Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 505 Mortgages

SPONSOR(S): Civil Justice Subcommittee and Insurance & Banking Subcommittee, Bernard

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	15 Y, 0 N, As CS	Gault	Cooper
2) Civil Justice Subcommittee	14 Y, 0 N, As CS	Cary	Bond
3) Economic Affairs Committee		Gault <i>d.g.</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

A mortgagor may request and receive, within 14 days, information about the loan from the mortgagee. The bill allows a record title owner of the property, or any person lawfully authorized to act on behalf of the mortgagor or record title owner of the property, to also request and receive this information.

To receive information about the mortgage, the bill requires a record title owner of the property, or any person lawfully authorized to act on behalf of the mortgagor or record title owner of the property, to provide an instrument proving title or lawful authorization. The mortgagee must then provide the total unpaid balance on a per-day basis, but may also include additional information.

The bill provides that a mortgagee may release the mortgage information notwithstanding a confidentiality statute and that the mortgagee is discharged from liability as a result of a release of information in accordance with this bill.

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

The bill becomes effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Cancellation of Mortgages

Current law specifically allows the person who takes out a mortgage (the mortgagor) to request and receive from the holder of the mortgage (the mortgagee), within 14 days of the request, an estoppel letter setting forth the unpaid balance of the loan secured by the mortgage.¹ Generally, only the mortgagor is able to request and receive this information from the mortgagee.²

This bill amends s. 701.04, F.S., to extend the right to request and receive information on the unpaid balance to a record title owner of the property or any person lawfully authorized³ to act on behalf of the mortgagor or record title owner of the property.

As with current law, the bill requires the estoppel letter requested by the mortgagor to contain the principal, interest, and any other charges properly due under or secured by the mortgage and interest on a per-day basis for the unpaid balance. The bill differs, however, because it adds requirements specific to a request from a record title owner of the property or any person lawfully authorized to act on behalf of the mortgagor or record title owner of the property. A record title owner of the property, or any person lawfully authorized to act on behalf of the mortgagor or record title owner of the property, must provide an instrument with the request that proves the title or legal authorization. The mortgagee's returned document may contain all of the information provided to the mortgagor, but must at least contain the total unpaid balance on a per-day basis.

Privacy Laws

Under current law, if the mortgagee is a financial institution,⁴ the mortgagee may violate privacy laws and face penalties by releasing the mortgagor's mortgage information. The books and records of a financial institution are confidential and shall be made available for inspection and examination only in specifically enumerated circumstances or by specifically listed individuals or entities.⁵ The bill provides that the mortgage holder may provide the information required by this bill notwithstanding the confidentiality statute. This bill also provides that the mortgagee or servicer is expressly discharged from any obligation or liability to any person on account of the release of the requested information, other than the obligation to comply with the terms of the estoppel letter.

B. SECTION DIRECTORY:

Section 1. Amends s. 701.04, F.S., relating to cancellation of mortgages, liens, and judgments.

Section 2. Provides that the act will become effective upon becoming a law.

¹ Section 701.04, F.S.

² Access to a financial institution's books, for persons other than the mortgagor, is appropriate under certain circumstances under s. 655.059, F.S.

³ For example, in the administration of an estate, the personal representative could be someone legally authorized to act on behalf of the mortgagor or record title owner of the property.

⁴ Section 655.005(1)(i), F.S., defines "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust company representative office, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.

⁵ Section 655.059, F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have any direct economic impact on the private sector.

D. FISCAL COMMENTS:

Mortgagees may have to increase their time and costs to accommodate additional requests, though the number and cost of any additional requests as a result of the bill is indeterminate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenues in the aggregate, nor reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill both *requires* mortgagees to provide all mortgage information to an individual authorized by the mortgagor and *allows* mortgagees to limit the amount of mortgage information provided to an individual authorized by the mortgagor.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2012, the Insurance & Banking Subcommittee unanimously adopted one strike-all amendment to HB 505. The strike-all made the following changes:

- Removed the phrase “owner of an interest in property encumbered by a mortgage” and replaced it with the phrase “record title owner of the property or any person lawfully authorized to act on behalf of a mortgagor or record title owner of the property.” To account for this change, some technical changes were made as well.
- Added a section relieving financial institutions of liability for releasing certain mortgage information to the record title owner of the property or any person lawfully authorized to act on behalf of a mortgagor or record titled owner of the property.

On January 31, 2012, the Civil Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. This amendment provides that the mortgage holder may provide the information requested notwithstanding the confidentiality statute applicable to banks and provides that the mortgagee or servicer acting in accordance with such a request is expressly discharged from any obligation or liability to any person on account of the release of the requested information, other than the obligation to comply with the estoppel letter. This analysis is drafted to the committee substitute as passed by the Civil Justice Subcommittee.

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A bill to be entitled
 An act relating to mortgages; amending s. 701.04,
 F.S.; requiring a mortgage holder to provide certain
 information within a specified time relating to the
 unpaid loan balance due under a mortgage if a
 mortgagor, a record title owner of the property, or
 any person lawfully authorized to act on behalf of a
 mortgagor or record title owner of the property makes
 a written request under certain circumstances;
 allowing financial institutions to release certain
 mortgagor information to specified persons without
 penalty; providing an effective date.

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

Section 1. Section 701.04, Florida Statutes, is amended to
 read:

701.04 Cancellation of mortgages, liens, and judgments.—
 (1) Within 14 days after receipt of the written request of
 a mortgagor, a record title owner of the property, or any person
lawfully authorized to act on behalf of a mortgagor or record
title owner of the property, the holder of a mortgage shall
 deliver or cause the servicer of the mortgage to deliver to the
person making the request ~~mortgagor~~ at a place designated in the
 written request an estoppel letter setting forth the unpaid
 balance of the loan secured by the mortgage.7
(a) If the mortgagor, or any person lawfully authorized to
act on behalf of the mortgagor, makes the request, the estoppel

29 letter must include an itemization of the ~~including~~ principal,
 30 interest, and any other charges properly due under or secured by
 31 the mortgage and interest on a per-day basis for the unpaid
 32 balance.

33 (b) If a record title owner of the property, or any person
 34 lawfully authorized to act on behalf of a mortgagor or record
 35 title owner of the property, makes the request:

36 1. The request must include a copy of the instrument
 37 showing title in the property or lawful authorization.

38 2. The estoppel letter may include the itemization of
 39 information required under paragraph (a), but must at a minimum
 40 include the total unpaid balance due under or secured by the
 41 mortgage on a per-day basis.

42 3. The mortgagee or servicer of the mortgagee acting in
 43 accordance with a request in substantial compliance with this
 44 paragraph is expressly discharged from any obligation or
 45 liability to any person on account of the release of the
 46 requested information, other than the obligation to comply with
 47 the terms of the estoppel letter.

48 (c) A mortgage holder may provide the financial
 49 information required under this subsection to a person
 50 authorized under this subsection to request the financial
 51 information notwithstanding s. 655.059.

52 (2) Whenever the amount of money due on any mortgage,
 53 lien, or judgment has been ~~shall be~~ fully paid to the person or
 54 party entitled to the payment thereof, the mortgagee, creditor,
 55 or assignee, or the attorney of record in the case of a
 56 judgment, to whom the ~~such~~ payment was ~~shall have been~~ made,

57 shall execute in writing an instrument acknowledging
 58 satisfaction of the ~~said~~ mortgage, lien, or judgment and have
 59 the instrument ~~same~~ acknowledged, or proven, and duly entered ~~of~~
 60 ~~record in the book provided by law for such purposes in the~~
 61 official records of the proper county. Within 60 days after ~~of~~
 62 the date of receipt of the full payment of the mortgage, lien,
 63 or judgment, the person required to acknowledge satisfaction of
 64 the mortgage, lien, or judgment shall send or cause to be sent
 65 the recorded satisfaction to the person who has made the full
 66 payment. In the case of a civil action arising out of ~~the~~
 67 ~~provisions of~~ this section, the prevailing party is ~~shall be~~
 68 entitled to attorney ~~attorney's~~ fees and costs.

69 (3) ~~(2)~~ Whenever a writ of execution has been issued,
 70 docketed, and indexed with a sheriff and the judgment upon which
 71 it was issued has been fully paid, it is ~~shall be~~ the
 72 responsibility of the party receiving payment to request, in
 73 writing, addressed to the sheriff, return of the writ of
 74 execution as fully satisfied.

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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 593 North St. Lucie River Water Control District, St. Lucie County
SPONSOR(S): Community & Military Affairs Subcommittee; Mayfield
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	12 Y, 0 N, As CS	Read	Hoagland
2) Economic Affairs Committee		Read (LR)	Tinker JBT

SUMMARY ANALYSIS

The North St. Lucie River Water Control District ("NSLRWCD" or "the District") is an independent special district in St. Lucie County that is responsible for flood control and protection, water management, and reclamation of lands for approximately 65,000 acres. The District was created by judicial decree in 1918 and was given a corporate lifespan of ninety-nine years.

This bill extends the corporate lifespan of the NSLRWCD another ninety-nine years, to December 31, 2111. This will prevent St. Lucie County from having to take over the District's responsibilities if it was to expire.

The bill is expected to have no financial impact.

The bill has an effective date of upon becoming law, but includes a sunset provision that will repeal the extension if a bill is not filed by the first day of the 2013 Regular Legislative Session to codify the District's charter.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

North St. Lucie River Water Control District (“NSLRWCD” or “the District”) is an independent special district in St. Lucie County that is responsible for the drainage infrastructure for approximately 65,000 acres. The District was created by judicial decree in 1918 and was given a corporate lifespan of ninety-nine years. This provision in the District’s charter has not been amended; therefore, the District will cease to exist after December 31, 2017.

The District is subject to the provisions of Ch. 298, F.S., which governs water control districts such as NSLRWCD. Section 298.305(1), F.S., allows the board of supervisors to levy a non-ad valorem assessment on property owners on a per-acre basis. The NSLRWCD is currently funded by a \$25 per acre assessment on landowners within the District.¹

Codification:

The District’s charter has been amended numerous times since 1918 but has not been codified. The special acts amending the PPFWCD’s charter is as follows: Ch. 8896, L.O.F. (1921); Ch. 9635, L.O.F. (1923); Ch. 11129, L.O.F. (1925); Chs. 12106, 12108, 12109, L.O.F. (1927); Chs. 14773, 14774, 14775, L.O.F. (1931); Ch. 16089, L.O.F. (1933); Ch. 22111, L.O.F. (1943); Chs. 22112, 22113, 22142, 22143, 22144, L.O.F. (1943); Ch. 22714, L.O.F. (1945); Ch. 26790, L.O.F. (1951); Chs. 28379, 28647, L.O.F. (1953); Ch. 57-842, L.O.F.; Ch. 65-1225, L.O.F.; Ch. 69-1544, L.O.F.; and 96-529, L.O.F.

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S., and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law pursuant to s. 189.429, F.S.: shall not be construed to grant additional authority nor to supersede the authority of an entity; shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and 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.

Proposed Changes:

The bill extends the corporate lifetime of the District for another ninety-nine years beginning December 31, 2012. This will ensure that NSLRWCD will continue to maintain and manage the drainage infrastructure within the District’s boundaries until December 31, 2111. If the corporate life of the District were allowed lapse, St. Lucie County would have to undertake all the responsibilities that are currently provided for by NSLRWCD.

¹ Chapter 96-529, L.O.F.

The bill has a contingent sunset date which will repeal this act, effective July 1, 2013, if a bill to codify the District's charter is not filed on or before the first day of the 2013 Regular legislative Session. The bill requires the District to submit, at its own expense, a codified charter for Legislative consideration. If a codification bill is not timely filed, the District's current expiration date of December 31, 2017 would be reinstated.

B. SECTION DIRECTORY:

Section 1: Provides a new expiration date for the District contingent upon the filing of a bill on or before the first day of the 2013 Regular Legislative Session that codifies the District's charter.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

October 5, 2011 and December 29, 2011.

WHERE?

Scripps Treasure Coast Newspapers

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 7, 2012, the Community & Military Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment requires:

- the District to submit a draft codified charter; and
- the filing of a bill on or before the first day of the 2013 Regular Legislative Session to codify the charter.

If the bill is not timely filed, this act is repealed effective July 1, 2013. The staff analysis was updated to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to the North St. Lucie River Water
 3 Control District, St. Lucie County; providing an
 4 expiration date for the district contingent upon the
 5 district's submission of a draft codified charter to
 6 the Legislature; providing a repeal date for the act
 7 if a bill to codify the charter of the district is not
 8 filed by a specified date; providing an effective
 9 date.

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

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 13 Section 1. The North St. Lucie River Water Control
 14 District shall exist until December 31, 2111, contingent upon
 15 the district submitting to the Legislature a draft codified
 16 charter, at the district's expense, so that its special acts may
 17 be codified into a single act for reenactment by the
 18 Legislature. Section 189.429(2) and (3), Florida Statutes, shall
 19 apply to the codification of the district's special acts. If a
 20 bill to codify the charter of the district is not filed on or
 21 before the first day of the 2013 Regular Legislative Session,
 22 this act shall be repealed effective July 1, 2013.



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

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/HB 619 Fort Pierce Farms Water Control District, St. Lucie County

SPONSOR(S): Community & Military Affairs Subcommittee; Mayfield

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	12 Y, 0 N, As CS	Read	Hoagland
2) Economic Affairs Committee		Read 	Tinker 

SUMMARY ANALYSIS

The Fort Pierce Farms Water Control District ("FPFWCD" or "the District") is an independent special district in St. Lucie County that is responsible for flood control and protection, water management, and reclamation of lands for approximately 13,000 acres. The District was created by judicial decree in 1919 and was given a corporate lifespan of ninety-nine years.

This bill extends the corporate lifespan of the FPFWCD another ninety-nine years, to December 31, 2111. This will prevent St. Lucie County from having to take over the District's responsibilities if it was to expire.

The bill is expected to have no financial impact.

The bill has an effective date of upon becoming law but includes a sunset provision that will repeal the extension if a bill is not filed by the first day of the 2013 Regular Legislative Session to codify the District's charter.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

Fort Pierce Farms Water Control District (“FPFWCD” or “the District”) is an independent special district in St. Lucie County that is responsible for the drainage infrastructure for approximately 13,000 acres. The District was created by judicial decree in 1919 and was given a corporate lifespan of ninety-nine years. This provision in the District’s charter has not been amended; therefore, the District will cease to exist after December 31, 2018.

The District is subject to the provisions of Ch. 298, F.S., which governs water control districts such as FPFWCD. Section 298.305(1), F.S., allows the board of supervisors to levy a non-ad valorem assessment on property owners on a per-acre basis. The FPFWCD is currently funded by a \$25 per acre assessment on landowners within the District.¹

Codification:

The District’s charter has been amended numerous times since 1919 but has not been codified. The special acts amending the FPFWCD’s charter is as follows: Ch. 9981, L.O.F. (1923); Ch. 10549, L.O.F. (1925); Ch. 12033, L.O.F. (1927); Ch. 16032, L.O.F. (1933); Ch. 25447, L.O.F. (1949); Ch. 65-1226, L.O.F.; Ch. 78-609, L.O.F.; Ch. 82-376, L.O.F.; and Ch. 87-448, L.O.F.

Codification is the process of bringing a special act up-to-date. After a special district is created, special acts often amend or alter the special district’s charter provisions. To ascertain the current status of a special district’s charter, it is necessary to research all amendments or changes made to the charter since its inception or original passage by the Legislature. Codification of special district charters is important because it allows readers to more easily determine the current charter of a district.

Codification of special district charters was initially authorized by the 1997 Legislature and is codified in s. 189.429, F.S., and s. 191.015, F.S. The 1998 Legislature subsequently amended both sections of statute. Current law provides for codification of all special district charters by December 1, 2004. The 1998 law allows for the adoption of the codification schedule provided for in an October 3, 1997, memorandum issued by the Chair of the Committee on Community Affairs. Any codified act relating to a special district must provide for the repeal of all prior special acts of the Legislature relating to the district. Additionally, the 2001 Legislature amended s. 189.429, F.S., to provide that reenactment of existing law pursuant to s. 189.429, F.S.: shall not be construed to grant additional authority nor to supersede the authority of an entity; shall continue the application of exceptions to law contained in special acts reenacted pursuant to the section; shall not be construed to modify, amend, or alter any covenants, contracts, or other obligations of any district with respect to bonded indebtedness; and 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.

Proposed Changes:

The bill extends the corporate lifetime of the District for another ninety-nine years beginning December 31, 2012. This will ensure that FPFWCD will continue to maintain and manage the drainage infrastructure within the District’s boundaries until December 31, 2111. If the corporate life of the District were allowed lapse, St. Lucie County would have to undertake all the responsibilities that are currently provided for by FPFWCD.

The bill has a contingent sunset date which will repeal this act, effective July 1, 2013, if a bill to codify the District’s charter is not filed on or before the first day of the 2013 Regular legislative Session. The bill requires the District to submit, at its own expense, a codified charter for Legislative consideration. If a codification bill is not timely filed, the District’s current expiration date of December 31, 2018 would be reinstated.

¹ Chapter 87-448, L.O.F.

B. SECTION DIRECTORY:

Section 1: Provides a new expiration date for the District contingent upon the filing of a bill on or before the first day of the 2013 Regular Legislative Session that codifies the District's charter.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN?

October 5, 2011 and December 29, 2011.

WHERE?

Scripps Treasure Coast Newspapers.

B. REFERENDUM(S) REQUIRED? Yes No

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 7, 2012, the Community & Military Affairs Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment requires:

- the District to submit a draft codified charter; and
- the filing of a bill on or before the first day of the 2013 Regular Legislative Session to codify the charter.

If the bill is not timely filed, this act is repealed effective July 1, 2013. The staff analysis was updated to reflect the committee substitute.

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A bill to be entitled
 An act relating to the Fort Pierce Farms Water Control District, St. Lucie County; providing an expiration date for the district contingent upon the district's submission of a draft codified charter to the Legislature; providing a repeal date for the act if a bill to codify the charter of the district is not filed by a specified date; providing an effective date.

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

Section 1. The Fort Pierce Farms Water Control District shall exist until December 31, 2111, contingent upon the district's submitting to the Legislature a draft codified charter, at the district's expense, so that its special acts may be codified into a single act for reenactment by the Legislature. Section 189.429(2) and (3), Florida Statutes, shall apply to the codification of the district's special acts. If a bill to codify the charter of the district is not filed on or before the first day of the 2013 Regular Legislative Session, this act shall be repealed effective July 1, 2013.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1001 Timeshares

SPONSOR(S): Judiciary Committee; Business & Consumer Affairs Subcommittee and Eisnaugle

TIED BILLS: None **IDEN./SIM. BILLS:** CS/SB 1408

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 0 N, As CS	Collins	Creamer
2) Judiciary Committee	16 Y, 0 N, As CS	Caridad	Havlicak
3) Economic Affairs Committee		Collins <i>JC</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The bill amends ch. 721, F.S., to require the full and fair disclosure of terms, conditions and services offered by timeshare resale service providers. Specifically, the bill:

- Redefines the term 'resale service provider;'
- Defines the terms 'consumer resale timeshare interest,' 'consumer timeshare reseller,' 'resale broker,' 'resale brokerage services,' 'resale advertiser,' and 'resale advertising service;'
- Provides specific activities that a resale service provider may not engage in;
- Provides specific activities that a resale advertising service provider may not engage in;
- Requires resale advertising service providers to comply with certain contract requirements, including a minimum right of termination that must be afforded to the consumer reseller;
- Provides that a violation of this section is a violation by both the resale service provider and the individual actually committing the violation;
- Provides jurisdiction for Florida courts regarding violations of this section by a resale advertising service provider who offers services related to a timeshare interest located or offered within the state, or in a multi-state timeshare plan registered to be offered within the state; and
- Provides that violation of this section results in a civil penalty, and is also a violation of the Florida Deceptive and Unfair Trade Practices Act.

The bill has an indeterminate fiscal impact on state funds. See Fiscal Comments.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Chapter 721, F.S., Purposes

Chapter 721, F.S., governs vacation plans and timesharing. Section 721.02, F.S., provides that the purposes of the chapter are to: 1) give statutory recognition to real and personal property timeshare plans in the state; 2) establish procedures for the creation, sale, exchange, promotion and operation of timeshare plans; 3) provide full and fair disclosure to the purchasers and prospective purchasers of timeshare plans; 4) require every timeshare plan in the state to be subjected to the provisions of this chapter; and 5) recognize that a uniform and consistent method of regulation is necessary in order to safeguard Florida's tourism industry and the state's economic well-being. No mention is made regarding resale service providers.

Definition of Resale Service Provider

A "resale service provider" is defined as any person who uses unsolicited telemarketing, direct mail, or email in connection with the offering of resale brokerage and/or advertising services to owners of timeshare interests. This definition explicitly states that it does not include developers, managing entities, or exchange companies, to the extent that they offer brokerage and/or advertising services to owners of timeshare interests in their own timeshare plans or members of their own exchange programs.¹

Resale Service Provider Disclosures

Section 721.20(9)(a), F.S., requires resale service providers to disclose the description of any fees or costs related to advertising, listing, or selling the timeshare interest that must be paid to the resale service provider or third party, and when that fee is due. Additionally, the resale service provider must disclose the ratio or percentage of the number of timeshare interests for sale versus the number of interests sold by the service provider for the previous two years. This is essentially a success rate of the broker or advertiser's services.

Resale Service Provider Penalties

Section 721.20(9)(b), F.S., provides that failure by a resale service provider to disclose required information in writing constitutes an unfair and deceptive trade practice pursuant to ch. 501, F.S. Further, any contract entered into in violation of the section is void, which entitles the purchaser to a full refund.

Effect of Proposed Changes

Chapter 721, F.S., Purposes

The bill amends s. 721.02, F.S., to designate that an additional purpose of ch. 721, F.S., is to require full and fair disclosure of terms, conditions, and services by resale service providers who are acting on

¹ Fla. Stat. § 721.05(44).

behalf of consumer timeshare resellers or purchasers, regardless of the business model employed by the service provider.

Definition of Resale Service Provider

The bill amends s. 721.05(44), F.S., to define a 'resale service provider' as any advertiser or other person or entity who offers or uses telemarketing, direct mail, email, or any other means of communication in connection with the offering of resale brokerage and/or advertising services to consumer timeshare resellers. This definition includes agents and employees of such person or entity. The definition does not include:

- Developers or managing entities to the extent that they offer brokerage or advertising services to owners of timeshare interests in their own timeshare plans;
- A consumer timeshare reseller who acquires a timeshare interest for his or her own use, and later offers that interest for rent or offers for resale seven or fewer of such timeshare interests within a year; or
- A resale broker to the extent that resale advertising services are offered in connection with resale brokerage services and no fee for the advertising service is collected in advance.

In addition, to better define "resale service provider," the bill defines the terms: "consumer resale timeshare interest," "consumer timeshare reseller," "resale broker," "resale brokerage services," "resale advertiser," and "resale advertising service."

- "Consumer resale timeshare interest" is defined as a timeshare interest owned by a purchaser; one or more reserved occupancy rights relating to a timeshare interest owned by a purchaser; or one or more reserved occupancy rights relating to or arranged through an exchange program in which a purchaser is a member.
- "Consumer timeshare reseller" is defined as a purchaser that acquires a timeshare interest for his or her own use and who later offers the interest for resale or rental.
- "Resale broker" is defined as any person, including an agent or employee of such person, who is licensed pursuant to ch. 475, F.S.,² and who offers or provides resale brokerage services to consumer timeshare resellers for compensation or valuable consideration. The offer may be made in person, by mail, by telephone, through the Internet, or by any other medium of communication.
- "Resale brokerage services" is defined as any activity that is traditionally performed by a broker and is carried out in relation to a consumer timeshare interest located or offered within the state.
- "Resale advertiser" is defined as any person, including an agent of such person, who offers resale advertising services to consumer timeshare resellers for compensation or valuable consideration. Generally, the term does not include: 1) media (i.e. a newspaper, periodical or website owner, operator or publisher), unless such media derives more than ten percent of its gross revenue from providing resale advertising services; and 2) a resale broker, developer, or managing entity so long as they are not providing advertising services.
- "Resale advertising service" is defined as any good or service relating to, or a promise of assistance in connection with, advertising or promoting the resale or rental of a consumer timeshare interest located or offered within the state.

Resale Service Provider Disclosures

The bill eliminates s. 721.20(9), F.S., and instead creates a new section providing disclosure requirements and penalties regarding resale service providers. These requirements are similar to the current requirements in s. 721.20(9), F.S. Specifically, before providing resale advertising services, a service provider is required to disclose:

² Chapter 475, F.S., relates to real estate brokers, sales associates, schools and appraisers.

- The description of any fees or costs related to the service that must be paid to the resale service provider or third party; and
- When the fees or costs are due.

The bill eliminates the requirement that resale service providers supply the consumer with their success ratios for the previous two years, unless the resale service provider states or implies that it has sold or rented a specific number of timeshare interests.

In addition, the bill places specific limitations on the actions of resale brokerage activities. Specifically, a resale service provider may not provide brokering services unless validly licensed to do so pursuant to ch. 475, F.S.

The bill also provides a list of prohibited activities relating to resale advertising service providers. Specifically, when offering resale advertising services, an advertiser may not:

- State or imply that it will provide or assist in providing any type of direct sales or resale brokerage services other than the advertising of the timeshare interest;
- State or imply, directly or indirectly, that it has identified a person interested in buying or renting the timeshare interest without providing the contact information for the prospective purchaser;
- State or imply, directly or indirectly, that resales or rentals have been achieved or generated as a result of its advertising services, unless it possesses and is able to provide documentation to substantiate the statement to the consumer timeshare reseller. In such circumstances, the resale service provider must disclose the ratio or percentage of all the timeshare interests that have resulted in a sale or rental versus the number of timeshare interests advertised for sale or rent by the resale advertiser for each of the previous two calendar years, depending on whether the representation is about sales or rentals;
- State or imply that the timeshare interest has a specific resale value;
- Make or submit any charge to a consumer reseller's credit card;
- Make or cause any electronic transfer of the consumer reseller's funds;
- Collect any payment from the consumer reseller until after the advertiser has received a written contract, signed by the consumer reseller; or
- Engage in any advertising services for compensation or valuable consideration without first obtaining a written contract, signed by the consumer reseller.

Further, a contract entered into by a resale advertising service provider must contain the following information:

- The name, address, phone number, and email address of the advertiser;
- The mailing and email address at which a contract cancellation notice may be delivered by the consumer;
- A complete description of all resale advertising services to be provided, including details regarding the advertising medium(s) expected to be used, the dates or time intervals for such advertising, the minimum number of times the advertising will be run in each medium, the itemized cost of each advertising service to be provided, and a statement of the total cost of all advertising services to be provided;
- A standardized statement of the timeshare owner's right of cancellation including the consumer reseller's right to cancel the contract within ten days, which is to immediately precede the consumer reseller's signature; and
- A statement that any resale contract entered into by or on behalf of the consumer reseller must comply with the provisions of s. 721.065, F.S., regarding resale purchase agreements, including the requirement of a ten-day cancellation period for the prospective purchaser.

If a resale advertiser fails to comply with the above contract requirements, the contract is voidable at the option of the consumer reseller, available within one year after the date the contract is executed.

Moreover, the resale advertising service provider may not fail to honor a properly executed cancellation notice, or fail to provide a full refund in compliance with the right of cancellation statement.

Resale Service Provider Penalties

The bill creates s. 721.205, F.S., to provide a number of penalties regarding violation of the section. Specifically, the bill definitively states that it is the duty of the resale service provider to supervise, manage, and control all aspects of the offering of resale brokerage and/or advertising services. Any violation made while offering resale services is deemed a violation by both the resale service provider and the individual who actually commits the violation.

In addition, the bill specifically addresses resale advertising services. Specifically, it establishes that providing resale advertising services related to timeshare interests located or offered within the state constitutes "operating, conducting, engaging in, or carrying on a business or business venture" for the purposes of s. 48.193(1), F.S., relating to personal jurisdiction. Further, providing resale advertising services related to timeshare interests in a multi-state timeshare plan registered to be offered within the state constitutes "operating, conducting, engaging in, or carrying on a business or business venture" for the purposes of s. 48.193(1), F.S. These provisions effectively afford Florida courts with jurisdiction in the event of a dispute between the advertising service and the consumer reseller or another third party, so long as the timeshare interest is located within the state. It is immaterial whether any of the parties involved in the dispute are residents of the state.

Finally, the bill provides that the use of any unfair or deceptive practice by any person in connection with resale advertising services is a violation of s. 721.205, F.S., and that any violation of the section is subject to a civil penalty of not more than \$15,000 per violation. Moreover, a violation of the section will also be considered an unfair and deceptive trade practice as prohibited by s. 501.204, F.S., and is subject to the penalties and remedies otherwise provided in the Florida Deceptive and Unfair Trade Practices Act.³

The bill has an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1: amends s. 721.02, F.S., to designate that a purpose of ch. 721, F.S., is to require the full and fair disclosure of terms, conditions, and services offered by resale services providers.

Section 2: amends s. 721.05(44), F.S., to redefine the definition of "resale service provider," and creates definitions for "consumer retail interest," "consumer timeshare reseller," "resale broker," "resale brokerage services," "resale advertiser," and "resale advertising service."

Section 3: amends s. 721.20, F.S., to eliminate the current resale service provider disclosures and penalties.

Section 4: creates s. 721.205, F.S., to provide for increased disclosure and oversight of timeshare resale service providers, including resale advertising services.

Section 5: provides for an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

³ See Part II of ch. 501, F.S.

The bill may have a positive fiscal impact on the department's trust fund related to an increase in civil penalties. This impact is indeterminate.

2. Expenditures:

The bill may have a negative fiscal impact on the Department of Business and Professional Regulation and the Office of the Attorney General due to increased workload related to compliance oversight. This impact is indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There will be increased disclosure by and oversight of timeshare resale service providers, making these services more transparent to consumers.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill may require amendment to rule 61B-41.001, F.A.C., which relates to timeshare penalties. Section 4 of this bill stipulates that any violation of the section is subject to a civil penalty not to exceed \$15,000 per violation. The rule may need to be amended to reflect this guideline. Adequate rulemaking authority exists pursuant to s. 721.26(6), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

At the January 24, 2012 meeting of the Business & Consumer Affairs Subcommittee, one amendment was proposed and adopted. The bill was reported favorably as a Committee Substitute. Specifically, the amendment:

- Eliminated various references to "resale transfer agreements," "resale transferee entities," and "solicitation" of consumers;

- Amended the definition of a “resale service provider” to specifically exclude from the definition, a resale broker that offers resale advertising services in connection with resale brokerage services, so long as the resale broker collects no fee for the advertising service in advance;
- Amended the definition of “resale brokerage service” and “resale advertising service” to clarify that the provisions are only applicable to timeshare interests located or offered within the state;
- Eliminates service providers who engage in brokerage services from complying with the disclosure obligations of s. 721.205, F.S.;
- Eliminated the requirement that resale service providers supply the consumer with their success ratios for the previous two years, unless the resale service provider states or implies that it has sold or rented any specific number of timeshare interests;
- Prohibited resale service providers from stating or implying that resales or rentals have been achieved or generated as a result of its advertising services, unless they possess and are able to provide documentation to substantiate the statement to the consumer timeshare reseller;
- Prohibited resale service providers from stating or implying that the timeshare interest has a specific resale value;
- Increased the consumer timeshare reseller’s right to cancel the contract from seven to ten days;
- Eliminated the requirement that resale advertising service providers explicitly state in the contract for services that the resale value of the timeshare interest may be significantly less than it was purchased for;
- Clarified that it is a violation for a consumer resale service provider to fail to refund a consumer pursuant to the Timeshare Owners’ Right of Cancellation; and
- Clarified that Florida jurisdiction is proper in regards to a resale timeshare interest that is located or offered within the state, or in a multi-state timeshare plan registered to be offered within the state.

On February 8, 2012, the Judiciary Committee adopted four amendments and reported the bill favorably as a committee substitute. The amendments:

- Modified the definition of "resale service provider" to exclude a resale broker and to remove exchange companies from the list of entities to which the term does not apply; and made corresponding changes throughout the bill;
- Modified the information which a resale advertiser must provide to a consumer timeshare reseller when the resale advertiser represents that he or she has sold or rented a specific number of timeshare interests; and
- Corrected minor drafting issues.

This analysis is drafted to the committee substitute as passed by the Judiciary Committee.

1 A bill to be entitled
 2 An act relating to timeshares; amending s. 721.02,
 3 F.S.; revising purposes of the chapter to include the
 4 provision of certain disclosure; amending s. 721.05,
 5 F.S.; revising the definition of the term "resale
 6 service provider"; defining the terms "consumer resale
 7 timeshare interest," "consumer timeshare reseller,"
 8 "resale broker," "resale brokerage services," "resale
 9 advertiser," and "resale advertising service";
 10 amending s. 721.20, F.S.; deleting a provision
 11 requiring resale service providers to provide certain
 12 fee or cost and listing information to timeshare
 13 interest owners; creating s. 721.205, F.S.; specifying
 14 information a resale service provider must provide to
 15 the consumer timeshare reseller; prohibiting
 16 unlicensed resale service providers from engaging in
 17 certain activities; prohibiting certain services
 18 related to the offering of resale advertising by
 19 resale advertisers; providing certain restrictions on
 20 the offering of resale advertising services by resale
 21 advertisers; providing voidability of certain
 22 contracts; providing duties of a resale service
 23 provider; providing that the provision of resale
 24 advertising services in this state constitutes
 25 operating, conducting, engaging in, or carrying on a
 26 business or business venture for purposes relating to
 27 jurisdiction of the courts of this state; providing
 28 penalties; providing an effective date.

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

Section 1. Subsection (5) of section 721.02, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to that section to read:

721.02 Purposes.—The purposes of this chapter are to:
(5) Require full and fair disclosure of terms, conditions, and services by resale service providers acting on behalf of consumer timeshare resellers or on behalf of prospective consumer resale purchasers, regardless of the business model employed by the resale service provider.

Section 2. Subsection (44) of section 721.05, Florida Statutes, is amended, and subsections (45) through (50) are added to that section, to read:

721.05 Definitions.—As used in this chapter, the term:
(44) "Resale service provider" means any resale advertiser, or other person or entity, including any agent or employee of such person or entity, who offers or uses ~~unsolicited~~ telemarketing, direct mail, ~~or~~ e-mail, or any other means of communication in connection with the offering of resale brokerage or resale advertising services to consumer owners of timeshare resellers interests. The term does not include developers or ~~managing entities, or exchange companies~~ to the extent they offer resale brokerage or resale advertising services to owners of timeshare interests in their own timeshare plans; resale brokers to the extent that resale advertising services are offered in connection with resale brokerage

57 services and no fee for the advertising service is collected in
 58 advance; or a consumer timeshare reseller who acquires a
 59 timeshare interest or timeshare interests for his or her own use
 60 and occupancy and who later offers the timeshare interest or
 61 timeshare interests for rent or offers for resale in a given
 62 calendar year seven or fewer of the timeshare interests that he
 63 or she acquired for his or her own use and occupancy ~~or members~~
 64 ~~of their own exchange programs.~~

65 (45) "Consumer resale timeshare interest" means:

66 (a) A timeshare interest owned by a purchaser;

67 (b) One or more reserved occupancy rights relating to a
 68 timeshare interest owned by a purchaser; or

69 (c) One or more reserved occupancy rights relating to, or
 70 arranged through, an exchange program in which a purchaser is a
 71 member.

72 (46) "Consumer timeshare reseller" means a purchaser who
 73 acquires a timeshare interest for his or her own use and
 74 occupancy and later offers the timeshare interest for resale or
 75 rental.

76 (47) "Resale broker" means any person, or any agent or
 77 employee of such person, who is licensed pursuant to chapter 475
 78 and who offers or provides resale brokerage services to consumer
 79 timeshare resellers for compensation or valuable consideration,
 80 regardless of whether the offer is made in person, by mail, by
 81 telephone, through the Internet, or by any other medium of
 82 communication.

83 (48) "Resale brokerage services" means, with respect to a
 84 consumer resale timeshare interest in a timeshare property

85 located or offered within this state, any activity that directly
 86 or indirectly consists of any of activities described in s.
 87 475.01(1)(a).

88 (49) "Resale advertiser" means any person who offers,
 89 personally or through an agent, resale advertising services to
 90 consumer timeshare resellers for compensation or valuable
 91 consideration, regardless of whether the offer is made in
 92 person, by mail, by telephone, through the Internet, or by any
 93 other medium of communication. The term does not include:

94 (a) A resale broker to the extent that resale advertising
 95 services are offered in connection with timeshare resale
 96 brokerage services and no fee for the resale advertising service
 97 is collected in advance;

98 (b) A developer or managing entity to the extent that
 99 either of them offers resale advertising services to owners of
 100 timeshare interests in their own timeshare plans; or

101 (c) A newspaper, periodical, or website owner, operator,
 102 or publisher, unless the newspaper, periodical, or website
 103 owner, operator, or publisher derives more than 10 percent of
 104 its gross revenue from providing resale advertising services.
 105 For purposes of this paragraph, the calculation of gross revenue
 106 derived from providing resale advertising services includes
 107 revenue of any affiliate, parent, agent, and subsidiary of the
 108 newspaper, periodical, or website owner, operator, or publisher,
 109 so long as the resulting percentage of gross revenue is not
 110 decreased by the inclusion of such affiliate, parent,
 111 subsidiary, or agent in the calculation.

112 (50) "Resale advertising service" means any good or
 113 service relating to, or a promise of assistance in connection
 114 with, advertising or promoting the resale or rental of a
 115 consumer resale timeshare interest located or offered within
 116 this state, including any offer to advertise or promote the sale
 117 or purchase of any such interest.

118 Section 3. Subsection (9) of section 721.20, Florida
 119 Statutes, is amended to read:

120 721.20 Licensing requirements; suspension or revocation of
 121 license; exceptions to applicability; collection of advance fees
 122 for listings unlawful.—

123 ~~(9)(a) Prior to listing or advertising a timeshare~~
 124 ~~interest for resale, a resale service provider shall provide to~~
 125 ~~the timeshare interest owner a description of any fees or costs~~
 126 ~~relating to the advertising, listing, or sale of the timeshare~~
 127 ~~interest that the timeshare interest owner, or any other person,~~
 128 ~~must pay to the resale service provider or any third party, when~~
 129 ~~such fees or costs are due, and the ratio or percentage of the~~
 130 ~~number of listings of timeshare interests for sale versus the~~
 131 ~~number of timeshare interests sold by the resale service~~
 132 ~~provider for each of the previous 2 calendar years.~~

133 ~~(b) Failure to disclose this information in writing~~
 134 ~~constitutes an unfair and deceptive trade practice pursuant to~~
 135 ~~chapter 501. Any contract entered into in violation of this~~
 136 ~~subsection is void and the purchaser is entitled to a full~~
 137 ~~refund of any moneys paid to the resale service provider.~~

138 Section 4. Section 721.205, Florida Statutes, is created
 139 to read:

140 | 721.205 Resale service providers; disclosure obligations.-

141 | (1) (a) Before engaging in resale advertising services, a
 142 | resale service provider must provide to the consumer timeshare
 143 | reseller:

144 | 1. A description of any fees or costs related to such
 145 | services that the consumer timeshare reseller, or any other
 146 | person, is required pay to the resale service provider or to any
 147 | third party.

148 | 2. A description of when such fees or costs are due.

149 | (b) A resale service provider may not engage in those
 150 | activities described in s. 475.01(1)(a) without being the holder
 151 | of a valid and current active license in accordance with chapter
 152 | 475.

153 | (2) In the course of offering resale advertising services,
 154 | a resale advertiser may not:

155 | (a) State or imply that the resale advertiser will provide
 156 | or assist in providing any type of direct sales or resale
 157 | brokerage services other than the advertising of the consumer
 158 | resale timeshare interest for sale or rent by the consumer
 159 | timeshare reseller.

160 | (b) State or imply to a consumer timeshare reseller,
 161 | directly or indirectly, that the resale advertiser has
 162 | identified a person interested in buying or renting the
 163 | timeshare resale interest without providing the name, address,
 164 | and telephone number of such represented interested resale
 165 | purchaser.

166 | (c) State or imply to a consumer timeshare reseller,
 167 | directly or indirectly, that sales or rentals have been achieved

168 | or generated as a result of its advertising services unless the
 169 | resale advertiser, at the time of making such representation,
 170 | possesses and is able to provide documentation to substantiate
 171 | the statement or implication made to the consumer timeshare
 172 | reseller. In addition, to the extent that a resale advertiser
 173 | states or implies to a consumer timeshare reseller that the
 174 | resale advertiser has sold or rented any specific number of
 175 | timeshare interests, the resale advertiser must also provide the
 176 | consumer timeshare reseller the ratio or percentage of all the
 177 | timeshare interests that have resulted in a sale versus the
 178 | number of timeshare interests advertised for sale by the resale
 179 | advertiser for each of the previous 2 calendar years if the
 180 | statement or implication is about a sale or sales, or the ratio
 181 | or percentage of all the timeshare interests that have actually
 182 | resulted in a rental versus the number of timeshare interests
 183 | advertised for rental by the resale advertiser for each of the
 184 | previous 2 calendar years if the statement or implication is
 185 | about a rental or rentals.

186 | (d) State or imply to a consumer timeshare reseller that
 187 | the timeshare interest has a specific resale value.

188 | (e) Make or submit any charge to a consumer timeshare
 189 | reseller's credit card account; make or cause to be made any
 190 | electronic transfer of consumer timeshare reseller funds; or
 191 | collect any payment from a consumer timeshare reseller until
 192 | after the resale advertiser has received a written contract
 193 | complying in all respects with paragraph (f) that has been
 194 | signed by the consumer timeshare reseller.

195 | (f) Engage in any resale advertising services for

196 compensation or valuable consideration without first obtaining a
 197 written contract to provide such services signed by the consumer
 198 timeshare reseller. Notwithstanding any other law, the contract
 199 must be printed in at least 12-point type and must contain the
 200 following information:

201 1. The name, address, telephone number, and web address,
 202 if any, of the resale advertiser and a mailing address and e-
 203 mail address to which a contract cancellation notice may be
 204 delivered at the consumer timeshare reseller's election.

205 2. A complete description of all resale advertising
 206 services to be provided, including, but not limited to, details
 207 regarding the publications, Internet sites, and other media in
 208 or on which the consumer resale timeshare interest will be
 209 advertised, the dates or time intervals for such advertising or
 210 the minimum number of times such advertising will be run in each
 211 specific medium, the itemized cost to the consumer timeshare
 212 reseller of each resale advertising service to be provided, and
 213 a statement of the total cost to the consumer timeshare reseller
 214 of all resale advertising services to be provided.

215 3. A statement printed in at least 12-point boldfaced type
 216 immediately preceding the space in the contract provided for the
 217 consumer timeshare reseller's signature in substantially the
 218 following form:

219
 220 TIMESHARE OWNER'S RIGHT OF CANCELLATION

221
 222 ...(Name of resale advertiser)... will provide resale
 223 advertising services pursuant to this contract. If

224 ...(name of resale advertiser)... represents that
 225 ...(name of resale advertiser)... has identified a
 226 person who is interested in purchasing or renting your
 227 timeshare interest, then ...(name of resale
 228 advertiser)... must provide you with the name,
 229 address, and telephone number of such represented
 230 interested resale purchaser.

231
 232 You have an unwaivable right to cancel this contract
 233 for any reason within 10 days after the date you sign
 234 this contract. If you decide to cancel this contract,
 235 you must notify ...(name of resale advertiser)... in
 236 writing of your intent to cancel. Your notice of
 237 cancellation shall be effective upon the date sent and
 238 shall be sent to ...(resale advertiser's physical
 239 address)... or to ...(resale advertiser's e-mail
 240 address).... Your refund will be made within 20 days
 241 after receipt of notice of cancellation or within 5
 242 days after receipt of funds from your cleared check,
 243 whichever is later.

244
 245 You are not obligated to pay ...(name of resale
 246 advertiser)... any money unless you sign this contract
 247 and return it to ...(name of resale advertiser)....

248
 249 IMPORTANT: Before signing this contract, you should
 250 carefully review your original timeshare purchase
 251 contract and other project documents to determine

252 whether the developer has reserved a right of first
 253 refusal or other option to purchase your timeshare
 254 interest or to determine whether there are any
 255 restrictions or special conditions applicable to the
 256 resale or rental of your timeshare interest.

257
 258 4. A statement that any resale contract entered into by or
 259 on behalf of the consumer timeshare reseller must comply in all
 260 respects with s. 721.065, including the provision of a 10-day
 261 cancellation period for the prospective consumer resale
 262 purchaser.

263 (g) Fail to honor any cancellation notice sent by the
 264 consumer timeshare reseller within 10 days after the date the
 265 consumer timeshare reseller signs the contract for resale
 266 advertising services in compliance with subparagraph (f)3.

267 (h) Fail to provide a full refund of all money paid by a
 268 consumer timeshare reseller within 20 days after receipt of
 269 notice of cancellation or within 5 days after receipt of funds
 270 from a cleared check, whichever is later.

271 (3) If a resale service provider uses a contract for
 272 resale advertising services that fails to comply with subsection
 273 (2), such contract shall be voidable at the option of the
 274 consumer timeshare reseller for a period of 1 year after the
 275 date it is executed by the consumer timeshare reseller.

276 (4) Notwithstanding obligations placed upon any other
 277 persons by this section, it is the duty of a resale service
 278 provider to supervise, manage, and control all aspects of the
 279 offering of resale advertising services by any agent or employee

280 of the resale service provider. Any violation of this section
 281 that occurs during such offering shall be deemed a violation by
 282 the resale service provider as well as by the person actually
 283 committing the violation.

284 (5) Providing resale advertising services with respect to
 285 a consumer resale timeshare interest in a timeshare property
 286 located or offered within this state, or in a multisite
 287 timeshare plan registered or required to be registered to be
 288 offered in this state, including acting as an agent or third-
 289 party service provider for a resale service provider,
 290 constitutes operating, conducting, engaging in, or carrying on a
 291 business or business venture in this state for the purposes of
 292 s. 48.193(1).

293 (6) The use of any unfair or deceptive act or practice by
 294 any person in connection with resale advertising services is a
 295 violation of this section.

296 (7) Notwithstanding any other penalties provided for in
 297 this section, any violation of this section is subject to a
 298 civil penalty of not more than \$15,000 per violation. In
 299 addition, a person who violates any provision of this section
 300 commits an unfair and deceptive trade practice as prohibited by
 301 s. 501.204 and is subject to the penalties and remedies provided
 302 in part II of chapter 501.

303 Section 5. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HJR 1003 Tangible Personal Property Tax Exemptions
SPONSOR(S): Eisnaugle
TIED BILLS: HB 1005 IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	18 Y, 5 N	Aldridge	Langston
2) Economic Affairs Committee		Fennell	Tinker TST

SUMMARY ANALYSIS

The joint resolution proposes an amendment to the Florida Constitution that would allow the Legislature to provide by general law that:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value; or
- Tangible personal property is totally exempt from taxation.

The Revenue Estimating Conference adopted a negative indeterminate revenue impact for the joint resolution because the amendment it proposes must be approved by the voters and the legislature must implement the amendment.

The Department of State estimates that the cost of publishing the proposed constitutional amendment, as required by law, is \$108,475.

For the proposed amendment to be placed on the ballot at the general election in November 2012, the Legislature must approve the joint resolution by a three-fifths vote of the membership of each house.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tangible Personal Property

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.¹ Household goods up to \$1,000 in value are exempt.² Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.³ Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation.

Based on the statewide aggregate average 2011 millage rate of 17.67, ad valorem taxes on the tangible personal property included on the 2011 tax roll are expected to amount to \$1.72 billion.

Proposed Changes

The joint resolution proposes an amendment to the Florida Constitution that would allow the Legislature to provide by general law that:

- Taxes on tangible personal property are not due unless the assessed value of the property exceeds a specified amount greater than twenty-five thousand dollars;
- Tangible personal property is subject to taxation at a specified percentage of its assessed value;
or
- Tangible personal property is totally exempt from taxation.

B. SECTION DIRECTORY:

Not applicable to joint resolutions.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹ Article VII, section 1(b), Florida Constitution

² Article VII, section 3(b), Florida Constitution

³ Article VII, section 4(b), Florida Constitution

2. Expenditures:

Article XI, section 5(d) of the Florida Constitution, requires proposed amendments or constitutional revisions to be published in a newspaper of general circulation in each county where a newspaper is published. The amendment or revision must be published once in the 10th week and again in the sixth week immediately preceding the week the election is held. The Division of Elections within the Department of State estimated that the full publication costs for advertising the proposed amendment to be \$108,475.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference adopted a negative indeterminate revenue impact from the joint resolution because the amendment it proposes must be approved by the voters and the legislature must implement the amendment.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If the amendment proposed by the joint resolution is approved by the voters, and the legislature implements the provisions contained in the amendment, certain persons owing ad valorem tax on tangible personal property could see a reduction in their taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable to joint resolutions.

2. Other:

The Legislature may propose amendments to the state constitution by joint resolution approved by three-fifths of the membership of each house.⁵ The amendment must be submitted to the electors at the next general election more than 90 days after the proposal has been filed with the Secretary of State's office, unless pursuant to law enacted by the a three-fourths vote of the membership of each house, and limited to a single amendment or revision, it is submitted at an earlier special election held more than ninety days after such filing.⁶

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

V. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

⁴ Department of State, *House Joint Resolution 1003 (2012) Fiscal Analysis* (December 21, 2011).

⁵ Art. XI, section 1 of the Florida Constitution.

⁶ Art. XI, section 5 of the Florida Constitution.

House Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution to remove the \$25,000 cap on the amount of the ad valorem tax exemption authorized for tangible personal property and allow the Legislature by general law to specify the amount of the exemption, apply the amendment to assessments for tax years beginning January 1, 2013; and provide effective dates.

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

That the following amendment to Section 3 of Article VII and the creation of Section 32 of Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE VII

FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational,

29 literary, scientific, religious or charitable purposes may be
 30 exempted by general law from taxation.

31 (b) There shall be exempt from taxation, cumulatively, to
 32 every head of a family residing in this state, household goods
 33 and personal effects to the value fixed by general law, not less
 34 than one thousand dollars, and to every widow or widower or
 35 person who is blind or totally and permanently disabled,
 36 property to the value fixed by general law not less than five
 37 hundred dollars.

38 (c) Any county or municipality may, for the purpose of its
 39 respective tax levy and subject to the provisions of this
 40 subsection and general law, grant community and economic
 41 development ad valorem tax exemptions to new businesses and
 42 expansions of existing businesses, as defined by general law.
 43 Such an exemption may be granted only by ordinance of the county
 44 or municipality, and only after the electors of the county or
 45 municipality voting on such question in a referendum authorize
 46 the county or municipality to adopt such ordinances. An
 47 exemption so granted shall apply to improvements to real
 48 property made by or for the use of a new business and
 49 improvements to real property related to the expansion of an
 50 existing business and shall also apply to tangible personal
 51 property of such new business and tangible personal property
 52 related to the expansion of an existing business. The amount or
 53 limits of the amount of such exemption shall be specified by
 54 general law. The period of time for which such exemption may be
 55 granted to a new business or expansion of an existing business
 56 shall be determined by general law. The authority to grant such

57 | exemption shall expire ten years from the date of approval by
 58 | the electors of the county or municipality, and may be renewable
 59 | by referendum as provided by general law.

60 | (d) Any county or municipality may, for the purpose of its
 61 | respective tax levy and subject to the provisions of this
 62 | subsection and general law, grant historic preservation ad
 63 | valorem tax exemptions to owners of historic properties. This
 64 | exemption may be granted only by ordinance of the county or
 65 | municipality. The amount or limits of the amount of this
 66 | exemption and the requirements for eligible properties must be
 67 | specified by general law. The period of time for which this
 68 | exemption may be granted to a property owner shall be determined
 69 | by general law.

70 | (e) By general law and subject to conditions specified
 71 | therein, not less than twenty-five thousand dollars of the
 72 | assessed value of property subject to tangible personal property
 73 | tax shall be exempt from ad valorem taxation. The legislature
 74 | may also provide by general law that:

75 | (1) Taxes on tangible personal property are not due unless
 76 | the assessed value of the property exceeds a specified amount
 77 | greater than twenty-five thousand dollars;

78 | (2) Tangible personal property is subject to taxation at a
 79 | specified percentage of its assessed value; or

80 | (3) Tangible personal property is totally exempt from
 81 | taxation.

82 | (f) There shall be granted an ad valorem tax exemption for
 83 | real property dedicated in perpetuity for conservation purposes,
 84 | including real property encumbered by perpetual conservation

85 easements or by other perpetual conservation protections, as
 86 defined by general law.

87 (g) By general law and subject to the conditions specified
 88 therein, each person who receives a homestead exemption as
 89 provided in section 6 of this article; who was a member of the
 90 United States military or military reserves, the United States
 91 Coast Guard or its reserves, or the Florida National Guard; and
 92 who was deployed during the preceding calendar year on active
 93 duty outside the continental United States, Alaska, or Hawaii in
 94 support of military operations designated by the legislature
 95 shall receive an additional exemption equal to a percentage of
 96 the taxable value of his or her homestead property. The
 97 applicable percentage shall be calculated as the number of days
 98 during the preceding calendar year the person was deployed on
 99 active duty outside the continental United States, Alaska, or
 100 Hawaii in support of military operations designated by the
 101 legislature divided by the number of days in that year.

102 ARTICLE XII

103 SCHEDULE

104 SECTION 32. Tangible personal property; ad valorem tax
 105 exemption.--The amendment to Section 3 of Article VII removing
 106 the cap on the amount of the ad valorem tax exemption authorized
 107 for tangible personal property and allowing the legislature to
 108 exempt certain amounts of the assessed value of tangible
 109 personal property from ad valorem taxation shall take effect
 110 upon approval by the electors and shall apply to assessments for
 111 tax years beginning January 1, 2013. This section shall take
 112 effect upon approval of the electors.

HJR 1003

2012

113 BE IT FURTHER RESOLVED that the following statement be
 114 placed on the ballot:

115 CONSTITUTIONAL AMENDMENT

116 ARTICLE VII, SECTION 3

117 ARTICLE XII, SECTION 32

118 TANGIBLE PERSONAL PROPERTY; AD VALOREM TAX EXEMPTIONS;
 119 REMOVAL OF THE \$25,000 CAP.—

120 Currently the State Constitution specifies that \$25,000 of
 121 the assessed value of tangible personal property is exempt from
 122 ad valorem taxation. The amendment requires the Legislature by
 123 general law to provide that at least \$25,000 of the assessed
 124 value of tangible personal property is exempt from ad valorem
 125 taxation. In addition, the amendment authorizes the Legislature
 126 to provide that tangible personal property subject to ad valorem
 127 taxation:

128 (1) Is any amount greater than \$25,000 of the assessed
 129 value of the property that the legislature specifies in general
 130 law and taxes are not due on any amount less than that specified
 131 amount;


132 (2) Is any percentage amount of the assessed value of the
 133 property that the legislature specifies in general law; or

134 (3) Is the total amount of the assessed value of the
 135 property as specified by the legislature in general law.

136 This amendment takes effect upon approval of the voters and
 137 applies to assessments for tax years beginning January 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1005 Tangible Personal Property Taxation
SPONSOR(S): Eisnaugle
TIED BILLS: HJR 1003 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Committee	17 Y, 5 N, As CS	Aldridge	Langston
2) Economic Affairs Committee		Fennell 	Tinker <i>TJST</i>

SUMMARY ANALYSIS

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of up to \$25,000 of taxable value. The result, as described below is an additional exemption above the current \$25,000 exemption for assessed values between \$25,001 and \$50,000. Taxpayers with tangible personal property subject to ad valorem taxation with an assessed value above \$50,000 will not qualify for the additional exemption provided in the bill.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill operates prospectively to the 2013 tax roll and does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2013.

The bill provides a General Revenue appropriation of \$108,475 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 1003 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Tangible Personal Property

Article VII, section 1, of the Florida Constitution grants exclusive authority to local governments to levy ad valorem taxes, including ad valorem taxes on tangible personal property, and establishes requirements that the state legislature and local governments must follow when levying and administering ad valorem property taxes. It requires that all ad valorem taxation be at a uniform rate within each taxing district and that property must be assessed at just value unless the Constitution provides for a different assessment standard.

Tangible personal property is singled out for special treatment in the Constitution. Motor vehicles, boats, airplanes, trailers, trailer coaches and mobile homes are excluded from ad valorem taxation.¹ Household goods up to \$1,000 in value are exempt.² Tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, classified for tax purposes, or exempted by general law.³ Tangible personal property not specifically exempt from taxation is subject to ad valorem taxation.

Article VII, section 3(e), Florida Constitution, provides for a \$25,000 exemption from the assessed value of tangible personal property subject to ad valorem taxation. This exemption is implemented in s. 196.183, F.S.

Section 196.183(1), F.S., provides that a single return must be filed for each site in the county where the owner of tangible personal property transacts business. Owners of freestanding property placed at multiple sites, other than sites where the owner transacts business, must file a single return, including all such property located in the county. Freestanding property placed at multiple sites includes vending and amusement machines, LP/propane tanks, utility and cable company property, billboards, leased equipment, and similar property that is not customarily located in the offices, stores, or plants of the owner, but is placed throughout the county.

Section 196.183(3), F.S., waives the return filing requirement under s. 193.052, F.S., for taxpayers owning taxable property the value of which, as listed on the return, does not exceed the \$25,000 exemption. In order to qualify for this waiver, a taxpayer must file an initial return on which the exemption is taken. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the return, exceeds the exemption, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed the exemption. A return filed or required to be filed shall be considered an application filed or required to be filed for the exemption under this section.

Proposed Changes

The bill implements the proposed constitutional amendment contained in HJR 1003. Specifically, it creates an additional exemption from ad valorem taxation of tangible personal property of \$25,000 of taxable value. The bill then provides another waiver process beyond the one described above, where in order to qualify for this additional exemption, a taxpayer must file an initial return disclosing the taxable value of their property. The filing of this initial return does not result in the taxpayer incurring any tax liability. If, in subsequent years, the taxpayer owns taxable property the value of which, as listed on the

¹ Article VII, section 1(b), Florida Constitution

² Article VII, section 3(b), Florida Constitution

³ Article VII, section 4(b), Florida Constitution

return, exceeds \$25,000, the taxpayer is obligated to file a return. The taxpayer may again qualify for the waiver only after filing a return on which the value as listed on the return does not exceed \$25,000.

The effect of this approach to implementing the constitutional amendment contained in HJR 1003 is that it provides an additional \$25,000 exemption from ad valorem taxation of tangible personal property, but only to persons who would report on their returns property valued at \$50,000 or less. If the total value required to be reported on the taxpayer's return exceeds \$50,000, the additional exemption created by this bill is unavailable.

The bill provides a General Revenue appropriation of \$108,475 to the Department of State to publish the proposed constitutional amendment contained in CS/HJR 1003 in newspapers in each county as required by Article XI, section 5(d) of the Florida Constitution.

The bill takes effect upon the approval of the amendment proposed by HJR 1003 by the voters. The bill operates prospectively to the 2013 tax roll and does not provide a basis for relief from an assessment of taxes not paid or create a right to a refund of taxes paid before January 1, 2013.

B. SECTION DIRECTORY:

Section 1: Provides an exemption from ad valorem taxation of tangible personal property.

Section 2: Provides that the act shall operate prospectively as specified.

Section 3: Provides an appropriation.

Section 4: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill provides a General Revenue appropriation of \$108,475 to the Department of State.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that, if the amendment proposed by HJR 1003 is approved by the voters, **assuming current millage rates**, the estimated statewide impact of the bill would be annual reductions in local government revenues of \$20.1 million beginning in fiscal year 2013-14, increasing to \$20.3 million in fiscal year 2014-15, and \$20.6 million in fiscal year 2015-16.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

If this bill had been in effect for the 2011 tax rolls, approximately 156,000 additional taxpayer accounts would have been exempt from the tax (just under 50% of all accounts with a positive taxable value).

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill implements a constitutional amendment to which the mandates provision of s. 18, Art. VII of the State Constitution, does not apply.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2012, the Finance & Tax Committee adopted an amendment that:

- Clarifies that the exemption begins with the 2013 tax roll.
- Provides an appropriation to publish the proposed constitutional amendment in newspapers in each county as required by the constitution [\$108,475].

The analysis has been updated to reflect the committee substitute.

1 A bill to be entitled
 2 An act relating to tangible personal property
 3 taxation; amending s. 196.183, F.S.; waiving the
 4 requirement to file an annual tangible personal
 5 property tax return for certain taxpayers who own
 6 taxable property the taxable value of which does not
 7 exceed a specified amount; providing conditions and
 8 requirements for qualifying for such waiver; providing
 9 application; providing an appropriation; providing
 10 effective dates.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Section 196.183, Florida Statutes, is amended
 15 to read:

16 196.183 Exemption for tangible personal property.—
 17 (1) Each tangible personal property tax return is eligible
 18 for an exemption from ad valorem taxation of up to \$25,000 of
 19 assessed value. A single return must be filed for each site in
 20 the county where the owner of tangible personal property
 21 transacts business. Owners of freestanding property placed at
 22 multiple sites, other than sites where the owner transacts
 23 business, must file a single return, including all such property
 24 located in the county. Freestanding property placed at multiple
 25 sites includes vending and amusement machines, LP/propane tanks,
 26 utility and cable company property, billboards, leased
 27 equipment, and similar property that is not customarily located
 28 in the offices, stores, or plants of the owner, but is placed

29 throughout the county. Railroads, private carriers, and other
 30 companies assessed pursuant to s. 193.085 shall be allowed one
 31 \$25,000 exemption for each county to which the value of their
 32 property is allocated. The \$25,000 exemption for freestanding
 33 property placed at multiple locations and for centrally assessed
 34 property shall be allocated to each taxing authority based on
 35 the proportion of just value of such property located in the
 36 taxing authority; however, the amount of the exemption allocated
 37 to each taxing authority may not change following the extension
 38 of the tax roll pursuant to s. 193.122.

39 (2) For purposes of this section, a "site where the owner
 40 of tangible personal property transacts business" includes
 41 facilities where the business ships or receives goods, employees
 42 of the business are located, goods or equipment of the business
 43 are stored, or goods or services of the business are produced,
 44 manufactured, or developed, or similar facilities located in
 45 offices, stores, warehouses, plants, or other locations of the
 46 business. Sites where only the freestanding property of the
 47 owner is located shall not be considered sites where the owner
 48 of tangible personal property transacts business.

49 (3) The requirement that an annual tangible personal
 50 property tax return pursuant to s. 193.052 be filed is waived
 51 for taxpayers who own ~~owning~~ taxable personal property:

52 (a) The value of which, as listed on the return, does not
 53 exceed the exemption provided in this section ~~is waived~~. In
 54 order to qualify for the ~~this~~ waiver under this paragraph, a
 55 taxpayer must file an initial return on which the exemption is
 56 taken. If, in subsequent years, the taxpayer owns taxable

57 property the value of which, as listed on the return, exceeds
 58 the exemption, the taxpayer is obligated to file a return. The
 59 taxpayer may again qualify for the waiver only after filing a
 60 return on which the value as listed on the return does not
 61 exceed the exemption. A return filed or required to be filed
 62 shall be considered an application filed or required to be filed
 63 for the exemption under this section; or

64 (b) The taxable value of which does not exceed \$25,000. In
 65 order to qualify for the waiver under this paragraph, a taxpayer
 66 must file an initial return disclosing the taxable value of the
 67 property. The filing of an initial return does not result in the
 68 taxpayer incurring any tax liability. If, in subsequent years,
 69 the taxpayer owns taxable property the value of which, as listed
 70 on the return, exceeds \$25,000, the taxpayer is obligated to
 71 file a return. The taxpayer may again qualify for the waiver
 72 only after filing a return on which the value as listed on the
 73 return does not exceed \$25,000.

74 (4) Owners of property previously assessed by the property
 75 appraiser without a return being filed may, at the option of the
 76 property appraiser, qualify for the exemption under this section
 77 without filing an initial return.

78 (5) The exemption provided in this section does not apply
 79 in any year a taxpayer fails to timely file a return that is not
 80 waived pursuant to subsection (3) or subsection (4). Any
 81 taxpayer who received a waiver pursuant to subsection (3) or
 82 subsection (4) and who owns taxable property the value of which,
 83 as listed on the return, exceeds the exemption in a subsequent
 84 year and who fails to file a return with the property appraiser

85 is subject to the penalty contained in s. 193.072(1)(a)
 86 calculated without the benefit of the exemption pursuant to this
 87 section. Any taxpayer claiming more exemptions than allowed
 88 pursuant to subsection (1) is subject to the taxes exempted as a
 89 result of wrongfully claiming the additional exemptions plus 15
 90 percent interest per annum and a penalty of 50 percent of the
 91 taxes exempted. By February 1 of each year, the property
 92 appraiser shall notify by mail all taxpayers whose requirement
 93 for filing an annual tangible personal property tax return was
 94 waived in the previous year. The notification shall state that a
 95 return must be filed if the value of the taxpayer's tangible
 96 personal property exceeds the exemption and include the
 97 penalties for failure to file such a return.

98 (6) The exemption provided in this section does not apply
 99 to a mobile home that is presumed to be tangible personal
 100 property pursuant to s. 193.075(2).

101 Section 2. The revisions to s. 196.183, Florida Statutes,
 102 by this act operate prospectively to the 2013 tax roll and do
 103 not provide a basis for relief from an assessment of taxes not
 104 paid or create a right to a refund of taxes paid before January
 105 1, 2013.

106 Section 3. Effective July 1, 2012, the sum of \$108,475 in
 107 nonrecurring funds is appropriated from the General Revenue Fund
 108 to the Department of State for purposes of publishing, as
 109 required under s. 5(d), Art. XI of the State Constitution, the
 110 proposed constitutional amendment contained in House Joint
 111 Resolution 1003, or a similar joint resolution having
 112 substantially the same specific intent and purpose.

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113 Section 4. Except as otherwise expressly provided in this
 114 act, this act shall take effect upon the approval of House Joint
 115 Resolution 1003, or a similar joint resolution having
 116 substantially the same specific intent and purpose, at the
 117 general election to be held in November 2012 or at an earlier
 118 special election specifically authorized by law for that
 119 purpose.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 1011 Warranty Associations

SPONSOR(S): Government Operations Appropriations Subcommittee; Insurance & Banking Subcommittee and Abruzzo

TIED BILLS: IDEN./SIM. BILLS: CS/SB 1262

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Cooper	Cooper
2) Government Operations Appropriations Subcommittee	12 Y, 0 N, As CS	Keith	Topp
3) Economic Affairs Committee		Cooper 	Tinker 

SUMMARY ANALYSIS

Chapter 634, F.S., governs the regulation of warranty associations, which are motor vehicle service agreement companies, home warranty associations and service warranty associations. Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Home warranty associations indemnify warranty holders against the cost of repairs or replacement of any structural component or appliance in a home. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

Although a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). The OIR's regulatory authority includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, OIR is not required to approve rates for warranties.

Under current law, warranties offered by the three types of warranty associations are cancelable by the purchaser who is entitled to a refund. For motor vehicle service agreements, refunds may be effectuated through the automobile dealer that originally sold the service agreement to the customer, although the service agreement company still remains responsible for the full refund. For home and service warranties, refunds are made by the respective associations.

The bill maintains the authority for automobile dealers to effectuate the refunds but codifies some of the documentation regarding refunds currently required by OIR. For home warranty and service warranty products, the bill specifies that the associations may provide refunds through the issuing sales representatives. Specific to service warranty associations, the bill permits refunds to be made by cash, check, store credit, gift card, or other similar means, but requires refunds by check if requested by the customer.

Currently, OIR is required to conduct periodic examinations regarding the financial and market conduct affairs of warranty associations. The bill eliminates this requirement, but authorizes OIR to examine them at its discretion. The bill continues to allow OIR to use independent examiners and levy the companies for the costs of their services, but limits those costs to no more than ten percent of the companies prior year reported income.

The bill authorizes entities to provide donations and grants to the Department of Financial Services to pursue unauthorized entities operating in violation of the statutory provisions relating to warranty associations. Also, the bill restores motor vehicle service agreement coverage for motor vehicles used for commercial purpose unless those vehicles have a gross weight rating of 10,000 pounds or more.

The bill has no fiscal impact on state or local government.

The bill takes effect on July 1, 2012.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1011d.EAC.DOCX

DATE: 2/14/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Chapter 634, F.S., governs the regulation of warranty associations, which are motor vehicle service agreement companies, home warranty associations and service warranty associations. Motor vehicle service agreements provide vehicle owners with protection when the manufacturer's warranty expires. Home warranty associations indemnify warranty holders against the cost of repairs or replacement of any structural component or appliance in a home. Service warranty contracts for consumer electronics and appliances allow consumers to extend the product protection beyond the manufacturer's warranty terms.

While a warranty is not considered a traditional insurance product, it protects purchasers from future risks and associated costs. In Florida, warranty associations are regulated by the Office of Insurance Regulation (OIR). The OIR's regulatory authority of warranty associations includes approval of forms, investigation of complaints, and monitoring of reserve requirements, among other duties. However, OIR is not required to approve rates for warranties.

Motor Vehicle Service Agreements

Under current law, a motor vehicle service agreement indemnifies the vehicle owner (or holder of the agreement) against loss caused by failure of any mechanical or other component part, or any mechanical or other component part that does not function as it was originally intended. It also includes agreements that provide for: the coverage or protection which is issued or provided in conjunction with an additive product applied to the motor vehicle; payment of vehicle protection expenses; and, the payment for paintless dent-removal services.¹ Exempt from this definition (and therefore exempt from regulation under the Florida Insurance Code) are service agreements that are sold to persons other than consumers and that cover motor vehicles used for commercial purposes.

To offer motor vehicle service agreements in Florida one must be licensed and pay an annual nonrefundable license fee to OIR. All applicants for licensure must meet certain solvency requirements and, once licensed, must report to OIR certain financial and statistical information on a quarterly basis. Companies are also required to file with the office the rates, rating schedules, or rating manuals used, including all modifications of rates and premiums, to be paid by the service agreement holder. The office does not have authority to approve rates but they are required to review and approve forms used in the state.²

Cancellation of Service Agreements

The bill makes several changes in the regulatory framework of motor vehicle service agreements, including cancellation provisions. Currently, any service agreement is cancelable by the purchaser within 60 days after purchase. The individual is also entitled to a refund which must be 100 percent of the gross premium paid, less any claims paid on the agreement. A reasonable administrative fee may be charged, not to exceed 5 percent of the gross premium paid by the agreement holder. After the service agreement has been in effect for 60 days, it may not be canceled by the insurer or service agreement company unless:

- 1) there has been a material misrepresentation or fraud at the time of sale of the service agreement;
- 2) the agreement holder has failed to maintain the motor vehicle as prescribed by the manufacturer;
- 3) the odometer has been tampered with or disabled and the agreement holder has failed to repair the odometer; or

¹ s.634.011(8), F.S.

² ss. 634.011-634.289, F.S.

- 4) for nonpayment of premium by the agreement holder.³

Additionally, current law states that if the service agreement is canceled by the insurer or service agreement company, the return of premium must not be less than 100 percent of the paid unearned pro rata premium, less any claims paid on the agreement. Current law also provides that if, after 60 days, the service agreement is canceled by the service agreement holder, the insurer or service agreement company must return directly to the agreement holder not less than 90 percent of the unearned pro rata premium and may also deduct from the refund the amount of any claims paid on the agreement. Under current law, the service agreement company remains responsible for full refunds to the consumer on canceled service agreements. However, the salesperson and agent are responsible for the refund of the unearned pro rata commission. A service agreement company may effectuate refunds through the issuing salesperson or agent.⁴

The bill provides that if the service agreement company effectuates refunds through the issuing salesperson or agent, the service agreement company must send the unearned pro rata premium refund due, less any unearned pro rata commission, to the salesperson or agent effectuating the refund. Upon receipt, the salesperson or agent must refund the unearned pro rata premium, including any unearned pro rata commission, and the sales tax refund owed to the service agreement holder.

The bill requires the salesperson or agent to maintain copies of certain documents to demonstrate that the refund has occurred and shall provide those copies to the service agreement company within 45 days after a request is made by the department or OIR.⁵ If OIR finds that a salesperson or agent exhibits a pattern or practice of failing to properly provide refunds or fails to maintain or remit the specified documentation, the office must then notify the Department of Financial Service (DFS).

Another change in the bill is the restoration of motor vehicle service agreement coverage for certain vehicles used for commercial purposes. The bill eliminates the current exemption from the definition of motor service agreement for such vehicles, however, it would only apply to vehicles having a gross weight rating of less than 10,000 pounds. Vehicles over that weight will continue to not be covered because they do not meet the current definition of a motor vehicle. Thus, with the changes made by the bill, small business owners should once again receive all of the protections now provided to individual consumers.

Examination of Companies

Currently, OIR may periodically examine motor vehicle service agreement companies in the same manner and subject to the same terms and conditions as applies to insurers under part II of chapter 624. Consequently, the office may examine each insurer as often as may be warranted for the protection of the policyholders and in the public interest, but must examine each company not less frequently than once every 5 years.⁶ Criteria are provided in statute for OIR to consider in determining whether to conduct examinations. Also, rules are authorized, but not required, to establish provisions for exemptions from examination.

Current law also provides that the examinations may be conducted by independent certified public accountants, actuaries, investment specialists, information technology specialists, and reinsurance specialists with the costs paid for by the companies.⁷ A similar provision exists for market conduct examinations.⁸

³ s. 634.121(3)(b), F.S.

⁴ s. 634.121, F.S.

⁵ The required documentation is based, in part, on guidance provided by OIR in *Informational Memorandum, OIR-11-04M*, issued April 11, 2011.

⁶ s. 634.141, F.S. and s. 624.316, F.S.

⁷ s. 624.316, F.S.

⁸ s. 624.3161, F.S.

The bill makes several changes regarding examinations. It maintains the option to use independent examiners but limits those costs to no more than ten percent of the companies prior year reported income. The bill also specifies that OIR is not required to conduct periodic examinations, but may examine a service agreement company at its discretion. Criteria for OIR to use in determining whether to use that discretion are eliminated. It also states that an examination may cover a period of only the most recent 5 years.

Gifts and Grants to Combat Unauthorized Entities

In 2011, the Legislature created s. 626.9894, F.S., which authorizes DFS to accept, for purposes of anti-fraud efforts, any donation or grant of property or moneys from any governmental unit, public agency, institution, person, firm, or corporation. Any such gift or grant is immediately vested in the Division of Insurance Fraud and deposited into the Insurance Regulatory Trust Fund. Donations are separately accounted for and may be used by the division to carry out its duties and responsibilities, or for the subgranting of such funds to state attorneys for the purpose of funding or defraying the costs of dedicated fraud prosecutors. The law also provides that moneys deposited into the Insurance Regulatory Trust Fund may be appropriated by the Legislature for the purpose of enabling the division to carry out its duties and responsibilities, or for the purpose of funding or defraying the costs of dedicated fraud prosecutors.

The bill creates new authority for a governmental unit, public agency, institution, person, firm, or legal entity to provide money to DFS to enable the department to pursue unauthorized entities operating in violation of provisions relating to motor vehicle service agreement companies. The department is also authorized to transfer funds to OIR to take enforcement action against unauthorized entities. Similar to s. 626.9894, F.S., the bill provides that moneys deposited into the Insurance Regulatory Trust Fund may be appropriated by the Legislature for the purpose of enabling the division to carry out its duties and responsibilities, or for the purpose of funding or defraying the costs of dedicated fraud prosecutors.

Home Warranty Associations

Home warranty associations are organizations, other than authorized insurers, that issue home warranties. A home warranty is a contract or agreement whereby a person undertakes to indemnify the warranty holder against the cost of repair or replacement, or actually furnishes repair or replacement, of any structural component or appliance of a home, necessitated by wear and tear or an inherent defect of any such structural component or appliance or necessitated by the failure of an inspection to detect the likelihood of any such loss.⁹

The regulatory framework of home warranty associations is similar to the oversight of motor vehicle service agreement companies. Regarding cancellations, any home warranty agreement may be canceled by the purchaser within 10 days after purchase. The refund must be 100 percent of the gross premium paid, less any claims paid on the agreement. A reasonable administrative fee may be charged, not to exceed 5 percent of the gross premium paid by the warranty agreement holder. After the home warranty agreement has been in effect for 10 days, if the contract is canceled by the warranty holder, a return of premium must be based upon 90 percent of unearned pro rata premium less any claims that have been paid. If the contract is canceled by the association for any reason other than for fraud or misrepresentation, a return of premium must be based upon 100 percent of unearned pro rata premium, less any claims paid on the agreement.¹⁰

Unlike the current law for motor vehicle service agreements which allow refunds by the issuing salesperson or agent, the current law for home warranty associations does not explicitly authorize that practice. The bill does, by stating that an association may effectuate a refund through the issuing sales representative. However, unlike the changes for motor vehicle service agreements, the bill does not provide detail or require documentation for home warranty associations regarding the effectuation of their refunds.

⁹ s. 634.301, F.S.

¹⁰ s. 634.312, F.S.

Regarding examinations of home warranty associations by OIR, the bill makes the same changes made for motor vehicle service agreements. The only difference is that currently there is no examination exemption process for home warranty associations as there is for motor vehicle service agreements. Hence, there is no rule authorization to repeal.

Also, the bill creates the same process for donating money to DFS to pursue unauthorized entities providing home warranties as provided for motor vehicle service agreement companies.

Service Warranty Associations

Service warranty associations are entities, other than insurers, which issue service warranties. A service warranty is an agreement or maintenance service contract equal to or greater than 1 year in length to repair, replace, or maintain a consumer product, or for indemnification¹¹ for repair, replacement, or maintenance, for operational or structural failure due to a defect in materials or workmanship, normal wear and tear, power surge, or accidental damage from handling in return for the payment of a segregated charge by the consumer.¹²

As with the other two types of warranty associations, service warranty entities must meet certain regulatory requirements to offer their products in Florida. Regarding cancellations, current law provides that each service warranty contract shall contain a cancellation provision. If the contract is canceled by the warranty holder, return of premium must be based upon no less than 90 percent of unearned pro rata premium less any claims that have been paid or less the cost of repairs made on behalf of the warranty holder. If the contract is canceled by the association, return of premium must be based upon 100 percent of unearned pro rata premium, less any claims paid or the cost of repairs made on behalf of the warranty holder.¹³

Like the provision in the bill for home warranty associations, service warranty associations may effectuate refunds through the issuing sales representative. No additional detail or documentation is provided. A provision is added to current law regarding the form of a refund (which now is apparently cash or check). The bill provides that a refund owed to a warranty holder may be in the form of cash, check, store credit, gift card, or other similar means. However, upon request of the service warranty holder the refunds must be remitted by check.

Finally, the bill authorizes entities to provide money to DFS to enable the department to pursue unauthorized parties operating in violation with the provisions relating to service warranty associations in the same manner as the bill did for the other two warranty associations.

B. SECTION DIRECTORY:

Section 1: Amends s. 634.011, F.S., relating to definitions.

Section 2: Amends s. 634.121, F. S., relating to forms, required procedures, and provisions.

Section 3: Amends s. 634.141, F.S., relating to examination of motor vehicle service agreement companies.

Section 4: Creates s. 634.2855, F.S., relating to unauthorized entities; gifts and grants.

¹¹ Pursuant to s. 634.401 (5), F.S., "Indemnify" means to undertake repair or replacement of a consumer product, or pay compensation for such repair or replacement by cash, check, store credit, gift card, or other similar means, in return for the payment of a segregated premium, when such consumer product suffers operational failure.

¹² s. 634.401(13), F.S.

¹³ s. 634.414, F.S.

Section 5: Amends s. 634.312, F. S., relating to forms, required provisions, and procedures for home warranty associations.

Section 6: Amends s. 634.314, F. S., relating to examination of home warranty associations.

Section 7: Creates s. 634.3385, F.S., relating to unauthorized entities; gifts and grants.

Section 8: Amends s. 634.414, F. S., relating to forms; required provisions, for service warranty associations.

Section 9: Amends s. 634.416, F. S., relating to examination of service warranty associations.

Section 10: Creates s. 634.4385, F.S., relating to unauthorized entities; gifts and grants.

Section 11: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because regularly scheduled examinations by OIR will no longer be required for warranty associations, companies will save costs associated with preparing for and actually undergoing those examinations.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Insurance & Banking Subcommittee unanimously adopted one strike-all amendment to HB 1011 which retained many of the same provisions of the bill as filed and made the following major changes:

- Deleted the provision in current law that provides service agreements that are sold to persons other than consumers and that cover motor vehicles used for commercial purposes are excluded from the definition of motor vehicle service agreement and are exempt from regulation under the Florida Insurance Code.
- Clarified the provisions in the bill which authorize donating money to DFS for the purpose of pursuing unauthorized entities that violate the laws regarding warranty associations.
- Restored current law which the bill removes regarding OIR's use of independent examiners. However, the costs associated with the use of those examiners are capped.
- Made technical changes to correct drafting errors.

On February 13, 2012, the House Government Operations Appropriations Subcommittee adopted two amendments and reported the bill favorably as a committee substitute.

- Amendment 1 restored current law related to the authority for the Financial Services Commission to establish by rule the process whereby motor vehicle service agreement companies may be exempt from examinations by the Office of Insurance Regulation.
- Amendment 2 restored current law related to the Office of Insurance Regulation's authority to waive examination requirements.

This analysis is drafted to the committee substitute as passed by the Government Operations Appropriations Subcommittee.

1 A bill to be entitled
 2 An act relating to warranty associations; amending s.
 3 634.011, F.S.; revising the definition of the term
 4 "motor vehicle service agreement"; amending s.
 5 634.121, F.S.; providing criteria for a motor vehicle
 6 service agreement company to effectuate refunds
 7 through the issuing salesperson or agent; requiring
 8 the salesperson, agent, or service agreement company
 9 to maintain a copy of certain documents; requiring a
 10 salesperson or agent to provide a copy of a document
 11 to the service agreement company if requested by the
 12 Department of Financial Services or the Office of
 13 Insurance Regulation; requiring the office to provide
 14 to the department findings that a salesperson or agent
 15 exhibits a pattern or practice of failing to
 16 effectuate refunds or to maintain and remit to the
 17 service agreement company the required documentation;
 18 amending s. 634.141, F.S.; authorizing rather than
 19 requiring the office to examine service agreement
 20 companies; limiting the examination period to the most
 21 recent 5 years; limiting the cost of certain
 22 examinations; creating s. 634.2855, F.S.; authorizing
 23 a governmental entity, public agency, institution,
 24 person, firm, or legal entity to provide money to the
 25 department to pursue unauthorized entities operating
 26 as motor vehicle service agreement companies;
 27 providing requirements for the deposit of the money;
 28 providing that funds remaining at the end of any

29 | fiscal year shall be available for carrying out duties
 30 | and responsibilities of the department or the office;
 31 | amending s. 634.312, F.S.; authorizing a home warranty
 32 | association to effectuate a refund through the issuing
 33 | sales representative; amending s. 634.314, F.S.;
 34 | authorizing rather than requiring the office to
 35 | examine home warranty associations; limiting the
 36 | examination period to the most recent 5 years;
 37 | limiting the cost of certain examinations; removing
 38 | the requirement that the commission establish rules
 39 | for conducting examinations; removing the criteria for
 40 | determining whether an examination is warranted;
 41 | creating s. 634.3385, F.S.; authorizing a governmental
 42 | entity, public agency, institution, person, firm, or
 43 | legal entity to provide money to the department to
 44 | pursue unauthorized entities operating as home
 45 | warranty associations; providing that funds remaining
 46 | at the end of any fiscal year shall be available for
 47 | carrying out duties and responsibilities of the
 48 | department or the office; amending s. 634.414, F.S.;
 49 | authorizing service warranty associations to
 50 | effectuate refunds through the issuing sales
 51 | representative; authorizing a service warranty
 52 | association to issue refunds by cash, check, store
 53 | credit, gift card, or other similar means; amending s.
 54 | 634.416, F.S.; authorizing rather than requiring the
 55 | office to examine service warranty associations;
 56 | limiting the examination period to the most recent 5

57 | years; limiting the costs of certain examinations;
 58 | removing the requirement that the commission establish
 59 | rules for conducting examinations; removing the
 60 | criteria for determining whether an examination is
 61 | warranted; removing provisions relating to the rates
 62 | charged a to service warranty association for
 63 | examinations; creating s. 634.4385, F.S.; authorizing
 64 | a governmental entity, public agency, institution,
 65 | person, firm, or legal entity to provide money to the
 66 | department to pursue unauthorized entities operating
 67 | as service warranty associations; providing that funds
 68 | remaining at the end of any fiscal year shall be
 69 | available for carrying out duties and responsibilities
 70 | of the department or the office; providing an
 71 | effective date.

72 |
 73 | Be It Enacted by the Legislature of the State of Florida:

74 |
 75 | Section 1. Subsection (8) of section 634.011, Florida
 76 | Statutes, is amended to read:

77 | 634.011 Definitions.—As used in this part, the term:
 78 | (8) "Motor vehicle service agreement" or "service
 79 | agreement" means any contract or agreement indemnifying the
 80 | service agreement holder for the motor vehicle listed on the
 81 | service agreement and arising out of the ownership, operation,
 82 | and use of the motor vehicle against loss caused by failure of
 83 | any mechanical or other component part, or any mechanical or
 84 | other component part that does not function as it was originally

85 intended; however, nothing in this part shall prohibit or affect
 86 the giving, free of charge, of the usual performance guarantees
 87 by manufacturers or dealers in connection with the sale of motor
 88 vehicles. Transactions exempt under s. 624.125 are expressly
 89 excluded from this definition and are exempt from the provisions
 90 of this part. ~~Service agreements that are sold to persons other~~
 91 ~~than consumers and that cover motor vehicles used for commercial~~
 92 ~~purposes are excluded from this definition and are exempt from~~
 93 ~~regulation under the Florida Insurance Code.~~ The term "motor
 94 vehicle service agreement" includes any contract or agreement
 95 that provides:

96 (a) For the coverage or protection defined in this
 97 subsection and which is issued or provided in conjunction with
 98 an additive product applied to the motor vehicle that is the
 99 subject of such contract or agreement;

100 (b) For payment of vehicle protection expenses.

101 1.a. "Vehicle protection expenses" means a preestablished
 102 flat amount payable for the loss of or damage to a vehicle or
 103 expenses incurred by the service agreement holder for loss or
 104 damage to a covered vehicle, including, but not limited to,
 105 applicable deductibles under a motor vehicle insurance policy;
 106 temporary vehicle rental expenses; expenses for a replacement
 107 vehicle that is at least the same year, make, and model of the
 108 stolen motor vehicle; sales taxes or registration fees for a
 109 replacement vehicle that is at least the same year, make, and
 110 model of the stolen vehicle; or other incidental expenses
 111 specified in the agreement.

112 b. "Vehicle protection product" means a product or system

113 installed or applied to a motor vehicle or designed to prevent
 114 the theft of the motor vehicle or assist in the recovery of the
 115 stolen motor vehicle.

116 2. Vehicle protection expenses shall be payable in the
 117 event of loss or damage to the vehicle as a result of the
 118 failure of the vehicle protection product to prevent the theft
 119 of the motor vehicle or to assist in the recovery of the stolen
 120 motor vehicle. Vehicle protection expenses covered under the
 121 agreement shall be clearly stated in the service agreement form,
 122 unless the agreement provides for the payment of a
 123 preestablished flat amount, in which case the service agreement
 124 form shall clearly identify such amount.

125 3. Motor vehicle service agreements providing for the
 126 payment of vehicle protection expenses shall either:

127 a. Reimburse a service agreement holder for the following
 128 expenses, at a minimum: deductibles applicable to comprehensive
 129 coverage under the service agreement holder's motor vehicle
 130 insurance policy; temporary vehicle rental expenses; sales taxes
 131 and registration fees on a replacement vehicle that is at least
 132 the same year, make, and model of the stolen motor vehicle; and
 133 the difference between the benefits paid to the service
 134 agreement holder for the stolen vehicle under the service
 135 agreement holder's comprehensive coverage and the actual cost of
 136 a replacement vehicle that is at least the same year, make, and
 137 model of the stolen motor vehicle; or

138 b. Pay a preestablished flat amount to the service
 139 agreement holder.

140

141 | Payments shall not duplicate any benefits or expenses paid to
 142 | the service agreement holder by the insurer providing
 143 | comprehensive coverage under a motor vehicle insurance policy
 144 | covering the stolen motor vehicle; however, the payment of
 145 | vehicle protection expenses at a preestablished flat amount of
 146 | \$5,000 or less does not duplicate any benefits or expenses
 147 | payable under any comprehensive motor vehicle insurance policy;
 148 | or

149 | (c)1. For the payment for paintless dent-removal services
 150 | provided by a company whose primary business is providing such
 151 | services.

152 | 2. "Paintless dent-removal" means the process of removing
 153 | dents, dings, and creases, including hail damage, from a vehicle
 154 | without affecting the existing paint finish, but does not
 155 | include services that involve the replacement of vehicle body
 156 | panels or sanding, bonding, or painting.

157 | Section 2. Paragraph (b) of subsection (3) of section
 158 | 634.121, Florida Statutes, is amended, and paragraphs (c), (d),
 159 | and (e) are added to that subsection, to read:

160 | 634.121 Forms, required procedures, provisions.—

161 | (3)

162 | (b) After the service agreement has been in effect for 60
 163 | days, it may not be canceled by the insurer or service agreement
 164 | company unless:

165 | 1. There has been a material misrepresentation or fraud at
 166 | the time of sale of the service agreement;

167 | 2. The agreement holder has failed to maintain the motor
 168 | vehicle as prescribed by the manufacturer;

169 3. The odometer has been tampered with or disabled and the
 170 agreement holder has failed to repair the odometer; or

171 4. For nonpayment of premium by the agreement holder, in
 172 which case the service agreement company shall provide the
 173 agreement holder notice of cancellation by certified mail.

174
 175 If the service agreement is canceled by the insurer or service
 176 agreement company, the return of premium must not be less than
 177 100 percent of the paid unearned pro rata premium, less any
 178 claims paid on the agreement. If, after 60 days, the service
 179 agreement is canceled by the service agreement holder, the
 180 insurer or service agreement company shall return directly to
 181 the agreement holder not less than 90 percent of the unearned
 182 pro rata premium, less any claims paid on the agreement. The
 183 service agreement company remains responsible for full refunds
 184 to the consumer on canceled service agreements. However, the
 185 salesperson and agent are responsible for the refund of the
 186 unearned pro rata commission. A service agreement company may
 187 effectuate refunds through the issuing salesperson or agent in
 188 accordance with paragraphs (c) and (d).

189 (c) If the service agreement company effectuates refunds
 190 through the issuing salesperson or agent, the service agreement
 191 company must send the unearned pro rata premium refund due, less
 192 any unearned pro rata commission, to the salesperson or agent
 193 effectuating the refund. Upon receipt, the salesperson or agent
 194 must refund the unearned pro rata premium, including any
 195 unearned pro rata commission, and the sales tax refund owed to
 196 the service agreement holder.

197 | (d) The salesperson, agent, or service agreement company
 198 | shall maintain a copy of one of the following documents, as
 199 | applicable, demonstrating that the refund owed pursuant to
 200 | paragraph (c) has been refunded:

201 | 1. A copy of the front and back of the cancelled check for
 202 | the applicable refund amount owed to the service agreement
 203 | holder;

204 | 2. A copy of the front of the check for the applicable
 205 | refund amount owed to the service agreement holder and a copy of
 206 | the statement from the bank account on which the check was drawn
 207 | showing that the check was cashed;

208 | 3. A copy of the front of the check issued by the service
 209 | agreement company to the salesperson or agent in the amount of
 210 | the service agreement company's portion of the refund owed to
 211 | the service agreement holder and a copy of the statement from
 212 | the bank account on which the check was drawn showing that the
 213 | check was cashed;

214 | 4. A copy of a completed buyer's order demonstrating that
 215 | the applicable refund amount owed to the service agreement
 216 | holder was credited toward the purchase or lease of another
 217 | vehicle;

218 | 5. Any document received from or sent to a lender, finance
 219 | company, or creditor demonstrating that a loan or amount
 220 | financed by the agreement holder was decreased by the amount of
 221 | the applicable refund amount owed to the service agreement
 222 | holder; or

223 | 6. Any other evidence approved by the office in a written
 224 | communication to a person licensed pursuant to this part

225 demonstrating that the applicable refund amount due to the
 226 service agreement holder was properly made.

227
 228 A salesperson or agent effectuating a refund shall maintain a
 229 copy of the documentation required by this paragraph and shall
 230 provide a copy to the service agreement company within 45 days
 231 after a request is made by the department or the office to
 232 either the service agreement company or the salesperson.

233 (e) If the office finds that a salesperson or agent
 234 exhibits a pattern or practice of failing to properly effectuate
 235 refunds owed or to maintain and remit to the service agreement
 236 company the documentation required by paragraph (d), the office
 237 shall notify the department of its finding.

238 Section 3. Subsection (1) of section 634.141, Florida
 239 Statutes, is amended to read:

240 634.141 Examination of companies.—

241 (1) Motor vehicle service agreement companies licensed
 242 under this part may be subject to periodic examination by the
 243 office in the same manner and subject to the same terms and
 244 conditions as apply ~~applies~~ to insurers under part II of chapter
 245 624. The office is not required to conduct periodic examinations
 246 pursuant to this section, but may examine a service agreement
 247 company at its discretion. An examination conducted pursuant to
 248 this section may cover a period of only the most recent 5 years.
 249 The costs of examinations conducted pursuant to ss.
 250 624.316(2)(e) and 624.3161(3) may not exceed 10 percent of the
 251 companies' reported net income for the prior year. The
 252 commission may by rule establish provisions whereby a company

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253 may be exempted from examination.

254 Section 4. Section 634.2855, Florida Statutes, is created
255 to read:

256 634.2855 Unauthorized entities; gifts and grants.—A
257 governmental unit, public agency, institution, person, firm, or
258 legal entity may provide money to the department to enable the
259 department to pursue unauthorized entities operating in
260 violation of this part. The department may transfer funds to the
261 office to investigate, discipline, sanction, and take all action
262 consistent with this part relative to unauthorized entities. All
263 donations or grants of moneys to the department shall be
264 deposited into the Insurance Regulatory Trust Fund and shall be
265 separately accounted for in accordance with this section. Moneys
266 deposited into the Insurance Regulatory Trust Fund pursuant to
267 this section may be appropriated by the Legislature, pursuant to
268 chapter 216, for the purpose of enabling the department or the
269 office to carry out the provisions of this section.

270 Notwithstanding s. 216.301 and pursuant to s. 216.351, any
271 balance of moneys deposited into the Insurance Regulatory Trust
272 Fund pursuant to this section remaining at the end of any fiscal
273 year shall be available for carrying out the duties and
274 responsibilities of the department or the office.

275 Section 5. Subsection (5) of section 634.312, Florida
276 Statutes, is amended to read:

277 634.312 Forms; required provisions and procedures.—

278 (5) Each home warranty contract shall contain a
279 cancellation provision. Any home warranty agreement may be
280 canceled by the purchaser within 10 days after purchase. The

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281 refund must be 100 percent of the gross premium paid, less any
 282 claims paid on the agreement. A reasonable administrative fee
 283 may be charged, not to exceed 5 percent of the gross premium
 284 paid by the warranty agreement holder. After the home warranty
 285 agreement has been in effect for 10 days, if the contract is
 286 canceled by the warranty holder, a return of premium shall be
 287 based upon 90 percent of unearned pro rata premium less any
 288 claims that have been paid. If the contract is canceled by the
 289 association for any reason other than for fraud or
 290 misrepresentation, a return of premium shall be based upon 100
 291 percent of unearned pro rata premium, less any claims paid on
 292 the agreement. A home warranty association may effectuate a
 293 refund through the issuing sales representative.

294 Section 6. Section 634.314, Florida Statutes, is amended
 295 to read:

296 634.314 Examination of associations.—

297 ~~(1)~~ Home warranty associations licensed under this part
 298 may be subject to periodic examinations by the office, in the
 299 same manner and subject to the same terms and conditions as
 300 apply to insurers under part II of chapter 624 of the insurance
 301 code. The office is not required to conduct periodic
 302 examinations pursuant to this section, but may examine a home
 303 warranty company at its discretion. An examination conducted
 304 pursuant to this section may cover a period of only the most
 305 recent 5 years. The costs of examinations conducted pursuant to
 306 ss. 624.316(2)(e) and 624.316(3) may not exceed 10 percent of
 307 the companies' reported net income for the prior year.

308 ~~(2) The office shall determine whether to conduct an~~

309 ~~examination of a home warranty association by considering:~~
 310 ~~(a) The amount of time that the association has been~~
 311 ~~continuously licensed and operating under the same management~~
 312 ~~and control.~~
 313 ~~(b) The association's history of compliance with~~
 314 ~~applicable law.~~
 315 ~~(c) The number of consumer complaints against the~~
 316 ~~association.~~
 317 ~~(d) The financial condition of the association,~~
 318 ~~demonstrated by the financial reports submitted pursuant to s.~~
 319 ~~634.313.~~

320 Section 7. Section 634.3385, Florida Statutes, is created
 321 to read:

322 634.3385 Unauthorized entities; gifts and grants.—A
 323 governmental unit, public agency, institution, person, firm, or
 324 legal entity may provide money to the department to enable the
 325 department to pursue unauthorized entities operating in
 326 violation of this part. The department may transfer funds to the
 327 office to investigate, discipline, sanction, and take all action
 328 consistent with this part relative to unauthorized entities. All
 329 donations or grants of moneys to the department shall be
 330 deposited into the Insurance Regulatory Trust Fund and shall be
 331 separately accounted for in accordance with this section. Moneys
 332 deposited into the Insurance Regulatory Trust Fund pursuant to
 333 this section may be appropriated by the Legislature, pursuant to
 334 chapter 216, for the purpose of enabling the department or the
 335 office to carry out the provisions of this section.
 336 Notwithstanding s. 216.301 and pursuant to s. 216.351, any

337 balance of moneys deposited into the Insurance Regulatory Trust
 338 Fund pursuant to this section remaining at the end of any fiscal
 339 year shall be available for carrying out the duties and
 340 responsibilities of the department or the office.

341 Section 8. Section 634.414, Florida Statutes, is amended
 342 to read:

343 634.414 Forms; required provisions.—

344 (1) Each service warranty contract shall contain a
 345 cancellation provision. If the contract is canceled by the
 346 warranty holder, return of premium shall be based upon no less
 347 than 90 percent of unearned pro rata premium less any claims
 348 that have been paid or less the cost of repairs made on behalf
 349 of the warranty holder. If the contract is canceled by the
 350 association, return of premium shall be based upon 100 percent
 351 of unearned pro rata premium, less any claims paid or the cost
 352 of repairs made on behalf of the warranty holder. Service
 353 warranty associations may effectuate refunds through the issuing
 354 sales representative.

355 (2) Refunds owed pursuant to this section may be made by
 356 cash, check, store credit, gift card, or other similar means.
 357 Upon request of the service warranty holder, the refund shall be
 358 remitted by check.

359 (3)~~(2)~~ By July 1, 2011, each service warranty contract
 360 sold in this state must be accompanied by a written disclosure
 361 to the consumer that the rate charged for the contract is not
 362 subject to regulation by the office. A service warranty
 363 association may comply with this requirement by including such
 364 disclosure in its service warranty contract form or in a

365 separate written notice provided to the consumer at the time of
 366 sale.

367 Section 9. Section 634.416, Florida Statutes, is amended
 368 to read:

369 634.416 Examination of associations.—

370 (1) ~~(a)~~ Service warranty associations licensed under this
 371 part may be subject to periodic examination by the office, in
 372 the same manner and subject to the same terms and conditions
 373 that apply to insurers under part II of chapter 624. The office
 374 is not required to conduct periodic examinations pursuant to
 375 this section, but may examine a service warranty company at its
 376 discretion. An examination conducted pursuant to this section
 377 may cover a period of only the most recent 5 years. The costs of
 378 examinations conducted pursuant to ss. 624.316(2)(e) and
 379 624.3161(3) may not exceed 10 percent of the companies' reported
 380 net income for the prior year.

381 ~~(b) The office shall determine whether to conduct an~~
 382 ~~examination of a service warranty association by considering:~~

383 1. ~~The amount of time that the association has been~~
 384 ~~continuously licensed and operating under the same management~~
 385 ~~and control.~~

386 2. ~~The association's history of compliance with applicable~~
 387 ~~law.~~

388 3. ~~The number of consumer complaints against the~~
 389 ~~association.~~

390 4. ~~The financial condition of the association,~~
 391 ~~demonstrated by the financial reports submitted pursuant to s.~~
 392 ~~634.313.~~

393 ~~(2) The rate charged a service warranty association by the~~
 394 ~~office for examination may be adjusted to reflect the amount~~
 395 ~~collected for the Form 10-K filing fee as provided in this~~
 396 ~~section.~~

397 (2)~~(3)~~ On or before May 1 of each year, an association may
 398 submit to the office the Form 10-K, as filed with the United
 399 States Securities and Exchange Commission pursuant to the
 400 Securities Exchange Act of 1934, as amended. Upon receipt and
 401 review of the most current Form 10-K, the office may waive the
 402 examination requirement; if the office determines not to waive
 403 the examination, such examination will be limited to that
 404 examination necessary to ensure compliance with this part. The
 405 Form 10-K shall be accompanied by a filing fee of \$2,000 to be
 406 deposited into the Insurance Regulatory Trust Fund.

407 (3)~~(4)~~ ~~The office is not required to examine an~~
 408 ~~association that has less than \$20,000 in gross written premiums~~
 409 ~~as reflected in its most recent annual statement. The office may~~
 410 ~~examine such an association if it has reason to believe that the~~
 411 ~~association may be in violation of this part or is otherwise in~~
 412 ~~an unsound financial condition.~~ If the office examines an
 413 association that has less than \$20,000 in gross written
 414 premiums, the examination fee may not exceed 5 percent of the
 415 gross written premiums of the association.

416 Section 10. Section 634.4385, Florida Statutes, is created
 417 to read:

418 634.4385 Unauthorized entities; gifts and grants.—A
 419 governmental unit, public agency, institution, person, firm, or
 420 legal entity may provide money to the department to enable the

421 | department to pursue unauthorized entities operating in
 422 | violation of this part. The department may transfer funds to the
 423 | office to investigate, discipline, sanction, and take all action
 424 | consistent with this part relative to unauthorized entities. All
 425 | donations or grants of moneys to the department shall be
 426 | deposited into the Insurance Regulatory Trust Fund and shall be
 427 | separately accounted for in accordance with this section. Moneys
 428 | deposited into the Insurance Regulatory Trust Fund pursuant to
 429 | this section may be appropriated by the Legislature, pursuant to
 430 | chapter 216, for the purpose of enabling the department or the
 431 | office to carry out the provisions of this section.
 432 | Notwithstanding s. 216.301 and pursuant to s. 216.351, any
 433 | balance of moneys deposited into the Insurance Regulatory Trust
 434 | Fund pursuant to this section remaining at the end of any fiscal
 435 | year shall be available for carrying out the duties and
 436 | responsibilities of the department or the office.

437 | Section 11. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1065 Annuities
SPONSOR(S): Insurance & Banking Subcommittee and Broxson
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1476

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	14 Y, 0 N, As CS	Reilly	Cooper
2) Government Operations Appropriations Subcommittee	12 Y, 0 N	Keith	Topp
3) Economic Affairs Committee		Reilly <i>RJR</i>	Tinker <i>TST</i>

SUMMARY ANALYSIS

Section 627.4554, F.S., provides protections for consumers 65 years of age and older in annuity transactions. The section, enacted in 2004, adopted the National Association of Insurance Commissioners' (NAIC) Senior Protection in Annuity Transactions Model Regulation of 2003. In 2008, the Legislature amended the law to provide additional safeguards for senior consumers that are not in the NAIC's model regulation. In 2010, the Legislature also increased the unconditional refund period for senior consumers to 21 days and required insurers to attach a cover page, with specified information, to any annuity policy sold.

The bill amends s. 627.4554, F.S., to incorporate into Florida law the most current version of the NAIC model regulation on annuity protections (the 2010 NAIC Model), while maintaining most of the provisions adopted by Florida in 2008 and 2010. The 2010 NAIC Model, which has been enacted by 19 states, including California and New York, provides annuity protections for consumers of any age; insurer review of every annuity transaction; and clarifies that insurers are responsible for compliance with annuity protection provisions, even when they contract with third parties.

The Office of Insurance Regulation (OIR) indicates any fiscal impact associated with CS/HB 1065 is insignificant and will be absorbed within current resources.

The bill is effective October 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Annuities¹

An annuity is a contract between a buyer and an insurance company that provides guaranteed payments over a period of time. Annuities are designed to meet retirement and long-range planning goals,² and are long-term contracts that typically restrict an investor's ability to access their money.

There are two basic types of annuities, fixed and variable. Fixed annuities guarantee both the rate of return and the amount of payout. Variable annuities do not guarantee the rate of return, which can fluctuate based on the performance of underlying investment options chosen by the purchaser.

Fixed and variable annuities are available as either immediate or deferred annuities. Typically, premiums for immediate annuities are paid in a lump sum amount, and the purchaser receives an immediate and regular stream of payments for a period of time. Variable annuities generally involve an accumulation phase, during which premiums paid experience tax-deferred growth, and the payout phase (annuitization phase) when the annuity provides a regular stream of periodic payments to the purchaser.

Fixed annuities are considered insurance contracts because of the mortality risk associated with payout options, and are regulated by state insurance departments. With a variable annuity, premium dollars are placed into a variety of investment options called subaccounts. Because variable annuities involve risk and provide no guarantee of principal, they are considered investments and fall within the jurisdiction of both securities regulators and state insurance departments. Agents selling variable annuities must hold a variable annuity license from the state and also possess a securities license and hold an active securities registration with a broker dealer. As investments, variable annuities also have accompanying prospectuses with disclosures regarding risk. All sales of variable annuities are subject to suitability standards established by the Financial Industry Regulatory Authority (FINRA).³

Equity indexed annuities are considered a hybrid of both fixed and variable annuities. They are classified, defined, and regulated as fixed annuities. In contrast to a traditional fixed annuity, which provides a stated guaranteed rate of interest, equity indexed annuities provide a minimum guaranteed interest rate in combination with an index-linked component. A guaranteed minimum interest rate may still create a loss of principal if the guarantee is based on an amount less than the amount of premium or initial payment. Investors who find it necessary to cancel an annuity to access funds prior to maturity of the contract may also lose principal through detrimental features such as surrender charges, hidden penalties, costs, fees, and massive multi-year surrender charges.

Determining whether an Annuity is a Suitable Investment for a Consumer: Suitability Issues

In 2003, the National Association of Insurance Commissioners (NAIC) adopted the "Senior Protection in Annuity Transactions Model Regulation" (Model Regulation), designed to help protect senior citizens when they purchase or exchange annuity products. In 2004, Florida adopted the Model Regulation by creating s. 627.4554, F.S. This section provides protection for senior citizens in annuity transactions,

¹ Background information on annuities derived from "2008 White Paper on Annuities," by Roxanne Rehm, 2008 Assistant General Counsel for the DFS. On file with staff of the Insurance & Banking Subcommittee.

² See "Annuities," U.S. Securities and Exchange Commission at <http://www.sec.gov/answers/annuity.htm> (Last accessed January 27, 2012).

³ The Financial Industry Regulatory Authority (FINRA) is the largest independent regulator for all securities firms doing business in the United States.

requiring insurance companies and agents offering these products to clearly document the basis for selling the product, including consideration of a senior citizen's financial and tax status, as well as investment objectives. In 2006, the NAIC removed the age restriction from its Model Regulation, extending annuity protections to consumers of any age.

In 2008, Florida amended s. 627.4554, F.S. Although the legislation did not incorporate the 2006 change to the Model Regulation, it provided additional safeguards for senior consumers, including:

- Requiring insurers and agents to have an “objectively” reasonable basis for recommending a particular annuity product.
- Specifying the minimum information that an insurer or agent must obtain and use to determine the suitability of a recommendation before executing a purchase or exchange of a policy.
- Requiring suitability information obtained from a consumer to be recorded on a Department of Financial Services’ (DFS) form, which must be completed and signed by the applicant and the agent, with a copy given to the consumer.
- Requiring the insurer or agent, in exchange situations, to provide the consumer with specified information, on a DFS form, concerning differences between the policy being recommended for purchase and an existing policy that would be surrendered or replaced.
- Increasing the “free look” refund period.
- Requiring insurers to establish standards for product training.
- Authorizing the Office of Insurance Regulation to rescind an annuity and provide a full refund of premiums paid or the accumulation value, whichever is greater, when a consumer is harmed by a violation of the suitability statute.

In 2010, the Legislature also increased the unconditional refund period for senior consumers in annuity transactions to 21 days and required insurers to attach a cover page with specified information, including notice of the refund period, contact information, and the name of the issuing company and selling agent, to each annuity sold.⁴

In March 2010, the NAIC revised its Model Regulation to clarify that insurers are responsible for compliance with the model's requirements, even if the insurer contracts with a third party; requiring insurers to review all annuity transactions; and establishing both general and product-specific training requirements for insurance agents.

To date, 19 states, including New York and California, have adopted the 2010 version of the NAIC's Model Regulation.

Effect of the Bill

The bill amends s. 627.4554, F.S., to incorporate into Florida law the most recent version of the NAIC's Model Regulation on protections in annuity transactions. The bill makes the following changes to existing law:

- Extends the protections currently afforded to senior citizens in annuity transactions to consumers of any age and sophistication level.
- Revises definitions; defines additional terms relevant to annuity transactions, including Annuity, FINRA (Financial Regulatory Authority), Recommendation, Replacement, and Suitability Information.
- Requires insurers or agents to have reasonable grounds (as opposed to “objectively” reasonable grounds under current law) for believing that recommendations made to a consumer to purchase, exchange, or replace annuity products are suitable to the consumer's circumstances and that there are reasonable grounds to believe that:
 - The consumer has been reasonably informed of specified information.
 - The consumer would benefit from the product recommended.
 - That the annuity as a whole (or the exchange or replacement of a policy) is suitable for the consumer.

⁴ Section 626.99, F.S.

- Prohibits agents from dissuading, or attempting to dissuade a consumer from truthfully responding to an insurer's request for confirmation of suitability information, or from cooperating with the investigation of a complaint.
- Clarifies that compliance with FINRA requirements constitutes compliance with s. 627.4554, F.S.
- Provides that insurers are responsible for ensuring compliance with the law.
- Requires insurers to establish a supervision system that is reasonably designed to achieve insurer and agent compliance with this section, which must include procedures for the review of each recommendation before issuance of an annuity; establishing standards for agent product training; and annual reports to senior managers to determine the effectiveness of the supervision system. Permits insurers to contract with a third party as to any aspect of the supervision system, but provides that insurers remain responsible for compliance.
- Authorizes the OIR to order insurers to take reasonably appropriate corrective action for insurer or agent misconduct that harms a consumer. However, the bill removes from current law, language that specifically authorizes the OIR to rescind an annuity and provide a full refund of premiums paid or the accumulation value, whichever is greater, when a consumer is harmed by a violation of the suitability statute.

The bill also amends s. 626.99, F.S., to increase the unconditional refund period to 21 days for all consumers of annuities.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.4554, F.S., to incorporate the 2010 amendments to NAIC's model regulation on protections in annuity transactions into Florida law.

Section 2. Amends s. 626.99, F.S., to provide a 21 day unconditional refund period for all purchasers of annuities.

Section 3. Provides an effective date of October 1, 2012.

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:

To the extent that the bill provides for enactment of the most recent version of the NAIC model regulation on annuity protections, adopted by the NAIC in 2010 and enacted in 19 states to date, it will bring further uniformity to the sale of annuity products by insurers conducting business in multiple states.

D. FISCAL COMMENTS:

According to the Office of Insurance Regulation, there may be an increase in workload associated with the increased number in form re-filings based on the provisions of this bill. However, OIR indicates any costs associated with CS/HB 1065 are insignificant and can be absorbed within current resources⁵.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

To the extent that the bill extends the protections of s. 627.4554, F.S., to all purchasers of annuities and establishes additional protections, it will offer enhanced protection to all purchasers of annuities in Florida.

B. RULE-MAKING AUTHORITY:

Authorizes the DFS to adopt rules to administer s. 627.4554, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 30, 2012, the Insurance & Banking Subcommittee adopted 11 amendments to HB 1065. The amendments:

- Made technical changes to clarify that: transactions in compliance with FINRA requirements satisfy the requirements of s. 627.4554, F.S; s. 627.4554, F.S., does not apply to direct response solicitations where there is no recommendation by an agent based on information collected from the consumer; and that the insurer has certain duties if there is no agent involved.
- Corrected a drafting error.
- Extended the unconditional refund period to all consumers of annuities to 21 days after the date of purchase.
- Restored current law to require insurers and agents to use the Department of Financial Services' (DFS) form currently in effect to document suitability information obtained from customers in annuity transactions.
- Restored current law to require insurers and agents, in transactions involving the exchange of annuities, to use the DFS form currently in effect to explain to the consumer the differences between products recommended for purchase and those that will be exchanged or surrendered.
- Removed new continuing education requirements for agents that sell annuities.
- Restored current law to require that a cover page be attached to all annuity policies, which contains specified information.
- Restored current law to limit the surrender charges or deferred sales charges for withdrawal of money from an annuity that applies to senior consumers.
- Changed the effective date of the bill to October 1, 2012.

⁵ E-mail correspondence from OIR to House Appropriations Staff, February 2, 2012, on file with the House Government Operations Appropriations Staff.

1 A bill to be entitled
 2 An act relating to annuities; amending s. 627.4554,
 3 F.S.; providing that recommendations relating to
 4 annuities made by an insurer or its agents apply to
 5 all consumers not just to senior consumers; revising
 6 and providing definitions; revising the duties of
 7 insurers and agents; providing that recommendations
 8 must be based on consumer suitability information;
 9 revising the information relating to annuities that
 10 must be provided by the insurer or its agent to the
 11 consumer; revising the requirements for monitoring
 12 contractors that are providing certain functions for
 13 the insurer relating to the insurer's system for
 14 supervising recommendations; revising provisions
 15 relating to the relationship between this act and the
 16 federal Financial Industry Regulatory Authority;
 17 deleting a provision providing a cap on surrender or
 18 deferred sales charges; prohibiting specified charges
 19 for annuities issued to persons 65 years of age or
 20 older; amending s. 626.99, F.S.; increasing the period
 21 of time that an unconditional refund must remain
 22 available with respect to certain annuity contracts;
 23 making such unconditional refunds available to all
 24 prospective annuity contract buyers without regard to
 25 the buyer's age; revising requirements for cover pages
 26 of annuity contracts; providing an effective date.

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 28

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

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Section 1. Section 627.4554, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.4554, F.S., for present text.)

627.4554 Annuity investments.—

(1) PURPOSE.—The purpose of this section is to require insurers to set forth standards and procedures for making recommendations to consumers which result in transactions involving annuity products, and to establish a system for supervising such recommendations in order to ensure that the insurance needs and financial objectives of consumers are appropriately addressed at the time of the transaction.

(2) SCOPE.—This section applies to any recommendation made to a consumer to purchase, exchange, or replace an annuity by an insurer or its agent, and which results in the purchase, exchange, or replacement recommended.

(3) DEFINITIONS.—As used in this section, the term:

(a) "Agent" has the same meaning as provided in s. 626.015.

(b) "Annuity" means an insurance product under state law which is individually solicited, whether classified as an individual or group annuity.

(c) "FINRA" means the Financial Industry Regulatory Authority or a succeeding agency.

(d) "Insurer" has the same meaning as provided in s. 624.03.

(e) "Recommendation" means advice provided by an insurer

57 | or its agent to a consumer which results in the purchase,
 58 | exchange or replacement of an annuity in accordance with that
 59 | advice.

60 | (f) "Replacement" means a transaction in which a new
 61 | policy or contract is to be purchased and it is known or should
 62 | be known to the proposing insurer or its agent that by reason of
 63 | such transaction an existing policy or contract will be:

64 | 1. Lapsed, forfeited, surrendered or partially
 65 | surrendered, assigned to the replacing insurer, or otherwise
 66 | terminated;

67 | 2. Converted to reduced paid-up insurance, continued as
 68 | extended term insurance, or otherwise reduced in value due to
 69 | the use of nonforfeiture benefits or other policy values;

70 | 3. Amended so as to effect a reduction in benefits or the
 71 | term for which coverage would otherwise remain in force or for
 72 | which benefits would be paid;

73 | 4. Reissued with a reduction in cash value; or

74 | 5. Used in a financed purchase.

75 | (g) "Suitability information" means information related to
 76 | the consumer that is reasonably appropriate to determine the
 77 | suitability of a recommendation made to the consumer, including
 78 | the following:

79 | 1. Age;

80 | 2. Annual income;

81 | 3. Financial situation and needs, including the financial
 82 | resources used for funding the annuity;

83 | 4. Financial experience;

84 | 5. Financial objectives;

- 85 | 6. Intended use of the annuity;
 86 | 7. Financial time horizon;
 87 | 8. Existing assets, including investment and life
 88 | insurance holdings;
 89 | 9. Liquidity needs;
 90 | 10. Liquid net worth;
 91 | 11. Risk tolerance; and
 92 | 12. Tax status.
 93 | (4) EXEMPTIONS.—This section does not apply to
 94 | transactions involving:
 95 | (a) Direct-response solicitations where there is no
 96 | recommendation based on information collected from the consumer
 97 | pursuant to this section;
 98 | (b) Contracts used to fund:
 99 | 1. An employee pension or welfare benefit plan that is
 100 | covered by the federal Employee Retirement and Income Security
 101 | Act;
 102 | 2. A plan described by s. 401(a), s. 401(k), s. 403(b), s.
 103 | 408(k), or s. 408(p) of the Internal Revenue Code, if
 104 | established or maintained by an employer;
 105 | 3. A government or church plan defined in s. 414 of the
 106 | Internal Revenue Code, a government or church welfare benefit
 107 | plan, or a deferred compensation plan of a state or local
 108 | government or tax-exempt organization under s. 457 of the
 109 | Internal Revenue Code;
 110 | 4. A nonqualified deferred compensation arrangement
 111 | established or maintained by an employer or plan sponsor;
 112 | 5. Settlements or assumptions of liabilities associated

113 with personal injury litigation or any dispute or claim-
 114 resolution process; or

115 6. Formal prepaid funeral contracts.

116 (5) DUTIES OF INSURERS AND AGENTS.-

117 (a) When recommending the purchase or exchange of an
 118 annuity to a consumer which results in an insurance transaction
 119 or series of insurance transactions, the agent, or the insurer
 120 where no agent is involved, must have reasonable grounds for
 121 believing that the recommendation is suitable for the consumer,
 122 based on the consumer's suitability information, and that there
 123 is a reasonable basis to believe all of the following:

124 1. The consumer has been reasonably informed of various
 125 features of the annuity, such as the potential surrender period
 126 and surrender charge; potential tax penalty if the consumer
 127 sells, exchanges, surrenders, or annuitizes the annuity;
 128 mortality and expense fees; investment advisory fees; potential
 129 charges for and features of riders; limitations on interest
 130 returns; insurance and investment components; and market risk.

131 2. The consumer would benefit from certain features of the
 132 annuity, such as tax-deferred growth, annuitization, or the
 133 death or living benefit.

134 3. The particular annuity as a whole, the underlying
 135 subaccounts to which funds are allocated at the time of purchase
 136 or exchange of the annuity, and riders and similar product
 137 enhancements, if any, are suitable; and, in the case of an
 138 exchange or replacement, the transaction as a whole is suitable
 139 for the particular consumer based on his or her suitability
 140 information.

141 4. In the case of an exchange or replacement of an
 142 annuity, the exchange or replacement is suitable after taking
 143 into consideration whether the consumer:

144 a. Will incur a surrender charge; be subject to the
 145 commencement of a new surrender period; lose existing benefits,
 146 such as death, living, or other contractual benefits; or be
 147 subject to increased fees, investment advisory fees, or charges
 148 for riders and similar product enhancements;

149 b. Would benefit from product enhancements and
 150 improvements; and

151 c. Has had another annuity exchange or replacement, in
 152 particular, an exchange or replacement within the preceding 36
 153 months.

154 (b) Before executing a purchase, exchange, or replacement
 155 of an annuity resulting from a recommendation, an insurer or its
 156 agent must make reasonable efforts to obtain the consumer's
 157 suitability information. The information shall be collected on
 158 form DFS-H1-1980, which is hereby incorporated by reference, and
 159 completed and signed by the applicant and agent. Questions
 160 requesting this information must be presented in at least 12-
 161 point type and be sufficiently clear so as to be readily
 162 understandable by both the agent and the consumer. A true and
 163 correct executed copy of the form must be provided by the agent
 164 to the insurer, or to the person or entity that has contracted
 165 with the insurer to perform this function as authorized by this
 166 section, within 10 days after execution of the form, and shall
 167 be provided to the consumer no later than the date of delivery
 168 of the contract or contracts.

169 (c) Except as provided under paragraph (d), an insurer may
 170 not issue an annuity recommended to a consumer unless there is a
 171 reasonable basis to believe the annuity is suitable based on the
 172 consumer's suitability information.

173 (d) An insurer's issuance of an annuity must be reasonable
 174 based on all the circumstances actually known to the insurer at
 175 the time the annuity is issued. However, an insurer or its agent
 176 does not have an obligation to a consumer related to an annuity
 177 transaction under paragraph (a) or paragraph (c) if:

- 178 1. A recommendation has not been made;
 179 2. A recommendation was made and is later found to have
 180 been based on materially inaccurate information provided by the
 181 consumer;
 182 3. A consumer refuses to provide relevant suitability
 183 information and the annuity transaction is not recommended; or
 184 4. A consumer decides to enter into an annuity transaction
 185 that is not based on a recommendation of an insurer or its
 186 agent.

187 (e) At the time of sale, the agent or the agent's
 188 representative must:

- 189 1. Make a record of any recommendation made to the
 190 consumer pursuant to paragraph (a);
 191 2. Obtain the consumer's signed statement documenting his
 192 or her refusal to provide suitability information, if
 193 applicable; and
 194 3. Obtain the consumer's signed statement acknowledging
 195 that an annuity transaction is not recommended if he or she
 196 decides to enter into an annuity transaction that is not based

197 | on the insurer's or its agent's recommendation, if applicable.

198 | (f) Before executing a replacement or exchange of an
 199 | annuity contract resulting from a recommendation, the agent must
 200 | provide on form DFS-H1-1981, which is hereby incorporated by
 201 | reference, information that compares the differences between the
 202 | existing annuity contract and the annuity contract being
 203 | recommended in order to determine the suitability of the
 204 | recommendation and its benefit to the consumer. A true and
 205 | correct executed copy of this form must be provided by the agent
 206 | to the insurer, or to the person or entity that has contracted
 207 | with the insurer to perform this function as authorized by this
 208 | section, within 10 days after execution of the form, and must be
 209 | provided to the consumer no later than the date of delivery of
 210 | the contract or contracts.

211 | (g) An insurer shall establish a supervision system that
 212 | is reasonably designed to achieve the insurer's and its agent's
 213 | compliance with this section.

- 214 | 1. Such system must include, but is not limited to:
 215 | a. Maintaining reasonable procedures to inform its agents
 216 | of the requirements of this section and incorporating those
 217 | requirements into relevant agent training manuals;
 218 | b. Establishing standards for agent product training;
 219 | c. Providing product-specific training and training
 220 | materials that explain all material features of its annuity
 221 | products to its agents;
 222 | d. Maintaining procedures for the review of each
 223 | recommendation before issuance of an annuity which are designed
 224 | to ensure that there is a reasonable basis for determining that

225 a recommendation is suitable. Such review procedures may use a
 226 screening system for identifying selected transactions for
 227 additional review and may be accomplished electronically or
 228 through other means, including, but not limited to, physical
 229 review. Such electronic or other system may be designed to
 230 require additional review only of those transactions identified
 231 for additional review using established selection criteria;

232 e. Maintaining reasonable procedures to detect
 233 recommendations that are not suitable. These may include, but
 234 are not limited to, confirmation of consumer suitability
 235 information, systematic customer surveys, consumer interviews,
 236 confirmation letters, and internal monitoring programs. This
 237 sub-subparagraph does not prevent an insurer from using sampling
 238 procedures or from confirming suitability information after the
 239 issuance or delivery of the annuity; and

240 f. Annually providing a report to senior managers,
 241 including the senior manager who is responsible for audit
 242 functions, which details a review, along with appropriate
 243 testing, which is reasonably designed to determine the
 244 effectiveness of the supervision system, the exceptions found,
 245 and corrective action taken or recommended, if any.

246 2. An insurer is not required to include in its
 247 supervision system agent recommendations to consumers of
 248 products other than the annuities offered by the insurer.

249 3. An insurer may contract for performance of a function
 250 required under subparagraph 1.

251 a. If an insurer contracts for the performance of a
 252 function, the insurer must include the supervision of

253 contractual performance as part of those procedures listed in
 254 subparagraph 1. These include, but are not limited to:

255 (I) Monitoring and, as appropriate, conducting audits to
 256 ensure that the contracted function is properly performed; and

257 (II) Annually obtaining a certification from a senior
 258 manager who has responsibility for the contracted function that
 259 the manager has a reasonable basis for representing that the
 260 function is being properly performed.

261 b. An insurer is responsible for taking appropriate
 262 corrective action and may be subject to sanctions and penalties
 263 pursuant to subsection (8) regardless of whether the insurer
 264 contracts for performance of a function and regardless of the
 265 insurer's compliance with sub-subparagraph a.

266 (h) An agent may not dissuade, or attempt to dissuade, a
 267 consumer from:

268 1. Truthfully responding to an insurer's request for
 269 confirmation of suitability information;

270 2. Filing a complaint; or

271 3. Cooperating with the investigation of a complaint.

272 (i) Sales made in compliance with FINRA requirements
 273 pertaining to the suitability and supervision of annuity
 274 transactions shall satisfy the requirements of this section.

275 This paragraph applies to FINRA broker-dealer sales of variable
 276 annuities and fixed annuities if the suitability and supervision
 277 is similar to those applied to variable annuity sales. However,
 278 this paragraph does not limit the ability of the office or the
 279 department to enforce, including investigate, the provisions of
 280 this section. For this paragraph to apply, an insurer must:

281 1. Monitor the FINRA member broker-dealer using
 282 information collected in the normal course of an insurer's
 283 business; and

284 2. Provide to the FINRA member broker-dealer information
 285 and reports that are reasonably appropriate to assist the FINRA
 286 member broker-dealer in maintaining its supervision system.

287 (6) RECORDKEEPING.—

288 (a) Insurers and agents must maintain or be able to make
 289 available to the office or department records of the information
 290 collected from the consumer and other information used in making
 291 the recommendations that were the basis for insurance
 292 transactions for 5 years after the insurance transaction is
 293 completed by the insurer. An insurer may maintain the
 294 documentation on behalf of its agent.

295 (b) Records required to be maintained under this
 296 subsection may be maintained in paper, photographic,
 297 microprocess, magnetic, mechanical, or electronic media, or by
 298 any process that accurately reproduces the actual document.

299 (7) COMPLIANCE MITIGATION; PENALTIES.—

300 (a) An insurer is responsible for compliance with this
 301 section. If a violation occurs because of the action or inaction
 302 of the insurer or its agent, the office may order an insurer to
 303 take reasonably appropriate corrective action for a consumer
 304 harmed by the insurer's or by its agent's violation of this
 305 section and may impose appropriate penalties and sanctions.

306 (b) The department may order:

307 1. An insurance agent to take reasonably appropriate
 308 corrective action, including monetary restitution of penalties

309 or fees incurred by the consumer for any consumer harmed by a
 310 violation of this section by the insurance agent and impose
 311 appropriate penalties and sanctions.

312 2. A managing general agency or insurance agency that
 313 employs or contracts with an insurance agent to sell or solicit
 314 the sale of annuities to consumers must take reasonably
 315 appropriate corrective action for a consumer harmed by a
 316 violation of this section by the insurance agent.

317 (c) In addition to any other penalty authorized under
 318 chapter 626, the department shall order an insurance agent to
 319 pay restitution to a consumer who has been deprived of money by
 320 the agent's misappropriation, conversion, or unlawful
 321 withholding of moneys belonging to the senior consumer in the
 322 course of a transaction involving annuities. The amount of
 323 restitution required to be paid may not exceed the amount
 324 misappropriated, converted, or unlawfully withheld. This
 325 paragraph does not limit or restrict a person's right to seek
 326 other remedies as provided by law.

327 (d) Any applicable penalty under the Florida Insurance
 328 Code for a violation of this section shall be reduced or
 329 eliminated according to a schedule adopted by the office or the
 330 department, as appropriate, if corrective action for the
 331 consumer was taken promptly after a violation was discovered.

332 (e) A violation of this section does not create or imply a
 333 private cause of action.

334 (8) PROHIBITED CHARGES.—An annuity contract issued to a
 335 senior consumer age 65 or older may not contain a surrender or
 336 deferred sales charge for a withdrawal of money from an annuity

337 exceeding 10 percent of the amount withdrawn. The charge shall
 338 be reduced so that no surrender or deferred sales charge exists
 339 after the end of the 10th policy year or 10 years after the date
 340 of each premium payment when multiple premiums are paid,
 341 whichever is later. This subsection does not apply to annuities
 342 purchased by an accredited investor, as defined in Regulation D
 343 as adopted by the United States Securities and Exchange
 344 Commission, or to those annuities specified in paragraph (4) (b).

345 (9) RULES.—The department may adopt rules to administer
 346 this section.

347 Section 2. Subsection (4) of section 626.99, Florida
 348 Statutes, is amended to read:

349 626.99 Life insurance solicitation.—

350 (4) DISCLOSURE REQUIREMENTS.—

351 (a) The insurer shall provide to each prospective
 352 purchaser a buyer's guide and a policy summary prior to
 353 accepting the applicant's initial premium or premium deposit,
 354 unless the policy for which application is made provides an
 355 unconditional refund for ~~a period of~~ at least 14 days, or unless
 356 the policy summary contains an offer of such an unconditional
 357 refund. In these instances, the buyer's guide and policy summary
 358 must be delivered with the policy or before ~~prior to~~ delivery of
 359 the policy.

360 (b) With respect to fixed and variable annuities, the
 361 policy must provide an unconditional refund for ~~a period of~~ at
 362 least 21 ~~14~~ days. For fixed annuities, the buyer's guide must
 363 ~~shall~~ be in the form ~~as~~ provided by the National Association of
 364 Insurance Commissioners (NAIC) Annuity Disclosure Model

365 Regulation, until ~~such time as~~ a buyer's guide is developed by
 366 the department, at which time the department guide must be used.
 367 For variable annuities, a policy summary may be used, which may
 368 be contained in a prospectus, until such time as a buyer's guide
 369 is developed by NAIC or the department, at which time one of
 370 those guides must be used. Unconditional refund means ~~If the~~
 371 ~~prospective owner of an annuity contract is 65 years of age or~~
 372 ~~elder:~~

373 1. An unconditional refund of premiums paid for a fixed
 374 annuity contract, including any contract fees or charges, must
 375 be available for a period of 21 days; and

376 2. An unconditional refund for variable or market value
 377 annuity contracts must be available for a period of 21 days. The
 378 unconditional refund shall be equal to the cash surrender value
 379 provided in the annuity contract, plus any fees or charges
 380 deducted from the premiums or imposed under the contract, or a
 381 refund of all premiums paid. This subparagraph does not apply if
 382 the prospective owner is an accredited investor, as defined in
 383 Regulation D as adopted by the United States Securities and
 384 Exchange Commission.

385 (c) The insurer shall attach a cover page to any annuity
 386 contract ~~policy~~ informing the purchaser of the unconditional
 387 refund period prescribed in paragraph (b). The cover page must
 388 also provide contact information for the issuing company and the
 389 selling agent, and the department's toll-free help line, ~~and any~~
 390 ~~other information required by the department by rule.~~ The cover
 391 page must also contain the following disclosures in bold print
 392 and at least 12-point type, if applicable:

393 1. "PLEASE BE AWARE THAT THE PURCHASE OF AN ANNUITY
 394 CONTRACT IS A LONG-TERM COMMITMENT AND MAY RESTRICT ACCESS TO
 395 YOUR FUNDS."

396 2. "IT IS IMPORTANT THAT YOU UNDERSTAND HOW THE BONUS
 397 FEATURE OF YOUR CONTRACT WORKS. PLEASE REFER TO YOUR POLICY FOR
 398 FURTHER DETAILS."

399 3. "INTEREST RATES MAY HAVE CERTAIN LIMITATIONS. PLEASE
 400 REFER TO YOUR POLICY FOR FURTHER DETAILS."

401 4. "A [PROSPECTUS AND POLICY SUMMARY] [BUYERS GUIDE] IS
 402 REQUIRED TO BE GIVEN TO YOU."

403

404 The cover page is part of the policy and is subject to review by
 405 the office pursuant to s. 627.410.

406 (c)~~(d)~~ The insurer shall provide a buyer's guide and a
 407 policy summary to a ~~any~~ prospective purchaser upon request.



408 Section 3. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1183 East County Water Control District, Lee and Hendry Counties

SPONSOR(S): Kreegel

TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	14 Y, 0 N	Read	Hoagland
2) Economic Affairs Committee		Read 	Tinker 

SUMMARY ANALYSIS

The East County Water Control District (ECWCD) is an independent special district that covers the eastern portions of Lee County and the western portion of Hendry County. The ECWCD was created in Lee County by judicial decree in 1958. The District was later expanded into Hendry County by judicial decree in 1961. In 2000, the ECWCD charter was codified pursuant to s. 189.429, F.S. The district is responsible for the maintenance of drainage infrastructure for 70,000 acres in portions of these two counties.

This bill provides for the Governor to fill any vacancies on the Board of Commissioners to serve until the next general election for which candidates can qualify so as long as the appointment is consistent with general law.

The bill takes effect upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation:

The East County Water Control District (ECWCD) is an independent special district that covers the eastern portions of Lee County and the western portion of Hendry County. The ECWCD was created in Lee County by judicial decree in 1958. The District was later expanded into Hendry County by judicial decree in 1961. In 2000, the ECWCD charter was codified pursuant to s. 189.429, F.S. The district is responsible for the maintenance of drainage infrastructure for 70,000 acres in these counties. The district's Commissioners are elected by the popular vote of electors living within the special district's boundaries.¹

Water control districts are governed by the provisions of Ch. 298, F.S. unless their charters say otherwise. Section 298.11, F.S., requires that election of a Board of Supervisors be done on a one-acre one-vote basis. Consistent with the one-acre, one-vote requirement, s. 298.12, F.S., requires that "in case of a vacancy in any office of supervisor² *elected by the landowners*, the remaining supervisors or, if they fail to act within 30 days, the Governor may fill such vacancy until the next annual meeting, when a successor shall be elected for the unexpired term."³ However, s. 298.12, F.S., is not clear whether the same process (i.e. the remaining supervisors fill the vacancy or, if they fail to act within 30 days, the governor fills the vacancy) applies to the ECWCD because its board is elected by popular vote and *not elected by landowners*.

In 2009, the Florida Legislature amended the ECWCD's charter to resolve the ambiguity concerning the process of filling vacancies on the board.⁴ The requirement that vacancies be filled pursuant to s. 298.12, F.S., was amended to read that vacancies be filled pursuant to s. 189.405(3)(a), F.S. This section requires that "[i]f a multicounty special district has a popularly elected governing board, elections for the purpose of electing members to such board shall conform to the Florida Election Code, chapters 97-106."⁵ Because s. 189.405(3)(a), F.S., speaks more directly to the issue of elections for a multicounty special district with a popularly elected board—a more accurate description of the ECWCD than the description in s. 298.12, F.S.—the ECWCD believed this would resolve the ambiguities in the vacancy appointment process.⁶

The changes made in 2009 to the ECWCD's charter, however, failed to resolve the ambiguity as the Florida Election Code (chapters 97-106) does not clearly speak to how vacancies on the governing boards of special districts should be filled. Section 100.111, F.S., is entitled "Filling Vacancy." Yet there is little direction as to how a vacancy on the board of a special district must be filled. This is because the language in s. 100.111(1)(a), F.S., applies only to offices required to be filled pursuant to s. 1(f), Art. IV of the Florida Constitution,⁷ i.e. only "state or county" offices. Therefore, the question of whether this provision encompasses the board members of an independent special district was still ambiguous. This continued legal uncertainty led to the filing of this bill so as to make the vacancy filling process unambiguously clear.⁸

¹ ECWCD Charter, Section 4(4).

² Chapter 298 calls the elected officials on the board of a water control district "supervisors." However, Ch. 2009-260, L.O.F., changed the term "supervisors" to "commissioners" for purposes of the ECWCD.

³ (Emphasis added).

⁴ Chapter 2009-260, L.O.F.

⁵ Section 189.405(3)(a), F.S.

⁶ The ECWCD's executive director noted the ambiguity in s. 298.12, F.S. as the reasons for the amendment contained in Ch. 2009-260, L.O.F., during a telephone conversation with Community & Military Affairs Subcommittee staff.

⁷ [T]he governor shall fill by appointment any vacancy in state or county office for the remainder of the term of an appointive office, and for the remainder of the term of an elective office if less than twenty-eight months, otherwise until the first Tuesday after the first Monday following the next general election.

⁸ The ECWCD's executive director noted that the Florida Election Code contained legal uncertainties about the process for appointing vacancies during a telephone conversation with Community & Military Affairs Subcommittee staff.

Proposed Changes:

The bill amends the ECWCD's charter to clarify that "the Governor shall appoint a successor to serve until the next general election for which candidates may qualify." The bill also provides that the appointment must be consistent with general law. If in the future s. 298.12, F.S., is amended to clearly apply to water control districts whose board is not elected on a one-acre one-vote basis, then that amended provision contained in general law would control.

B. SECTION DIRECTORY:

Section 1: Amends Section 4 of the ECWCD charter to provide that, unless inconsistent with general law, the governor shall appoint members to the Board of Commissioners if a vacancy arises.

Section 2: Provides an effective date.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 1, 2011.

WHERE? Fort Myers News-Press.

B. REFERENDUM(S) REQUIRED? Yes No

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:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled

2 An act relating to the East County Water Control
3 District, Lee and Hendry Counties; amending chapter
4 2000-423, Laws of Florida, as amended; revising the
5 procedure for filling vacancies on the district's
6 board of commissioners; providing an effective date.

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

9
10 Section 1. Subsection (4) of section 4 of section 3 of
11 chapter 2000-423, Laws of Florida, as amended by chapter 2009-
12 260, Laws of Florida, is amended to read:

13 Section 4. Board of Commissioners; elections; candidate
14 qualifications; powers and duties.—The provisions of chapter
15 298, Florida Statutes, to the contrary notwithstanding, the
16 following provisions, to the extent of any conflict, shall
17 control the East County Water Control District:

18 (4) Unless otherwise provided by general law, if a vacancy
19 occurs on the Board of Commissioners before a general election,
20 the Governor shall appoint a successor to serve until the next
21 general election for which candidates may qualify ~~Vacancies on~~
22 ~~the Board shall be filled pursuant to section 189.405(3)(a),~~
23 ~~Florida Statutes.~~

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1277 Money Services Businesses
SPONSOR(S): Insurance & Banking Subcommittee, Davis
TIED BILLS: HB 1279 IDEN./SIM. BILLS: SB 1586

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: 1) Insurance & Banking Subcommittee, 13 Y, 0 N, As CS, Barnum, Cooper. Row 2: 2) Economic Affairs Committee, Barnum, Tinker.

SUMMARY ANALYSIS

In 2011, the Chief Financial Officer convened the Money Service Business Facilitated – Workers’ Compensation Work Group to study the issue of workers’ compensation premium fraud in Florida, as facilitated by check cashers, and develop recommendations to resolve the issue. The fraud makes possible avoidance of tax collections by the state, results in underpayment of workers compensation insurance premiums to the carriers, and places law-abiding contractors at a competitive disadvantage when competing, on a price basis, with contractors benefitting from the fraud.

The Office of Financial Regulations (OFR) is responsible for licensing money services businesses. There are currently 1,065 licensed businesses authorized to cash checks. Customer files, documentation, and records are reviewed during an examination or investigation by the OFR. Under current law, an examination must be conducted within 6 month of a license being issued, and then at least every 5 years. Because of the OFR’s workload and limited assets, after the initial examination, a licensee can assume, with reasonable certainty, that it will not be examined again for several years, and knows that it will be provided advance notice. Thus, those conducting illegal activities are able to hide, destroy, or tamper with pertinent records or materials.

Check cashers who negotiate suspect checks may encounter difficulties in having their own financial institutions honor the checks, and credit their accounts. This incentivizes some to sell checks that their financial institutions will not honor. Selling of payment instruments within 5 business days after acceptance is permissible under current law. When money service businesses do not properly negotiate, endorse, or deposit checks, it may be difficult for the OFR to detect irregularities or illegalities.

The bill eliminates the requirement that the OFR provide a 15-day advance notice to money services business licensees prior to conducting an examination or investigation. This reduces the opportunity for hiding, destroying, or otherwise tampering with records and materials which may be pertinent to the OFR’s examination or investigation. While retaining the requirement that each licensee be examined at least once every 5 years, the bill eliminates the requirement that the OFR conduct an examination of a business within 6 months of licensure. This will provide greater flexibility to the OFR by permitting use of its resources in a more targeted manner. Both changes reduce the predictability of when a business may be examined.

The bill requires that a check cashing business deposit payment instruments into its own commercial account at a federally insured financial institution and deletes the authorization to sell payment instruments within 5 business days after acceptance. Audit trails and tracking of moneys are facilitated by requiring that the deposit of all payment instruments be made into the business’s own account.

The bill authorizes disciplinary action and provides for penalties should a check casher fail to maintain a depository account in its own name, or fail to deposit all payment instruments into its own account.

The bill stipulates that a check casher may only accept or cash a payment instrument from a person who is the original payee or a conductor who is an authorized officer of the corporate payee named on the instrument’s face. In addition, it codifies the \$5 verification fee currently established by rule. Acceptance and cashing of third-party checks is no longer authorized.

The bill has an indeterminate positive impact on state government and no impact on local government.

The bill provides for an effective date of July 1, 2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

In 2008, the Attorney General impaneled the Eighteenth Statewide Grand Jury to look into the issue of fraudulent insurance and other organized criminal enterprises. In March 2008, it published the Second Interim Report of the Statewide Grand Jury entitled "Check Cashers: A Call for Enforcement." As a result, Ch. 560, F.S., Money Services Business, underwent a major re-write to address concerns with fraudulent insurance and money laundering activities. While the reforms were positive, the legislation did not cure the problem of facilitators creating shell companies for the purpose of purchasing workers compensation insurance policies and then, for a fee, allowing uninsured contractors to use those certificates of insurance.

In 2011, the Chief Financial Officer convened the Money Service Business Facilitated – Workers' Compensation Work Group to study the issue of workers' compensation premium fraud in Florida, as facilitated by check cashers, and develop recommendations to resolve the issue. It was comprised of representatives from state government and industry stakeholders. A report containing the work group's recommendations and other relevant materials are available online.¹

Workers' compensation insurance fraud continues to be a problem within Florida's construction industry. The scheme involves facilitators, contractors, and money services businesses. Facilitators create fake shell companies, typically incorporated online through the Department of State, so as to avoid true review and verification. The shell companies then purchase a minimal workers' compensation insurance policy, usually by describing its operations as a two to four person company. The facilitator may then approach an uninsured subcontractor who is looking for work but lacks the valid workers' compensation policy necessary to obtain contracts from a general contractor. The facilitator makes the shell company's name and workers' compensation policy available for use by the uninsured subcontractor, for a fee. Subsequently, a general contractor, knowingly or unknowingly, uses the uninsured subcontractor to perform work.

Once the uninsured subcontractor completes work under the guise of the shell company, payment will be made to him/her from the general contractor via company check made payable to the shell company. Typically, the check cannot be cashed at a bank because most banks will not cash a check made payable to a business or third party, but rather will require that the check be deposited into the payee's bank account. However, money service businesses will allow the cashing of the third-party business-to-business checks by certain "authorized" persons related to the payee. These "authorized" persons are the facilitator and others designated by the facilitator. Many times, these people have been introduced to the money service business' employees in advance, and limited powers of attorney listing these "authorized" persons are found in the "Know Your Customer" files of the money service business's records.

When checks made payable to the shell company are negotiated at the complicit money services business, two fees are taken out. One, usually between 1.5% and 2%, is taken out for the money services business as the fee for cashing the check. The second fee, usually between 6% and 8%, is taken out for the facilitator, as the fee for use of the shell company's name and workers' compensation insurance policy. The balance of the check is then returned to the uninsured subcontractor, posing as the shell company, in cash. The money paid in this manner is not reported to the shell company's workers' compensation insurance carrier, effectively avoiding the payment of any workers' compensation premiums or applicable payroll taxes. The payments are not considered payroll exposure because, on paper, the transaction appears to be a legitimate contractor to insured subcontractor payment.

¹ <http://www.myfloridacfo.com/sitePages/agency/sections/MoneyServiceBusiness.aspx> (Last visited on January 26, 2012).

Some money service businesses are at least tacitly aware of the fraud and their role in its success. Complicit money service businesses falsify required documents regarding the true identity of those persons authorized to conduct the transactions. To do this, they will complete Currency Transaction Reports for transactions in excess of \$10,000 in the name of the owner of the shell company, rather than the facilitator, to protect the latter's identity.

Facilitators may duplicate this scheme multiple times using the same workers' compensation insurance policy. Upon becoming concerned with detection, they close the shell company, which only exists on paper, and form a new entity. Shell company documentation often reflects questionable information, such as an owner who does not exist or is in the country illegally. Therefore, it is difficult link these fraudulent activities.

Uninsured subcontractors, by avoiding actual workers' compensation premiums, are able to pass that cost savings on to general contractors, some of whom may be complicit in this fraud. Contractors and subcontractors who are in compliance with the state's workers' compensation insurance laws are placed at a competitive disadvantage when competing, on a price basis, with contractors benefitting from the fraud.

These fraudulent activities make possible avoidance of tax collection by the state. They result in underpayment of workers compensation insurance premiums to the carriers. Additionally, when an uninsured worker is injured, the costs are ultimately paid for by all taxpayers.

Current Situation:

The Office of Financial Regulations (OFR) is responsible for licensing money services businesses. There are currently 1,065 licensed businesses having authority to engage in check cashing.² Current law provides that the requirement for licensure does not apply to a person cashing payment instruments that have an aggregate face value of less than \$2,000 per person per day and that are incidental to the retail sale of goods or services, within certain parameters. The \$2,000 benchmark was selected in 2008 after conversations with interested parties including representatives from Jackson Hewitt, Wal-Mart, Amscot Financial, Inc., and others. The \$2,000 amount was felt to still provide protection against fraudulent insurance and money laundering activities, and was consistent with the IRS's reported average federal tax refund.

There are no federal regulations which require a bank to cash a check for an individual who does not have an account with that bank. A 2009 Federal Deposit Insurance Corporation national survey of unbanked and underbanked household reported that an estimated 7.7% of U.S. households do not have a checking or savings account. According to the survey, 527,000 or 7% of Florida's households are unbanked.³

Check cashers are limited in the fees they may charge. By law, a check casher may not charge fees:

- In excess of 5% of the face amount of the payment instrument, or \$5, whichever is greater.
- In excess of 3% of the face amount of the payment instrument, or \$5, whichever is greater, if the payment instrument is any kind of state public assistance or federal social security benefit.
- For personal checks or money orders in excess of 10% of the face amount of those payment instruments, or \$5, whichever is greater.⁴

Check cashers are authorized to collect a fee linked to the direct costs of verifying such things as a customer's identity or employment. That fee, established by rule, may not exceed \$5.⁵

Documentation and record keeping requirements for Florida-licensed check cashers are established in law. These specify that, for any payment instrument accepted having a face value of \$1,000 or more,

² Office of Financial Regulation HB 1277 Bill Analysis dated January 20, 2012, on file with the Insurance & Banking Subcommittee.

³ <http://www.fdic.gov/householdsurvey> (Last visited on January 26, 2012).

⁴ s. 560.309(8), F.S.

⁵ 69V-560.801, F.A.C.

the check casher must maintain a copy of the personal identification that bears a photograph of the customer used as identification and a thumbprint of the customer taken by the licensee. Licensees are required to affix customer thumbprints to the original of each payment instrument exceeding \$1,000, as well as secure and maintain a copy of the original payment instrument, a copy of the customer's personal identification presented at the time of acceptance, and maintain customer files for those cashing a corporate and third party payment instrument. Those customer files must include documentation from the Secretary of State verifying the corporate registration, Articles of Incorporation, information from the Department of Financial Services Compliance Proof of Coverage Query Page, and documentation of those authorized to negotiate payment instruments on the corporation's behalf. The files must be updated annually. Record keeping requirements for check cashers when the payment instrument is \$1,000 or more, at a minimum, must include:

- Transaction date.
- Payor name.
- Payee name.
- Conductor name, if other than the payee.
- Amount of payment instrument.
- Amount of currency provided.
- Type of payment instrument.
- Fee charged for the cashing of the payment instrument.
- Branch/Location where instrument was accepted.
- Identification type presented by conductor.
- Identification number presented by conductor.

It is required that logs of these transactions be maintained in an electronic format that is readily retrievable and capable of being exported to most widely available software applications including Microsoft EXCEL.⁶

Customer files, documentation, and records are reviewed during an examination or investigation by the OFR. By law, an examination must be conducted within 6 months of a license being issued, and then at least every 5 years.⁷ With few exceptions, the OFR is required to provide at least 15 days' notice to a money services business prior to conducting an examination or investigation.⁸ Thus, those conducting illegal activities are able to hide, destroy, or tamper with pertinent records or materials. Because of the OFR's workload and limited assets, after the initial examination, a licensee can assume, with reasonable certainty, that it will not be examined again for several years and, when the examination or investigation does occur, it will receive advance notice.

Check cashers who negotiate suspect checks may encounter difficulties in having their financial institutions honor the checks, and in turn, credit their accounts. This incentivizes some check cashing facilities to sell checks that their financial institutions will not honor. Selling of payment instruments within 5 business days after acceptance is permissible under current law.⁹ When money service businesses do not properly negotiate, endorse, or deposit checks, it may be difficult for the OFR to detect irregularities or illegalities.¹⁰

Effect of the bill:

The bill eliminates the requirement that the OFR provide a 15-day advance notice to money services business licensees prior to conducting an examination or investigation. This change reduces the opportunity for hiding, destroying, or otherwise tampering with records and materials which may be pertinent to the OFR's examination or investigation. While retaining the requirement that each licensee be examined at least once every 5 years, the bill eliminates the requirement that the OFR conduct an examination of a business within 6 months of the business becoming licensed. This will provide greater

⁶ 69V-560.704 F.A.C.

⁷ *Id.*

⁸ s. 560.109(1), F.S.

⁹ s. 560.309(3), F.S.

¹⁰ *A Report by the Money Services Business Facilitated Workers' Compensation Fraud Work Group*

flexibility to the OFR by permitting use of its resources in a more targeted manner. Both changes reduce the predictability of when a business may be examined.

The bill requires that a check cashing business deposit payment instruments into its own commercial account at a federally insured financial institution and deletes the authorization to sell payment instruments within 5 business days after acceptance. Audit trails and tracking of moneys are facilitated by requiring that the deposit of all payment instruments be made into the business's own account. Maintaining such an account is a prerequisite for continued operation. A licensee is required to notify the OFR within 5 business days after it ceases to maintain a commercial depository account in its own name and, before resuming check cashing, must reestablish such an account and notify the OFR that the account exists.

The bill authorizes disciplinary action and provides for penalties should a check casher fail to maintain a depository account in its own name, or fail to deposit all payment instruments into its own account. Possible disciplinary actions include denial, revocation, or suspension of a license. In addition, it provides a definition for "fraudulent identification paraphernalia"¹¹ and specifies that that possession and use of fraudulent identification paraphernalia is a prohibited act punishable as a felony of the third degree.

The bill stipulates that a check casher may only accept or cash a payment instrument from a person who is the original payee or a conductor who is an authorized officer of the corporate payee named on the instrument's face. Acceptance and cashing of third-party checks is no longer authorized.

The bill codifies the \$5 fee, currently established by rule, which is linked to the direct cost of verifying such things as a customer's identity or employment.

The bill provides for an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1: Amends s. 560.103, F.S., relating to definitions.

Section 2: Amends s. 560.109, F.S., relating to examinations and investigations.

Section 3: Amends s. 560.111, F.S., relating to prohibited acts.

Section 4 Reenacts and amends s. 560.114, F.S., relating to disciplinary action penalties.

Section 5: Amends s. 560.126, F.S., relating to required notice by licensee.

Section 6: Amends s. 560.309, F.S., relating to conduct of business.

Section 7: Amends s. 560.310, F.S., relating to records of check cashers and foreign currency exchangers.

Section 8: Provides an effective date of July 1, 2012.

¹¹ "Fraudulent identification paraphernalia" means all equipment, products, or materials of any kind that are used, intended for use, or designed for use in the misrepresentation of a customer's identity. The term includes a signature or thumbprint stamp, blank, stolen, counterfeit, or unlawfully issued personal identification.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. There may be an increase in tax revenue as underpayment of workers' compensation insurance premium and falsified reporting of payroll are reduced.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

- Elimination of the competitive advantage resulting from use of subcontractors without workers' compensation insurance may result in additional business for law-abiding contractors.
- By ensuring all appropriate individuals are covered by workers compensation insurance, the cost of care for the uninsured, which is ultimately paid for by all taxpayers, may be reduced.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

At the January 30, 2012 meeting of the Insurance & Banking Subcommittee, a Proposed Committee Substitute was considered and adopted. It was reported favorably as a Committee Substitute.

The Proposed Committee Substitute:

- Removed authorization for the establishment and administration of a centralized database of check cashing transaction information.
- Removed the requirement for real-time reporting of transaction data.
- Removed the funding mechanism for establishment, maintenance, and administration of the centralized database.

The analysis is drafted to the Committee Substitute.

1 A bill to be entitled
 2 An act relating to money services businesses; amending
 3 s. 560.103, F.S.; defining terms for purposes of
 4 provisions regulating money services businesses;
 5 amending s. 560.109, F.S.; revising the frequency and
 6 notice requirements for examinations and
 7 investigations by the Office of Financial Regulation
 8 of money services business licensees; amending s.
 9 560.111, F.S.; prohibiting money services businesses,
 10 authorized vendors, and affiliated parties from
 11 knowingly possessing certain paraphernalia used or
 12 intended or designed for use in misrepresenting a
 13 customer's identity, for which penalties apply;
 14 prohibiting certain persons from providing a
 15 customer's personal identification information to a
 16 money services business licensee and providing
 17 penalties; reenacting s. 560.114(1)(h), F.S., relating
 18 to penalties for certain prohibited acts by money
 19 services businesses, to incorporate amendments made by
 20 the act to s. 560.111, F.S., in a reference thereto;
 21 amending s. 560.114, F.S.; prohibiting certain acts by
 22 money services businesses, authorized vendors, and
 23 affiliated parties, for which penalties apply;
 24 revising the conditions for which a money services
 25 business license may be suspended; amending ss.
 26 560.126 and 560.309, F.S.; requiring a money services
 27 business licensee to maintain its own federally
 28 insured depository account and deposit into the

29 account any payment instruments cashed; requiring a
 30 licensee to notify the office and cease to cash
 31 payment instruments if the licensee ceases to maintain
 32 the account; prohibiting a licensee from accepting or
 33 cashing a payment instrument from a person who is not
 34 the original payee except under certain circumstances;
 35 establishing a limit on the amount of fees that
 36 licensees may charge for the direct costs of
 37 verification of payment instruments cashed; amending
 38 s. 560.310, F.S.; revising requirements for the
 39 records that a money services business licensee must
 40 maintain related to the payment instruments cashed;
 41 providing an effective date.

42

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

44

45 Section 1. Subsections (9) and (10) of section 560.103,
 46 Florida Statutes, are renumbered as subsections (11) and (12),
 47 respectively, present subsections (11) through (14) are
 48 renumbered as subsections (14) through (17), respectively,
 49 present subsections (15) through (27) are renumbered as
 50 subsections (19) through (31), respectively, present subsections
 51 (28) through (30) are renumbered as subsections (33) through
 52 (35), respectively, and new subsections (9), (10), (13), (18),
 53 and (32) are added to that section, to read:

54 560.103 Definitions.—As used in this chapter, the term:

55 (9) "Conductor" means a natural person who presents
 56 himself or herself to a licensee for purposes of cashing a
 57 payment instrument.

58 (10) "Corporate payment instrument" means a payment
 59 instrument on which the payee named on the instrument's face is
 60 other than a natural person.

61 (13) "Department" means the Department of Financial
 62 Services.

63 (18) "Fraudulent identification paraphernalia" means all
 64 equipment, products, or materials of any kind that are used,
 65 intended for use, or designed for use in the misrepresentation
 66 of a customer's identity. The term includes, but is not limited
 67 to:

68 (a) A signature stamp, thumbprint stamp, or other tool or
 69 device used to forge a customer's personal identification
 70 information.

71 (b) An original of any type of personal identification
 72 listed in s. 560.310(2)(b) which is blank, stolen, or unlawfully
 73 issued.

74 (c) A blank, forged, fictitious, or counterfeit instrument
 75 in the similitude of any type of personal identification listed
 76 in s. 560.310(2)(b) which would in context lead a reasonably
 77 prudent person to believe that such instrument is an authentic
 78 original of such personal identification.

79 (d) Counterfeit, fictitious, or fabricated information in
 80 the similitude of a customer's personal identification
 81 information that, although not authentic, would in context lead
 82 a reasonably prudent person to credit its authenticity.

83 (32) "Personal identification information" means a
 84 customer's name that, alone or together with any of the
 85 following information, may be used to identify that specific
 86 customer:

87 (a) Customer's signature.

88 (b) Photograph, digital image, or other likeness of the
 89 customer.

90 (c) Unique biometric data, such as the customer's
 91 thumbprint or fingerprint, voice print, retina or iris image, or
 92 other unique physical representation of the customer.

93 Section 2. Subsections (1) and (7) of section 560.109,
 94 Florida Statutes, are amended to read:

95 560.109 Examinations and investigations.—The office may
 96 conduct examinations and investigations, within or outside this
 97 state to determine whether a person has violated any provision
 98 of this chapter and related rules, or of any practice or conduct
 99 that creates the likelihood of material loss, insolvency, or
 100 dissipation of the assets of a money services business or
 101 otherwise materially prejudices the interests of their
 102 customers.

103 (1) The office may, without advance notice, examine or
 104 investigate each licensee as often as is warranted for the
 105 protection of customers and in the public interest. However, the
 106 office must examine each licensee, but at least once every 5
 107 years. A new licensee shall be examined within 6 months after
 108 the issuance of the license. The office shall provide at least
 109 15 days' notice to a money services business, its authorized
 110 vendor, or license applicant before conducting an examination or

111 ~~investigation. However,~~ The office may, without advance notice,
 112 examine ~~conduct an examination~~ or investigate ~~investigation~~ of a
 113 money services business, authorized vendor, ~~or~~ affiliated party,
 114 or license applicant at any time ~~and without advance notice~~ if
 115 the office suspects that the money services business, authorized
 116 vendor, ~~or~~ affiliated party, or license applicant has violated
 117 or is about to violate any provision ~~provisions~~ of this chapter
 118 or any criminal law ~~laws~~ of this state or of the United States.

119 (7) Reasonable and necessary costs incurred by the office
 120 or third parties authorized by the office in connection with
 121 examinations or investigations may be assessed against any
 122 person subject to this chapter on the basis of actual costs
 123 incurred. Assessable expenses include, but are not limited to,
 124 expenses for: interpreters; certified translations of documents
 125 into the English language required by this chapter or related
 126 rules; communications; legal representation; economic, legal, or
 127 other research, analyses, and testimony; and fees and expenses
 128 for witnesses. The failure to reimburse the office is a ground
 129 for denial of a license application, denial of a license
 130 renewal, or for revocation of any approval thereof. Except for
 131 examinations authorized under this section ~~s. 560.109~~, costs may
 132 not be assessed against a person unless the office determines
 133 that the person has operated or is operating in violation of
 134 this chapter.

135 Section 3. Paragraph (g) is added to subsection (1) of
 136 section 560.111, Florida Statutes, subsections (3) and (4) are
 137 renumbered as subsections (4) and (5), respectively, and a new
 138 subsection (3) is added to that section, to read:

139 560.111 Prohibited acts.—

140 (1) A money services business, authorized vendor, or
 141 affiliated party may not:

142 (g) Knowingly possess any fraudulent identification
 143 paraphernalia. This paragraph does not prohibit the maintenance
 144 and retention of any records required by this chapter.

145 (3) A person other than the conductor of a payment
 146 instrument may not provide a licensee engaged in cashing the
 147 payment instrument with the customer's personal identification
 148 information.

149 Section 4. Paragraph (h) of subsection (1) of section
 150 560.114, Florida Statutes, is reenacted, paragraphs (aa)and (bb)
 151 are added to that subsection, and subsection (2) of that section
 152 is amended, to read:

153 560.114 Disciplinary actions; penalties.—

154 (1) The following actions by a money services business,
 155 authorized vendor, or affiliated party constitute grounds for
 156 the issuance of a cease and desist order; the issuance of a
 157 removal order; the denial, suspension, or revocation of a
 158 license; or taking any other action within the authority of the
 159 office pursuant to this chapter:

160 (h) Engaging in an act prohibited under s. 560.111.

161 (aa) Failure of a check casher to maintain a federally
 162 insured depository account as required by s. 560.309.

163 (bb) Failure of a check casher to deposit into its own
 164 federally insured depository account any payment instrument
 165 cashed as required by s. 560.309.

166 (2) The office may immediately suspend the license of any

167 | money services business if the money services business fails to:

168 | (a) Provide to the office, upon written request, any of
 169 | the records required by s. ~~ss.~~ 560.123, s. 560.1235, s. 560.211,
 170 | or s. ~~and~~ 560.310 or any rule adopted under those sections. The
 171 | suspension may be rescinded if the licensee submits the
 172 | requested records to the office.

173 | (b) Maintain a federally insured depository account as
 174 | required by s. 560.309.

175 |
 176 | For purposes of s. 120.60(6), failure to perform ~~provide~~ any of
 177 | the acts specified in this subsection ~~above-mentioned records~~
 178 | constitutes immediate and serious danger to the public health,
 179 | safety, and welfare.

180 | Section 5. Subsection (4) is added to section 560.126,
 181 | Florida Statutes, to read:

182 | 560.126 Required notice by licensee.—

183 | (4) A licensee that engages in check cashing must notify
 184 | the office within 5 business days after the licensee ceases to
 185 | maintain a federally insured depository account as required by
 186 | s. 560.309(3) and, before resuming check cashing, must
 187 | reestablish such an account and notify the office of the
 188 | account.

189 | Section 6. Subsections (3), (4), and (8) of section
 190 | 560.309, Florida Statutes, are amended to read:

191 | 560.309 Conduct of business.—

192 | (3) A licensee under this part must maintain and deposit
 193 | payment instruments into its own a commercial account at a
 194 | federally insured financial institution. If a licensee ceases to

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195 maintain such a depository account, the licensee must not engage
 196 in check cashing until the licensee reestablishes such an
 197 account and notifies the office of the account as required by s.
 198 560.126(4) ~~or sell payment instruments within 5 business days~~
 199 ~~after the acceptance of the payment instrument.~~

200 (4) A licensee may not accept or cash a ~~multiple~~ payment
 201 instrument ~~instruments~~ from a person who is not the original
 202 payee; however, this subsection does not prohibit a licensee
 203 from accepting or cashing a corporate payment instrument from a
 204 conductor who is an authorized officer of the corporate payee
 205 named on the instrument's face, unless the person is licensed to
 206 cash payment instruments pursuant to this part and all payment
 207 instruments accepted are endorsed with the legal name of the
 208 person.

209 (8) Exclusive of the direct costs of verification, which
 210 shall be established by rule not to exceed \$5, a check casher
 211 may not:

212 (a) Charge fees, except as otherwise provided by this
 213 part, in excess of 5 percent of the face amount of the payment
 214 instrument, or \$5, whichever is greater;

215 (b) Charge fees in excess of 3 percent of the face amount
 216 of the payment instrument, or \$5, whichever is greater, if such
 217 payment instrument is the payment of any kind of state public
 218 assistance or federal social security benefit payable to the
 219 bearer of the payment instrument; or

220 (c) Charge fees for personal checks or money orders in
 221 excess of 10 percent of the face amount of those payment
 222 instruments, or \$5, whichever is greater.

223 Section 7. Section 560.310, Florida Statutes, is amended
 224 to read:

225 560.310 Records of check cashers and foreign currency
 226 exchangers.—

227 (1) ~~In addition to the record retention requirements~~
 228 ~~specified in s. 560.1105,~~ A licensee engaged in check cashing
 229 must maintain for the period specified in s. 560.1105 a copy of
 230 each payment instrument cashed.

231 (2) If the payment instrument exceeds \$1,000, the
 232 following additional information must be maintained ~~the~~
 233 ~~following:~~

234 (a) Customer files, as prescribed by rule, on all
 235 customers who cash corporate ~~or third-party~~ payment instruments
 236 that exceed ~~exceeding~~ \$1,000.

237 (b) ~~For any payment instrument accepted having a face~~
 238 ~~value of \$1,000 or more:~~

239 ~~1-~~ A copy of the personal identification that bears a
 240 photograph of the customer used as identification and presented
 241 by the customer. Acceptable personal identification is limited
 242 to a valid driver ~~driver's~~ license; a state identification card
 243 issued by any state of the United States or its territories or
 244 the District of Columbia, and showing a photograph and
 245 signature; a United States Government Resident Alien
 246 Identification Card; a passport; or a United States Military
 247 identification card.

248 (c) ~~2-~~ A thumbprint of the customer taken by the licensee
 249 when the payment instrument is presented for negotiation or
 250 payment.

251 (d)~~(e)~~ A payment instrument log that must be maintained
 252 electronically as prescribed by rule. For purposes of this
 253 paragraph, multiple payment instruments accepted from any one
 254 person on any given day which total \$1,000 or more must be
 255 aggregated and reported on the log.

256 (3)~~(2)~~ A licensee under this part may engage the services
 257 of a third party that is not a depository institution for the
 258 maintenance and storage of records required by this section if
 259 all the requirements of this section are met.

260 Section 8. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1297 City of Dania Beach, Broward County

SPONSOR(S): Jenne

TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	14 Y, 0 N	Read	Hoagland
2) Agriculture & Natural Resources Subcommittee	14 Y, 0 N	Deslatte	Blalock
3) Economic Affairs Committee		Read (HR)	Tinker TBT

SUMMARY ANALYSIS

This bill provides for the municipal annexation of an area seaward of the City of Dania Beach. The area to be annexed extends three miles offshore to the territorial boundary of Florida. The main effect of this annexation will be the inclusion of the Dania Pier in the City of Dania Beach. Currently the pier is outside of the city's jurisdiction even though the city has proprietary interest via a sovereign submerged lands lease for the land beneath the pier.

The bill is expected to have no fiscal impact.

The bill's effective date is upon becoming a 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 because the area proposed to be annexed does not meet the minimum requirements of s. 171.043, F.S., which defines the types of areas that may be annexed.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

The City of Dania Beach is an incorporated municipality in southeast Broward County. One of the main attractions in the City of Dania Beach is the Dania Pier, which extends approximately 1,300 feet into the Atlantic Ocean.¹ However, most of the pier, i.e., those parts seaward of the mean low water mark, is not within the territorial boundaries of the city.² The city's territorial boundary ends at the mean low water mark. As such, the city is unable to enforce their municipal ordinances on the pier.³

The eastern territorial boundary of both the State of Florida⁴ and Broward County⁵ extends out into the Atlantic Ocean three miles off the coast of Florida.

Annexation:

Article VII, Section 2(c) of the Florida Constitution states that “[m]unicipal annexation of unincorporated territory, merger of municipalities, and exercise of extra-territorial powers by municipalities shall be as provided by general or special law.” Chapter 171, F.S., sets out statutory requirements for municipal annexation. However, due to limitations contained in Ch. 171, F.S.,⁶ the City of Dania Beach is unable to annex the proposed area under the procedures described in that chapter.

Annexation of sovereign submerged lands seaward to the territorial limits of Florida (three miles off the coast) is also consistent with the practice of other municipalities in Broward County. Pompano Beach,⁷ Lauderdale-by-the-Sea,⁸ and Fort Lauderdale⁹ have each annexed such sovereign submerged lands.

Effect of Proposed Changes:

The bill would result in the annexation of all sovereign submerged lands extending three miles out into the Atlantic Ocean.

B. SECTION DIRECTORY:

Section 1: Describes the area to be annexed.

Section 2: Provides an effective date of becoming law.

¹ See Joe Julavits, *Countdown to Opening Day: Pier pressure for new facility*, THE JACKSONVILLE TIMES-UNION (July 25, 2004) available at http://jacksonville.com/tu-online/stories/072504/spo_16184226.shtml.

² Per correspondence with Broward Legislative Delegation (January 18, 2012).

³ Per correspondence with Bob Daniels, City Manager, City of Dania Beach (January 20, 2012).

⁴ Article X, Sec. 16(c)(5) (defining “nearshore and inshore Florida waters” as “all Florida waters inside a line three miles seaward of the coastline along the Gulf of Mexico and inside a line one mile seaward of the coastline along the Atlantic Ocean.”).

⁵ Section 7.06, F.S.

⁶ See s. 171.043, F.S., describing lands that may be annexed. The reason the area proposed to be annexed does not satisfy the this requirement is that the sovereign submerged lands are neither developed for urban purposes, s. 171.043(2), F.S., nor lying between the municipal boundary and an area developed for urban purposes, s. 171.043(3)(a), F.S., nor “adjacent, on at least 60 percent of its external boundary, to any combination of the municipal boundary and the boundary of an area or areas developed for urban purposes,” s. 171.043(3)(a), F.S.

⁷ Article I, Sec 2 of the Pompano Beach Charter.

⁸ See Ch. 2002-357, L.O.F. (annexing sovereign submerged lands out to “the eastern boundary line of the State of Florida”); Art. II, Sec 2-2 of the Town of Lauderdale-by-the-Sea Charter.

⁹ Article II, Sec. 2-01 of the Fort Lauderdale Charter.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 7, 2011

WHERE? The Sun-Sentinel in Broward 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

According to the economic impact statement, there will be 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:

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 because the area proposed to be annexed does not meet the minimum requirements of s. 171.043, F.S., which defines the types of areas that may be annexed.

Section 171.043 sets the minimum requirements for areas that may be annexed. The area to be annexed must be: (1) contiguous to the municipality; and (2) either developed for urban purposes or be in between other areas developed for urban purposes. Because the annexing of sovereign submerged lands does not satisfy these minimum requirements for annexation, this bill may be an exemption from general law.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to City of Dania Beach, Broward
 3 County; extending the corporate limits of the City of
 4 Dania Beach to include the area that extends 3 miles
 5 into the Atlantic Ocean from the city's existing
 6 shoreline; providing an effective date.

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

9
 10 Section 1. The present corporate limits of the City of
 11 Dania Beach, Broward County, Florida, are extended and enlarged
 12 effective September 15, 2012, so as to include, in addition to
 13 the territory presently within its corporate limits, the area
 14 that extends 3 miles into the Atlantic Ocean from the city's
 15 existing shoreline, particularly described as follows:

16
 17 A portion of the Atlantic Ocean lying between the mean
 18 (ordinary) low water mark and the three mile limit and
 19 adjoining that portion of the Corporate Limits of the
 20 City of Dania Beach lying in Section 36, Township 50
 21 South, Range 42 East, Broward County, Florida and
 22 being more particularly described as follows:

23
 24 BEGINNING at the intersection of the Easterly
 25 projection of the common boundary of Lots 71 and 72 of
 26 Block 172, HOLLYWOOD CENTRAL BEACH, according to the
 27 plat thereof as recorded in Plat Book 4, page 20, of
 28 the Public Records of Broward County and the mean

29 (ordinary) low water mark of the Atlantic Ocean, said
 30 point being on Northerly line of the Corporate Limits
 31 of the City of Dania Beach as established by Chapter
 32 30689, Acts 1955 of the Laws of Florida the same being
 33 the Corporate Limits of the City of Hollywood as
 34 established by Chapter 30836 of the Laws of Florida;

35
 36 Thence Easterly on said Easterly projection of the
 37 common boundary of Lots 71 and 72 of Block 172,
 38 HOLLYWOOD CENTRAL BEACH to the intersection with the
 39 East boundary line of the State of Florida, also known
 40 as the three mile limit;

41
 42 Thence Southerly on said East boundary line of the
 43 State of Florida, also known as the three mile limit,
 44 to the intersection with the Easterly projection of
 45 the South line of Block 206 of said HOLLYWOOD CENTRAL
 46 BEACH, said South line being the original Corporate
 47 Limits as described in the Municipal Code of the City
 48 of Dania Beach and the Corporate Limits of the City of
 49 Hollywood as established by Chapter 30836 of the Laws
 50 of Florida;

51
 52 Thence Westerly on said Easterly projection of the
 53 South line of Block 206 to the intersection with the
 54 mean (ordinary) low water mark of the Atlantic Ocean;

55
 56 Thence Northerly on said mean (ordinary) low water

57 | mark of the Atlantic Ocean and on said Original
58 | Corporate Limits of the City of Dania Beach as
59 | established by said Chapter 30689, Acts 1955 of the
60 | Laws of Florida, to the POINT OF BEGINNING.
61 | Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: HB 1483 Alachua County
SPONSOR(S): Chestnut IV
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Community & Military Affairs Subcommittee	14 Y, 0 N	Duncan	Hoagland
2) Economic Affairs Committee		Duncan <i>add</i>	Tinker <i>7/5T</i>

SUMMARY ANALYSIS

In 1957, the Legislature authorized the establishment and maintenance of a law library located in the Alachua County Courthouse and stated that a law library would benefit the public in general and aid in expediting matters before the court in Alachua County.

The bill moves the location of the John A.H. Murphree Law Library from the Alachua County Courthouse to the Alachua County Library District Headquarters to provide greater access to the public and local attorneys. The bill also deletes the provisions authorizing assessments and fees and removes obsolete language and outdated terms.

The bill provides an effective of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1957,¹ the Legislature authorized the establishment and maintenance of a law library located in the Alachua County Courthouse and stated that a law library would benefit the public in general and aid in expediting matters before the court in Alachua County.

A board of trustees (Board) consisting of five members for the John A.H. Murphree Law Library has the power and authority to establish, operate, and maintain a law library in the county courthouse; and to prescribe rules and regulations as to the Board's functions and organization and the use, maintenance, and operation of the library.

Each member of the bar who is practicing law in Alachua County and is not exempt from paying an occupational license tax is required to pay \$5.00 in addition to the annual county occupational license tax. The proceeds of the additional county occupational tax assessed and collected by the Alachua County tax collector must be transmitted to the Board annually.

Additionally, the clerk of the circuit court is directed to collect no more than \$5.00 for each civil case in addition to other legal fees and forward the funds collected to the Board on a monthly basis. The Board is granted the authority to, by resolution, reduce the amount to be collected.

Effect of Proposed Changes

The bill moves the location of the John A.H. Murphree Law Library from the Alachua County Courthouse to the Alachua County Library District Headquarters² to provide greater access to the public and local attorneys. The bill also deletes the provisions relating to the assessment and fees and replaces obsolete language and outdated terms.

B. SECTION DIRECTORY:

Section 1: Amends ch. 57-1118, L.O.F., as amended by ch. 79-426, L.O.F., relating to the location of the John A.H. Murphree Law Library.

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

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 11, 2011

WHERE? *The Gainesville Sun*, a daily newspaper published in Alachua County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

¹ Chapter 57-1118, L.O.F.

² The Alachua County Library District is an independent special district created to provide a library system services and facilities for the citizens of Alachua County. The library district does not have authority over the school library system in Alachua County. Chapter 2003-375, L.O.F.

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

According to the Economic Impact Statement, no fiscal impacts are anticipated for either fiscal year 2012-2013 or 2013-2014.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A.

1 A bill to be entitled
 2 An act relating to Alachua County; amending chapter
 3 57-1118, Laws of Florida, as amended; revising the
 4 location of the county law library; removing outdated
 5 and unnecessary sections relating to assessment of
 6 certain fees and court costs; providing editorial
 7 revisions to update the act; providing an effective
 8 date.

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

11
 12 Section 1. Chapter 57-1118, Laws of Florida, as amended by
 13 chapter 79-426, Laws of Florida, is amended to read:

14 Section 1. There is hereby created a board of trustees to
 15 be known as the "Board of Trustees, John A. H. Murphree Law
 16 Library," ~~which board~~ which ~~board~~ shall consist of five ~~(5)~~ members: the
 17 chief judge of the Eighth Judicial Circuit of Florida, one
 18 member to represent the Board of County Commissioners of Alachua
 19 ~~said~~ County to be chosen by the ~~said~~ board biennially, the clerk
 20 of the circuit court of the ~~said~~ county, and two ~~(2)~~ practicing
 21 attorneys of the ~~said~~ county to be appointed by the president of
 22 the bar association of the Eighth Judicial Circuit of Florida.
 23 At the time this act takes effect, one ~~(1)~~ practicing attorney
 24 shall be appointed for a term ending April 1, 1958, and one ~~(1)~~
 25 for a term ending April 1, 1959; on April 1, 1958, and annually
 26 thereafter, one ~~(1)~~ practicing attorney shall be appointed for a
 27 term of ~~two~~ ~~(2)~~ years. The ~~Said~~ board of trustees shall have
 28 full power and authority to establish, operate, and maintain a

29 law library, to be known as the "John A. H. Murphree Law
 30 Library" in the Alachua County Library District Headquarters
 31 ~~courthouse~~, Alachua County, Florida, and to prescribe rules and
 32 regulations as to the ~~said~~ board's functions and organization,
 33 and the use, maintenance, and operation of the ~~said~~ law library.

34 ~~Section 2. Each member of the bar engaged in the practice~~
 35 ~~of law in said county and not exempt from payment of an~~
 36 ~~occupational license as such shall be required to pay in~~
 37 ~~addition to the annual county occupational license tax the sum~~
 38 ~~of five dollars (\$5.00) which shall constitute and be considered~~
 39 ~~as an integral part and portion of the county occupational tax~~
 40 ~~payable in said county. The proceeds of such additional county~~
 41 ~~occupational tax as assessed and collected shall be turned over~~
 42 ~~by the county tax collector of said county to the board of~~
 43 ~~trustees each year to be kept and expended as hereinafter~~
 44 ~~provided.~~

45 ~~Section 3. There shall be taxed and collected by the clerk~~
 46 ~~of the circuit court of said county, the sum of five dollars~~
 47 ~~(\$5.00) as costs in each civil cause at law or in equity~~
 48 ~~commenced therein, in addition to the costs otherwise provided~~
 49 ~~by law, the whole of which sum shall be set apart by said clerk~~
 50 ~~and turned over at the end of each month to the board of~~
 51 ~~trustees herein established; provided, however, that said board~~
 52 ~~of trustees may, from time to time by resolution direct said~~
 53 ~~clerk to collect any lesser amount, until such time as said~~
 54 ~~board by similar resolution may direct said clerk to collect a~~
 55 ~~larger amount, not exceeding said sum of five dollars (\$5.00).~~

56 Section 2. ~~4.~~ The board of county commissioners ~~of said~~
 57 ~~county~~ is authorized to appropriate ~~other~~ available funds for
 58 the use of the ~~said~~ law library.

59 Section 3. ~~5.~~ All funds for the use of the ~~said~~ law
 60 library shall be placed by the ~~said~~ board of trustees in a fund
 61 to be known as the "Alachua County Law Library Fund," which may
 62 ~~said fund shall~~ be expended by the ~~said~~ board of trustees only
 63 for the purpose of establishing, operating, and maintaining a
 64 law library as herein provided, including securing furnishings
 65 and equipment and employing necessary personnel appropriate
 66 thereto.

67 Section 4. ~~6.~~ ~~Upon the creation of the Alachua county law~~
 68 ~~library,~~ All donations to the law library ~~same~~ and all property
 69 ~~in anywise~~ acquired by donations, purchase, or otherwise shall
 70 be deemed to be held and used by the ~~said~~ board of trustees as a
 71 charitable public trust for the benefit and use of the
 72 inhabitants of Alachua County, Florida, and shall be exempt from
 73 all taxation.

74 Section 5. ~~7.~~ All laws and parts of laws in conflict with
 75 this act ~~be, and the same~~ are superseded to the extent of such
 76 conflict hereby repealed.

77 Section 6. ~~8.~~ If any clause, section, or other part of
 78 this act shall be held by any court of competent jurisdiction to
 79 be unconstitutional or invalid, such unconstitutional or invalid
 80 part shall be considered as eliminated and in no wise affecting
 81 the validity of the other provisions of this act.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7039 PCB THSS 12-01 Transportation Facility Designations
SPONSOR(S): Transportation & Highway Safety Subcommittee, Drake and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	13 Y, 0 N	Johnson	Kruse
1) Economic Affairs Committee		Johnson <i>AS</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

State law provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the law require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The bill makes the following designations and directs the Department of Transportation to erect suitable markers for each of these designations:

- SP4 Thomas Berry Corbin Memorial Highway and U.S. Navy BMC Samuel Calhoun Chavous Jr., Memorial Highway in Dixie County.
- Marine Lance Corporal Brian R. Buesing Memorial Highway, United States Army Sergeant Karl A. Campbell Memorial Highway, and U.S. Army SPC James A. Page Memorial Highway in Levy County.
- Alma Lee Loy Bridge in Indian River County.
- Joyce Webb Nobles Bridge in Escambia County
- Corporal Michael Joseph Roberts Memorial Highway and Ivey Edward Cannon Memorial Bridge in Hillsborough County.
- Edna S. Hargrett-Thrower Avenue in Orange County.
- USS Stark Memorial Drive and Duval County Law Enforcement Memorial Overpass in Duval County.
- Coach Jimmy Carnes Boulevard in Alachua County.
- Harry T. and Harriette V. Moore Memorial Highway in Brevard County.
- Whale Harbor Joe Roth, Jr. Bridge in Monroe County.
- Jim Mandich Memorial Highway, Tanya Martin Oubre Pekel Street, Jacob Fleishman Street, Margaret Haines Street, Florencio ‘Kiko’ Pernas Avenue, and Dr. Oscar Elias Biscet Boulevard in Miami-Dade County.
- Florida Highway Patrol Trooper Nicholas G. Sottile Memorial in Highlands County.
- Captain Jim Reynolds, Jr., USAF “Malibu” Road in Lake County.
- Mardi Gras Way, West Park Boulevard and Pembroke Park Boulevard in Broward County.
- Sheriff Stanley H. Cannon Memorial Highway in Lafayette County.
- Veterans Memorial Highway in Putnam County.
- Santa Fe Military Trail in Bradford, Union, and Columbia Counties.
- Samuel B. Love Memorial Highway in Marion County.
- Ben G. Watts Highway in Washington County.

The bill also corrects errors in the Miss Lillie Williams Boulevard and the Father Jean-Juste Street designations that passed in 2010.

The bill has an estimated negative fiscal impact of \$30,000, which is the cost to the Department of Transportation to erect the markers.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7039.EAC.DOCX

DATE: 2/10/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Section 334.071, F.S., provides for legislative designations of transportation facilities for honorary or memorial purposes, or to distinguish a particular facility. The legislative designations do not officially change the current names of the facilities, nor does the statute require local governments and private entities to change street signs, mailing addresses, or 911 emergency telephone-number system listings.

The statute requires the Department of Transportation (DOT) to place a marker at each termini or intersection of an identified road or bridge, and to erect other markers it deems appropriate for the transportation facility. The statute also provides that a city or county must pass a resolution in support of a particular designation before road markers are erected. Additionally, if the designated road segment extends through multiple cities or counties, a resolution must be passed by each affected local government.

- SP4 Thomas Berry Corbin was killed in combat in South Vietnam in 1968. He received the Army Silver Star.
- Navy BMC Samuel Calhoun Chavous, Jr., was killed in combat in South Vietnam in 1968.
- Marine Lance Cpl. Brian Rory Buesing was killed in combat in Iraq in 2003.
- Army Sgt. Karl Andrew Campbell was killed in Afghanistan in 2010.
- Army SPC. James Anthony Page was killed in Afghanistan in 2010.
- Alma Lee Loy was the first woman elected to the Indian River County Commission.
- Joyce Webb Nobles cut the ribbon when the East Cervantes Street Bridge (State Road 10A) in Pensacola opened in 1935 and when a concrete bridge replaced the original wooden structure.
- Corporal Michael Joseph Roberts was a Tampa Police Officer who was shot and killed in the line of duty on August 19, 2009.
- Edna Sampson Hargrett-Thrower was the head of the Choral Music department at Jones High School in Orlando. She passed away on April 19, 2010
- Based in Mayport, FL., the USS Stark was attacked by an Iraqi jet fighter in 1987, killing 37 American sailors.
- Coach Jimmy Carnes was the track coach at the University of Florida from 1965 to 1976. He passed away on March 3, 2011.
- Harry T. and Harriette V. Moore were early pioneers of the civil rights movement who were killed for their activities on December 25, 1951.
- Joe Roth, Jr., was a philanthropist and entrepreneur in the Florida Keys.
- Jim Mandich was a player for the Miami Dolphins and a radio host and commentator.
- Florida Highway Patrol Trooper Sgt. Nicholas G. Sottile was killed in the line of duty on January 12, 2007.
- Captain Jim Reynolds, Jr., USAF "Malibu" was killed during a training mission at the Nellis Air Force Base Range in Nevada in 1993.
- Tanya Martin Oubre Pekel was a Miami native who served as an associate director of Education and Policy Planning in the Clinton White House. She passed away on May 22, 2006.
- Jacob Fleishman founded Jacob Fleishman Cold Storage, a fourth generation family business.
- Margaret Haines is active in community outreach activities in Miami-Dade County.
- Sheriff Stanley H. Cannon was sheriff of Lafayette County from 1971 to 1980. He passed away on May 11, 2011.
- Florencio "Kiko" Pernas: after emigrating from Cuba he owned several video stores and pawn shops in Hialeah.

- Dr. Óscar Elías Biscet is a Cuban medical professional and a noted advocate for human rights who is currently in prison in Cuba for alleged crimes against the sovereignty and the integrity of Cuba.
- Ivey Edward Cannon was a farmer in Hillsborough County since 1935 who also operated the Blackwater Creek Ultralight Flight Park since 1983. He passed away on June 16, 2004.
- Samuel B. Love was citrus grower and rancher who was involved in the agricultural community.
- Ben G. Watts served as Secretary of DOT from 1989 to 1997.

Proposed Changes

The bill makes the following honorary designations:

- That portion of U.S. Highway 19/27A/98/State Road 55 between the Suwannee River Bridge and N.E. 592nd Street/Chavous Road/Kate Green Road in Dixie County as "SP4 Thomas Berry Corbin Memorial Highway."
- That portion of U.S. Highway 19/98/State Road 55 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E. 170th Street in Dixie County as "U.S. Navy BMC Samuel Calhoun Chavous, Jr., Memorial Highway."
- That portion of State Road 24 between County Road 347 and Bridge Number 340053 in Levy County as "Marine Lance Corporal Brian R. Buesing Memorial Highway."
- That portion of U.S. Highway 19/98/State Road 55/S. Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy County as "United States Army Sergeant Karl A. Campbell Memorial Highway."
- That portion of U.S. Highway 27A/State Road 500/Hathaway Avenue between State Road 24/Thrasher Drive and Town Court in Levy County as "U.S. Army SPC James A. Page Memorial Highway."
- Bridge Number 880077 on State Road 656 in Indian River County between State Road A1A and Indian River Boulevard in Vero Beach as "Alma Lee Loy Bridge."
- The U.S. Highway 90/98, State Road 10A, East Cervantes Street Bridge (Bridge Number 480198) in Escambia County as "Joyce Webb Nobles Bridge."
- I-275 in Hillsborough County between the Livingston Avenue Bridge and the intersection with I-75 at the Hillsborough-Pasco County line as "Corporal Michael Joseph Roberts Memorial Highway."
- That portion of Orange Blossom Trail between Gore Street and Church Street in Orange County as "Edna S. Hargrett-Thrower Avenue."
- That portion of State Road 101/Mayport Road between State Road A1A and Wonderwood Connector in Duval County as "USS Stark Memorial Drive."
- That portion of S.W. 23rd Street, in front of James G. Pressley Stadium and 4211 S.W. 23rd Street, between S.W. 2nd Avenue and Fraternity Row/Drive in Alachua County as "Coach Jimmy Carnes Boulevard."
- That portion of State Road 46 in Brevard County from U.S. 1 to the Volusia County line as "Harry T. and Harriette V. Moore Memorial Highway."
- The Interstate 295/State Road 9A overpass (Bridge Numbers 720256 and 720347) over Interstate 10/State Road 8 in Duval County as "Duval County Law Enforcement Memorial Overpass."
- Whale Harbor Bridge (Bridge Number 900076) on U.S. Highway 1/State Road 5 in Monroe County as "Whale Harbor Joe Roth, Jr. Bridge."
- That portion of SR 826/Palmetto Expressway between on-ramp 87260330 and on-ramp 87260333 in Miami-Dade County is designated as "Jim Mandich Memorial Highway."
- Milepost 22.182 on U.S. Highway 27 in Highlands County as "Florida Highway Trooper Sgt. Nicholas G. Sottile Memorial."
- That portion of State Road 44 in Lake County between U.S. Highway 441 and State Road 44/East Orange Avenue near Eustis as "Captain Jim Reynolds, Jr., USAF "Malibu" Road."
- That portion of State Road 932/N.E. 103rd Street between N.W. 3rd Avenue and N.E. 6th Avenue in Miami-Dade County as "Tanya Martin Oubre Pekel Street."

- That portion of State Road 934/N.W. 79th Street between N.W. 14th Avenue and N.W. 7th Avenue in Miami-Dade County as Jacob Fleishman Street.
- That portion of N.W. 59th Street between N.W. 27th Avenue and N.W. 25th Avenue in Miami-Dade County as “Margaret Haines Street.”
- That portion of State Road 824 between Interstate 95/State Road 9 and U.S. Highway 1/State Road 5 in Broward County as “Mardi Gras Way.”
- That portion of U.S. Highway 441/State Road 7 between State Road 824/Pembroke Road and State Road 852/N.W. 215th Street/County Line Road in Broward County as “West Park Boulevard.”
- That portion of State Road 858/Hallandale Beach Boulevard between Interstate 95/State Road 9 and S.W. 56th Avenue in Broward County as “Pembroke Park Boulevard.”
- That portion of State Road 51 between Cooks Hammock and the Lafayette/Taylor County Line in Lafayette County as “Sheriff Stanley H. Cannon Memorial Highway.”
- That portion of State Road 19 in Putnam County between U.S. 17/State Road 15 and Carriage Drive as “Veterans Memorial Highway.”
- That portion of County Road 18 in Bradford, Union, and Columbia Counties between State Road 100 in Bradford County and State Road 20 in Columbia County as “Santa Fe Military Trail.”
- That portion of State Road 953/LeJeune Road/N.E. 8th Avenue between East 32nd street and East 41st Street in Miami-Dade County as “Florencio ‘Kiko’ Pernas Avenue.”
- That portion of State Road 972/S.W. 22nd Street between S.W. 32nd Avenue and S.W. 37th Avenue/Douglas Road in Miami-Dade County as “Dr. Oscar Elias Biscet Boulevard.”
- Bridge Numbers 100646 and 100647 on Paul S. Buchman Highway/State Road 39 between County Line Road and Half Mile Road in Hillsborough County as “Ivey Edward Cannon Memorial Bridge.”
- That portion of Sunset Harbor Road between S.E. 105th Avenue and S.E. 115th Avenue in Marion County as Samuel B. Love Memorial Highway.
- That portion of U.S. Highway 90/State Road 10 between the Holmes County line and the Jackson County line in Washington County as “Ben G. Watts Highway.”

The bill directs DOT to erect suitable markers designating each of the above designations.

The bill also amends the “Miss Lillie Williams Boulevard” and “Father Gerard Jean-Juste Street” designations which were created in 2010 in order to correct errors in the previous designations.¹

The bill has an effective date of July 1, 2012.

B. SECTION DIRECTORY:

- | | |
|-----------|---|
| Section 1 | Designates the SP4 Thomas Berry Corbin Memorial Highway; directs DOT to erect suitable markers. |
| Section 2 | Designates the U.S. Navy BMC Samuel Calhoun Chavous, Jr. Memorial Highway; directs DOT to erect suitable markers. |
| Section 3 | Designates the Marine Lance Corporal Brian R. Buesing Memorial Highway; directs DOT to erect suitable markers. |
| Section 4 | Designates the Army Sergeant Karl A. Campbell Memorial Highway; directs DOT to erect suitable markers. |
| Section 5 | Designates the U.S. Army SPC James A. Page Memorial Highway; directs DOT to erect suitable markers. |
| Section 6 | Designates the Alma Lee Loy Bridge; directs DOT to erect suitable markers. |

¹ Ch. 2010-230, L.O.F.

- Section 7 Designates the Joyce Webb Nobles Bridge; directs DOT to erect suitable markers.
- Section 8 Designates the Corporal Michael Joseph Roberts Memorial Highway; directs DOT to erect suitable markers.
- Section 9 Designates Edna S. Hargrett-Thrower Avenue; directs DOT to erect suitable markers.
- Section 10 Designates USS Stark Memorial Drive; directs DOT to erect suitable markers.
- Section 11 Designates Coach Jimmy Carnes Boulevard; directs DOT to erect suitable markers.
- Section 12 Designates Harry T. and Harriette V. Moore Memorial Highway; directs DOT to erect suitable markers.
- Section 13 Designates Duval County Law Enforcement Memorial Overpass; directs DOT to erect suitable markers.
- Section 14 Designates Whale Harbor Joe Roth, Jr. Bridge; directs DOT to erect suitable markers.
- Section 15 Designates Jim Mandich Memorial Highway; directs DOT to erect suitable markers.
- Section 16 Designates Florida Highway Patrol Trooper Sgt. Nicholas G. Sottile Memorial; directs DOT to erect suitable markers.
- Section 17 Designates Captain Jim Reynolds, Jr., USAF "Malibu" Road; directs DOT to erect suitable markers.
- Section 18 Designates Tanya Marie Oubre Pekel Street; directs DOT to erect suitable markers.
- Section 19 Designates Jacob Fleishman Street; directs DOT to erect suitable markers.
- Section 20 Designates Margaret Haines Street; directs DOT to erect suitable markers.
- Section 21 Designates Mardi Gras Way; directs DOT to erect suitable markers.
- Section 22 Designates West Park Boulevard; directs DOT to erect suitable markers.
- Section 23 Designates Pembroke Park Boulevard; directs DOT to erect suitable markers.
- Section 24 Designates Sheriff Stanley H. Cannon Memorial Highway; directs DOT to erect suitable markers.
- Section 25 Designates Veterans Memorial Highway; directs DOT to erect suitable markers.
- Section 26 Designates Santa Fe Military Trail; directs DOT to erect suitable markers.
- Section 27 Designates Florencio 'Kiko' Pernas Avenue; directs DOT to erect suitable markers.
- Section 28 Designates Dr. Oscar Elias Biscet Boulevard; directs DOT to erect suitable markers.
- Section 29 Designates Ivey Edward Cannon Memorial Bridge; directs DOT to erect suitable markers.
- Section 30 Designates Samuel B. Love Memorial Highway; directs DOT to erect suitable markers.
- Section 31 Designates Ben G. Watts Highway; directs DOT to erect suitable markers.

- Section 32 Amends s. 24 of ch. 2010-230, L.O.F., amending the "Miss Lillie Williams Boulevard" designation.
- Section 33 Amends s. 45 of ch. 2010-230, L.O.F., amending the "Father Jean-Juste Street." designation.
- Section 34 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DOT will incur costs of approximately \$30,000 (from the State Transportation Trust Fund) for erecting markers for the designations. This is based on the assumption that two markers for each designation will be erected at a cost of \$500 per marker. DOT will also incur the recurring costs of maintaining these signs over time, and for future replacement of the signs as necessary. However, the Florencio 'Kiko' Pernas designation indicates that the signage and installation is to be paid by the Pernas family.²

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

² The estimated expenditures do not include a sign for the Florencio 'Kiko' Pernas designation.

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Coach Jimmy Carnes Boulevard, Margaret Haines Street, Samuel B. Love Memorial Highway, and the majority of the Santa Fe Military Trail designations are not on the State Highway System.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 11, 2012, the Transportation & Highway Safety Subcommittee adopted two amendments to the Proposed Committee Bill.

Amendment 1 Makes a technical change making the Ivey E. Cannon Memorial Bridge the Ivey Edward Cannon Memorial Bridge.

Amendment 2 Designates the Samuel B. Love Memorial Highway and the Ben G. Watts Highway.

1 A bill to be entitled
2 An act relating to transportation facility
3 designations; providing honorary designations of
4 various transportation facilities in specified
5 counties; directing the Department of Transportation
6 to erect suitable markers; revising designations in a
7 specified county; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. SP4 Thomas Berry Corbin Memorial Highway
12 designated; Department of Transportation to erect suitable
13 markers.-

14 (1) That portion of U.S. Highway 19/27A/98/State Road 55
15 between the Suwannee River Bridge and N.E. 592nd Street/Chavous
16 Road/Kate Green Road in Dixie County is designated as "SP4
17 Thomas Berry Corbin Memorial Highway."

18 (2) The Department of Transportation is directed to erect
19 suitable markers designating SP4 Thomas Berry Corbin Memorial
20 Highway as described in subsection (1).

21 Section 2. U.S. Navy BMC Samuel Calhoun Chavous, Jr.,
22 Memorial Highway designated; Department of Transportation to
23 erect suitable markers.-

24 (1) That portion of U.S. Highway 19/98/State Road 55
25 between N.E. 592nd Street/Chavous Road/Kate Green Road and N.E.
26 170th Street in Dixie County is designated as "U.S. Navy BMC
27 Samuel Calhoun Chavous, Jr. Memorial Highway."

28 (2) The Department of Transportation is directed to erect
 29 suitable markers designating U.S. Navy BMC Samuel Calhoun
 30 Chavous, Jr. Memorial Highway as described in subsection (1).

31 Section 3. Marine Lance Corporal Brian R. Buesing Memorial
 32 Highway designated; Department of Transportation to erect
 33 suitable markers.-

34 (1) That portion of State Road 24 between County Road 347
 35 and Bridge Number 340053 in Levy County is designated as "Marine
 36 Lance Corporal Brian R. Buesing Memorial Highway."

37 (2) The Department of Transportation is directed to erect
 38 suitable markers designating Marine Lance Corporal Brian R.
 39 Buesing Memorial Highway as described in subsection (1).

40 Section 4. United States Army Sergeant Karl A. Campbell
 41 Memorial Highway designated; Department of Transportation to
 42 erect suitable markers.-

43 (1) That portion of U.S. Highway 19/98/State Road 55/South
 44 Main Street between N.W. 1st Avenue and S.E. 2nd Avenue in Levy
 45 County is designated as "United States Army Sergeant Karl A.
 46 Campbell Memorial Highway."

47 (2) The Department of Transportation is directed to erect
 48 suitable markers designating United States Army Sergeant Karl A.
 49 Campbell Memorial Highway as described in subsection (1).

50 Section 5. U.S. Army SPC James A. Page Memorial Highway
 51 designated; Department of Transportation to erect suitable
 52 markers.-

53 (1) That portion of U.S. Highway 27A/State Road
 54 500/Hathaway Avenue between State Road 24/Thrasher Drive and
 55 Town Court in Levy County is designated as "U.S. Army SPC James

56 A. Page Memorial Highway."

57 (2) The Department of Transportation is directed to erect
58 suitable markers designating U.S. Army SPC James A. Page
59 Memorial Highway as described in subsection (1).

60 Section 6. Alma Lee Loy Bridge designated; Department of
61 Transportation to erect suitable markers.-

62 (1) Bridge Number 880077 on State Road 656 between State
63 Road 1A and Indian River Boulevard in the City of Vero Beach in
64 Indian River County is designated as "Alma Lee Loy Bridge."

65 (2) The Department of Transportation is directed to erect
66 suitable markers designating Alma Lee Loy Bridge as described in
67 subsection (1).

68 Section 7. Joyce Webb Nobles Bridge designated; Department
69 of Transportation to erect suitable markers.-

70 (1) The U.S. Highway 90/98, State Road 10A, East Cervantes
71 Street Bridge (Bridge Number 480198) in Escambia County is
72 designated as "Joyce Webb Nobles Bridge."

73 (2) The Department of Transportation is directed to erect
74 suitable markers designating Joyce Webb Nobles Bridge as
75 described in subsection (1).

76 Section 8. Corporal Michael Joseph Roberts Memorial
77 Highway designated; Department of Transportation to erect
78 suitable markers.-

79 (1) That portion of Interstate 275 in Hillsborough County
80 between the Livingston Avenue Bridge and the intersection with
81 Interstate 75 at the Hillsborough-Pasco County line is
82 designated as "Corporal Michael Joseph Roberts Memorial
83 Highway."

84 (2) The Department of Transportation is directed to erect
 85 suitable markers designating Corporal Michael Joseph Roberts
 86 Memorial Highway as described in subsection (1).

87 Section 9. Edna S. Hargrett-Thrower Avenue designated;
 88 Department of Transportation to erect suitable markers.-

89 (1) That portion of Orange Blossom Trail between W. Gore
 90 Street and W. Church Street in Orange County is designated as
 91 "Edna S. Hargrett-Thrower Avenue."

92 (2) The Department of Transportation is directed to erect
 93 suitable markers designating Edna S. Hargrett-Thrower Avenue as
 94 described in subsection (1).

95 Section 10. USS Stark Memorial Drive designated;
 96 Department of Transportation to erect suitable markers.-

97 (1) That portion of State Road 101/Mayport Road between
 98 State Road 1A and Wonderwood Connector in Duval County is
 99 designated as "USS Stark Memorial Drive."

100 (2) The Department of Transportation is directed to erect
 101 suitable markers designating USS Stark Memorial Drive as
 102 described in subsection (1).

103 Section 11. Coach Jimmy Carnes Boulevard designated;
 104 Department of Transportation to erect suitable markers.-

105 (1) That portion of S.W. 23rd Street, in front of James G.
 106 Pressly Stadium and 4211 S.W. 23rd Street, between S.W. 2nd
 107 Avenue and Fraternity Row/Drive in Alachua County is designated
 108 as "Coach Jimmy Carnes Boulevard."

109 (2) The Department of Transportation is directed to erect
 110 suitable markers designating Coach Jimmy Carnes Boulevard as
 111 described in subsection (1).

112 Section 12. Harry T. and Harriette V. Moore Memorial
 113 Highway designated; Department of Transportation to erect
 114 suitable markers.-

115 (1) That portion of State Road 46 in Brevard County
 116 between U.S. Highway 1 and the Volusia County line is designated
 117 as "Harry T. and Harriette V. Moore Memorial Highway."

118 (2) The Department of Transportation is directed to erect
 119 suitable markers designating Harry T. and Harriette V. Moore
 120 Memorial Highway as described in subsection (1).

121 Section 13. Duval County Law Enforcement Memorial Overpass
 122 designated; Department of Transportation to erect suitable
 123 markers.-

124 (1) The Interstate 295/State Road 9A overpass (Bridge
 125 Numbers 720256 and 720347) over Interstate 10/State Road 8 in
 126 Duval County is designated as "Duval County Law Enforcement
 127 Memorial Overpass."

128 (2) The Department of Transportation is directed to erect
 129 suitable markers designating Duval County Law Enforcement
 130 Memorial Overpass as described in subsection (1).

131 Section 14. Whale Harbor Joe Roth, Jr. Bridge designated;
 132 Department of Transportation to erect suitable markers.-

133 (1) Whale Harbor Bridge (Bridge Number 900076) on U.S.
 134 Highway 1/State Road 5 in Monroe County is designated as "Whale
 135 Harbor Joe Roth, Jr. Bridge."

136 (2) The Department of Transportation is directed to erect
 137 suitable markers designating Whale Harbor Joe Roth, Jr. Bridge
 138 as described in subsection (1).

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139 Section 15. Jim Mandich Memorial Highway designated;
 140 Department of Transportation to erect suitable markers.-

141 (1) That portion of State Road 826/Palmetto Expressway
 142 between on-ramp 87260330 and on-ramp 87260333 in Miami-Dade
 143 County is designated as "Jim Mandich Memorial Highway."

144 (2) The Department of Transportation is directed to erect
 145 suitable markers designating Jim Mandich Memorial Highway as
 146 described in subsection (1).

147 Section 16. Florida Highway Patrol Trooper Sgt. Nicholas
 148 G. Sottile Memorial designated; Department of Transportation to
 149 erect suitable markers.-

150 (1) Milepost 22.182 on U.S. Highway 27 in Highlands County
 151 is designated as "Florida Highway Patrol Trooper Sgt. Nicholas
 152 G. Sottile Memorial."

153 (2) The Department of Transportation is directed to erect
 154 suitable markers designating Florida Highway Patrol Trooper Sgt.
 155 Nicholas G. Sottile Memorial as described subsection (1).

156 Section 17. Captain Jim Reynolds, Jr., USAF "Malibu" Road
 157 designated; Department of Transportation to erect suitable
 158 markers.-

159 (1) That portion of State Road 44 between U.S. Highway 441
 160 and State Road 44/East Orange Avenue near the City of Eustis in
 161 Lake County is designated as "Captain Jim Reynolds, Jr., USAF
 162 'Malibu' Road."

163 (2) The Department of Transportation is directed to erect
 164 suitable markers designating Captain Jim Reynolds, Jr., USAF
 165 "Malibu" Road as described in subsection (1).

166 Section 18. Tanya Martin Oubre Pekel Street designated;

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167 | Department of Transportation to erect suitable markers.--

168 | (1) That portion of State Road 932/N.E. 103rd Street
 169 | between N.W. 3rd Avenue and N.E. 6th Avenue in Miami-Dade County
 170 | is designated as "Tanya Martin Oubre Pekel Street."

171 | (2) The Department of Transportation is directed to erect
 172 | suitable markers designating Tanya Martin Oubre Pekel Street as
 173 | described in subsection (1).

174 | Section 19. Jacob Fleishman Street designated; Department
 175 | of Transportation to erect suitable markers.--

176 | (1) That portion of State Road 934/N.W. 79th Street
 177 | between N.W. 14th Avenue and N.W. 9th Avenue in Miami-Dade
 178 | County is designated as "Jacob Fleishman Street."

179 | (2) The Department of Transportation is directed to erect
 180 | suitable markers designating Jacob Fleishman Street as described
 181 | in subsection (1).

182 | Section 20. Margaret Haines Street designated; Department
 183 | of Transportation to erect suitable markers.--

184 | (1) That portion of N.W. 59th Street between N.W. 27th
 185 | Avenue and N.W. 25th Avenue in Miami-Dade County is designated
 186 | as "Margaret Haines Street."

187 | (2) The Department of Transportation is directed to erect
 188 | suitable markers designating Margaret Haines Street as described
 189 | in subsection (1).

190 | Section 21. Mardi Gras Way designated; Department of
 191 | Transportation to erect suitable markers.--

192 | (1) That portion of State Road 824 between Interstate
 193 | 95/State Road 9 and U.S. Highway 1/State Road 5 in Broward
 194 | County is designated as "Mardi Gras Way."

195 (2) The Department of Transportation is directed to erect
 196 suitable markers designating Mardi Gras Way as described in
 197 subsection (1).

198 Section 22. West Park Boulevard designated; Department of
 199 Transportation to erect suitable markers.—

200 (1) That portion of U.S. Highway 441/State Road 7 between
 201 State Road 824/Pembroke Road and State Road 852/N.W. 215th
 202 Street/County Line Road in Broward County is designated as "West
 203 Park Boulevard."

204 (2) The Department of Transportation is directed to erect
 205 suitable markers designating West Park Boulevard as described in
 206 subsection (1).

207 Section 23. Pembroke Park Boulevard designated; Department
 208 of Transportation to erect suitable markers.—

209 (1) That portion of State Road 858/Hallandale Beach
 210 Boulevard between Interstate 95/State Road 9 and S.W. 56th
 211 Avenue in Broward County is designated as "Pembroke Park
 212 Boulevard."

213 (2) The Department of Transportation is directed to erect
 214 suitable markers designating Pembroke Park Boulevard as
 215 described in subsection (1).

216 Section 24. Sheriff Stanley H. Cannon Memorial Highway
 217 designated; Department of Transportation to erect suitable
 218 markers.—

219 (1) That portion of State Road 51 between Cooks Hammock
 220 and the Lafayette-Taylor County line in Lafayette County is
 221 designated as "Sheriff Stanley H. Cannon Memorial Highway."

222 (2) The Department of Transportation is directed to erect

223 suitable markers designating Sheriff Stanley H. Cannon Memorial
 224 Highway as described in subsection (1).

225 Section 25. Veterans Memorial Highway designated;
 226 Department of Transportation to erect suitable markers.-

227 (1) That portion of State Road 19 between U.S. Highway
 228 17/State Road 15 and Carriage Drive in Putnam County is
 229 designated as "Veterans Memorial Highway."

230 (2) The Department of Transportation is directed to erect
 231 suitable markers designating Veterans Memorial Highway as
 232 described in subsection (1).

233 Section 26. Santa Fe Military Trail designated; Department
 234 of Transportation to erect suitable markers.-

235 (1) That portion of County Road 18 in Bradford, Union, and
 236 Columbia Counties between State Road 100 in Bradford County and
 237 State Road 20 in Columbia County is designated as "Santa Fe
 238 Military Trail."

239 (2) The Department of Transportation is directed to erect
 240 suitable markers designating Santa Fe Military Trail as
 241 described in subsection (1).

242 Section 27. Florencio "Kiko" Pernas Avenue designated;
 243 Department of Transportation to erect suitable markers.-

244 (1) That portion of State Road 953/LeJeune Road/N.E. 8th
 245 Avenue between E. 32nd Street and E. 41st Street in Miami-Dade
 246 County is designated as "Florencio 'Kiko' Pernas Avenue."

247 (2) The Department of Transportation is directed to erect
 248 suitable markers designating Florencio "Kiko" Pernas Avenue as
 249 described in subsection (1). The cost of signage and
 250 installation shall be paid by the Pernas family.

251 Section 28. Dr. Oscar Elias Biscet Boulevard designated;
 252 Department of Transportation to erect suitable markers.-

253 (1) That portion of State Road 972/S.W. 22nd Street
 254 between S.W. 32nd Avenue and S.W. 37th Avenue/Douglas Road in
 255 Miami-Dade County is designated as "Dr. Oscar Elias Biscet
 256 Boulevard."

257 (2) The Department of Transportation is directed to erect
 258 suitable markers designating Dr. Oscar Elias Biscet Boulevard as
 259 described in subsection (1).

260 Section 29. Ivey Edward Cannon Memorial Bridge designated;
 261 Department of Transportation to erect suitable markers.-

262 (1) Bridge Numbers 100646 and 100647 on Paul S. Buchman
 263 Highway/State Road 39 between County Line Road and Half Mile
 264 Road in Hillsborough County are designated "Ivey Edward Cannon
 265 Memorial Bridge."

266 (2) The Department of Transportation is directed to erect
 267 suitable markers designating Ivey Edward Cannon Memorial Bridge
 268 as described in subsection (1).

269 Section 30. Samuel B. Love Memorial Highway designated;
 270 Department of Transportation to erect suitable markers.-

271 (1) That portion of Sunset Harbor Road between S.E. 105th
 272 Avenue and S.E. 115th Avenue in Marion County is designated as
 273 "Samuel B. Love Memorial Highway."

274 (2) The Department of Transportation is directed to erect
 275 suitable markers designating Samuel B. Love Memorial Highway as
 276 described in subsection (1).

277 Section 31. Ben G. Watts Highway designated; Department of
 278 Transportation to erect suitable markers.-

279 (1) That portion of U.S. Highway 90/State Road 10 between
 280 the Holmes County line and the Jackson County line in Washington
 281 County is designated as "Ben G. Watts Highway."

282 (2) The Department of Transportation is directed to erect
 283 suitable markers designating Ben G. Watts Highway as described
 284 in subsection (1).

285 Section 32. Section 24 of chapter 2010-230, Laws of
 286 Florida, is amended to read:

287 Section 24. Miss Lillie Williams Boulevard designated;
 288 Department of Transportation to erect suitable markers.—

289 (1) That portion of N.W. 79th Street between N.W. 6th
 290 Avenue and N.W. 7th E.~~12th~~ Avenue in Miami-Dade County is
 291 designated as "Miss Lillie Williams Boulevard."

292 (2) The Department of Transportation is directed to erect
 293 suitable markers designating Miss Lillie Williams Boulevard as
 294 described in subsection (1).

295 Section 33. Section 45 of chapter 2010-230, Laws of
 296 Florida, is amended to read:

297 Section 45. Father Gerard Jean-Juste Street designated;
 298 Department of Transportation to erect suitable markers.—

299 (1) That portion of N.W. 54th Street in Miami-Dade County
 300 between N.W. 2nd Avenue and N.E. N.W. 3rd Avenue in Little Haiti
 301 is designated "Father Gerard Jean-Juste Street."

302 (2) The Department of Transportation is directed to erect
 303 suitable markers designating Father Gerard Jean-Juste Street as
 304 described in subsection (1).

305 Section 34. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7065 PCB THSS 12-02 Pub. Rec./Personal Identifying Information/Toll Facilities
SPONSOR(S): Transportation & Highway Safety Subcommittee, Drake
TIED BILLS: IDEN./SIM. BILLS: SB 1284

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Transportation & Highway Safety Subcommittee	15 Y, 0 N	Johnson	Kruse
1) State Affairs Committee	14 Y, 0 N, As CS	Thompson	Hamby
2) Economic Affairs Committee		Johnson <i>SAS</i>	Tinker <i>TST</i>

SUMMARY ANALYSIS

Current law provides a public records exemption for personal identifying information provided to, acquired by, or in the possession of the Department of Transportation (DOT), a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities. This prepayment system is the electronic transponder method of toll payment otherwise known as "SunPass."

The bill expands the current public records exemption to include personal identifying information held by DOT, a county, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and other amounts due. This would include personal identifying information of customers who use the post-payment method of toll payment otherwise known as "Toll-By-Plate."

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a current public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.¹

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act² provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Electronic Toll Payment

Subject to limited exemptions, current law prohibits persons from using any toll facility without payment.³ The Department of Transportation (DOT) is authorized to adopt rules relating to the payment, collection, and enforcement of tolls, including, but not limited to, rules for the implementation of video or other image billing and variable pricing.⁴ Consequently, DOT has implemented two programs for electronic toll collections.

SunPass⁵ is an electronic system of toll collection accepted on all Florida toll roads and nearly all toll bridges. SunPass utilizes a prepaid account system and electronic devices called transponders that attach to the inside of a car's windshield. When a car equipped with SunPass goes through a tolling location, the transponder sends a signal and the toll is deducted from the customer's prepaid account. SunPass account information includes, license plate number, address, and credit card information.⁶

Toll-By-Plate⁷ is an image based system of toll collection available on the HEFT (Homestead Extension of Florida's Turnpike) from Florida City to Miramar in Miami- Dade County. Toll-By-Plate takes a photo of a license plate as a vehicle travels through a Turnpike tolling location and mails a monthly bill for the tolls, including a \$2.50 administrative charge, to the registered owner of the vehicle. Accounts can be

¹ Section 24(c), Art. I of the State Constitution.

² Section 119.15, F.S.

³ See s. 338.155(1), F.S. The exemptions include toll employees on official state business, state military personnel on official military business, persons authorizing resolution for bonds to finance the facility, persons using the toll facility as a required detour route, law enforcement officers or persons operating a fire or rescue vehicle when on official business, funeral processions of law enforcement officers killed in the line of duty, and persons with a certified disability that substantially impairs that person's ability to put tolls in the toll basket.

⁴ Section 338.155(1), F.S.

⁵ Rule 14-15.0081, F.A.C.

⁶ Information on SunPass is available at, <http://www.floridasturnpike.com/all-electronic tolling/SunPass.cfm> (Last visited January 30, 2012).

⁷ Rule 14-100.005, F.A.C., established the Florida Department of Transportation Toll-By-Plate program in 2010.

set up as pre-paid or post-paid.⁸ Pre-paid accounts are administered through the SunPass system and post-paid accounts are administered through an invoice system. Invoice accounts may require name, address, email, drivers license number, day time phone number, and credit and debit card numbers.⁹

Toll Exemption

Currently, personal identifying information provided to, acquired by, or in the possession of DOT, a county, or an expressway authority for the purpose of using a credit card, charge card, or check for the prepayment of electronic toll facilities charges is exempt¹⁰ from public records requirements.¹¹ This exemption does not include personal identifying information related to the post-payment of electronic toll facilities by Toll-By-Plate customers.

Proposed Changes

The bill expands the current public records exemption to include personal identifying information held by the Department of Transportation (DOT), a county, or an expressway authority for the purpose of paying, prepaying, or collecting tolls and other amounts due for the use of toll facilities to DOT, a county, or an expressway authority. This would include personal identifying information related to the post-payment of electronic toll facilities by Toll-By-Plate customers.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.¹²

B. SECTION DIRECTORY:

Section 1 amends s. 338.155, F.S., related to the payment of tolls on toll facilities.

Section 2 provides a finding of public necessity.

Section 3 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

⁸ Information on toll-by-plate is available at, <http://www.floridasturnpike.com/all-electronictolling/TOLL-BY-PLATE.cfm> (Last visited January 30, 2012).

⁹ Information on toll-by-plate accounts can be found at, <https://www.tollbyplate.com/displaySelectCustomerTypeRegisterAccountNewAccount> (Last visited January 30, 2012).

¹⁰ There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

¹¹ Chapter 96-178, L.O.F.; codified as s. 338.155(6), F.S.

¹² Section 24(c), Art. I of the State Constitution.

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands a public record exemption; thus, it includes a public necessity statement.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues: Public Necessity Statement

The exemption section of the bill classifies personal identifying information as exempt; however, the public necessity statement uses the term confidential. There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. Lines 41 and 42 may need an amendment to conform the public necessity statement to the public record exemption.

Other Comments: Retroactive Application

The Supreme Court of Florida ruled that a public record exemption is not to be applied retroactively unless the legislation clearly expresses intent that such exemption is to be applied retroactively.¹³ The bill does not contain a provision requiring retroactive application. As such, the public record exemption would apply prospectively. The Toll-By-Plate program has been available on the southern 47 miles of Florida's Turnpike in Miami-Dade since it was established in 2010.¹⁴

¹³ *Memorial Hospital-West Volusia, Inc. v. News-Journal Corporation*, 729 So.2d. 373 (Fla. 2001).

¹⁴ Information received by telephone from Cindy Price, the Florida Department of Transportation, January 30, 2012.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 1, 2012, the State Affairs Committee adopted one amendment to HB 7065. The amendment conforms the public necessity statement to the public record exemption, making it clear the information is exempt only, and not confidential.

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 338.155, F.S.; revising an exemption from public
 4 records requirements for personal identifying
 5 information held by the Department of Transportation,
 6 a county, or an expressway authority for the purpose
 7 of paying, prepaying, or collecting tolls and other
 8 amounts due for the use of toll facilities; providing
 9 for future repeal and legislative review of the
 10 exemption under the Open Government Sunset Review Act;
 11 providing a finding of public necessity; providing an
 12 effective date.

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

15
 16 Section 1. Subsection (6) of section 338.155, Florida
 17 Statutes, is amended to read:

18 338.155 Payment of toll on toll facilities required;
 19 exemptions.—

20 (6) (a) Personal identifying information held by ~~provided~~
 21 ~~to, acquired by, or in the possession of~~ the Department of
 22 Transportation, a county, or an expressway authority for the
 23 purpose of paying, prepaying, or collecting tolls and other
 24 amounts due for the use of toll facilities ~~using a credit card,~~
 25 ~~charge card, or check for the prepayment of electronic toll~~
 26 ~~facilities charges~~ to the department, a county, or an expressway
 27 authority is exempt from s. 119.07(1) and s. 24(a), Art. I of
 28 the State Constitution.

29 (b) This subsection is subject to the Open Government
 30 Sunset Review Act in accordance with s. 119.15 and shall stand
 31 repealed on October 2, 2017, unless reviewed and saved from
 32 repeal through reenactment by the Legislature.

33 Section 2. The Legislature finds that it is a public
 34 necessity to exempt personal identifying information about
 35 individuals which is held by the Department of Transportation, a
 36 county, or an expressway authority for the purpose of paying for
 37 use of toll facilities by any means of payment. The exemption
 38 puts individuals who pay with TOLL-BY-PLATE (video billed) on
 39 equal footing with individuals who pay by a check, charge card,
 40 or credit card, or who pay cash at the toll booth. The exemption
 41 protects the health and safety of the public by making exempt
 42 information as to the whereabouts of individuals as they use the
 43 toll road system. The exemption promotes the use of the
 44 electronic toll collection system, which is a more efficient and
 45 effective government collection system for tolls, because paying
 46 by TOLL-BY-PLATE (video billed) or paying for tolls by check,
 47 charge card, or credit card not only saves individuals time in
 48 passing through the toll facilities, in comparison with
 49 individuals who pay cash, but also costs much less to
 50 administer. Further, the exemption protects the privacy of
 51 individuals and promotes the right to be let alone from
 52 unreasonable government intrusion by prohibiting the public
 53 disclosure of private information about the finances and
 54 location of the individual using the toll road system.

55 Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7075 PCB CMAS 12-03 Military Installations
SPONSOR(S): Community & Military Affairs Subcommittee, Workman
TIED BILLS: IDEN./SIM. BILLS:

Table with 4 columns: REFERENCE, ACTION, ANALYST, STAFF DIRECTOR or BUDGET/POLICY CHIEF. Row 1: Orig. Comm.: Community & Military Affairs Subcommittee, 12 Y, 2 N, Tait, Hoagland. Row 2: 1) Economic Affairs Committee, Tait (with initials), Tinker (with initials).

SUMMARY ANALYSIS

The military presence in Florida accounts for approximately \$60 billion of the state's gross domestic product. The Florida Constitution and Florida statutes contain numerous provisions relating to support of military installations, military personnel and veterans.

The bill addresses military installation support as follows:

Encroachment: Current law contains a number of provisions relating to coordination between local governments and the military regarding land use decisions. The bill clarifies provisions relating to commanders' advisory comments on land use changes; however, despite these changes, the original intent and meaning of the statutes remains unchanged. In addition, the bill requires advisory comments be supported by appropriate data and analyses that are to be provided with the comments.

Defense Grants: Current law provides for seven grant programs designed to aid in the transition from a defense economy to a nondefense economy and to aid in the retention of military bases. The bill streamlines these provisions into the Military Base Protection Program, the Florida Defense Reinvestment Grant Program and the Florida Defense Infrastructure Grant Program. It also revises legislative intent for the programs to include the Legislature's interest in supporting and sustaining military installations throughout the state.

Military Support Organizations: Florida currently has two statutorily created organizations designed to support the military, the Florida Council on Military Base and Mission Support (Council) and the Florida Defense Support Task Force (Task Force). The bill repeals provisions relating to the Council and transfers the powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of the Council to the Task Force. The bill also amends provisions related to the Task Force to remove language relating to federal base realignment and closure action and remove obsolete provisions relating to the reporting requirements.

Public Records and Public Meetings Exemptions: The bill transfers existing exemptions of the Council to the Task Force for records and discussions of the strengths and weaknesses of the state's military bases and strategies that are formulated to protect those bases during a base realignment and closure process. The sunset date for the exemption remains October 2, 2014.

Other Changes: The bill amends additional sections of statute to make conforming changes.

While the bill does not have an impact on state revenues or expenditures, it may have a positive impact on the state and local economy if it is successful in keeping the state's current military base infrastructure intact while promoting the transfer of additional military assets to the state.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Military Presence in Florida

Present Situation

Florida is home to 20 major military installations and three unified combatant commands. In 2008, defense related spending was estimated to be responsible for nearly \$60 billion of the state's gross domestic product.¹ The state is also home to many of the nation's leading defense companies and a large pool of highly skilled workers and veterans. Florida's top ten contractors alone employ more than 28,000 Floridians. In 2010, Florida companies generated \$12.8 billion in Department of Defense Contract awards, ranking the state fourth in the nation.² Only tourism and agriculture contribute more to Florida's economy.

The Department of Defense (DoD) recently completed implementing the 2005 round of base realignments and closures, commonly referred to as "BRAC."³ The BRAC process reflects a desire to eliminate excess capacity, experience the savings from that reduction in capacity, and fund higher priority weapon platforms and troop training. There have been five BRAC rounds between 1988 and 2005. During the 1993 round, four Florida bases were closed.⁴

As a result of the 2005 BRAC round, a U.S. Army Special Forces Group of approximately 3,000 soldiers was moved from Ft. Bragg, North Carolina to Eglin Air Force Base in Northwest Florida. Also, Eglin was selected to establish multi-service/multi-nation training facilities for the F-35 Joint Strike Fighter aircraft. In addition, the 2005 BRAC round brought the new Navy P-8 aircraft mission to Naval Air Station Jacksonville.

In 2008, the U.S. Navy, in a decision unrelated to the BRAC process, announced its intention to homeport one of its nuclear powered aircraft carriers to Naval Station Mayport in Jacksonville. This basing decision will have significant positive economic impact on the Jacksonville area; however, as all nuclear powered aircraft carriers are currently homeported in Norfolk, Virginia, the Virginia Congressional delegation is actively trying to prevent this move.

Due to constraints with the federal budget and the drawdown of troops overseas, the federal government is focusing on redefining the scope and structure of the U.S. military. While there has not yet been an official call for another BRAC round, federal budget cuts and restructuring have led to changes in the missions at military installations throughout the nation, including calls to reorganize the Air Armament Center at Eglin Air Force Base due to a larger Air Force-wide effort.

Growth Management - Military Base Commander Comments

Present Situation

The Legislature has found that incompatible development of land close to military installations can adversely affect the ability of the installation to carry out its mission.⁵ Such development can also

¹ Enterprise Florida, Inc. Florida Industry Clusters: Homeland Security/Defense.
http://www.eflorida.com/Homeland_Security_Defense.aspx?id=324 (last visited on January 21, 2011).

² *Id.*

³ See the Defense Base Closure and Realignment Act of 1990, Pub. L. 101-510, as amended through the National Defense Authorization Act of Fiscal Year 2003.

⁴ During the 1993 BRAC round, Florida lost the Naval Aviation Depot Pensacola, the Naval Aviation Station Cecil Field Jacksonville, the Naval Training Center Orlando, and Homestead Air Force Base. Florida did not have any major DoD closures or realignments during the 1998, 1991, and 1995 BRAC rounds.

⁵ S. 163.3175, F.S.

threaten public safety if accidents are to occur near the military installation and may also affect the economic vitality of a community when military operations or missions must be relocated because of urban encroachment.⁶ Based on these findings, the Legislature established s. 163.3175, F.S., to encourage compatible land use between local governments and military installations, help prevent incompatible encroachment, and facilitate the continued presence of military installations in this state. Further, the Legislature in 2011 passed the Community Planning Act,⁷ which recognized the military as an important part of the traditional economic base of Florida.⁸

In an effort to encourage cooperation between local governments and the military and facilitate the exchange of information, the local government is required to include a representative of the military installation as an *ex officio*, nonvoting member of the affected local government's land planning or zoning board.⁹ Section 163.3175, F.S., also requires local governments to provide information to the commanding officer of an affected military installation relating to any proposed changes to the local comprehensive plan or proposed changes to the local land development regulations, which if approved, would affect the intensity, density, or use of land adjacent to or in close proximity to the military installation. If the commanding officer requests, the local government must also transmit copies of applications the local government receives for development orders requesting a variance or waiver from height or lighting restrictions or noise attenuation reduction requirements within the military zone of influence defined in the local comprehensive plan.¹⁰ Once these proposed changes are transmitted to the military installation, the local government must provide an opportunity for the commanding officer or his or her designee to review and comment on the proposed changes.¹¹

The comments on the proposed changes may include factors identified in s. 163.3175(5), F.S., including whether the proposed changes will be incompatible with certain safety and noise standards,¹² whether the changes are incompatible with the findings of a Joint Land Use Study (JLUS) for the area, and whether the military installation's mission will be adversely affected by the proposed changes being made by the local government. The commanding officer's comments, the underlying studies, and reports are not intended to be binding on the local government¹³ but instead advisory, for the local government to take into consideration when evaluating proposed changes.¹⁴ Section 163.3175(6), F.S., was amended in 2011 to emphasize the importance of private property rights and to clarify that the local government when considering comments from a military installation must be sensitive to private property rights and not be unduly restrictive on those rights.

A local government's future land use plan and plan amendments are required to be based upon surveys, studies, and data regarding the area. Among other factors, the future land use plan is to include information relating to the compatibility of uses on lands adjacent to or closely proximate to military installations, if applicable.¹⁵ The future land use plan element must also include criteria to be used to achieve the compatibility of lands adjacent or closely proximate to military installations.¹⁶ The

⁶ *Id.*

⁷ Ch. 2011-139, L.O.F.

⁸ *See* s. 163.3161, F.S.

⁹ S. 163.3175(8), F.S.

¹⁰ S. 163.3175(4), F.S.

¹¹ *Id.*

¹² Comments provided may include whether the proposed changes are compatible with the Air Installation Compatible Use Zone (AICUZ) adopted by the military installation that has an airfield and whether the proposed changes are compatible with the Installation Environmental Noise Management Program (IENMP) of the U.S. Army.

¹³ *See* s. 163.3175(5), F.S.

¹⁴ *See* s. 163.3175(6), F.S.

¹⁵ S. 163.3177(6)(a)2.f., F.S.

¹⁶ S. 163.3175(9), F.S., provides that if the local government does not adopt criteria and address compatibility of lands adjacent to or closely proximate to existing military installations in its future land use plan element by June 30, 2012, the local government, military installation, state land planning agency, and other parties identified by the regional planning Council, including but not limited to private landowner representatives must enter into mediation. If by December 31, 2013, the local government comprehensive plan does not contain criteria, the state land planning agency may notify the Administration Commission, which may impose sanctions on the local government. Local governments that adopted criteria in 2004 found to be in compliance to address military installation compatibility requirements are exempt until required to update the comprehensive plan during the evaluation and appraisal review pursuant to s. 163.3191, F.S.

local government in establishing the criteria within the future land use plan element must consider the factors identified in s. 163.3175(5), F.S., described above.

When a proposed comprehensive plan or plan amendment affects a major military installation in Florida,¹⁷ s. 163.3184(1)(c), F.S., defines the commanding officer of an affected military installation as a reviewing agency.¹⁸ This allows the commanding officer of the military installation to submit comments on the proposed plan or plan amendment to the local government at the same time as other reviewing agencies. Comments from the military installation on a proposed comprehensive plan or comprehensive plan amendment are to be provided in accordance with the guidelines set in s. 163.3175, F.S.,¹⁹ as described above. Since the commanding officer of an affected military installation is defined as one of the “reviewing agencies”, the comments submitted by the military installation regarding proposed comprehensive plan amendments are to be considered and weighed by the local government similar to comments from other reviewing agencies representing interests that may be affected by proposed changes such as the environment, public schools, or transportation. Along with reviewing agency comments, the local government also takes into consideration public testimony and other information and data at its disposal.

Effect of Proposed Changes

The bill clarifies that commanding officer comments on proposed changes that may have an impact on the mission of the military installation are advisory to the local government, and provides that the advisory comments must be based on appropriate data and analyses provided with the comments. Further, the local government must consider the comments, underlying studies, and reports in the same manner as comments received by other reviewing agencies pursuant to s. 163.3184, F.S.²⁰

The bill also specifies that the local government must take into consideration any comments and accompanying data and analyses provided by the commanding officer or his or her designee as they relate to the strategic mission of the base, public safety, and the economic vitality associated with the base’s operations,²¹ while also respecting private property rights and not being unduly restrictive on those rights. Although the bill makes changes to the language in s. 163.3175(5) and (6), F.S., in an attempt to clarify, the original intent and meaning remains unchanged.

Grants for Military Base Retention

Present Situation

Section 288.980, F.S., establishes grant programs designed to aid defense-dependent communities throughout the state. The legislative intent of this section, created in 1994 after the series of base

¹⁷ Major military installations that due to their mission and activities have a greater potential for experiencing compatibility and coordination issues than others are specifically listed in s. 163.3175(2), F.S.

¹⁸ (c) “Reviewing agencies” means:

1. The state land planning agency;
2. The appropriate regional planning Council;
3. The appropriate water management district;
4. The Department of Environmental Protection;
5. The Department of State;
6. The Department of Transportation;
7. In the case of plan amendments relating to public schools, the Department of Education;
8. In the case of plans or plan amendments that affect a military installation listed in s. 163.3175, the commanding officer of the affected military installation;
9. In the case of county plans and plan amendments, the Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services; and
10. In the case of municipal plans and plan amendments, the county in which the municipality is located.

¹⁹ See s. 163.3184(3)(b)3.d., F.S.

²⁰ S. 163.3184(1)(c), defines “reviewing agencies”, which includes in the case of plans or plan amendments that affect a military installation, the commanding officer of the affected military installation. S. 163.3184(3)(b)2., F.S., provides in part that comments from reviewing agencies, if not resolved, may result in a challenge by the state land planning agency to the plan amendment.

²¹ These issues are consistent with the legislative findings in s. 163.3175(1), F.S.

closures from the 1993 BRAC round, focuses on aiding these communities transition from a defense economy to a nondefense economy in light of the federal BRAC process.

It contains provisions creating the Florida Economic Reinvestment Initiative, which is comprised of two distinct grant programs, the Florida Defense Planning Grant Program and the Florida Defense Implementation Grant Program. It also creates the Florida Military Installation Reuse Planning and Marketing Grant Program, the Defense Infrastructure Grant Program, the Defense Related Business Adjustment Program, and the Retention of Military Installations Program.

In addition, it authorizes the Department of Economic Opportunity (DEO) to award nonfederal matching funds specifically for the construction, maintenance, and analysis of a Florida defense workforce database. This database is to be a registry of worker skills that can be used to match the worker needs of companies that are relocating to Florida or to assist workers in relocating to other areas within Florida where similar or related employment is available. This database has not been created.

The Florida Defense Alliance serves as the overall advisory body for defense-related activity for Enterprise Florida, Inc. In addition, the Florida Defense Alliance may receive funding from appropriations made for that purpose to DEO.

Many of the grant programs have not been funded. Recent grants have focused on military base retention, which is inconsistent with the statute's emphasis on response to base closure.

Effect of Proposed Changes

The bill revises the legislative intent found in s. 288.980, F.S. While it retains the intent to encourage communities to initiate a coordinated program of response and plan of action in advance of future actions of the federal government relating to realignments and closures, it also recognizes the need for communities to develop and implement strategies to preserve and protect military installations. It further recognizes that the state needs to coordinate all efforts that can support military installations through the state.

Many of the changes in this section are to update the statutes to reflect how the grants have been funded and utilized.

The bill statutorily creates the Military Base Protection Program, and authorizes that funds appropriated to the program may be used to address emergent needs relating to mission sustainment and base retention. In addition, these funds may be used to match federal funds. DEO is directed to coordinate and implement this program.

The bill authorizes DEO to award grants on a competitive basis to support activities related to the Florida Defense Reinvestment Grant Program (DRG) and the Florida Defense Infrastructure Grant Program (DIG).

The DRG program is established with two purposes: to work with defense-dependent communities to develop and implement strategies to help the communities support the missions of military installations and to help communities transition from a defense economy to a nondefense economy. Eligible applicants include defense-dependent counties and cities, and local economic development councils located within such communities. DEO is directed to administer the program. Grant awards under the DRG program may be provided to support community-based activities that: protect existing military installations; diversify the economy of a defense-dependent community; or develop plans for the reuse of closed or realigned military installations, including any plans necessary for infrastructure improvements needed to facilitate reuse and related marketing activities.

The bill clarifies that grants under the DIG program are prohibited from being used to fund on-base military construction projects.

The bill repeals the Florida Economic Reinvestment Initiative, which consisted of the Florida Defense Planning Grant Program and the Florida Defense Implementation Grant Program. It repeals the Florida Military Installation Reuse Planning and Marketing Grant Program; however, the DRG program incorporates much of this program. In addition, it repeals the Defense Related Business Adjustment Program. Finally, it repeals the Retention of Military Installations Program.

The bill maintains the authorization for DEO to award funds for a Florida defense workforce database. It also retains limitations that payment for administrative expenses are limited to no more than ten percent of any grants issued. DEO is directed to establish guidelines to implement and carry out the purpose and intent of the programs.

Florida's Military Support Organizations

Present Situation

Florida Council on Military Base and Mission Support

In 2009, the Legislature established the Florida Council on Military Base and Mission Support (Council).²² The mission of the Council is to support and strengthen all DoD missions and bases located in Florida; know the capabilities of Florida's military installations in order to support future military growth opportunities; and support local community efforts relating to mission support of a military base by acting as a liaison between the local communities and the Legislature.

The Council is composed of nine members. The President of the Senate and the Speaker of the House each appoint three members: a member of their respective Legislative body, a representative from a community-based defense support organization, and a retired military general or flag rank officer or an executive officer of a defense contracting firm doing significant business in Florida. The Governor appoints the three remaining Council members: the director or designee of DEO, a board member of Enterprise Florida, Inc., and one at-large member. Legislative members of the Council serve a term of two-years commencing on July 1 of each odd year. The remaining members are appointed to four-year terms with vacancies filled for any unexpired portion in the same manner as the initial appointment. Members of the Council elect a chair and vice-chair. The chair and vice-chair serve terms of two years and are eligible to succeed themselves.

The Secretary of Environmental Protection, the Secretary of Transportation, the Adjutant General of Florida, and the Executive Director of Veterans' Affairs are required to attend all Council meetings and provide assistance, information, and support upon request. Each of the officials is permitted to send a designee in his or her stead.

The Council is directed to establish four workgroups: the Intrastate Activities Workgroup, Federal Activities Workgroup, Competitive Advantages Workgroup, and the Public Communications Workgroup. Each of these workgroups is tasked with duties defined in s. 288.984(3), F.S. These duties include collecting information and conducting analyses, developing ongoing dialogue with DoD officials, working to leverage Florida's competitive advantage with respect to BRAC activities, and increasing public awareness of BRAC activities and public investment in preserving the state's military bases.

The Council is required to provide an annual report to the Legislature and the Governor, summarizing the current status of the state's military bases, the Council's activities, and any recommendations for legislative or executive action, by January 1 each year.

DEO is directed to provide administrative support to the Council. The Legislature has not appropriated funds for use by the Council.

²² S. 289.984, F.S.

Florida Defense Support Task Force

In 2011, the Legislature established the Florida Defense Support Task Force (Task Force).²³ The mission of the Task Force is to make recommendations to prepare the state to effectively compete in any federal base realignment and closure action; support the state's position in research and development related to or arising out of military missions and contracting; and improve the state's military-friendly environment for service members, military dependents, military retirees, and businesses that bring military and base-related jobs to the state.

The Task Force is comprised of the Governor or his or her designee and twelve members comprised of four members appointed by the Governor, President of the Senate, and Speaker of the House, respectively. Task Force members represent defense-related industries or communities that host military bases and installations. With the exception of Legislative members, Task Force members serve for a term of four years, with the first term ending July 1, 2015. Vacancies are to be filled for the remainder of the unexpired term in the same manner as the initial appointment. Legislative members of the Task Force serve until the expiration of their Legislative term. When the Governor participates in Task Force activities, he or she serves as the chair; however, the Governor's designee does not serve as the chair in his or her absence. The President of the Senate and the Speaker of the House each designates one of their appointees to serve as chair, with the President of the Senate's appointee serving as the initial chair. The chair shall rotate between the President of the Senate's appointee and the Speaker of the House's appointee each July 1.

The director of the Office of Tourism, Trade and Economic Development (OTTED),²⁴ or his or her designee, serves as the ex officio, nonvoting executive director of the Task Force.

The Task Force is required to submit a progress report and work plan for the remainder of the Fiscal Year 2011 – 2012 to the Governor, President of the Senate, and Speaker of the House by February 1, 2012. After that, the Task Force is required to submit an annual report every February 1.

OTTED is to contract with the Task Force for the expenditure of appropriated funds which can be used for economic and product research and development, joint planning with host communities to accommodate military missions and prevent base encroachment, advocacy on the state's behalf with federal civilian and military officials, assistance to school districts in providing a smooth transition for large numbers of additional military-related students, job training and placement for military spouses in communities with high proportions of active duty military personnel, and promotion of the state to military and related contractors and employers. The Task Force is authorized to spend up to \$200,000 of funds appropriated for staffing and administrative expenses, including travel and per diem costs incurred by Task Force members who are not otherwise eligible for state reimbursement. OTTED was appropriated \$5 million in nonrecurring General Revenue for the Task Force in Fiscal Year 2011 – 2012.

Effect of Proposed Changes

The bill repeals s. 288.984, F.S., relating to the Council. It transfers the powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of the Council to the Task Force.

The bill amends s. 288.987, F.S., to remove language relating to BRAC and remove obsolete provisions relating to the reporting requirements.

It also amends ss. 163.3175 and 288.987, F.S., to make conforming changes.

²³ S. 288.987, F.S.

²⁴ Section 4, ch. 2011-142, L.O.F., transferred all of the powers, duties, and functions of OTTED to DEO.

Public Records and Meetings Exemption

Present Situation

General Policies

Article I, s. 24(a) of the Florida Constitution, sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the Florida Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.²⁵

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., also guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act²⁶ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

Exemption for the Florida Council on Military Base and Mission Support

In 2009, the Legislature created a public records and meetings exemption for certain activities of the Council.²⁷ Council records and discussions of the strengths and weaknesses of the state's military bases and strategies that are formulated to protect those bases during a base realignment and closure process are covered under the exemption.

General law provides a public disclosure exemption for the following records held by the Council including that portion of a record relating to:

- Strengths and weaknesses of military installations or missions in this state relative to BRAC realignment and closure selection criteria;
- Strengths and weaknesses of military installations or missions in other states or territories relative to BRAC realignment and closure selection criteria; and
- The state's strategies to retain, relocate, or realign its military bases during any BRAC realignment or closure process.

Council meetings or portions thereof where exempt records are presented or discussed are exempt from public disclosure. Any records generated during such meetings, including but not limited to minutes, tape recordings, videotapes, digital recordings, transcriptions, or notes, are exempted.

Any person who willfully and knowingly violates the exemption commits a misdemeanor of the first degree punishable as provided in ss. 775.082 or 775.083, F.S.

²⁵ Article I, s. 24(c) of the Florida Constitution.

²⁶ S. 119.15, F.S.

²⁷ S. 288.985, F.S.

The section of statute relating to the public records and meetings exemption is subject to the Open Government Sunset Review Act pursuant to s. 119.15, F.S. The section shall stand repealed on October 2, 2014, unless reviewed and reenacted by the Legislature.

When it created the exemption for the Council, the Legislature provided a finding of public necessity for the meetings and records disclosure exemption. This finding stated that military bases enhance the national defense and the state's economic development, and given the economic contribution of military installations and defense-related industry, the state has a substantial financial interest in retaining its military bases. Consequently, protecting critical information such as strengths, weaknesses, or strategies relating to locating or retaining military bases is important if Florida is to effectively compete against other states and territories whose records are not open to the public. The state's ability to protect military bases and missions from realignment or closure or to attract new bases will be impaired if Council meetings, portions of thereof, and related records are not exempted.

Effect of Proposed Changes

The bill transfers the exemption from public records and public meetings requirements found in s. 288.985, F.S., from the Council to the Task Force. The sunset date for the exemption remains October 2, 2014.

B. SECTION DIRECTORY:

- Section 1:** Amends s. 163.3175, F.S., transferring a duty of the Florida Council of Military Base and Mission Support to the Florida Defense Support Task Force and clarifying provisions relating to comments from commanding officers on a local government's proposed comprehensive plan or plan amendment.
- Section 2:** Amends s. 288.972, F.S., conforming change.
- Section 3:** Amends s. 288.980, F.S., revising Legislative intent and streamlining grant programs relating to military base retention.
- Section 4:** Transfers the functions of the Florida Council of Military Base and Mission Support to the Florida Defense Support Task Force.
- Section 5:** Repeals s. 288.984, relating to the Florida Council of Military Base and Mission Support.
- Section 6:** Amends s. 288.985, F.S. transferring the exemptions from public records and public meetings requirements from the Florida Council of Military Base and Mission Support to the Florida Defense Support Task Force.
- Section 7:** Amends s. 288.987, F.S., revising the mission of the Florida Defense Support Task Force, amending the reporting requirements to remove obsolete requirements, and conforming cross-references.
- Section 8:** Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.
2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive impact on the state and local economy if it is successful in keeping the state's current military base infrastructure intact while promoting the transfer of additional military assets to the state.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to military installations; amending s.
 3 163.3175, F.S.; authorizing the Florida Defense
 4 Support Task Force to recommend to the Legislature
 5 specified changes in military installations and local
 6 governments under the Community Planning Act;
 7 clarifying and revising procedures related to exchange
 8 of information between military installations and
 9 local governments under the act; amending s. 288.972,
 10 F.S.; revising legislative intent with respect to
 11 proposed closure or reuse of military bases; amending
 12 s. 288.980, F.S.; creating the Military Base
 13 Protection Program within the Department of Economic
 14 Opportunity; providing for use of program funds;
 15 revising provisions relating to the award of grants
 16 for retention of military installations; revising a
 17 definition; eliminating the Florida Economic
 18 Reinvestment Initiative; establishing the Florida
 19 Defense Reinvestment Grant Program to be administered
 20 by the Department of Economic Opportunity; specifying
 21 purposes of the program; specifying activities for
 22 which grant awards may be provided; eliminating the
 23 Defense-Related Business Adjustment Program, the
 24 Florida Defense Planning Grant Program, the Florida
 25 Defense Implementation Grant Program, the Florida
 26 Military Installation Reuse Planning and Marketing
 27 Grant Program, and the Retention of Military
 28 Installations Program; transferring and reassigning

29 | the functions and responsibilities of the Florida
 30 | Council on Military Base and Mission Support within
 31 | the Department of Economic Opportunity to the Florida
 32 | Defense Support Task Force within the Department of
 33 | Economic Opportunity by type two transfer; repealing
 34 | s. 288.984, F.S., which establishes the Florida
 35 | Council on Military Base and Mission Support and
 36 | provides purposes thereof; amending s. 288.985, F.S.;
 37 | conforming provisions relating to exempt records and
 38 | meetings of the Council on Military Base and Mission
 39 | Support; amending s. 288.987, F.S.; revising
 40 | provisions relating to the Florida Defense Support
 41 | Task Force, to conform; providing an effective date.
 42 |

43 | Be It Enacted by the Legislature of the State of Florida:
 44 |

45 | Section 1. Subsections (3), (5), and (6) of section
 46 | 163.3175, Florida Statutes, are amended to read:

47 | 163.3175 Legislative findings on compatibility of
 48 | development with military installations; exchange of information
 49 | between local governments and military installations.—

50 | (3) The Florida Defense Support Task Force ~~Council on~~
 51 | ~~Military Base and Mission Support~~ may recommend to the
 52 | Legislature changes to the military installations and local
 53 | governments specified in subsection (2) based on a military
 54 | base's potential for impacts from encroachment, and incompatible
 55 | land uses and development.

56 | (5) The commanding officer or his or her designee may

57 provide advisory comments to the affected local government on
 58 the impact such proposed changes may have on the mission of the
 59 military installation. Such advisory comments shall be based on
 60 appropriate data and analyses provided with the comments and may
 61 include:

62 (a) If the installation has an airfield, whether such
 63 proposed changes will be incompatible with the safety and noise
 64 standards contained in the Air Installation Compatible Use Zone
 65 (AICUZ) adopted by the military installation for that airfield;

66 (b) Whether such changes are incompatible with the
 67 Installation Environmental Noise Management Program (IENMP) of
 68 the United States Army;

69 (c) Whether such changes are incompatible with the
 70 findings of a Joint Land Use Study (JLUS) for the area if one
 71 has been completed; and

72 (d) Whether the military installation's mission will be
 73 adversely affected by the proposed actions of the county or
 74 affected local government.

75
 76 The commanding officer's comments, underlying studies, and
 77 reports shall be considered by the local government in the same
 78 manner as the comments received from other reviewing agencies
 79 pursuant to s. 163.3184 ~~are not binding on the local government.~~

80 (6) The affected local government shall take into
 81 consideration any comments and accompanying data and analyses
 82 provided by the commanding officer or his or her designee
 83 pursuant to subsection (4) as they relate to the strategic
 84 mission of the base, public safety, and the economic vitality

85 associated with the base's operations, while also respecting and
 86 ~~must also be sensitive to~~ private property rights and not being
 87 ~~be~~ unduly restrictive on those rights. The affected local
 88 government shall forward a copy of any comments regarding
 89 comprehensive plan amendments to the state land planning agency.

90 Section 2. Subsections (9) and (10) of section 288.972,
 91 Florida Statutes, are amended to read:

92 288.972 Legislative intent.—It is the policy of this
 93 state, once the Federal Government has proposed any base closure
 94 or has determined that military bases, lands, or installations
 95 are to be closed and made available for reuse, to:

96 ~~(9) Coordinate the development of the Defense-Related~~
 97 ~~Business Adjustment Program to increase commercial technology~~
 98 ~~development by defense companies.~~

99 (9) ~~(10)~~ Coordinate the development, maintenance, and
 100 analysis of a workforce database to assist workers adversely
 101 affected by defense-related activities in their relocation
 102 efforts.

103 Section 3. Section 288.980, Florida Statutes, is amended
 104 to read:

105 288.980 Military base retention; legislative intent;
 106 grants program.—

107 (1) (a) It is the intent of this state to provide the
 108 necessary means to assist communities with military
 109 installations in supporting and sustaining those installations
 110 ~~that would be adversely affected by federal base realignment or~~
 111 ~~closure actions.~~ It is further the intent to encourage
 112 communities to initiate a coordinated program of response and

113 plan of action in advance of future actions of the federal
 114 government relating to realignments and closures Base
 115 ~~Realignment and Closure Commission~~. It is critical that ~~closure-~~
 116 ~~vulnerable~~ communities develop and implement strategies ~~such a~~
 117 ~~program~~ to preserve and protect ~~affected~~ military installations.
 118 The Legislature hereby recognizes that the state needs to
 119 coordinate all efforts that can support ~~facilitate the retention~~
 120 ~~of all remaining~~ military installations throughout ~~in~~ the state.
 121 The Legislature, therefore, declares that providing such
 122 assistance to support the defense-related initiatives within
 123 this section is a public purpose for which public money may be
 124 used.

125 (b) The Florida Defense Alliance, an organization within
 126 Enterprise Florida, is designated as the organization to ensure
 127 that Florida, its resident military bases and missions, and its
 128 military host communities are in competitive positions as the
 129 United States continues its defense realignment and downsizing.
 130 The defense alliance shall serve as an overall advisory body for
 131 defense-related activity of Enterprise Florida, Inc. The Florida
 132 Defense Alliance may receive funding from appropriations made
 133 for that purpose administered by the department.

134 (2) The Military Base Protection Program is created. Funds
 135 appropriated to this program may be used to address emergent
 136 needs relating to mission sustainment and base retention. All
 137 funds appropriated for the purposes of this program are eligible
 138 to be used for matching of federal funds. The department shall
 139 coordinate and implement this program.

140 (3)-(2)(a) The department is authorized to award grants on

141 a competitive basis from any funds available to it to support
 142 activities related to the Florida Defense Reinvestment Grant
 143 Program and the Florida Defense Infrastructure Grant Program
 144 ~~retention of military installations potentially affected by~~
 145 ~~federal base closure or realignment.~~

146 (b) The term "activities" as used in this section means
 147 studies, presentations, analyses, plans, and modeling. For the
 148 purposes of the Florida Defense Infrastructure Grant Program,
 149 the term "activities" also includes, but is not limited to,
 150 construction, land purchases, and easements. Staff salaries are
 151 not considered an "activity" for which grant funds may be
 152 awarded. Travel costs and costs incidental thereto incurred by a
 153 grant recipient shall be considered an "activity" for which
 154 grant funds may be awarded.

155 (c) ~~Except for grants issued pursuant to the Florida~~
 156 ~~Military Installation Reuse Planning and Marketing Grant Program~~
 157 ~~as described in paragraph (3)(c), the amount of any grant~~
 158 ~~provided to an applicant may not exceed \$250,000.~~ The department
 159 shall require that an applicant:

160 1. Represent a local government with a military
 161 installation or military installations that could be adversely
 162 affected by federal actions ~~base realignment or closure.~~

163 2. Agree to match at least 30 percent of any grant
 164 awarded.

165 3. Prepare a coordinated program or plan of action
 166 delineating how the eligible project will be administered and
 167 accomplished.

168 4. Provide documentation describing the potential for

169 | ~~changes to the mission realignment or closure~~ of a military
 170 | installation located in the applicant's community and the
 171 | potential ~~adverse~~ impacts such changes ~~realignment or closure~~
 172 | will have on the applicant's community.

173 | (d) In making grant awards the department ~~office~~ shall
 174 | consider, at a minimum, the following factors:

175 | 1. The relative value of the particular military
 176 | installation in terms of its importance to the local and state
 177 | economy relative to other military installations ~~vulnerable to~~
 178 | ~~closure~~.

179 | 2. The potential job displacement within the local
 180 | community should the mission of the military installation be
 181 | changed ~~closed~~.

182 | 3. The potential ~~adverse~~ impact on industries and
 183 | technologies which service the military installation.

184 | (4) ~~(3)~~ The Florida Defense Reinvestment Grant Program
 185 | ~~Economic Reinvestment Initiative~~ is established to respond to
 186 | the need for this state to work in conjunction with defense-
 187 | dependent communities in developing and implementing strategies
 188 | and approaches that will help communities support the missions
 189 | of military installations, and in developing and implementing
 190 | ~~and defense-dependent communities in this state to develop~~
 191 | alternative economic diversification strategies to transition
 192 | from a defense economy to a nondefense economy ~~lessen reliance~~
 193 | ~~on national defense dollars in the wake of base closures and~~
 194 | ~~reduced federal defense expenditures and the need to formulate~~
 195 | ~~specific base reuse plans and identify any specific~~
 196 | ~~infrastructure needed to facilitate reuse.~~ Eligible applicants

197 include defense-dependent counties and cities, and local
 198 economic development councils located within such communities.

199 ~~The program initiative shall consist of the following two~~
 200 ~~distinct grant programs to be administered by the department and~~
 201 ~~grant awards may be provided to support community-based~~
 202 ~~activities that:~~

203 (a) Protect existing military installations; ~~The Florida~~
 204 ~~Defense Planning Grant Program, through which funds shall be~~
 205 ~~used to analyze the extent to which the state is dependent on~~
 206 ~~defense dollars and defense infrastructure and prepare~~
 207 ~~alternative economic development strategies. The state shall~~
 208 ~~work in conjunction with defense dependent communities in~~
 209 ~~developing strategies and approaches that will help communities~~
 210 ~~make the transition from a defense economy to a nondefense~~
 211 ~~economy. Grant awards may not exceed \$250,000 per applicant and~~
 212 ~~shall be available on a competitive basis.~~

213 (b) Diversify the economy of a defense-dependent
 214 community; or The Florida Defense Implementation Grant Program,
 215 ~~through which funds shall be made available to defense dependent~~
 216 ~~communities to implement the diversification strategies~~
 217 ~~developed pursuant to paragraph (a). Eligible applicants include~~
 218 ~~defense dependent counties and cities, and local economic~~
 219 ~~development councils located within such communities. Grant~~
 220 ~~awards may not exceed \$100,000 per applicant and shall be~~
 221 ~~available on a competitive basis. Awards shall be matched on a~~
 222 ~~one-to-one basis.~~

223 (c) ~~The Florida Military Installation Reuse Planning and~~
 224 ~~Marketing Grant Program, through which funds shall be used to~~

225 ~~help counties, cities, and local economic development councils~~
 226 Develop ~~and implement~~ plans for the reuse of closed or realigned
 227 military installations, including any plans necessary for
 228 infrastructure improvements needed to facilitate reuse and
 229 related marketing activities.

230
 231 Applications for grants under this subsection must include a
 232 coordinated program of work or plan of action delineating how
 233 the eligible project will be administered and accomplished,
 234 which must include a plan for ensuring close cooperation between
 235 civilian and military authorities in the conduct of the funded
 236 activities and a plan for public involvement.

237 (5)~~(4)~~ The Defense Infrastructure Grant Program is
 238 created. The department shall coordinate and implement this
 239 program, the purpose of which is to support local infrastructure
 240 projects deemed to have a positive impact on the military value
 241 of installations within the state. Funds are to be used for
 242 projects that benefit both the local community and the military
 243 installation. ~~It is not the intent, however, to fund on-base~~
 244 ~~military construction projects.~~ Infrastructure projects to be
 245 funded under this program include, but are not limited to, those
 246 related to encroachment, transportation and access, utilities,
 247 communications, housing, environment, and security. Grant
 248 requests will be accepted only from economic development
 249 applicants serving in the official capacity of a governing board
 250 of a county, municipality, special district, or state agency
 251 that will have the authority to maintain the project upon
 252 completion. An applicant must represent a community or county in

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253 | which a military installation is located. There is no limit as
 254 | to the amount of any grant awarded to an applicant. A match by
 255 | the county or local community may be required. The program may
 256 | not be used to fund on-base military construction projects. The
 257 | department shall establish guidelines to implement the purpose
 258 | of this subsection.

259 | ~~(5) (a) The Defense-Related Business Adjustment Program is~~
 260 | ~~hereby created. The department shall coordinate the development~~
 261 | ~~of the Defense-Related Business Adjustment Program. Funds shall~~
 262 | ~~be available to assist defense-related companies in the creation~~
 263 | ~~of increased commercial technology development through~~
 264 | ~~investments in technology. Such technology must have a direct~~
 265 | ~~impact on critical state needs for the purpose of generating~~
 266 | ~~investment-grade technologies and encouraging the partnership of~~
 267 | ~~the private sector and government defense-related business~~
 268 | ~~adjustment. The following areas shall receive precedence in~~
 269 | ~~consideration for funding commercial technology development: law~~
 270 | ~~enforcement or corrections, environmental protection,~~
 271 | ~~transportation, education, and health care. Travel and costs~~
 272 | ~~incidental thereto, and staff salaries, are not considered an~~
 273 | ~~"activity" for which grant funds may be awarded.~~

274 | ~~(b) The department shall require that an applicant:~~
 275 | ~~1. Be a defense-related business that could be adversely~~
 276 | ~~affected by federal base realignment or closure or reduced~~
 277 | ~~defense expenditures.~~
 278 | ~~2. Agree to match at least 50 percent of any funds awarded~~
 279 | ~~by the United States Department of Defense in cash or in-kind~~
 280 | ~~services. Such match shall be directly related to activities for~~

281 ~~which the funds are being sought.~~

282 ~~3. Prepare a coordinated program or plan delineating how~~
 283 ~~the funds will be administered.~~

284 ~~4. Provide documentation describing how defense-related~~
 285 ~~realignment or closure will adversely impact defense-related~~
 286 ~~companies.~~

287 ~~(6) The Retention of Military Installations Program is~~
 288 ~~created. The department shall coordinate and implement this~~
 289 ~~program.~~

290 ~~(6)(7)~~ The department may award nonfederal matching funds
 291 specifically appropriated for construction, maintenance, and
 292 analysis of a Florida defense workforce database. Such funds
 293 will be used to create a registry of worker skills that can be
 294 used to match the worker needs of companies that are relocating
 295 to this state or to assist workers in relocating to other areas
 296 within this state where similar or related employment is
 297 available.

298 ~~(7)(8)~~ Payment of administrative expenses shall be limited
 299 to no more than 10 percent of any grants issued pursuant to this
 300 section.

301 ~~(8)(9)~~ The department shall establish guidelines to
 302 implement and carry out the purpose and intent of this section.

303 Section 4. The powers, duties, functions, records,
 304 personnel, property, pending issues, existing contracts,
 305 administrative authority, administrative rules, and unexpended
 306 balances of appropriations, allocations, and other funds of the
 307 Florida Council on Military Base and Mission Support within the
 308 Department of Economic Opportunity are transferred by a type two

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309 | transfer, as defined in s. 20.06(2), Florida Statutes, to the
 310 | Florida Defense Support Task Force within the Department of
 311 | Economic Opportunity.

312 | Section 5. Section 288.984, Florida Statutes, is repealed.

313 | Section 6. Subsections (1) and (2) of section 288.985,
 314 | Florida Statutes, are amended to read:

315 | 288.985 Exemptions from public records and public meetings
 316 | requirements.—

317 | (1) The following records held by the Florida Defense
 318 | Support Task Force Council on Military Base and Mission Support
 319 | are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 320 | Constitution:

321 | (a) That portion of a record which relates to strengths
 322 | and weaknesses of military installations or military missions in
 323 | this state relative to the selection criteria for the
 324 | realignment and closure of military bases and missions under any
 325 | United States Department of Defense base realignment and closure
 326 | process.

327 | (b) That portion of a record which relates to strengths
 328 | and weaknesses of military installations or military missions in
 329 | other states or territories and the vulnerability of such
 330 | installations or missions to base realignment or closure under
 331 | the United States Department of Defense base realignment and
 332 | closure process, and any agreements or proposals to relocate or
 333 | realign military units and missions from other states or
 334 | territories.

335 | (c) That portion of a record which relates to the state's
 336 | strategy to retain its military bases during any United States

337 Department of Defense base realignment and closure process and
 338 any agreements or proposals to relocate or realign military
 339 units and missions.

340 (2) Meetings or portions of meetings of the Florida
 341 Defense Support Task Force Council on Military Base and Mission
 342 ~~Support~~, or a workgroup of the task force council, at which
 343 records are presented or discussed which are exempt under
 344 subsection (1) are exempt from s. 286.011 and s. 24(b), Art. I
 345 of the State Constitution.

346 Section 7. Subsections (2), (5), (6), and (7) of section
 347 288.987, Florida Statutes, are amended to read:

348 288.987 Florida Defense Support Task Force.-

349 (2) The mission of the task force is to make
 350 recommendations ~~to prepare the state to effectively compete in~~
 351 ~~any federal base realignment and closure action~~, to support the
 352 state's position in research and development related to or
 353 arising out of military missions and contracting, and to improve
 354 the state's military-friendly environment for service members,
 355 military dependents, military retirees, and businesses that
 356 bring military and base-related jobs to the state.

357 (5) The executive director of Department of Economic
 358 Opportunity ~~the Office of Tourism, Trade, and Economic~~
 359 ~~Development within the Executive Office of the Governor~~, or his
 360 or her designee, shall serve as the ex officio, nonvoting
 361 executive director of the task force.

362 (6) ~~The chair shall schedule and conduct the first meeting~~
 363 ~~of the task force by October 1, 2011.~~ The task force shall
 364 submit an annual ~~a~~ progress report and work plan ~~for the~~

365 ~~remainder of the 2011-2012 fiscal year to the Governor, the~~
 366 ~~President of the Senate, and the Speaker of the House of~~
 367 ~~Representatives by February 1, 2012, and shall submit an annual~~
 368 ~~report~~ each February 1 thereafter.

369 (7) The department ~~Office of Tourism, Trade, and Economic~~
 370 ~~Development~~ shall contract with the task force for expenditure
 371 of appropriated funds, which may be used by the task force for
 372 economic and product research and development, joint planning
 373 with host communities to accommodate military missions and
 374 prevent base encroachment, advocacy on the state's behalf with
 375 federal civilian and military officials, assistance to school
 376 districts in providing a smooth transition for large numbers of
 377 additional military-related students, job training and placement
 378 for military spouses in communities with high proportions of
 379 active duty military personnel, and promotion of the state to
 380 military and related contractors and employers. The task force
 381 may annually spend up to \$200,000 of funds appropriated to the
 382 department ~~Executive Office of the Governor, Office of Tourism,~~
 383 ~~Trade, and Economic Development,~~ for the task force for staffing
 384 and administrative expenses of the task force, including travel
 385 and per diem costs incurred by task force members who are not
 386 otherwise eligible for state reimbursement.

387 Section 8. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7113 PCB FTC 12-06 Additional Ad Valorem Tax Exemption for Deployed Servicemembers

SPONSOR(S): Finance & Tax Committee, Precourt

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Committee	22 Y, 0 N	Aldridge	Langston
1) Economic Affairs Committee		Tait <i>MCI</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The bill amends s. 196.173(2), F.S., to make changes to the designated operations for which deployed servicemembers may qualify for an ad valorem tax exemption. The changes are based upon the report required to be delivered by the Department of Military Affairs to the legislature of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year. The bill makes the following changes to the statutory list of operations:

- Operation Noble Eagle, which began on September 15, 2001, and is ongoing, is added,
- Operation Odyssey Dawn which began March 19, 2011, and ended on October 31, 2011, is added,
- Operation New Dawn, which began September 1, 2010, and is currently identified in statute, has its ending date of December 15, 2011 added.

The bill amends 196.173(3), F.S., to recognize these changes in statute.

The bill provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2012 only, by establishing June 1, 2012, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for qualifying deployment during the 2011 calendar year.

The Revenue Estimating Conference estimated a negative \$0.1 million impact on local governments in FY 2012-13.

The bill is effective upon becoming law and first applies to ad valorem tax rolls for 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Section 196.173, F.S., provides an additional ad valorem tax exemption for homestead property owned by a person who was a member of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard deployed outside of the continental United States, Alaska, or Hawaii in support of military operations designated by the Legislature.

Eligible Military Operations

The exemption is available to servicemembers who were deployed during the previous calendar year on active duty outside the continental United State, Alaska, or Hawaii in support of:

- Operation Enduring Freedom which began on October 7, 2001;
- Operation Iraqi Freedom which began on March 19, 2003 and ended on August 31, 2010; or
- Operation New Dawn which began September 1, 2010.

Annual Report of All Known and Unclassified Military Operations

By January 15 of each year, the Department of Military Affairs must submit to the President of the Senate, the Speaker of the House of Representatives, and the tax committees of each house of the Legislature a report of all known and unclassified military operations outside the continental United States, Alaska, or Hawaii for which servicemembers based in the continental United States have been deployed during the previous calendar year. To the extent possible, the report must include:

- the official and common names of the military operations;
- the general location and purpose of each military operation;
- the number of servicemembers deployed to each military operation;
- the number of servicemembers deployed to each military operation who were based in this state at the time of deployment, including the number by county of residence or military base, if known;
- the date each military operation commenced;
- the date each military operation terminated, unless the operation is ongoing; and
- any other relevant information.

Amount of Exemption

The amount of the exemption is equal to the taxable value of the homestead of the servicemember on January 1 of the year in which the exemption is sought multiplied by the number of days that the servicemember was on a qualifying deployment in the preceding calendar year and divided by the number of days in that year.

Exemption Application

A servicemember who seeks to claim the additional tax exemption must file an application for exemption with the property appraiser on or before March 1 of the year following the year of the qualifying deployment. The application must be made on a form prescribed by the Department of Revenue and furnished by the property appraiser. The servicemember must provide:

- proof that the servicemember participated in a qualifying deployment;
- the dates of the qualifying deployment; and
- other information necessary to verify eligibility for and the amount of the exemption.

In the event a servicemember is unable to apply for the deployed servicemember exemption for reasons such as deployment, a spouse who also owns the homestead as entireties or jointly with the right of survivorship, an individual with the servicemember's power of attorney, or the personal representative of the servicemember's estate may apply for the exemption on the servicemember's behalf.

Exemption Approval or Denial

The property appraiser must consider a servicemember's application for the exemption within 30 days after receipt of the application. If a servicemember's application for the exemption is denied, the property appraiser must send a notice of disapproval no later than July 1, citing the reason for disapproval and advising the servicemember of the right to appeal the decision to the value adjustment board along with the procedures for filing such appeal.

Definition of "Servicemember"

The term "servicemember" as used in this section, is defined to mean "a member or former member of any branch of the United States military or military reserves, the United States Coast Guard or its reserves, or the Florida National Guard."

Effect of Proposed Changes

The Department of Military Affairs has submitted the report required by s. 196.173(3), F.S., described above and providing the names, dates, locations and general purposes of all known and unclassified military operations that occurred outside the United States in calendar year 2011.¹

The report identified three differences from the designated operations currently identified in s. 196.173(2), F.S.:

- Operation Noble Eagle, which began on September 15, 2001, and is ongoing, is not currently identified in statute;
- Operation New Dawn, which began September 1, 2010, and is currently identified in statute, ended on December 15, 2011; and
- Operation Odyssey Dawn which began March 19, 2011, and ended on October 31, 2011, is not currently identified in statute.

The bill amends 196.173(3), F.S., to recognize these changes in statute.

The bill provides an exception to the March 1 application deadline in s. 196.173(5), F.S., for 2012 only, by establishing June 1, 2012, as the deadline for an eligible servicemember to file a claim for an additional tax exemption for qualifying deployment during the 2011 calendar year. Any applicant who fails to meet the June 1 deadline must subsequently submit an application to the property appraiser on or before the 25th day following the mailing by the property appraiser of the notices required under s.194.011(1), F.S. Upon receipt of the application, the property appraiser may grant the tax exemption if the property appraiser determines the applicant failed to meet the application deadline due to extenuating circumstances.

¹ On file with the Finance and Tax Committee.

If the property appraiser determines that extenuating circumstances did not prevent an applicant from meeting the deadline and denies the application, the applicant may file a petition with the value adjustment board requesting that the exemption be granted. No filing fee is due for this petition. The value adjustment board may grant the exemption for the current year if the board determines that extenuating circumstances existed.

B. SECTION DIRECTORY:

Section 1: Amends s. 196.173(2), F.S., to designate military operations for which deployed servicemembers may qualify for an additional homestead property tax exemption.

Section 2: Moves the March 1 application deadline to June 1 for qualifying deployment during calendar year 2011.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimated a negative \$0.1 million impact on local governments in FY 2012-13.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Qualifying servicemembers who were deployed overseas during 2011 on or in support of the operations designated by this bill may see a reduction in their property taxes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill expands the designated operations which certain deployed servicemembers may be eligible for an exemption from ad valorem taxes; however, an exemption may apply because the fiscal impact is insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to the additional ad valorem tax
3 exemption for deployed servicemembers; amending s.
4 196.173, F.S.; authorizing servicemembers who receive
5 a homestead exemption and who are deployed in certain
6 military operations to receive an additional ad
7 valorem tax exemption; providing a deadline for
8 claiming tax exemptions for qualifying deployments
9 during the 2011 calendar year; providing procedures
10 and requirements for filing applications and petitions
11 to receive the tax exemption after expiration of the
12 deadline; providing application; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (2) of section 196.173, Florida
18 Statutes, is amended to read:

19 196.173 Exemption for deployed servicemembers.—

20 (2) The exemption is available to servicemembers who were
21 deployed during the preceding calendar year on active duty
22 outside the continental United States, Alaska, or Hawaii in
23 support of:

24 (a) Operation Noble Eagle, which began on September 15,
25 2001;

26 (b) ~~(a)~~ Operation Enduring Freedom, which began on October
27 7, 2001;

28 (c) ~~(b)~~ Operation Iraqi Freedom, which began on March 19,

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29 | 2003, and ended on August 31, 2010; ~~or~~

30 | ~~(d)-(e)~~ Operation New Dawn, which began on September 1,
 31 | 2010, and ended on December 15, 2011; or

32 | (e) Operation Odyssey Dawn, which began on March 19, 2011,
 33 | and ended on October 31, 2011.

34 |

35 | The Department of Revenue shall notify all property appraisers
 36 | and tax collectors in this state of the designated military
 37 | operations.

38 | Section 2. Notwithstanding the application deadline in s.
 39 | 196.173(5), Florida Statutes, the deadline for an eligible
 40 | servicemember to file a claim for an additional ad valorem tax
 41 | exemption for a qualifying deployment during the 2011 calendar
 42 | year is June 1, 2012. Any applicant who seeks to claim the
 43 | additional exemption and who fails to file an application by
 44 | June 1 must file an application for the exemption with the
 45 | property appraiser on or before the 25th day following the
 46 | mailing by the property appraiser of the notices required under
 47 | s. 194.011(1), Florida Statutes. Upon receipt of sufficient
 48 | evidence, as determined by the property appraiser, demonstrating
 49 | the applicant was unable to apply for the exemption in a timely
 50 | manner or otherwise demonstrating extenuating circumstances
 51 | judged by the property appraiser to warrant granting the
 52 | exemption, the property appraiser may grant the exemption. If
 53 | the applicant fails to produce sufficient evidence demonstrating
 54 | the applicant was unable to apply for the exemption in a timely
 55 | manner or otherwise demonstrating extenuating circumstances as
 56 | judged by the property appraiser, the applicant may file,

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57 pursuant to s. 194.011(3), Florida Statutes, a petition with the
 58 value adjustment board requesting that the exemption be granted.
 59 Such petition must be filed during the taxable year on or before
 60 the 25th day following the mailing of the notice by the property
 61 appraiser as provided in s. 194.011(1), Florida Statutes.
 62 Notwithstanding s. 194.013, Florida Statutes, the applicant is
 63 not required to pay a filing fee for such a petition. Upon
 64 reviewing the petition, if the applicant is qualified to receive
 65 the exemption and demonstrates particular extenuating
 66 circumstances judged by the value adjustment board to warrant
 67 granting the exemption, the value adjustment board may grant the
 68 exemption for the current year.

69 Section 3. This act shall take effect upon becoming a law
 70 and first applies to ad valorem tax rolls for 2012.


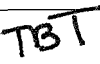
HB 7119

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7119 PCB BCAS 12-04 Early Learning Programs

SPONSOR(S): Business & Consumer Affairs Subcommittee, Ahern

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Business & Consumer Affairs Subcommittee	11 Y, 3 N	Croom	Creamer
1) Economic Affairs Committee		Croom 	Tinker 

SUMMARY ANALYSIS

The bill provides functions and responsibilities for the Office of Early Learning in administering the school readiness program to support the efforts of parents to work and be financially self-sufficient and to enhance the quality of child care programs in the state. The office is responsible for the prudent use of state and federal funds and the oversight of the early learning coalitions. In addition, the bill provides the office with the authority to adopt child development standards and a standard school readiness plan by rule. The bill requires the office to implement a statewide pre and post assessment aligned with child development standards, which are to be implemented by school readiness providers to inform classroom instruction.

The bill provides for no more than 25 coalitions statewide. The bill alters the early learning coalition board makeup, including reducing the maximum board size from 30 to 18, requiring the Governor to designate between competing designees, and providing that the Governor may remove a board member or an executive director for cause. The bill also changes the private board makeup requiring at least one-fourth of the board to be made up of private sector business members. The bill also requires coalition board members to file financial disclosures, and prohibits public dollars from being used for meals, food, beverage or unreasonable travel expenses.

The bill provides functions and responsibilities of the early learning coalitions including the submission of a school readiness plan, detailed budget and operational information, and development of policies and procedures for proper administration of public resources. In addition, the bill requires the office to create a scorecard to measure coalition performance.

The bill sets clear requirements for school readiness providers and establishes a standard provider agreement for the school readiness program that must be adopted by rule by the Office of Early Learning. The bill requires providers to: use a curriculum and character development program that meets the adopted child development standards, meet licensure requirements for health and safety, and ensure minimum standards associated with child discipline. The bill continues Warm-line services for providers, including developmental screenings for school readiness children.

The bill provides for monitoring of providers and provides for restitution and penalties for fraudulent activities.

The bill provides for eligibility and enrollment requirements, including the order of priority for children being served by the school readiness program. It establishes program budget, allocation and allowable use requirements for expending appropriated federal, state, and local-match funds. The bill provides caps for coalition overhead expenditures, increasing the amount of funds that will be allocated towards direct services for working-families so that more young children may be served in the program.

The bill will establish a standardized way to allocate funding to school readiness providers, requiring a standard reimbursement rate for children served regardless of age, a standardized reimbursement for Gold Seal providers, and a standardized parent fee—all of which will be provided annually in the General Appropriations Act.

The bill does not reduce funding for the school readiness program. There is no fiscal impact on state or local funds. The bill provides for an effective date of July 1, 2012.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7119.EAC.DOCX

DATE: 2/14/2012

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Office of Early Learning

The Office of Early Learning (OEL) serves as the lead agency responsible for the administration of school readiness. The OEL has duties which include providing final approval and an annual review of coalitions and plans; safeguarding the effective use of federal, state, local, and private resources to achieve the highest possible level of school readiness for the state's children; adopting a system for measuring school readiness that provides objective data regarding the expectations for school readiness and can be used to assist in determining program effectiveness; developing and adopting performance standards and outcome measures and preparing a plan for measuring school readiness which includes a uniform screening that will provide objective data regarding expectations for school readiness.

Chapter 2011-142, Laws of Florida, transferred the Office of Early Learning from the Agency for Workforce Innovation to the Department of Education. The office is a separate budget entity that is not subject to the control or oversight of the Department of Education or the State Board of Education. Essentially, the office is a single office that only reports to the Governor.

Early Learning Coalitions

In 1999, the Florida Legislature enacted s. 411.01, F.S., the School Readiness Act (Act), which created early learning coalitions statewide. The intent of this legislation was to provide an avenue for each county to adopt and maintain a coordinated system of School Readiness programs to help ensure that every child is ready for school upon entrance into kindergarten.

Early learning coalitions are not-for-profit corporations, designed to fulfill the intent of this legislation at the local level. The governing boards consist of 15 to 30 members of the local community. The school readiness program must, at a minimum, enhance the age-appropriate progress of each child in attaining the performance standards and outcome measures adopted by the Office of Early Learning.

Currently, there are 31 coalitions. Each coalition is legislatively responsible for developing a comprehensive service delivery plan for administering the School Readiness and Voluntary Prekindergarten Education Programs. Coalitions are legislatively charged to implement a comprehensive program of school readiness services in accordance with the rules adopted by the office which enhance the cognitive, social, and physical development of children to achieve the performance standards and outcome measures. At a minimum, these programs must contain developmentally appropriate curriculum, a character development program, age appropriate screening of a child's development, a healthy and safe environment and a resource and referral network.

School Readiness Program

The School Readiness Program provides early childhood education and child care services for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities. The School Readiness Program is a state-federal partnership between Florida's Office of Early Learning (OEL) and the Child Care Bureau of the United States Department of Health and Human Services. The School Readiness Program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families (TANF) block grant, and General Revenue, and other state funds.

The program is administered by early learning coalitions (ELC) at the county or regional level. OEL administers the program at the state level, including statewide coordination of the ELCs. Governance of the School Readiness Program is structured in a manner that provides for local delivery and management of school readiness services, with OEL developing program performance standards and

outcome measures and approving ELC school readiness plans. Administrative staff at the state level must be maintained at the minimum necessary to administer OEL's duties.

Florida law requires families served in this program have a "choice of settings and locations in licensed, registered, religious-exempt, or school-based programs." A wide range of public and private providers of early childhood education and child care services participate in the School Readiness Program, including:

- Public and private schools;
- Licensed child care facilities and large family child care homes;
- Licensed and registered family day care homes;
- Faith-based child care facilities and after-school programs, and
- Informal providers (e.g., friends, relatives, and in-home care providers).

Auditor General Audit Report No. 2012-061

As required by Section 2 of Chapter 2011-142, Laws of Florida, the Auditor General completed a financial and performance audit of the Office of Early Learning Services' programs and related delivery systems. The audit focused on the governance structure of the State's early learning programs, statewide administration and oversight of the School Readiness and Voluntary Prekindergarten Education (VPK) programs, and early learning coalition program delivery and operations.

The audit disclosed areas in which the efficiency and effectiveness of early learning program administration and accountability could be enhanced. Specifically, the Auditor General noted that OEL did not always provide the oversight necessary for the effective and efficient administration of the school readiness and VPK programs or implement the necessary statewide measures to determine whether legislative objectives are being met, measure school readiness program successes, and assess the effectiveness of the investments made. The audit also disclosed deficiencies in coalition financial management, operations, school readiness and VPK program administration, and information technology practices, as well as instances of noncompliance with state laws and federal regulations. The Auditor General noted that control deficiencies at OEL and the early learning coalitions contributed to many of the problems described in the report.

The results of the audit, when considered as a whole, indicated that the statewide governance structure of the early learning programs, as designed, was adequate for purposes of the school readiness and VPK programs. However, the audit procedures also disclosed that, notwithstanding the adequacy of its design, the governance structure's effectiveness had been impaired by the lack of the execution of certain program duties and responsibilities.

There were a total of 32 audit findings. Some of the findings include:

- A total of \$39.8 million was paid to individuals who were improperly receiving school readiness program benefits under a work-dependent eligibility category and were also receiving benefits under the unemployment insurance program totaling an additional \$54.2 million.
- The OEL had not developed or implemented statewide uniform outcome measures.
- Coalition school readiness plans did not always include all the required elements and OEL's plan review and approval processes were not always efficient and effective.
- The types of expenditures classified as quality dollar expenditures varied and at times did not relate to activities that improved the quality of care.
- Some coalition waiting lists were not prioritized according to participant eligibility category and reimbursements to providers were not always in accordance with approved payment schedules;
- Some coalitions did not always ensure that employees who may come into contact with children or have access to confidential information timely received background screenings.
- Coalitions did not always have effective procurement procedures, some expenses didn't appear reasonable, and some coalition property records were not accurate.

Effect of Proposed Changes

Office of Early Learning

The bill requires the Governor to designate the Office of Early Learning as the lead agency for administration of the federal Child Care and Development Fund and provides functions and responsibilities for the office in administering the school readiness program; specifically it requires the office to:

- Ensure the availability of school readiness services to support the efforts of parents to work and be financially self-sufficient and to enhance the quality of child care programs in the state.
- Provide services that preserve parental choice by permitting parents to choose from a variety of child care categories.
- Use state and federal funds prudently to achieve the highest practicable level of school readiness for the children.
- Maintain a single statewide information system that each coalition must use for the purpose of managing the single point of entry, tracking children's progress, coordinating services, determining eligibility, and tracking child attendance.
- Allow no more than 25 coalitions statewide; that each serve at least 1,700 children per year and to ensure access in all 67 counties.
- Approve coalition plans annually prior to expenditure of funds.
- Monitor and evaluate through onsite visits the performance of coalitions to ensure proper payments of benefits and implementation of their plan.
- Monitor the coalitions to ensure that requirements beyond those specified in state law or rule are not imposed on providers.
- Provide technical assistance to coalitions to avoid duplication of services.
- Ensure that all expenditures are properly allocated by expenditure type, including separation of staff costs from other expenditures.
- Coordinate with the Child Care Services Program Office of the Department of Children and Family Services with respect to health and safety monitoring, background screenings, and the collection and maintenance of child care training and credentialing.
- Coordinate with the Department of Economic Opportunity to perform data matches on families participating in the school readiness program and receiving unemployment compensation.
- Prepare and submit a unified budget request for the school readiness system.
- Adopt by rule a standardized format and the required content of school readiness plans and publish a copy of the standardized format and required content on its Internet website.

In addition, the bill allows the OEL to contract with a qualified entity to deliver school readiness and Voluntary Pre-Kindergarten Education program services if a coalition fails to serve at least 1,700 children or if the coalition does not administer the program in accordance with their plan or policy, law or rule. The office may determine if any adverse finding should result in terminating a contract. In the event of a coalition contract being terminated, the office may shift funds from a coalition to another qualified entity.

The bill requires the OEL to adopt by rule child development standards for the physical health approaches to learning, social and emotional development, language and communication, cognitive development and general knowledge and motor development. These child development standards shall align with the performance standards adopted by the Department of Education for the VPK program.

The OEL must implement a statewide pre and post assessment aligned with child development standards. The instrument is to be implemented by school readiness providers. The instrument may not be used to evaluate providers for high stakes accountability. The OEL shall collect the results of the assessments to evaluate the effectiveness of the program. The assessment must be administered at least once to school readiness children within the first 45 days of enrollment. A post assessment shall be administered to each school readiness child in a provider's program for at least 6 months and must be completed by May 30 of each year.

The bill requires the OEL to adopt rules prescribing the statewide provider agreement. Coalitions are required to use the agreement to annually contract with all eligible providers. The provider agreement must include child eligibility enrollment procedures and requirements; funding, payment, and

expenditures for the school readiness programs; child development and provider standards; requirements for maintenance of records and data confidentiality; requirements for notifications; procedures for reporting and certifying student attendance; specific grounds for termination or agreement; specific grounds for high-risk monitoring; dispute resolution procedures; and provisions for indemnification of the coalition.

The bill requires the OEL to create a scorecard to measure coalition performance. The office shall consider measures relating to provider satisfaction, parent satisfaction, payment process, fraud intervention, child attendance and stability, utilization of Child Care Resource and Referral to support families, and school readiness outcomes for children in VPK upon entry into kindergarten. The scorecard must be implemented by July 1, 2013, and be included in the first applicable annual report.

The bill requires the OEL to submit an annual report on January 1 of its activities to the Governor, the Speaker of the House of Representatives, and the President of the Senate. The reports must include a summary of the coalitions' annual reports; a statewide summary; an analysis of school readiness activities; information on children served; a summary, breakdown and description of expenditures; a summary of fraud findings and collections; coalition scorecard performance data; total number of children disenrolled and cause, the total number of provider contracts revoked with reasons, and the results from preassessments and postassessments.

Early Learning Coalitions

The bill provides that an early learning coalition is established upon the approval of the coalition's school readiness plan by OEL. No more than 25 coalitions may be established and each coalition must serve a minimum of 1,700 children annually. If a coalition would serve fewer than the minimum required, they must merge with another coalition to form a multicounty coalition.

Early Learning Coalitions have the following responsibilities detailed in the bill:

- Administer the school readiness program at the county or regional level.
- Establish a unified waiting list to track eligible children waiting for enrollment.
- Establish a resource and referral network to assist parents in making an informed choice.
- Establish a regional Warm-line as directed by OEL.
- Establish child eligibility and provider eligibility in accordance with statute, and provide documentation as to why a child is no longer eligible based on termination codes.
- Ensure proper maintenance of records related to eligibility and enrollment files, provider payments, coalition staff background screenings, and other documents.
- Establish a records retention requirement for sign-in and sign-out sheets that is consistent with state and federal law.
- Follow the requirements of the Chief Financial Officer with regards to property.
- Comply with state procurement requirements and expenditure requirements of state and federal law.
- Ensure proper information technology security is in place.
- Establish written contracting policies and procedures.

The bill also requires the coalitions to monitor school readiness providers on an annual basis, or in response to a parent complaint to ensure standards are met. Any provider that is considered to be high-risk shall be monitored more frequently. The coalition shall monitor the basic health and safety of facilities exempt from licensure, registered family day care homes and informal providers to ensure they meet licensure standards. Finally, the coalitions must monitor provider's records, including child eligibility and attendance to reduce the risk of fraud and overpayment.

The bill alters the early learning coalition board makeup, including reducing the maximum board size from 30 to 18, requiring the Governor to designate between competing designees, and providing that the Governor may remove a board member or the executive director for cause. The Governor appoints the chair of each coalition, and up to 2 additional members from the private sector. The bill also changes the private board makeup requiring at least one-fourth of the board to be made up of private

sector business members. A multicounty region must have representatives on the board from each county.

Each coalition board must have the following representation:

- The Department of Children and Families circuit administrator or designee.
- A district superintendent or designee.
- A regional workforce board executive or designee.
- A county health department director or designee.
- The president of a Florida College System institution or designee.
- One member appointed by a board of county commissioners or governing body of a municipality.
- A head start director.
- A representative of private for-profit child care providers.
- A representative of faith-based child care providers.
- A representative of programs for children with disabilities appointed by the Governor.

The bill also requires coalition board members and the executive director, or other person designated as being responsible for the coalition's operational and administrative functions, to file financial disclosures if not already required to do so.

The bill prohibits public dollars from being used for meals, food, beverage or unreasonable travel expenses. Preapproved reasonable per diem and travel expenses may be reimbursed at the standard travel reimbursement rate established in s. 112.061, F.S. The costs must also be in compliance with all other state and federal requirements.

The bill provides functions and responsibilities of the early learning coalitions. Coalitions must submit a school readiness plan to the OEL before the expenditure of funds, and they may not implement such a plan until the OEL has given its approval. The plan must include:

- A detailed budget including segregated expenditures, detailed sources of revenues, listing of staff positions, contracted costs, and a capital improvement plan.
- A detailed accounting of revenues and expenditures from the prior year.
- A description of quality activities planned that will be used to meet the federal requirement for quality expenditures.
- Updated policies and procedures for procurement, maintenance of tangible personal property, maintenance of records, information technology security, and expense and disbursement controls.
- Documentation that the coalition has solicited and considered local community comments.

The bill requires coalitions to submit an annual report by October 1 to OEL that documents segregation of school readiness, VPK and Child Care Executive Partnership funds; details of expenditures for administrative activities, quality activities, and nondirect and direct services; the total number of coalition staff and related salary information; the number of children served by age and eligibility priority category; the total number of children disenrolled and the reason; and a listing of providers whose eligibility has been revoked.

School Readiness Program Eligibility and Enrollment

The bill provides for eligibility and enrollment requirements, including the order of priority for children being served by the school readiness program. The bill provides for the following priority order:

- Birth to age 12 for a working family that includes an adult receiving temporary cash assistance.
- Birth to age 8 for at-risk families.
- Birth to the beginning of the school year for which a child is eligible for kindergarten for a working family that is economically disadvantaged, except that a child ceases to be eligible if the family income exceeds 200 percent of the federal poverty level.
- A child enrolled concurrently in the federal Head Start program and the VPK program.
- At risk children age 9 through 12.

A child in a working family will no longer be eligible for service if their parent becomes unemployed and remains unemployed for longer than 30 days. If the coalition needs to disenroll children from the school readiness program, the coalition must disenroll children in the reverse of the priority order, beginning with the highest income families.

School Readiness Provider Standards

The bill requires the following for a school readiness provider to be eligible:

- Be a licensed child care facility or large family child care home.
- Be an unlicensed public or nonpublic school, faith-based child care provider, after-school program, or family child care home but meet basic licensing requirements for health and safety.
- Must enhance the age-appropriate progress of each child through the selection or design of a curriculum and character development program.
- Ensure the health and safety of its premises and facilities as defined.
- Maintain a record demonstrating that each child served has applicable immunizations.
- Ensure minimum standards associated with child discipline.
- And execute the statewide provider agreement.

The bill prohibits the OEL from imposing any requirement on a child care or early childhood education provider that does not deliver services under the school readiness program or that does not receive any state or federal funding for early learning programs. In addition, the OEL and the coalitions are prohibited from imposing any requirement on a school readiness provider that exceeds the authority provided in law.

School Readiness Funding

The bill establishes program budget, allocation and allowable use requirements for expending appropriated funding. This includes restrictions on the percentage and uses of federal, state, and local match funds at the coalition level. The proposal caps administrative expenditures at 4 percent and provides allowable categories, quality expenditures at 6 percent and provides allowable categories, and nondirect expenditures at 8 percent and provides allowable categories. If a coalition charges less than the percentages allowed for administration and nondirect expenditures, the remaining amounts may be used to increase quality expenditures.

Quality expenditures may be used for:

- Child Care Resource and Referral programs to provide comprehensive consumer education and educate parents and the public regarding participation in the School Readiness Program.
- Awarding grants to school readiness providers to assist them in implementing curricula, purchasing classroom resources to implement the curricula, and provide literacy supports.
- Providing training to providers and parents on a variety of topics including: child development standards, developmentally appropriate curricula, child screenings, child assessments, character development, teacher-child interactions, age-appropriate discipline practices, and teacher-child interactions.
- Direct expenditures to assist with infant and toddler care.
- Implementing a pre and post assessment for children served in the program.
- Responding to Warm-line requests, including providing developmental and health screenings to school readiness children.

The bill requires standard rates for parent fees and for provider reimbursements that will be provided in the General Appropriations Act. A provider's total payment for a child shall be equal to the provider payment rate less the parent's copayment amount. However, the provider's payment may not exceed the provider's charges to the general public. The OEL may request a budget amendment for approval by the Legislative Budget Commission to increase the adjusted payment rate percentage for a specific geographic area in order to ensure that care levels are available throughout the state.

The bill provides for the OEL's Inspector General to investigate early learning coalitions, recipients and providers of the school readiness and VPK programs to determine if any overpayments are due to fraud. If fraud is suspected, the Inspector General shall conduct an investigation and make a

determination. If an overpayment is determined to be due to a fraudulent act, the parent or provider shall be responsible for repayment and restitution, and the OEL shall use any legal means to recover the funds. A provider or parent may not participate in the programs until all funds have been repaid. The OEL Inspector General may refer any suspected fraud to the Department of Law Enforcement. The current penalty in law for fraud is as follows: If the value of the public assistance is less than a total value of \$200 in any 12 consecutive months, such person commits a misdemeanor of the first degree and if the value of the public assistance is of a total value of \$200 or more in any 12 consecutive months, such person commits a felony of the third degree. Any provider that is found guilty of committing fraud shall be permanently ineligible to participate in the school readiness and VPK programs.

The bill provides the purpose of the Early Learning Advisory Council is to share best practices of administering the school readiness and VPK programs. The bill requires the council to meet at least annually.

The bill eliminates the Child Care Executive Partnership board and transfers responsibilities of the program to the OEL.

The bill provides for an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1 creates ss. 431.01, 431.03, 431.05, 431.07, 431.09, 431.11, 431.13, 431.15, 431.17, 431.19, 431.23 and 431.41 of the Florida Statutes dealing with early learning programs.

Section 2 transfers ss. 411.011 to s. 431.21, F.S., relating to records of children and makes reference corrections.

Section 3 transfers ss. 411.0101 to s. 431.25, F.S., relating to child care and early childhood resource and referral and makes reference corrections.

Section 4 transfers ss. 411.01013 to 431.27, F.S., relating to prevailing market rate schedule and amends language due to changes made in section 1 of the bill.

Section 5 transfers ss. 411.01015 to s. 431.29, F.S., relating to consultation to child care centers and family day care homes regarding health, developmental, disability, and special needs issues and corrects a reference.

Section 6 transfers ss. 411.0102 to s. 431.31, F.S., relating to the Child Care Executive Partnership and deletes language.

Section 7 transfers ss. 411.0103 to s. 431.33, F.S., relating to the teacher education and compensation helps scholarship program.

Section 8 transfers ss. 411.0105 to s. 431.35, F.S., relating to the Early Learning Opportunities Act and Even Start Family Literacy Programs.

Section 9 transfers ss. 411.0106 to s. 431.37, F.S., relating to infants and toddlers in state-funded education and care programs and makes reference changes.

Section 10 transfers ss. 1002.77 to 431.39, F.S., relating to the Florida Early Learning Advisory Council and amends language.

Section 11 amends s. 11.45, F.S., relating to the Auditor General's authority to correct a reference.

Section 12 amends s. 20.15, F.S., relating to the Department of Education to correct a reference.

Section 13 amends s. 216.136, F.S., relating to consensus estimating conferences to correct references.

Section 14 amends s. 402.302, F.S., relating to child care facilities definitions to correct a reference.

Section 15 amends s. 490.014, F.S., relating to psychological services exemptions to correct a reference.

Section 16 amends s. 491.014, F.S., relating to clinical, counseling, and psychotherapy services exemptions to correct a reference.

Section 17 amends s. 1002.51, F.S., relating to Voluntary Prekindergarten Education Program definitions to correct a reference.

Section 18 amends s. 1002.53, F.S., relating to Voluntary Prekindergarten Education Program eligibility and enrollment to correct a reference.

Section 19 amends s. 1002.67, F.S., relating to Voluntary Prekindergarten Education Program performance standards to correct a reference.

Section 20 amends s. 1002.71, F.S., relating to Voluntary Prekindergarten Education Program funding to correct a reference.

Section 21 amends s. 1006.03, F.S., relating to learning services diagnostic and learning resource centers to correct a reference.

Section 22 repeals ss. 411.01, s. 411.01014, s. 411.0104, s. 445.023, and s. 445.032, F.S.

Section 23 provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill's intent is to establish a more efficient and effective school readiness program by providing caps for coalition overhead expenditures, increasing the amount of funds that will be allocated towards

direct services for working-families so that more young children may be served in the program. There may be a positive impact to providers since the bill will establish a standardized way to allocate funding to school readiness providers, requiring a standard reimbursement percentage for children served regardless of age. In addition, the bill will set a statewide Gold Seal reimbursement rate so that accredited providers meeting the legislatively created Gold Seal standard will all receive the same percentage of additional reimbursement regardless of the county in which they are located. Also, there is a benefit to working families with young children since the bill increases the number of young children that will be receiving services, prioritizing the state's youngest and most vulnerable children. The bill refocuses the school readiness program on serving families with young children who would otherwise find it difficult to work due to the high cost associated with child care.

D. FISCAL COMMENTS:

The bill will provide an estimated additional \$26 million to be used for direct services for children, allowing more children to be removed from the waiting lists.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill requires that the Office of Early Learning adopt rules prescribing child development standards for the physical health, approaches to learning, social and emotional development, language and communication, cognitive development, and general knowledge and motor development of children served in the school readiness program.

The bill provides that the Office of Early Learning is provided the authority to adopt rules to administer the provisions of Chapter 431, which confers the duties upon the office.

The bill requires that the Office of Early Learning adopt rules prescribing a standardized format and required content of school readiness plans as necessary for a coalition or other qualified entity to administer the school readiness program as provided in this section and s. 431.11.

The bill requires the Office of Early Learning to adopt rules for the disbursement of Child Care Executive Partnership Program funds.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to early learning programs; creating
 3 chapter 431, F.S.; providing a short title; defining
 4 terms; providing for designation of the Office of
 5 Early Learning as lead agency for the federal Child
 6 Care and Development Fund; providing the office's
 7 powers and duties for administering the school
 8 readiness program; providing for a preassessment and
 9 postassessment of children enrolled in the school
 10 readiness program; limiting uses of assessment data;
 11 requiring the office to submit an annual report to the
 12 Governor and Legislature; providing for the
 13 establishment and duties of early learning coalitions;
 14 limiting the number of coalitions and providing the
 15 minimum number of children that each coalition must
 16 serve; providing for the merger of coalitions under
 17 certain circumstances; providing for the membership of
 18 coalition boards; limiting the use of certain funds by
 19 coalitions; requiring coalitions to annually submit
 20 school readiness plans to the Office of Early Learning
 21 in the format prescribed by the office; establishing a
 22 scorecard to measure coalition performance; providing
 23 the coalitions' powers and duties for administering
 24 the school readiness program; requiring the coalitions
 25 to submit annual reports to the Office of Early
 26 Learning; establishing eligibility criteria for the
 27 enrollment of children in the school readiness program
 28 and the priorities by which children are enrolled;

29 providing procedures and notice requirements for the
 30 disenrollment of children; providing reporting
 31 requirements for children who are absent from the
 32 program; providing standards and eligibility criteria
 33 for school readiness providers; requiring school
 34 readiness providers to execute the statewide provider
 35 agreement prescribed by the Office of Early Learning;
 36 providing for the allocation of school readiness funds
 37 as specified in the General Appropriations Act;
 38 limiting expenditures for administrative activities,
 39 quality activities, and nondirect services; providing
 40 for the payment of school readiness providers
 41 according to calculations of payment rates and sliding
 42 fee scales as provided in the General Appropriations
 43 Act; authorizing the Office of Early Learning to
 44 request budget amendments for increased payment rates
 45 in certain geographic areas under certain
 46 circumstances; providing for compliance with federal
 47 parental choice requirements through payment of school
 48 readiness providers with payment certificates;
 49 providing for investigations of fraud or overpayment
 50 in the school readiness program; providing for the
 51 repayment of identified overpayments; limiting the
 52 participation of school readiness providers and
 53 parents in the program until repayment is made in
 54 full; providing penalties for certain acts of fraud;
 55 authorizing the Office of Early Learning to adopt
 56 rules; specifying additional rulemaking requirements;

57 | transferring, renumbering, and amending ss. 411.0101
 58 | and 411.011, F.S.; conforming cross-references;
 59 | transferring, renumbering, and amending s. 411.01013,
 60 | F.S.; revising provisions for calculation of the
 61 | prevailing market rate schedule; requiring school
 62 | readiness providers to annually submit their market
 63 | rates by a specified date; transferring, renumbering,
 64 | and amending s. 411.01015, F.S.; conforming a cross-
 65 | reference; transferring, renumbering, and amending s.
 66 | 411.0102, F.S.; deleting a short title; deleting
 67 | provisions for the membership and duties of the Child
 68 | Care Executive Partnership; requiring the Office of
 69 | Early Learning to administer the Child Care Executive
 70 | Partnership Program; deleting provisions of community
 71 | child care task forces and the disbursement of funds
 72 | through local purchasing pools; transferring and
 73 | renumbering ss. 411.0103 and 411.0105, F.S.;
 74 | transferring, renumbering, and amending s. 411.0106,
 75 | F.S.; conforming a cross-reference; transferring,
 76 | renumbering, and amending s. 1002.77, F.S.; revising
 77 | the purpose of the Florida Early Learning Advisory
 78 | Council; revising frequency of council meetings;
 79 | conforming cross-references; amending ss. 11.45,
 80 | 20.15, 216.136, 402.302, 490.014, 491.014, 1002.51,
 81 | 1002.53, 1002.67, 1002.71, and 1006.03, F.S.; F.S.;
 82 | conforming cross-references; conforming terminology;
 83 | repealing ss. 411.01, 411.01014, 411.0104, 445.023,
 84 | and 445.032, F.S., relating to the School Readiness

85 Act, school readiness transportation services, Early
 86 Head Start collaboration grants, dependent care for
 87 families with children with special needs, and
 88 transitional child care; providing an effective date.

89

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

91

92 Section 1. Chapter 431, Florida Statutes, consisting of
 93 sections 431.01, 431.03, 431.05, 431.07, 431.09, 431.11, 431.13,
 94 431.15, 431.17, 431.19, 431.23, and 431.41, is created to read:

95

CHAPTER 431

96

EARLY LEARNING

97

431.01 Short title.—This chapter may be cited as the
 98 "School Readiness Act."

99

431.03 Definitions.—As used in this chapter, the term:

100

(1) "Adjusted payment rate percentage" means a specified
 101 percentage provided in the General Appropriations Act that is
 102 applied to the prevailing market rate for each type of school
 103 readiness provider and level of care.

104

(2) "At-risk child" means:

105

(a) A child who is from a family that is under
 106 investigation by the Department of Children and Family Services
 107 or a designated sheriff's office for child abuse, neglect,
 108 abandonment, or exploitation.

109

(b) A child who is in a diversion program provided by the
 110 Department of Children and Family Services or its contracted
 111 provider and is from a family that is actively participating and
 112 complying in department-prescribed activities, including

113 education, health services, or work.

114 (c) A child who is from a family that is under supervision
 115 by the Department of Children and Family Services or a
 116 contracted service provider for abuse, neglect, abandonment, or
 117 exploitation.

118 (d) A child who is placed in court-ordered, long-term
 119 custody or under the guardianship of a relative or nonrelative
 120 after termination of supervision by the Department of Children
 121 and Family Services or its contracted provider.

122 (3) "Authorized hours of care" means the hours of care
 123 that are necessary to provide protection or complete work
 124 activities or eligible educational activities, including
 125 reasonable travel time.

126 (4) "Coalition" means an early learning coalition
 127 established under s. 431.07.

128 (5) "Earned income" means gross remuneration derived from
 129 work, professional service, or self-employment. The term
 130 includes commissions, bonuses, back pay awards, and the cash
 131 value of all remuneration paid in a medium other than cash.

132 (6) "Economically disadvantaged" means having a family
 133 income that does not exceed 150 percent of the federal poverty
 134 level.

135 (7) "Family income" means the combined gross income,
 136 whether earned or unearned, that is derived from any source by
 137 all family or household members who are 18 years of age or older
 138 and currently reside together in the same dwelling unit. The
 139 term does not include income earned by a currently enrolled high
 140 school student who, since attaining the age of 18 years, has not

141 terminated school enrollment or received a high school diploma,
 142 high school equivalency diploma, special diploma, or certificate
 143 of high school completion. The term also does not include food
 144 stamp benefits or federal housing assistance payments issued
 145 directly to a landlord or the associated utilities expenses.

146 (8) "Family or household members" means spouses, former
 147 spouses, persons related by blood or marriage, persons who are
 148 parents of a child in common regardless of whether they have
 149 been married, and other persons who are currently residing
 150 together in the same dwelling unit as if a family.

151 (9) "Fraud" means an intentional deception or
 152 misrepresentation made by a person with knowledge that the
 153 deception or misrepresentation may result in unauthorized
 154 benefit to that person or another person. The term includes any
 155 act that constitutes fraud under applicable federal or state
 156 law.

157 (10) "Full-time care" means at least 6 hours, but not more
 158 than 11 hours, of child care or early childhood education
 159 services within a 24-hour period.

160 (11) "Gold Seal premium percentage" means a specified
 161 percentage provided in the General Appropriations Act that, for
 162 a school readiness provider that has the Gold Seal Quality Care
 163 designation under s. 402.281, is applied to the provider's
 164 adjusted payment rate.

165 (12) "Informal child care provider" means, to the extent
 166 authorized in the state's Child Care and Development Fund Plan
 167 as approved by the United States Department of Health and Human
 168 Services pursuant to 45 C.F.R. s. 98.18, an in-home child care

169 provider as defined in 45 C.F.R. s. 98.2 or a relative, such as
 170 a grandparent, great grandparent, aunt, uncle, or sibling who
 171 provides care for the child.

172 (13) "In loco parentis" means acting as a child's
 173 temporary guardian.

174 (14) "Market rate" means the price that a child care or
 175 early childhood education provider charges for full-time or
 176 part-time daily, weekly, or monthly child care or early
 177 childhood education services.

178 (15) "Office" means the Office of Early Learning of the
 179 Department of Education established under s. 20.15(3)(h).

180 (16) "Parent" means a parent by blood, marriage, or
 181 adoption; a legal guardian; or another person standing in loco
 182 parentis.

183 (17) "Part-time care" means less than 6 hours of child
 184 care or early childhood education services within a 24-hour
 185 period.

186 (18) "Payment certificate" means a child care certificate
 187 as defined in 45 C.F.R. s. 98.2.

188 (19) "Prevailing market rate" means the biennially
 189 determined statewide median of the market rate for child care
 190 and early childhood education services.

191 (20) "Single point of entry" means an integrated
 192 information system that allows a parent to enroll his or her
 193 child in the school readiness program at various locations
 194 throughout a county, that may allow a parent to enroll his or
 195 her child by telephone or through an Internet website, and that
 196 uses a unified waiting list to track eligible children waiting

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197 | for enrollment in the school readiness program.

198 | (21) "Unearned income" means income other than earned
 199 | income. The term includes, but is not limited to:

200 | (a) Documented alimony and child support received.

201 | (b) Social security benefits.

202 | (c) Supplemental security income benefits.

203 | (d) Workers' compensation benefits.

204 | (e) Unemployment compensation benefits.

205 | (f) Veterans' benefits.

206 | (g) Retirement benefits.

207 | (h) Temporary cash assistance under chapter 414.

208 | (i) Military housing assistance under the federal Family
 209 | Subsistence Supplemental Allowance Program.

210 | (22) "Working family" means:

211 | (a) A single-parent family in which the parent with whom
 212 | the child resides is employed or engaged in eligible education
 213 | activities for at least 20 hours per week;

214 | (b) A two-parent family in which both parents with whom
 215 | the child resides are each employed or engaged in eligible
 216 | education activities for at least 20 hours per week; or

217 | (c) A family in which the parents, as prescribed by rules
 218 | adopted by the office, are exempt from work requirements due to
 219 | age or disability as determined and documented by a physician
 220 | licensed under chapter 458 or chapter 459.

221 | 431.05 Office of Early Learning; powers and duties.—

222 | (1) The Governor shall designate the Office of Early
 223 | Learning as the lead agency for administration of the federal
 224 | Child Care and Development Fund, 45 C.F.R. parts 98 and 99, and

225 the office shall comply with the lead agency responsibilities
 226 under federal law.

227 (2) The office shall:

228 (a) Administer the school readiness program at the state
 229 level and coordinate with the early learning coalitions to
 230 ensure the availability of school readiness services to support
 231 the efforts of parents to work and be financially self-
 232 sufficient and to enhance the quality of child care programs in
 233 the state.

234 (b) Provide the school readiness services authorized in
 235 this chapter in a manner that ensures the preservation of
 236 parental choice.

237 (c) Be responsible for the prudent use of all public and
 238 private funds in accordance with all legal and contractual
 239 requirements, safeguarding the effective use of federal, state,
 240 and local resources to achieve the highest practicable level of
 241 school readiness for the children described in s. 431.13.

242 (d) Maintain a single statewide information system that
 243 each coalition must use for the purposes of managing the single
 244 point of entry, tracking children's progress, coordinating
 245 services among stakeholders, determining eligibility, tracking
 246 child attendance, and streamlining administrative processes for
 247 providers and coalitions.

248 (e) Ensure statewide access to school readiness services
 249 throughout each county.

250 (f) Ensure that each coalition serves the minimum number
 251 of children required in s. 431.07(1)(b) and that the maximum
 252 number of coalitions is not exceeded.

253 (g) Approve school readiness plans annually.

254 (h) Monitor and evaluate the performance of each coalition
 255 in administering the school readiness program, ensuring proper
 256 payments for school readiness services, and implementing the
 257 coalition's school readiness plan. These monitoring and
 258 performance evaluations must include, at a minimum, onsite
 259 monitoring of each coalition's finances, management, operations,
 260 and programs.

261 (i) Monitor each coalition to ensure that additional
 262 regulations or requirements are not placed upon school readiness
 263 providers that exceed the authority provided under this chapter
 264 or rules adopted pursuant to this chapter.

265 (j) Provide technical assistance to early learning
 266 coalitions consistent with the purposes of this chapter to avoid
 267 duplication of services.

268 (k) Ensure that all expenditures are properly allocated by
 269 expenditure type, clearly accounting for indirect and direct
 270 expenditures, and ensuring that funds used to support staff and
 271 salaries, contracts, and vendors are accounted for separate and
 272 apart from other expenditures within each expenditure type.

273 (l) Coordinate with the Child Care Services Program Office
 274 of the Department of Children and Family Services with respect
 275 to health and safety monitoring, background screenings, and the
 276 collection and maintenance of data pertaining to child care
 277 training and credentialing.

278 (m) Coordinate with the Department of Economic Opportunity
 279 to perform data matches on families participating in the school
 280 readiness program and receiving unemployment compensation.

281 (3) The office has authority to administer this chapter,
 282 including the power to receive and accept grants, loans, or
 283 advances of funds from any public or private agency and to
 284 receive and accept from any source contributions of money,
 285 property, labor, or any other thing of value, to be held, used,
 286 and applied for purposes of this chapter.

287 (4) The office must exercise due diligence in securing
 288 full payment of all accounts receivable and other claims due to
 289 the state and comply with procedures for collections under s.
 290 17.20.

291 (5) The office shall prepare and submit a unified budget
 292 request for the school readiness system in accordance with
 293 chapter 216.

294 (6) The office shall adopt rules prescribing child
 295 development standards for the physical health, approaches to
 296 learning, social and emotional development, language and
 297 communication, cognitive development, and general knowledge and
 298 motor development of children served in the school readiness
 299 program. The child development standards must align with
 300 performance standards adopted by the Department of Education for
 301 the Voluntary Prekindergarten Education Program pursuant to s.
 302 1002.67.

303 (7) The office shall implement a statewide preassessment
 304 and postassessment aligned with the child development standards
 305 adopted pursuant to subsection (6). The assessment shall be
 306 implemented and used by school readiness providers to inform
 307 classroom instruction. The assessment may not be used for
 308 evaluating providers or for high-stakes accountability. The

309 office shall collect the results of the preassessments and
 310 postassessments statewide to evaluate the effectiveness of the
 311 school readiness program. At a minimum, a preassessment shall be
 312 administered to each school readiness child that participates in
 313 the program within the first 60 days after enrollment. By May 30
 314 of each year, a postassessment shall be administered to each
 315 school readiness child who participates in a provider's program
 316 for at least the previous 6 months.

317 (8) By January 1 of each year, the office shall submit an
 318 annual report of its activities conducted under this chapter to
 319 the Governor, the President of the Senate, and the Speaker of
 320 the House of Representatives. The report must include a summary
 321 of the coalitions' annual reports, a statewide summary, and the
 322 following:

323 (a) An analysis of school readiness activities throughout
 324 the state.

325 (b) The total and average number of children served in the
 326 school readiness program, enumerated by age, eligibility
 327 priority category, and coalition.

328 (c) A summary of expenditures by coalition, including a
 329 breakdown by coalition of the percentage of expenditures for
 330 administrative activities, quality activities, nondirect
 331 services, and direct services for children.

332 (d) A description of the office's and each coalition's
 333 expenditures for the quality activities described in s.
 334 431.19(4)(b).

335 (e) A summary of annual findings and collections related
 336 to provider fraud and parent fraud.

337 (f) Coalition scorecard performance data to measure the
 338 success of the coalitions in implementing the early learning
 339 programs.

340 (g) The total number of children disenrolled statewide and
 341 the reason for disenrollment.

342 (h) The total number of provider contracts revoked and the
 343 reasons for revocation.

344 (i) The statewide results obtained through preassessments
 345 and postassessments.

346 431.07 Early learning coalitions; coalition boards.-

347 (1) (a) A coalition is established upon the approval of the
 348 coalition's school readiness plan by the Office of Early
 349 Learning pursuant to s. 431.09.

350 (b) No more than 25 coalitions may be established, and
 351 each coalition must serve at least 1,700 children, which shall
 352 be calculated according to the average number of children served
 353 per month in the school readiness program during the previous 12
 354 months. Each coalition's service area shall comprise one or more
 355 counties. If a coalition would serve fewer children than the
 356 minimum number established in this paragraph, the coalition must
 357 merge with another county to form a multicounty coalition.

358 (c) The office shall adopt rules prescribing procedures
 359 for merging coalitions, including procedures for the
 360 consolidation of merging coalitions, and for the early
 361 termination of the terms of coalition board members, which are
 362 necessary to accomplish the mergers.

363 (2) Each coalition shall be governed by a coalition board
 364 composed of at least 12 members but not more than 18 members:

365 (a) The Governor shall appoint the chair and at least two
 366 additional members who must each be private sector business
 367 members and meet the qualifications in paragraph (d).

368 (b) The coalition board shall include the following public
 369 sector members:

370 1. A Department of Children and Family Services circuit
 371 administrator or his or her designee who is authorized by the
 372 Secretary of Children and Family Services to make decisions on
 373 behalf of the department or, if applicable, the head of a local
 374 licensing agency approved under ss. 402.306 and 402.307 or his
 375 or her designee. If the coalition's service area includes
 376 multiple circuits or counties, the Governor shall make the
 377 appointment from one of the circuits or counties.

378 2. A district superintendent of schools or his or her
 379 designee who is authorized by the district school board to make
 380 decisions on behalf of the district. If the coalition's service
 381 area includes multiple school districts, the Governor shall,
 382 from term to term, rotate the appointment among each of the
 383 districts.

384 3. A regional workforce board executive director or his or
 385 her designee. If the coalition's service area includes multiple
 386 regional workforce board service delivery areas, the Governor
 387 shall make the appointment from one of the regional workforce
 388 boards.

389 4. A county health department director or his or her
 390 designee. If the coalition's service area includes multiple
 391 counties, the Governor shall make the appointment from one of
 392 the counties.

393 5. If the coalition's service area includes a Florida
 394 College System institution, the college president or his or her
 395 designee. If the coalition's service area includes multiple
 396 Florida College System institutions, the Governor shall make the
 397 appointment from one of the institutions.

398 6. One member appointed by a board of county
 399 commissioners. If the coalition's service area includes multiple
 400 counties, the Governor shall determine which county shall make
 401 the appointment.

402 7. If the coalition's service area includes a
 403 municipality, one member appointed by the governing board of the
 404 municipality. If the coalition's service area includes multiple
 405 municipalities, the Governor shall determine which municipality
 406 shall make the appointment.

407 8. If the coalition's service area includes a federal Head
 408 Start program, the Head Start director. If the coalition's
 409 service area includes multiple Head Start programs, the Governor
 410 shall make the appointment from one of the programs.

411 9. A representative of programs for children with
 412 disabilities under the federal Individuals with Disabilities
 413 Education Act.

414 (c) The following members shall be selected by providers:

415 1. A representative of private for-profit child care
 416 providers, including private for-profit family day care homes,
 417 who shall be selected by majority vote of such providers located
 418 in the coalition's service area.

419 2. A representative of faith-based child care providers
 420 who shall be selected by majority vote of such providers located

421 in the coalition's service area.

422 (d) At least one-fourth of the members of each coalition
 423 board must be private sector business members who do not have,
 424 and none of whose relatives as defined in s. 112.3143 has, a
 425 substantial financial interest in the design or delivery of the
 426 Voluntary Prekindergarten Education Program created under part V
 427 of chapter 1002 or the school readiness program. The coalition
 428 board shall appoint additional members to the early learning
 429 coalition in order to meet the requirements of this paragraph.
 430 Private sector board members serve at the pleasure of the
 431 Governor.

432 (e) A coalition serving more than one county must include
 433 representation from each county.

434 (3)(a) A majority of the voting membership of a coalition
 435 board constitutes a quorum required to conduct the business of
 436 the coalition. A coalition board may use any method of
 437 telecommunications to conduct meetings, including establishing a
 438 quorum through telecommunications, provided that the public is
 439 given proper notice of a telecommunications meeting and
 440 reasonable access to observe and, when appropriate, participate.

441 (b) Except as otherwise provided in subsection (2), a
 442 member of a coalition board may not appoint a designee to act in
 443 his or her place. A member may send a representative to
 444 coalition board meetings, but that representative does not have
 445 voting privileges. When a member appoints a designee under
 446 subsection (2), the designee serves at the pleasure of the
 447 designating official. Unless the designee is removed by the
 448 designating official, the designee is the voting member of the

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449 coalition board, and any individual attending in the designee's
450 place, including the designating official, does not have voting
451 privileges.

452 (c) Each member of a coalition board is subject to ss.
453 112.313, 112.3135, and 112.3143. For purposes of s.
454 112.3143(3)(a), each member is a local public officer who must
455 abstain from voting when a voting conflict exists.

456 (d) For purposes of tort liability, each coalition board
457 member and employee is governed by s. 768.28.

458 (4) Each coalition board shall establish terms for all
459 appointed members of the board. The terms of members must be
460 staggered and must be a uniform length that does not exceed 4
461 years per term. Members appointed under paragraph (2)(a),
462 subparagraphs (2)(b)6.-9., or paragraphs (2)(c) or (d) may serve
463 a maximum of 8 consecutive years, not including any unexpired
464 term for which the member was originally appointed. When a
465 vacancy occurs in an appointed position, the coalition must
466 advertise the vacancy, and notify the appointing authority.

467 (5) Each coalition board member who is not otherwise
468 required to file financial disclosure pursuant to s. 8, Art. II
469 of the State Constitution or s. 112.3144 shall file a disclosure
470 of financial interest pursuant to s. 112.3145. A coalition's
471 executive director or other person designated as being
472 responsible for the coalition's operational and administrative
473 functions who is not otherwise required to file financial
474 disclosure pursuant to s. 8, Art. II of the State Constitution
475 or s. 112.3144 shall file disclosure of financial interests
476 pursuant to s. 112.3145.

477 (6) The Governor may, for cause, remove any coalition
 478 board member or executive director. As used in this subsection,
 479 the term "cause" includes engaging in fraud or other criminal
 480 acts, incapacity, unfitness, neglect of duty, and official
 481 incompetence and irresponsibility justifying removal in the
 482 public interest.

483 (7) State, federal, and local maintenance-of-effort and
 484 matching funds provided to the early learning coalitions may not
 485 be used directly or indirectly to pay for meals, food, or
 486 beverages for coalition board members or employees. Preapproved,
 487 reasonable, and necessary per diem allowances and travel
 488 expenses may be reimbursed. Such reimbursement shall be at the
 489 standard travel reimbursement rates established in s. 112.061
 490 and must comply with all applicable federal and state
 491 requirements.

492 (8) The office may contract with a qualified entity to
 493 administer the school readiness program or Voluntary
 494 Prekindergarten Education Program in the coalition's service
 495 area under the programmatic and fiscal requirements established
 496 by law or rule for coalitions if:

497 (a) The coalition serves fewer children than the minimum
 498 number required in paragraph (1)(b) and does not merge on its
 499 own;

500 (b) The office determines through monitoring and
 501 performance evaluations that a coalition has not administered
 502 its school readiness plan or the Voluntary Prekindergarten
 503 Education Program in accordance with law or rule; or

504 (c) The office determines through monitoring and

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505 performance that a coalition has not met the legal requirements
 506 of federal or state law to implement the school readiness
 507 program or the Voluntary Prekindergarten Education Program.

508 (9) The office may determine whether any adverse findings
 509 shall result in terminating a contract with a coalition.

510 (10) The office may shift school readiness funds from a
 511 designated coalition to another qualified entity if, for any
 512 reason, the contract with the coalition is terminated under
 513 subsection (8).

514 431.09 School readiness plans; scorecard.-

515 (1) The Office of Early Learning shall adopt rules
 516 prescribing the standardized format and required content of
 517 school readiness plans as necessary for a coalition or other
 518 qualified entity to administer the school readiness program as
 519 provided in this section and s. 431.11.

520 (2) Each coalition must annually submit a school readiness
 521 plan to the office before the expenditure of funds. A coalition
 522 may not implement its school readiness plan until it receives
 523 approval from the office. A coalition may not implement any
 524 revision to its school readiness plan until the coalition
 525 submits the revised plan to and receives approval from the
 526 office. If the office rejects a plan or revision, the coalition
 527 must continue to operate under its previously approved plan. The
 528 plan must include:

529 (a) The coalition's business organization, which must
 530 include the coalition's articles of incorporation and bylaws if
 531 the coalition is organized as a corporation. If the coalition is
 532 not organized as a corporation or other business entity, the

533 plan must include the contract with a fiscal agent.

534 (b) A detailed budget that outlines estimated expenditures
 535 for state, federal, and local maintenance-of-effort and matching
 536 funds at the lowest level of detail available by other-cost-
 537 accumulator code number; all estimated sources of revenue with
 538 identifiable descriptions; a listing of full-time equivalent
 539 positions; contracted subcontractor costs with related annual
 540 gross salary amount or hourly rate of compensation; and a
 541 capital improvements plan outlining existing fixed capital
 542 outlay projects and proposed capital outlay projects that will
 543 begin during the budget year.

544 (c) A detailed accounting, in the format prescribed by the
 545 office, of all revenues and expenditures during the previous
 546 state fiscal year. Revenue sources should be identifiable and
 547 expenditures should be reported by three categories: state and
 548 federal funds, local maintenance-of-effort and matching funds,
 549 and Child Care Executive Partnership Program funds.

550 (d) A description of the quality activities as described
 551 in s. 431.19(4)(b) and related expenditures used to meet the
 552 minimum requirements in 45 C.F.R. s. 98.51 for expenditures to
 553 improve the quality of child care. Quality activities shall be
 554 described and include a summary of the activity, estimated
 555 costs, and a timeline indicating when each activity will occur
 556 and be completed.

557 (e) Updated policies and procedures, including those
 558 governing procurement, maintenance of tangible personal
 559 property, maintenance of records, information technology
 560 security and expenses, and disbursement controls.

561 (f) Documentation that the coalition has solicited and
 562 considered comments regarding the proposed school readiness plan
 563 from the local community.

564 (3) The coalition may periodically amend its plan as
 565 necessary. An amended plan must be submitted to the office
 566 before any expenditures for quality activities are incurred on
 567 new direct activities.

568 (4) The office shall publish a copy of the standardized
 569 format and required content of school readiness plans on its
 570 Internet website and provide a copy of the format and content to
 571 each early learning coalition.

572 (5) The office shall establish a scorecard to measure
 573 coalition performance. In considering potential measures for the
 574 scorecard, the office shall consider measures related to
 575 provider satisfaction, parent satisfaction, payment processes,
 576 fraud intervention, child attendance and stability, use of child
 577 care resource and referral to support families, and school
 578 readiness outcomes for children in the Voluntary Prekindergarten
 579 Education Program upon entry into kindergarten. The office shall
 580 request input from the coalitions, the Department of Education,
 581 and school readiness providers before finalizing the scorecard
 582 format and measures to be used. The scorecard shall be
 583 implemented beginning July 1, 2013, and results of the scorecard
 584 must be included in the office's annual report under s.
 585 431.05(8).

586 431.11 Early learning coalitions; powers and duties.—Each
 587 early learning coalition shall:

588 (1) Administer the school readiness program at the county

- 589 or regional level in accordance with this chapter.
- 590 (2) Establish a unified waiting list to track eligible
 591 children waiting for enrollment in the school readiness program.
- 592 (3) Establish a resource and referral network operating
 593 under s. 431.25 to assist parents in making an informed choice
 594 and to provide maximum parental choice of providers.
- 595 (4) Establish a regional Warm-Line under s. 431.29 as
 596 directed by the office.
- 597 (5) Determine child eligibility pursuant to s. 431.13 and
 598 provider eligibility pursuant to s. 431.15. Child eligibility
 599 must be redetermined annually. A coalition must document the
 600 reason why a child is no longer eligible for the school
 601 readiness program according to the termination codes prescribed
 602 by the office.
- 603 (6) Determine provider eligibility annually pursuant to s.
 604 431.15.
- 605 (7) Ensure proper maintenance of records related to
 606 eligibility and enrollment files, provider payments, coalition
 607 staff background screenings, and other documents required for
 608 the implementation of the school readiness program.
- 609 (8) Establish a records-retention requirement for sign-in
 610 and sign-out sheets that is consistent with state and federal
 611 law.
- 612 (9) Follow the requirements established by the Chief
 613 Financial Officer for the recording of real property and for the
 614 periodic review of property for inventory purposes.
- 615 (10) Comply with state procurement requirements and the
 616 expenditure requirements of federal and state law and state

617 rules.

618 (11) Ensure that proper information technology security
 619 controls are in place, including, but not limited to,
 620 periodically reviewing the appropriateness of access privileges
 621 assigned to users of certain systems; monitoring system hardware
 622 performance and capacity-related issues; and ensuring
 623 appropriate backup procedures and disaster recovery plans are in
 624 place.

625 (12) Develop written policies, procedures, and standards
 626 for monitoring vendor contracts, including, but not limited to,
 627 provisions specifying the particular procedures that may be used
 628 to evaluate contractor performance and the documentation that is
 629 to be maintained to serve as a record of contractor performance.
 630 This subsection does not apply to contracts with school
 631 readiness providers.

632 (13) Monitor school readiness providers on an annual
 633 basis, or in response to a parental complaint, to ensure that
 634 the standards prescribed in ss. 431.15 and 431.17 are met.

635 (a) Providers determined to be high risk by the coalition,
 636 as demonstrated by substantial findings of violations of federal
 637 law or the general or local laws of the state, shall be
 638 monitored more frequently.

639 (b) To ensure basic health and safety standards,
 640 coalitions shall annually monitor faith-based child care
 641 providers exempt from licensure under s. 402.316, family day
 642 care homes registered under s. 402.313, and informal child care
 643 providers.

644 (14) Monitor the provider's records, including child

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645 eligibility and child attendance, to reduce the risk of fraud
 646 and overpayment and to recover state, federal, and local funds.

647 (15) By October 1 of each year, submit an annual report to
 648 the office. The report must include:

649 (a) Segregation of school readiness funds, Voluntary
 650 Prekindergarten Education Program funds, and Child Care
 651 Executive Partnership Program funds.

652 (b) Details of expenditures, including total expenditures
 653 for administrative activities, quality activities, nondirect
 654 services, and direct services for children.

655 (c) The total number of coalition staff and the related
 656 expenditures for salaries and benefits.

657 (d) The number of children served in the school readiness
 658 program, enumerated by age and eligibility priority category,
 659 which shall be calculated using the number of children served
 660 during the first week of every month, the average full-time
 661 equivalent child participation throughout the month, and the
 662 number of children served during the last week of the month.

663 (e) The total number of children disenrolled during the
 664 year and the reasons for disenrollment.

665 (f) A listing of any school readiness providers, by type,
 666 whose eligibility to deliver the school readiness program is
 667 revoked, including a brief description of the state or federal
 668 violation that resulted in the revocation.

669 431.13 School readiness program; eligibility and
 670 enrollment.-

671 (1) Each coalition shall give priority for participation
 672 in the school readiness program as follows:

673 (a) Priority shall be given first to a child younger than
 674 13 years of age from a working family that includes an adult
 675 receiving temporary cash assistance under chapter 414.

676 (b) Priority shall be given next to an at-risk child
 677 younger than 9 years of age.

678 (c) Priority shall be given next to a child from birth to
 679 the beginning of the school year for which the child is eligible
 680 for admission to kindergarten in a public school under s.
 681 1003.21(1)(a)2. from a working family that is economically
 682 disadvantaged. However, the child ceases to be eligible if his
 683 or her family income exceeds 200 percent of the federal poverty
 684 level.

685 (d) Priority shall be given next to an at-risk child who
 686 is at least 9 years of age, but younger than 13 years of age. An
 687 at-risk child whose sibling is enrolled in the school readiness
 688 program within an eligibility priority category listed in
 689 paragraphs (a)-(c) shall be given priority over other children
 690 who are eligible under this paragraph.

691 (e) Notwithstanding paragraphs (a)-(d), priority shall be
 692 given last to a child who otherwise meets one of the eligibility
 693 criteria in paragraphs (a)-(d) but who is also enrolled
 694 concurrently in the federal Head Start Program and the Voluntary
 695 Prekindergarten Education Program.

696 (2)(a) Each parent enrolling a child in the school
 697 readiness program must complete and submit an application to the
 698 coalition through the single point of entry established under s.
 699 431.05(2)(d).

700 (b) Each coalition shall coordinate with each school

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701 district within the coalition's service area in the development
 702 of procedures for enrolling children in the school readiness
 703 program who are served by public schools.

704 (c) A coalition shall enroll all eligible children,
 705 including those from its waiting list, according to the
 706 eligibility priorities provided in subsection (1).

707 (3) A school readiness provider may be paid only for the
 708 authorized hours of care provided for a child in the school
 709 readiness program. A child enrolled in the Voluntary
 710 Prekindergarten Education Program may receive part-time care
 711 from the school readiness program if the child is eligible
 712 according to the eligibility priorities provided in subsection
 713 (1).

714 (4) The parent of a child enrolled in the school readiness
 715 program must notify the coalition or its designee within 10 days
 716 after any change in employment, income, or family size.

717 (5) A child ceases to be eligible for the school readiness
 718 program if a parent with whom the child resides does not
 719 reestablish employment within 30 days after becoming unemployed.

720 (6) Eligibility for each child must be reevaluated
 721 annually. Upon reevaluation, a child may not continue to receive
 722 school readiness services if he or she has ceased to be eligible
 723 under this section.

724 (7) If a coalition disenrolls children from the school
 725 readiness program, the coalition must disenroll the children in
 726 reverse order of the eligibility priorities listed in subsection
 727 (1), beginning with children from families with the highest
 728 family incomes. A notice of disenrollment must be sent to

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729 parents and school readiness providers at least 2 weeks before
 730 disenrollment to ensure adequate time for parents to arrange
 731 alternative care for their children.

732 (8) (a) If a child is absent for 5 consecutive days without
 733 contact from a parent, the school readiness provider shall
 734 report the absences to the coalition for a determination of the
 735 need for continued care.

736 (b) Notwithstanding s. 39.604, a school readiness
 737 provider, regardless of whether the provider is licensed, shall
 738 comply with the reporting requirements of the Rilya Wilson Act
 739 for each at-risk child enrolled in the school readiness program,
 740 regardless of the child's age or eligibility for protective
 741 services.

742 431.15 School readiness provider standards; eligibility to
 743 deliver school readiness program.-

744 (1) To be eligible to deliver the school readiness
 745 program, a school readiness provider must:

746 (a) Be a child care facility licensed under s. 402.305,
 747 family day care home licensed or registered under s. 402.313,
 748 large family child care home licensed under s. 402.3131, public
 749 school or nonpublic school exempt from licensure under s.
 750 402.3025, faith-based child care provider exempt from licensure
 751 under s. 402.316, before-school or after-school program
 752 described in s. 402.305(1)(c), or an informal child care
 753 provider, to the extent authorized in the state's Child Care and
 754 Development Fund Plan as approved by the United States
 755 Department of Health and Human Services pursuant to 45 C.F.R. s.
 756 98.18.

757 (b) Enhance the age-appropriate progress of each child in
 758 attaining the child development standards adopted by the office
 759 under s. 431.05(6). To satisfy this requirement, a school
 760 readiness provider must select or design and implement a
 761 curriculum and character development program for each child in
 762 the school readiness program.

763 (c) Ensure the basic health and safety of its premises and
 764 facilities and compliance with requirements for age-appropriate
 765 immunizations of children enrolled in the school readiness
 766 program. For a child care facility, large family child care
 767 home, or licensed family day care home, compliance with s.
 768 402.305, s. 402.3131, or s. 402.313 satisfies this requirement.
 769 For a public or nonpublic school, compliance with s. 402.3025 or
 770 s. 1003.22 satisfies this requirement. A faith-based child care
 771 provider exempt from licensure under s. 402.316 must meet or
 772 exceed the requirements of s. 402.305, except for square
 773 footage, as determined by an onsite inspection by an early
 774 learning coalition. An informal child care provider, a
 775 registered family day care home, or a before-school or after-
 776 school program, must meet or exceed the requirements of s.
 777 402.313.

778 (d) Ensure the minimum standards associated with child
 779 discipline under s. 402.3105(12) are met.

780 (e) Execute the statewide provider agreement prescribed
 781 under s. 431.17, except that:

- 782 1. An individual who owns or operates multiple providers
 783 within a coalition's service area may execute a single agreement
 784 on behalf of each provider.

785 2. A school district may execute a single agreement with
 786 the coalition on behalf of all district schools delivering the
 787 school readiness program.

788 (2) If a school readiness provider fails or refuses to
 789 comply with this chapter or any contractual obligation of the
 790 statewide provider agreement under s. 431.17, the coalition or
 791 the office may revoke the provider's eligibility to deliver the
 792 school readiness program or receive state or federal funds under
 793 this chapter.

794 (3) The office and the coalitions may not:

795 (a) Impose any requirement on a child care or early
 796 childhood education provider that does not deliver services
 797 under the school readiness program or receive state or federal
 798 funds under this chapter; or

799 (b) Impose any requirement on a school readiness provider
 800 that exceeds the authority provided under this chapter or rules
 801 adopted pursuant to this chapter.

802 431.17 Statewide provider agreement.--

803 (1) (a) The Office of Early Learning shall adopt rules
 804 prescribing the statewide provider agreement for the school
 805 readiness program.

806 (b) A coalition must use the statewide provider agreement
 807 to annually contract with each school readiness provider that
 808 delivers the school readiness program within the coalition's
 809 service area.

810 (c) The rules must prescribe the standardized uniform
 811 format for the statewide provider agreement. A coalition may not
 812 omit, supplement, or amend any provision of the statewide

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813 provider agreement. In addition, a coalition may not insert or
 814 append attachments, addenda, or exhibits to the statewide
 815 provider agreement.

816 (2) The statewide provider agreement must include:

817 (a) Child eligibility and enrollment procedures and
 818 requirements under s. 431.13.

819 (b) Funding, payment, and expenditures for the school
 820 readiness program under s. 431.19.

821 (c) Child development standards for the school readiness
 822 program under s. 431.05(6).

823 (d) School readiness provider standards under s. 431.15.

824 (e) Requirements for the maintenance of records and data
 825 and the confidentiality of such information.

826 (f) Requirements for notifications between the early
 827 learning coalition, the school readiness provider, and the
 828 parent, which may include, but are not limited to:

829 1. Changes to information submitted in the provider's
 830 registration form.

831 2. A parent's withdrawal of his or her child from the
 832 school readiness program or a provider's dismissal of a child.

833 3. Temporary closure of a school readiness provider's
 834 facility and subsequent reopening of the facility.

835 (g) Procedures for the reporting and certification of
 836 child attendance.

837 (h) Specific grounds for termination of the agreement for
 838 failure to comply with federal or state law.

839 (i) Specific grounds for monitoring by the coalition of
 840 providers determined to be high risk.

841 (j) Dispute resolution procedures, including a method for
 842 a provider to seek guidance from the office on a dispute.

843 (k) Provisions under which the school readiness provider
 844 indemnifies the coalition from liability arising under the
 845 agreement.

846 (3)(a) A coalition may not execute the statewide provider
 847 agreement with a school readiness provider before the coalition
 848 determines that the provider is eligible to deliver the school
 849 readiness program under s. 431.15.

850 (b) A coalition shall submit to the office each original,
 851 fully executed, and dated agreement. The coalition shall provide
 852 a copy of the executed agreement to the school readiness
 853 provider or school district that executed the agreement. The
 854 coalition shall also maintain a copy of the executed agreement
 855 in the coalition's records.

856 (c) A school readiness provider may not deliver the school
 857 readiness program until the statewide provider agreement is
 858 fully executed.

859 (4) The office shall publish a copy of the statewide
 860 provider agreement on its Internet website and provide a copy of
 861 the agreement to each coalition.

862 431.19 School readiness program; funding.-

863 (1) Funding for the school readiness program shall be
 864 allocated among the coalitions in accordance with this section
 865 as provided in the General Appropriations Act.

866 (2)(a) The Office of Early Learning shall administer
 867 school readiness funds and shall prepare and submit a unified
 868 budget request for the school readiness system in accordance

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869 with chapter 216.

870 (b) All instructions to coalitions for administering this
 871 chapter shall emanate from the office as provided by law.

872 (3) All state, federal, and required local maintenance-of-
 873 effort and matching funds provided to a coalition for purposes
 874 of this section shall be used for implementation of its approved
 875 school readiness plan, including the hiring of staff to
 876 effectively operate the coalition's school readiness program.

877 (4) Costs shall be kept to the minimum necessary for the
 878 efficient and effective administration of the school readiness
 879 program but, of the funds described in subsection (3):

880 (a) No more than 4 percent may be expended for
 881 administrative activities as described in 45 C.F.R. s. 98.52,
 882 which shall be limited to the following:

883 1. Planning for local implementation of the school
 884 readiness program.

885 2. Providing local officials and the public with
 886 information about the school readiness program to support
 887 fundraising efforts for local maintenance-of-effort and matching
 888 funds.

889 3. Monitoring program activities for compliance with
 890 program requirements.

891 4. Evaluating and reporting program activities and
 892 accomplishments to the office.

893 5. Maintaining substantiated complaint files.

894 6. Coordinating with state and local child care, early
 895 childhood education, and before-school and after-school care
 896 programs for the provision of school readiness services.

- 897 7. Paying travel expenses.
- 898 8. Accounting and audit services.
- 899 9. Purchasing goods and services required for the
 900 administration of the program.
- 901 10. Indirect costs.
- 902 (b) No more than 6 percent may be expended for activities
 903 to improve the quality of child care as described in 45 C.F.R.
 904 s. 98.51, which shall be limited to the following:
- 905 1. Developing, establishing, expanding, operating, and
 906 coordinating resource and referral programs specifically related
 907 to the provision of comprehensive consumer education to parents
 908 and the public regarding participation in the school readiness
 909 program.
- 910 2. Awarding grants to school readiness providers to assist
 911 them in implementing developmentally appropriate curricula and
 912 related classroom resources that support the curricula and
 913 providing literacy supports.
- 914 3. Providing training to school readiness providers and
 915 parents on child development standards, child screenings, child
 916 assessments, developmentally appropriate curricula, character
 917 development, teacher-child interactions, age-appropriate
 918 discipline practices, health and safety, nutrition, first aid,
 919 the recognition of communicable diseases, and child abuse
 920 detection and prevention.
- 921 4. Providing from among the funds provided for the
 922 activities described in subparagraphs 1.-3., adequate funding of
 923 direct services for infants and toddlers as necessary to meet
 924 federal requirements related to expenditures for quality

925 activities for infant and toddler care.

926 5. Assisting the provider to implement a preassessment and
 927 postassessment approved by the office.

928 6. Responding to Warm-Line requests by providers related
 929 to school readiness children, including providing developmental
 930 and health screenings to school readiness children as requested
 931 under s. 431.29.

932
 933 However, a coalition may expend for quality activities under
 934 this paragraph any unused funds available within the expenditure
 935 limits imposed by paragraphs (a) and (c) upon administrative
 936 activities and nondirect services.

937 (c) No more than 8 percent may be expended for nondirect
 938 services required to administer the school readiness program,
 939 which shall be limited to the following:

- 940 1. Eligibility determination and redetermination.
- 941 2. Enrollment processes and services.
- 942 3. Processing and tracking attendance records.
- 943 4. Paying providers.
- 944 5. Review and supervision of child care placements to
 945 ensure compliance with federal, state, and local laws.
- 946 6. Preparation and participation in judicial hearings.
- 947 7. Child care placement.
- 948 8. The establishment and maintenance of computerized child
 949 care information systems necessary to implement the school
 950 readiness program.

951
 952 As used in this paragraph, the term "nondirect services" does

953 not include payments to school readiness providers for direct
 954 services provided to eligible children pursuant to s. 431.15,
 955 administrative activities described in paragraph (a), or quality
 956 activities described in paragraph (b).

957 (5) (a) A sliding fee scale percentage shall be provided in
 958 the General Appropriations Act, which shall be the same for all
 959 school readiness providers. A parent's copayment for the school
 960 readiness program shall be determined by multiplying the sliding
 961 fee scale percentage by the family income and adjusting for
 962 family size.

963 (b) Each coalition shall implement the sliding fee scale
 964 as provided in the General Appropriations Act. A coalition may,
 965 on a case-by-case basis, waive the copayment for an at-risk
 966 child or temporarily waive the copayment for a child whose
 967 family experiences a natural disaster or emergency situation
 968 such as a household fire or burglary.

969 (6) (a) An adjusted payment rate percentage shall be
 970 provided in the General Appropriations Act, which shall be used
 971 to determine annual payment rates for school readiness
 972 providers. The annual payment rates for each type of school
 973 readiness provider and level of care shall be calculated by:

974 1. Multiplying the prevailing market rate for the
 975 respective type of school readiness provider and level of care
 976 by the adjusted payment rate percentage;

977 2. Adjusting the product of subparagraph 1. by the
 978 district cost differential as provided in s. 1011.62(2) for the
 979 county in which the school readiness provider is located; and

980 3. If the school readiness provider has the Gold Seal

981 Quality Care designation under s. 402.281, multiplying the
 982 product of subparagraph 2. by the Gold Seal premium percentage.

983 (b) A school readiness provider's total payment for a
 984 child shall be equal to the payment rate calculated under
 985 paragraph (a) less the amount of the parent's copayment as
 986 determined under subsection (5). However, payments made to the
 987 school readiness provider may not exceed the provider's charges
 988 to the general public for the same services.

989 (7) The office may request a budget amendment to increase
 990 the adjusted payment rate percentage for a specific geographic
 991 area in order to ensure that care levels are available
 992 throughout the state. Any request to increase an adjusted
 993 payment rate percentage must be funded through the current
 994 year's appropriation and within each early learning coalition's
 995 allocation for the affected geographic area. The budget
 996 amendment is subject to review and approval by the Legislative
 997 Budget Commission.

998 (8) State funds appropriated for the school readiness
 999 program may not be used for the construction of new facilities
 1000 or the purchase of buses.

1001 (9) (a) The school readiness program, in accordance with 45
 1002 C.F.R. s. 98.30, shall provide parental choice through a payment
 1003 certificate that ensures, to the maximum extent possible,
 1004 flexibility in the school readiness program and payment
 1005 arrangements. The payment certificate must bear the names of the
 1006 beneficiary and the school readiness provider and, when
 1007 redeemed, must bear the signatures of both the beneficiary and
 1008 the provider's authorized representative.

1009 (b) If it is determined that a school readiness provider
 1010 has given any cash to the beneficiary in return for receiving a
 1011 payment certificate, the coalition or its fiscal agent shall
 1012 refer the matter to the Department of Financial Services
 1013 pursuant to s. 414.411 for investigation.

1014 431.23 Fraudulent submission of false enrollment or
 1015 attendance information.-

1016 (1) To recover state, federal, and local maintenance-of-
 1017 effort and matching funds, the inspector general of the Office
 1018 of Early Learning shall investigate coalitions, recipients, and
 1019 providers of the school readiness program and the Voluntary
 1020 Prekindergarten Education Program to determine possible fraud or
 1021 overpayment. If by its own inquiries, or as a result of a
 1022 complaint, the office has reason to believe that a person has
 1023 engaged in, or is engaging in a fraudulent act, it shall
 1024 investigate and determine whether any overpayment has occurred
 1025 due to the fraudulent act. During the investigation, the office
 1026 may examine all records, including electronic benefits transfer
 1027 records, and make inquiry of all persons who may have knowledge
 1028 as to any irregularity incidental to the disbursement of public
 1029 moneys or other items or benefit authorizations to recipients.

1030 (2) If the inspector general determines that an
 1031 overpayment has occurred due to a fraudulent act, the parent or
 1032 provider is responsible for repayment and restitution of any
 1033 costs associated with the fraud, and the office shall pursue
 1034 collection through any legal means. A provider or parent may not
 1035 participate in the program until the repayment is made in full.
 1036 Any provider that shares an officer or director with a provider

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1037 that is ineligible to participate under this section is not
 1038 permitted to participate until repayment is made in full.

1039 (3) Based on the results of the investigation, the
 1040 inspector general may, in his or her discretion, refer the
 1041 investigation to the Department of Law Enforcement for criminal
 1042 prosecution, seek civil enforcement, or refer the matter to the
 1043 applicable coalition. Any suspected criminal violation
 1044 identified by the inspector general must be referred to the
 1045 Department of Legal Affairs for investigation.

1046 (4) If a school readiness provider, after investigation
 1047 and adjudication by a court of competent jurisdiction, is
 1048 convicted of fraudulently misrepresenting enrollment or
 1049 attendance related to the school readiness program or the
 1050 Voluntary Prekindergarten Education Program, the coalition shall
 1051 permanently refrain from contracting with, or using the services
 1052 of, that provider. In addition, the coalition shall permanently
 1053 refrain from contracting with, or using the services of, any
 1054 provider that shares an officer or director with a provider that
 1055 is convicted of fraudulently misrepresenting enrollment or
 1056 attendance related to the school readiness program or the
 1057 Voluntary Prekindergarten Education Program.

1058 (5) If the investigation is not confidential or otherwise
 1059 exempt from disclosure by law, the results of an investigation
 1060 may be reported by the Office of Early Learning to the
 1061 appropriate legislative committees, the Department of Education,
 1062 the Department of Children and Family Services, and to such
 1063 other persons as the office deems appropriate.

1064 (6) A person who commits an act of fraud as defined in s.

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1065 431.03 is subject to the penalties provided in s. 414.39(5) (a)
 1066 and (b).

1067 431.41 Rulemaking.—In addition to the requirements of s.
 1068 120.54, at least 30 days before publication in the Florida
 1069 Administrative Weekly of notice of the proposed adoption,
 1070 amendment, or repeal of any rule authorized by this chapter, the
 1071 office must provide copies of the notice and the proposed rule
 1072 to the President of the Senate and the Speaker of the House of
 1073 Representatives.

1074 Section 2. Section 411.011, Florida Statutes, is
 1075 transferred and renumbered as section 431.21, Florida Statutes,
 1076 and subsection (1) and paragraph (g) of subsection (3) of that
 1077 section are amended to read:

1078 431.21 ~~411.011~~ Records of children in the school readiness
 1079 program ~~programs~~.—

1080 (1) The individual records of children enrolled in the
 1081 school readiness program ~~programs~~ provided under this chapter ~~s.~~
 1082 ~~411.01~~, held by an early learning coalition or the Office of
 1083 Early Learning, are confidential and exempt from s. 119.07(1)
 1084 and s. 24(a), Art. I of the State Constitution. For purposes of
 1085 this section, records include assessment data, health data,
 1086 records of teacher observations, and personal identifying
 1087 information.

1088 (3) School readiness records may be released to:

1089 (g) Parties to an interagency agreement among early
 1090 learning coalitions, local governmental agencies, school
 1091 readiness providers ~~of school readiness programs~~, state
 1092 agencies, and the Office of Early Learning for the purpose of

1093 implementing the school readiness program.

1094

1095 Agencies, organizations, or individuals that receive school
 1096 readiness records in order to carry out their official functions
 1097 must protect the data in a manner that does not permit the
 1098 personal identification of a child enrolled in a school
 1099 readiness program and his or her parents by persons other than
 1100 those authorized to receive the records.

1101 Section 3. Section 411.0101, Florida Statutes, is
 1102 transferred and renumbered as section 431.25, Florida Statutes,
 1103 and subsection (1) and paragraph (a) of subsection (3) of that
 1104 section are amended to read:

1105 431.25 ~~411.0101~~ Child care and early childhood resource
 1106 and referral.—

1107 (1) As a part of the school readiness program ~~programs~~,
 1108 the Office of Early Learning shall establish a statewide child
 1109 care resource and referral network that is unbiased and provides
 1110 referrals to families for child care. Preference shall be given
 1111 to using the already established early learning coalitions as
 1112 the child care resource and referral agencies. If an early
 1113 learning coalition cannot comply with the requirements to offer
 1114 the resource information component or does not want to offer
 1115 that service, the early learning coalition shall select the
 1116 resource and referral agency for its county or multicounty
 1117 region based upon a request for proposal pursuant to s. 287.057
 1118 ~~s. 411.01(5)(c)1.~~

1119 (3) Child care resource and referral agencies shall
 1120 provide the following services:

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1121 (a) Identification of existing public and private child
 1122 care and early childhood education services, including child
 1123 care services by public and private employers, and the
 1124 development of a resource file of those services through the
 1125 single statewide information system developed by the Office of
 1126 Early Learning under s. 431.05(2)(d) ~~s. 411.01(5)(c)1.e.~~ These
 1127 services may include family day care, public and private child
 1128 care programs, the Voluntary Prekindergarten Education Program,
 1129 Head Start, the school readiness program, special education
 1130 programs for prekindergarten children with disabilities,
 1131 services for children with developmental disabilities, full-time
 1132 and part-time programs, before-school and after-school programs,
 1133 vacation care programs, parent education, the Temporary Cash
 1134 Assistance Program, and related family support services. The
 1135 resource file shall include, but not be limited to:

- 1136 1. Type of program.
- 1137 2. Hours of service.
- 1138 3. Ages of children served.
- 1139 4. Number of children served.
- 1140 5. Significant program information.
- 1141 6. Fees and eligibility for services.
- 1142 7. Availability of transportation.

1143 Section 4. Section 411.01013, Florida Statutes, is
 1144 transferred, renumbered as section 431.27, Florida Statutes, and
 1145 amended to read:

1146 431.27 ~~411.01013~~ Prevailing market rate schedule.—

1147 ~~(1) As used in this section, the term:~~

1148 ~~(a) "Market rate" means the price that a child care~~

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1149 ~~provider charges for daily, weekly, or monthly child care~~
 1150 ~~services.~~

1151 ~~(b) "Prevailing market rate" means the annually determined~~
 1152 ~~75th percentile of a reasonable frequency distribution of the~~
 1153 ~~market rate in a predetermined geographic market at which child~~
 1154 ~~care providers charge a person for child care services.~~

1155 (1)(2) The Office of Early Learning shall establish
 1156 ~~procedures for the adoption of a prevailing market rate~~
 1157 ~~schedule. The schedule must include, at a minimum, county by~~
 1158 ~~county rates:~~

1159 ~~(a) At the prevailing market rate, plus the maximum rate,~~
 1160 ~~for child care providers that hold a Gold Seal Quality Care~~
 1161 ~~designation under s. 402.281.~~

1162 ~~(b) At the prevailing market rate for child care providers~~
 1163 ~~that do not hold a Gold Seal Quality Care designation.~~

1164 ~~(3) The prevailing market rate schedule, at a minimum,~~
 1165 ~~must:~~

1166 (a) Differentiate rates by type, including, but not
 1167 limited to, ~~a child care provider that holds a Gold Seal Quality~~
 1168 ~~Care designation under s. 402.281, a child care facility~~
 1169 ~~licensed under s. 402.305, a public or nonpublic school exempt~~
 1170 ~~from licensure under s. 402.3025, a faith-based child care~~
 1171 ~~facility exempt from licensure under s. 402.316 that does not~~
 1172 ~~hold a Gold Seal Quality Care designation, a large family child~~
 1173 ~~care home licensed under s. 402.3131, or a family day care home~~
 1174 ~~licensed or registered under s. 402.313.~~

1175 (b) Differentiate rates by the type of child care services
 1176 provided for ~~children with special needs or risk categories,~~

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1177 infants, toddlers, preschool-age children, and school-age
 1178 children.

1179 (c) Differentiate rates between full-time and part-time
 1180 child care services.

1181 ~~(d) Consider discounted rates for child care services for~~
 1182 ~~multiple children in a single family.~~

1183 (2)~~(4)~~ The prevailing market rate schedule must be based
 1184 exclusively on the prices charged for child care services. If a
 1185 conflict exists between this subsection and federal
 1186 requirements, the federal requirements shall control.

1187 (3)~~(5)~~ Each child care and early childhood education
 1188 provider that receives school readiness funds must submit its
 1189 market rate by August 1 of each year to the office for inclusion
 1190 in the calculation of the prevailing market rate shall be
 1191 considered by an early learning coalition in the adoption of a
 1192 payment schedule in accordance with s. 411.01(5)(c)2.

1193 (4)~~(6)~~ The office of ~~Early Learning~~ may contract with one
 1194 or more qualified entities to administer this section and
 1195 provide support and technical assistance for child care
 1196 providers.

1197 (5)~~(7)~~ The office of ~~Early Learning~~ may adopt rules
 1198 ~~pursuant to ss. 120.536(1) and 120.54 for~~ establishing
 1199 procedures for the collection of child care providers' market
 1200 rate, the calculation of a reasonable frequency distribution of
 1201 the market rate, and the publication of a prevailing market rate
 1202 schedule.

1203 Section 5. Section 411.01015, Florida Statutes, is
 1204 transferred and renumbered as section 431.29, Florida Statutes,

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1205 and subsection (3) of that section is amended to read:

1206 431.29 ~~411.01015~~ Consultation to child care centers and
 1207 family day care homes regarding health, developmental,
 1208 disability, and special needs issues.-

1209 (3) The office ~~of Early Learning~~ shall annually inform
 1210 child care centers and family day care homes of the availability
 1211 of this service through the child care resource and referral
 1212 network under s. 431.25 ~~s. 411.0101~~.

1213 Section 6. Section 411.0102, Florida Statutes, is
 1214 transferred, renumbered as section 431.31, Florida Statutes, and
 1215 amended to read:

1216 431.31 ~~411.0102~~ Child Care Executive Partnership Act;
 1217 findings and intent; grant; limitation; rules.-

1218 ~~(1) This section may be cited as the "Child Care Executive~~
 1219 ~~Partnership Act."~~

1220 (1)~~(2)~~(a) The Legislature finds that when private
 1221 employers provide onsite child care or provide other child care
 1222 benefits, they benefit by improved recruitment and higher
 1223 retention rates for employees, lower absenteeism, and improved
 1224 employee morale. The Legislature also finds that there are many
 1225 ways in which private employers can provide child care
 1226 assistance to employees: information and referral, vouchering,
 1227 employer contribution to child care programs, and onsite care.
 1228 Private employers can offer child care as part of a menu of
 1229 employee benefits. The Legislature recognizes that flexible
 1230 compensation programs providing a child care option are
 1231 beneficial to the private employer through increased
 1232 productivity, to the private employee in knowing that his or her

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1233 children are being cared for in a safe and nurturing
 1234 environment, and to the state in more dollars being available
 1235 for purchasing power and investment.

1236 (b) It is the intent of the Legislature to promote public-
 1237 private ~~public/private~~ partnerships to ensure that the children
 1238 of the state be provided safe and enriching child care at any
 1239 time, but especially while parents work to remain self-
 1240 sufficient. It is the intent of the Legislature that private
 1241 employers be encouraged to participate in the future of this
 1242 state by providing employee child care benefits. Further, it is
 1243 the intent of the Legislature to encourage private employers to
 1244 explore innovative ways to assist employees to obtain quality
 1245 child care.

1246 (c) The Legislature further recognizes that many parents
 1247 need assistance in paying the full costs of quality child care.
 1248 The public and private sectors, by working in partnership, can
 1249 promote and improve access to quality child care and early
 1250 education for children of working families who need it.
 1251 Therefore, a more formal mechanism is necessary to stimulate the
 1252 establishment of public-private partnerships. It is the intent
 1253 of the Legislature to expand the availability of scholarship
 1254 options for working families by providing incentives for
 1255 employers to contribute to meeting the needs of their employees'
 1256 families through matching public dollars available for child
 1257 care.

1258 (2) (a) ~~(3)~~ The office ~~There is created a body politic and~~
 1259 ~~corporate known as the Child Care Executive Partnership which~~
 1260 shall ~~establish and~~ govern the Child Care Executive Partnership

1261 Program. The purpose of the Child Care Executive Partnership
 1262 Program is to utilize state and federal funds as incentives for
 1263 matching local funds derived from local governments, employers,
 1264 charitable foundations, and other sources so that Florida
 1265 communities may create local flexible partnerships with
 1266 employers. The Child Care Executive Partnership Program funds
 1267 shall be used at the discretion of local communities to meet the
 1268 needs of working parents. A child care purchasing pool shall be
 1269 developed with the state, federal, and local funds to provide
 1270 subsidies to low-income working parents whose family income does
 1271 not exceed the allowable income for any federally subsidized
 1272 child care program with a dollar-for-dollar match from
 1273 employers, local government, and other matching contributions.
 1274 The funds used from the child care purchasing pool must be used
 1275 to supplement or extend the use of existing public or private
 1276 funds.

1277 ~~(4) The Child Care Executive Partnership, staffed by the~~
 1278 ~~Office of Early Learning, shall consist of a representative of~~
 1279 ~~the Executive Office of the Governor and nine members of the~~
 1280 ~~corporate or child care community, appointed by the Governor.~~

1281 ~~(a) Members shall serve for a period of 4 years, except~~
 1282 ~~that the representative of the Executive Office of the Governor~~
 1283 ~~shall serve at the pleasure of the Governor.~~

1284 ~~(b) The Child Care Executive Partnership shall be chaired~~
 1285 ~~by a member chosen by a majority vote and shall meet at least~~
 1286 ~~quarterly and at other times upon the call of the chair. The~~
 1287 ~~Child Care Executive Partnership may use any method of~~
 1288 ~~telecommunications to conduct meetings, including establishing a~~

1289 ~~quorum through telecommunications, only if the public is given~~
 1290 ~~proper notice of a telecommunications meeting and reasonable~~
 1291 ~~access to observe and, when appropriate, participate.~~

1292 ~~(c) Members shall serve without compensation, but may be~~
 1293 ~~reimbursed for per diem and travel expenses in accordance with~~
 1294 ~~s. 112.061.~~

1295 ~~(d) The Child Care Executive Partnership shall have all~~
 1296 ~~the powers and authority, not explicitly prohibited by statute,~~
 1297 ~~necessary to carry out and effectuate the purposes of this~~
 1298 ~~section, as well as the functions, duties, and responsibilities~~
 1299 ~~of the partnership, including, but not limited to, the~~
 1300 ~~following:~~

1301 ~~1. Assisting in the formulation and coordination of the~~
 1302 ~~state's child care policy.~~

1303 ~~2. Adopting an official seal.~~

1304 ~~3. Soliciting, accepting, receiving, investing, and~~
 1305 ~~expending funds from public or private sources.~~

1306 ~~4. Contracting with public or private entities as~~
 1307 ~~necessary.~~

1308 ~~5. Approving an annual budget.~~

1309 ~~6. Carrying forward any unexpended state appropriations~~
 1310 ~~into succeeding fiscal years.~~

1311 ~~7. Providing a report to the Governor, the Speaker of the~~
 1312 ~~House of Representatives, and the President of the Senate, on or~~
 1313 ~~before December 1 of each year.~~

1314 ~~(5) (a) The Legislature shall annually determine the amount~~
 1315 ~~of state or federal low-income child care moneys which shall be~~
 1316 ~~used to create Child Care Executive Partnership Program child~~

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1317 | ~~care purchasing pools in counties chosen by the Child Care~~
 1318 | ~~Executive Partnership, provided that at least two of the~~
 1319 | ~~counties have populations of no more than 300,000. The~~
 1320 | ~~Legislature shall annually review the effectiveness of the child~~
 1321 | ~~care purchasing pool program and reevaluate the percentage of~~
 1322 | ~~additional state or federal funds, if any, which can be used for~~
 1323 | ~~the program's expansion.~~

1324 | (b) To ensure a seamless service delivery and ease of
 1325 | access for families, an early learning coalition or the office
 1326 | ~~of Early Learning~~ shall administer the child care purchasing
 1327 | pool funds.

1328 | (c) The office ~~of Early Learning, in conjunction with the~~
 1329 | ~~Child Care Executive Partnership,~~ shall adopt rules develop
 1330 | procedures for the disbursement of Child Care Executive
 1331 | Partnership Program funds ~~through the child care purchasing~~
 1332 | ~~pools~~. In order to be considered for funding, an early learning
 1333 | coalition or the office ~~of Early Learning~~ must commit to:

1334 | 1. Matching the state purchasing pool funds on a dollar-
 1335 | for-dollar basis; and

1336 | 2. Expending only those public funds that are matched by
 1337 | employers, local government, and other matching contributors who
 1338 | contribute to the purchasing pool. Parents shall also pay a fee,
 1339 | which may not be less than the amount identified in the early
 1340 | ~~learning coalition's~~ school readiness program sliding fee scale.

1341 | ~~(d) Each early learning coalition shall establish a~~
 1342 | ~~community child care task force for each child care purchasing~~
 1343 | ~~pool. The task force must be composed of employers, parents,~~
 1344 | ~~private child care providers, and one representative from the~~

1345 ~~local children's services council, if one exists in the area of~~
 1346 ~~the purchasing pool. The early learning coalition is expected to~~
 1347 ~~recruit the task force members from existing child care~~
 1348 ~~councils, commissions, or task forces already operating in the~~
 1349 ~~area of a purchasing pool. A majority of the task force shall~~
 1350 ~~consist of employers.~~

1351 (d) ~~(e)~~ Each participating early learning coalition board
 1352 shall develop a plan for the use of child care purchasing pool
 1353 funds. The plan must show how many children will be served by
 1354 the purchasing pool, how many will be new to receiving child
 1355 care services, and how the early learning coalition intends to
 1356 attract new employers and their employees to the program.

1357 ~~(6) The Office of Early Learning shall adopt any rules~~
 1358 ~~necessary for the implementation and administration of this~~
 1359 ~~section.~~

1360 (3) Child Care Executive Partnership Program funds are
 1361 subject to the funding requirements of s. 431.19.

1362 (4) The office shall report the activities and detailed
 1363 expenditures related to the Child Care Executive Partnership
 1364 Program in the annual report required under s. 431.05(8). Each
 1365 coalition receiving Child Care Executive Partnership Program
 1366 funds shall include a summary of related activities and detailed
 1367 expenditures associated with this program in its annual report
 1368 required under s. 431.11(15)(b).

1369 Section 7. Section 411.0103, Florida Statutes, is
 1370 transferred and renumbered as section 431.33, Florida Statutes.

1371 Section 8. Section 411.0105, Florida Statutes, is
 1372 transferred and renumbered as section 431.35, Florida Statutes.

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1373 Section 9. Section 411.0106, Florida Statutes, is
 1374 transferred, renumbered as section 431.37, Florida Statutes, and
 1375 amended to read:

1376 431.37 ~~411.0106~~ Infants and toddlers in state-funded
 1377 education and care programs; brain development activities.—Each
 1378 state-funded education and care program for children from birth
 1379 to 5 years of age must provide activities to foster brain
 1380 development in infants and toddlers. A program must provide an
 1381 environment that helps children attain the child development
 1382 ~~performance~~ standards adopted by the office of ~~Early Learning~~
 1383 under s. 431.05(6) ~~s. 411.01(4)(d)8.~~ and must be rich in
 1384 language and music and filled with objects of various colors,
 1385 shapes, textures, and sizes to stimulate visual, tactile,
 1386 auditory, and linguistic senses in the children and must include
 1387 classical music and at least 30 minutes of reading to the
 1388 children each day. A program may be offered through an existing
 1389 early childhood program such as Healthy Start, the Title I
 1390 program, the school readiness program, the Head Start program,
 1391 or a private child care program. A program must provide training
 1392 for the infants' and toddlers' parents including direct dialogue
 1393 and interaction between teachers and parents demonstrating the
 1394 urgency of brain development in the first year of a child's
 1395 life. Family day care centers are encouraged, but not required,
 1396 to comply with this section.

1397 Section 10. Section 1002.77, Florida Statutes, is
 1398 transferred, renumbered as section 431.39, Florida Statutes, and
 1399 subsections (1) and (3) of that section are amended to read:

1400 431.39 ~~1002.77~~ Florida Early Learning Advisory Council.—

1401 (1) There is created the Florida Early Learning Advisory
 1402 Council within the Office of Early Learning. The purpose of the
 1403 advisory council is to share best practices ~~submit~~
 1404 ~~recommendations to the department on the early learning policy~~
 1405 ~~of this state, including recommendations~~ relating to effective
 1406 administration of the Voluntary Prekindergarten Education
 1407 Program under part V of chapter 1002 ~~this part~~ and the school
 1408 readiness program ~~programs~~ under this chapter ~~s. 411.01~~.

1409 (3) The advisory council shall meet at least annually
 1410 ~~quarterly but may meet as often as necessary~~ to carry out its
 1411 duties and responsibilities.

1412 Section 11. Paragraph (p) of subsection (3) of section
 1413 11.45, Florida Statutes, is amended to read:

1414 11.45 Definitions; duties; authorities; reports; rules.—

1415 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
 1416 Auditor General may, pursuant to his or her own authority, or at
 1417 the direction of the Legislative Auditing Committee, conduct
 1418 audits or other engagements as determined appropriate by the
 1419 Auditor General of:

1420 (p) The school readiness system, including the early
 1421 learning coalitions, created under chapter 431 ~~s. 411.01~~.

1422 Section 12. Paragraph (h) of subsection (3) of section
 1423 20.15, Florida Statutes, is amended to read:

1424 20.15 Department of Education.—There is created a
 1425 Department of Education.

1426 (3) DIVISIONS.—The following divisions of the Department
 1427 of Education are established:

1428 (h) The Office of Early Learning, which shall administer

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1429 the school readiness system in accordance with chapter 431 ~~s.~~
 1430 ~~411.01~~ and the operational requirements of the Voluntary
 1431 Prekindergarten Education Program in accordance with part V of
 1432 chapter 1002. The office is a separate budget entity and is not
 1433 subject to control, supervision, or direction by the Department
 1434 of Education or the State Board of Education in any manner
 1435 including, but not limited to, personnel, purchasing,
 1436 transactions involving personal property, and budgetary matters.
 1437 The office director shall be appointed by the Governor and
 1438 confirmed by the Senate, shall serve at the pleasure of the
 1439 Governor, and shall be the agency head of the office for all
 1440 purposes. The office shall enter into a service agreement with
 1441 the department for professional, technological, and
 1442 administrative support services. The office shall be subject to
 1443 review and oversight by the Chief Inspector General or his or
 1444 her designee.

1445 Section 13. Subsection (8) of section 216.136, Florida
 1446 Statutes, is amended to read:

1447 216.136 Consensus estimating conferences; duties and
 1448 principals.—

1449 (8) EARLY LEARNING PROGRAMS ESTIMATING CONFERENCE.—

1450 (a) The Early Learning Programs Estimating Conference
 1451 shall develop estimates and forecasts of the unduplicated count
 1452 of children eligible for the school readiness program ~~programs~~
 1453 in accordance with the standards of eligibility established in
 1454 s. 431.13 ~~s. 411.01(6)~~, and of children eligible for the
 1455 Voluntary Prekindergarten Education Program in accordance with
 1456 s. 1002.53(2), as the conference determines are needed to

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1457 support the state planning, budgeting, and appropriations
 1458 processes.

1459 (b) The Office of Early Learning shall provide information
 1460 on needs and waiting lists for the school readiness program
 1461 ~~programs~~, and information on the needs for the Voluntary
 1462 Prekindergarten Education Program, as requested by the Early
 1463 Learning Programs Estimating Conference or individual conference
 1464 principals in a timely manner.

1465 Section 14. Subsection (9) of section 402.302, Florida
 1466 Statutes, is amended to read:

1467 402.302 Definitions.—As used in this chapter, the term:

1468 (9) "Household children" means children who are related by
 1469 blood, marriage, or legal adoption to, or who are the legal
 1470 wards of, the family day care home operator, the large family
 1471 child care home operator, or an adult household member who
 1472 permanently or temporarily resides in the home. Supervision of
 1473 the operator's household children shall be left to the
 1474 discretion of the operator unless those children receive
 1475 subsidized child care through the school readiness program
 1476 pursuant to s. 431.23 ~~s. 411.0101~~ to be in the home.

1477 Section 15. Paragraph (a) of subsection (2) of section
 1478 490.014, Florida Statutes, is amended to read:

1479 490.014 Exemptions.—

1480 (2) No person shall be required to be licensed or
 1481 provisionally licensed under this chapter who:

1482 (a) Is a salaried employee of a government agency; a
 1483 developmental disability facility or program; a mental health,
 1484 alcohol, or drug abuse facility operating under chapter 393,

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1485 chapter 394, or chapter 397; the statewide child care resource
 1486 and referral network operating under s. 431.25 ~~s. 411.0101~~; a
 1487 child-placing or child-caring agency licensed pursuant to
 1488 chapter 409; a domestic violence center certified pursuant to
 1489 chapter 39; an accredited academic institution; or a research
 1490 institution, if such employee is performing duties for which he
 1491 or she was trained and hired solely within the confines of such
 1492 agency, facility, or institution, so long as the employee is not
 1493 held out to the public as a psychologist pursuant to s.
 1494 490.012(1)(a).

1495 Section 16. Paragraph (a) of subsection (4) of section
 1496 491.014, Florida Statutes, is amended to read:

1497 491.014 Exemptions.—

1498 (4) No person shall be required to be licensed,
 1499 provisionally licensed, registered, or certified under this
 1500 chapter who:

1501 (a) Is a salaried employee of a government agency; a
 1502 developmental disability facility or program; a mental health,
 1503 alcohol, or drug abuse facility operating under chapter 393,
 1504 chapter 394, or chapter 397; the statewide child care resource
 1505 and referral network operating under s. 431.25 ~~s. 411.0101~~; a
 1506 child-placing or child-caring agency licensed pursuant to
 1507 chapter 409; a domestic violence center certified pursuant to
 1508 chapter 39; an accredited academic institution; or a research
 1509 institution, if such employee is performing duties for which he
 1510 or she was trained and hired solely within the confines of such
 1511 agency, facility, or institution, so long as the employee is not
 1512 held out to the public as a clinical social worker, mental

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1513 health counselor, or marriage and family therapist.

1514 Section 17. Subsection (4) of section 1002.51, Florida
 1515 Statutes, is amended to read:

1516 1002.51 Definitions.—As used in this part, the term:

1517 (4) "Early learning coalition" or "coalition" means an
 1518 early learning coalition established ~~created~~ under s. 431.07 ~~s.~~
 1519 ~~411.01~~.

1520 Section 18. Paragraph (a) of subsection (4) of section
 1521 1002.53, Florida Statutes, is amended to read:

1522 1002.53 Voluntary Prekindergarten Education Program;
 1523 eligibility and enrollment.—

1524 (4)(a) Each parent enrolling a child in the Voluntary
 1525 Prekindergarten Education Program must complete and submit an
 1526 application to the early learning coalition through the single
 1527 point of entry established under s. 431.05(2)(d) ~~s. 411.01~~.

1528 Section 19. Paragraph (d) of subsection (3) of section
 1529 1002.67, Florida Statutes, is amended to read:

1530 1002.67 Performance standards; curricula and
 1531 accountability.—

1532 (3)

1533 (d) Each early learning coalition, the Office of Early
 1534 Learning, and the department shall coordinate with the Child
 1535 Care Services Program Office of the Department of Children and
 1536 Family Services to minimize interagency duplication of
 1537 activities for monitoring private prekindergarten providers for
 1538 compliance with requirements of the Voluntary Prekindergarten
 1539 Education Program under this part, the school readiness program
 1540 ~~programs~~ under chapter 431 ~~s. 411.01~~, and the licensing of

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1541 providers under ss. 402.301-402.319.

1542 Section 20. Paragraph (a) of subsection (5) of section
1543 1002.71, Florida Statutes, is amended to read:

1544 1002.71 Funding; financial and attendance reporting.—

1545 (5) (a) Each early learning coalition shall maintain
1546 through the single point of entry established under s.
1547 431.05(2)(d) ~~s. 411.01~~ a current database of the students
1548 enrolled in the Voluntary Prekindergarten Education Program for
1549 each county within the coalition's region.

1550 Section 21. Subsection (4) of section 1006.03, Florida
1551 Statutes, is amended to read:

1552 1006.03 Diagnostic and learning resource centers.—

1553 (4) Diagnostic and learning resource centers may assist
1554 districts in providing testing and evaluation services for
1555 infants and preschool children with or at risk of developing
1556 disabilities, and may assist districts in providing
1557 interdisciplinary training and resources to parents of infants
1558 and preschool children with or at risk of developing
1559 disabilities and to the school readiness program ~~programs~~.

1560 Section 22. Sections 411.01, 411.01014, 411.0104, 445.023,
1561 and 445.032, Florida Statutes, are repealed.

1562 Section 23. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB EAC 12-04 Exemptions from Local Business Taxes

SPONSOR(S): Economic Affairs Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee		Creamer <i>JA</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The bill exempts any individual who is licensed and operating as a real estate sales or broker associate under ch. 475, F.S., from having to pay a local business tax or obtain a local business tax receipt. They are not required to apply for this exemption.

The Revenue Estimating Conference estimates that this bill will have a negative recurring impact to local governments of \$3.8 million beginning in FY 2012-13. There is no fiscal impact on state funds.

The effective date of this bill is October 1, 2012.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Background

The local business tax, authorized in ch. 205, F.S., represents the fees charged and the method by which a local government authority grants the privilege of engaging in or managing any business, profession, or occupation within its jurisdiction. Counties and municipalities may levy a business tax, and the tax proceeds are considered general revenue for the local government.¹ This tax does not refer to any regulatory fees or licenses paid to any board, commission, or officer for permits, registration, examination, or inspection.²

Prior to 1972, the state imposed an occupational license tax and shared the revenues with the counties. Municipalities levied their own occupational license taxes pursuant to local ordinance or resolution. Counties had no authority to levy an occupational license tax until October 1, 1972, when ch. 72-306, L.O.F., repealed the state tax and authorized both counties and cities to impose an occupational tax at the state or city rate then in effect. In 1980, the legislature authorized counties and municipalities to increase rates by a specified percentage based upon the rates then in effect.³ In 1986, the Legislature authorized Miami-Dade, Broward, Monroe and Collier counties to increase their rates by an additional 50 percent, with the proceeds being dedicated to specified economic development activities.⁴

Effective January 1, 2007, the legislature changed the name of the Local Occupational License Tax to the Local Business Tax.⁵ This was done in response to some individuals representing that the fact that they had obtained an "occupational license" under ch. 205, F.S., conferred upon them some type of official proof of their competency to perform various repairs and services. The name change was intended to clarify that the payments made under ch. 205, F.S., were taxes and not some type of regulatory fee.

Exemptions

Chapter 205, F.S., provides several exemptions and exclusions from local business taxes. Customary religious, charitable, or educational activities of nonprofit religious, nonprofit charitable, and nonprofit educational institutions are excluded from the definition of "business," "profession," and "occupation" and are thereby excluded from paying local business taxes.⁶ There is an optional partial exemption for businesses located in enterprise zones.⁷ The delivery and transportation of tangible personal property by a business that is otherwise required to pay a local business tax may not be charged a separate local business tax for such delivery or transportation service.⁸ There are also exemptions for persons engaged in specified farming activities,⁹ certain nonresident persons regulated by the Department of Professional Regulation,¹⁰ certain employees of businesses that are required to pay a local business tax,¹¹ certain disabled persons, the aged, and widows with minor dependents,¹² disabled veterans of

¹ Sections 205.033 and 205.042, F.S.

² Section 205.022(5), F.S.

³ Chapter 80-274, L.O.F.

⁴ Chapter 86-298, L.O.F.

⁵ Chapter 2006-152, L.O.F.

⁶ Section 205.022(1), F.S.

⁷ Section 205.054, F.S.

⁸ Section 205.063, F.S.

⁹ Section 205.064, F.S.

¹⁰ Section 205.065, F.S.

¹¹ Section 205.066, F.S.

¹² Section 205.162, F.S.

any war or their unremarried spouses,¹³ and certain mobile home setup operations.¹⁴ Charitable, religious, fraternal, youth, civic, service, or other similar organization that make occasional sales or engage in fundraising projects that are performed exclusively by the members where the proceeds derived from the activities are used exclusively in the charitable, religious, fraternal, youth, civic and service activities of the organization are also exempt.¹⁵ While real estate sales associates and broker associates licensed under ch. 475, F.S., are included in the exemption for employees provided by s. 205.066, F.S., the employee exemption does not apply to any municipality or county which imposes a business tax on individual employees that was adopted by that municipality or county prior to October 13, 2010.¹⁶

Distribution of Revenues

The revenues derived from the business tax imposed by county governments, exclusive of the costs of collection and any credit given for municipal business taxes, are apportioned between the county's unincorporated area and the incorporated municipalities located within the county by a ratio derived by dividing their respective populations by the county's total population.¹⁷ Within 15 days following the month of receipt, the apportioned revenues are sent to each governing authority; however, this provision does not apply to counties that have established a new rate structure pursuant to s. 205.0535, F.S.¹⁸

Authorized Uses of Revenues

The tax proceeds are considered general revenue for the county or municipality. Additionally, the county business tax proceeds may be used for overseeing and implementing a comprehensive economic development strategy through advertising, promotional activities and other sales and marketing techniques.¹⁹ The proceeds of the additional county business tax imposed pursuant to s. 205.033(6), F.S., are distributed by the county's governing body to a designated organization or agency for the purpose of implementing a comprehensive economic development strategy through advertising, promotional activities, and other sales and marketing techniques.²⁰

Real Estate Sales and Broker Associates

Chapter 475, F.S., provides for the licensure of real estate brokers and sales associates. Section 475.01, F.S., defines "broker associate" as a person who is qualified to be issued a license as a broker but who operates as a sales associate in the employ of another. "Sales associate" means a person who performs any act specified in the definition of "broker," but who performs such act under the direction, control, or management of another person.

Proposed Changes

Real Estate Sales and Broker Associates Exemption

The bill creates s. 205.067, F.S., which excludes any individual who is licensed and operating as a real estate broker associate or sales associate under ch. 475, F.S., from having to pay a local business tax or obtain a local business tax receipt. They are not required to apply for this exemption.

No local governing authority may hold the individual sales associate or broker associate liable for the failure of his employer to pay local business tax, obtain a local business tax receipt, or apply for an exemption from the local business tax. An employer who is required to obtain a local business tax

¹³ Section 205.171, F.S.

¹⁴ Section 205.193, F.S.

¹⁵ Section 205.192, F.S.

¹⁶ Section 205.066(4), F.S.

¹⁷ Section 205.033(4), F.S.

¹⁸ Section 205.033(5), F.S.

¹⁹ Section 205.033(7), F.S.

²⁰ Section 205.033(6)(b), F.S.

receipt may not be required by a local governing authority to provide contact information to that authority for his or her sales associates and broker associates.

B. SECTION DIRECTORY:

Section 1 creates s. 205.067, F.S., excluding real estate sales and broker associates from the local business tax.

Section 2 amends s. 205.066, F.S., striking a portion of the employee exemption that the bill makes redundant.

Section 3 provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that this bill will have a negative recurring impact to local governments of \$3.8 million beginning in FY 2012-13.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Real estate sales and broker associates who are in a local governing authority that adopted a local business tax imposed upon employees prior to October 13, 2010, will no longer have to pay that tax. The reduction in business taxes paid to local governments is estimated to be \$3.8 million.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The local government mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill excludes currently taxable employees from the local business tax. This bill does not

appear to qualify under any exemption or exception. If the bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

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1 A bill to be entitled
 2 An act relating to exemptions from local business
 3 taxes; creating s. 205.067, F.S.; specifying that an
 4 individual licensed and operating as a broker
 5 associate or sales associate is not required to apply
 6 for an exemption from a local business tax or take
 7 certain actions relating to a local business tax;
 8 prohibiting a local governing authority from holding
 9 such exempt individual liable for the failure of a
 10 principal or employer to comply with certain
 11 obligations related to a local business tax or from
 12 requiring the exempt individual to take certain
 13 actions related to a local business tax; prohibiting a
 14 local governing authority from requiring a principal
 15 or employer to provide personal or contact information
 16 for such exempt individuals in order to obtain a local
 17 business tax receipt; amending s. 205.066, F.S.;
 18 conforming provisions; providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 205.067, Florida Statutes, is created
 23 to read:

24 205.067 Exemptions; broker associates and sales
 25 associates.-

26 (1) An individual licensed and operating as a broker
 27 associate or sales associate under chapter 475 is not required
 28 to apply for an exemption from a local business tax, pay a local

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29 business tax, or obtain a local business tax receipt.

30 (2) An individual exempt under this section may not be
 31 held liable by any local governing authority for the failure of
 32 a principal or employer to apply for an exemption from a local
 33 business tax, pay a local business tax, or obtain a local
 34 business tax receipt. An individual exempt under this section
 35 may not be required by any local governing authority to apply
 36 for an exemption from a local business tax, otherwise prove his
 37 or her exempt status, or pay any tax or fee related to a local
 38 business tax.

39 (3) A principal or employer who is required to obtain a
 40 local business tax receipt may not be required by a local
 41 governing authority to provide personal or contact information
 42 for individuals exempt under this section in order to obtain a
 43 local business tax receipt.

44 Section 2. Subsection (1) of section 205.066, Florida
 45 Statutes, is amended to read:

46 205.066 Exemptions; employees.—

47 (1) An individual who engages in or manages a business,
 48 profession, or occupation as an employee of another person is
 49 not required to apply for an exemption from a local business
 50 tax, pay a local business tax, or obtain a local business tax
 51 receipt. ~~For purposes of this section, an individual licensed~~
 52 ~~and operating as a broker associate or sales associate under~~
 53 ~~chapter 475 is an employee.~~ An individual acting in the capacity
 54 of an independent contractor is not an employee.

55 Section 3. This act shall take effect October 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 7043 Obsolete or Outdated Programs and Requirements

SPONSOR(S): Economic Affairs Committee

TIED BILLS: **IDEN./SIM. BILLS:** SB 2086

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee		Tecler AT	Tinker TVST

SUMMARY ANALYSIS

The proposed committee substitute for HB 7043 repeals or amends statutes related to several obsolete programs and requirements. Specifically, the bill eliminates references to inactive or duplicative advisory boards within the Department of Transportation, the Department of Management Services, the Department of Environmental Protection, the Department of Health, and the Office of Insurance Regulation.

The bill repeals and amends statutory references to inactive offices administratively housed in the Florida Small Business Development Center Network. The bill also eliminates a requirement for bicycle operators and repeals a statute related to an inactive University of Florida research program.

The bill does not have an impact on state funds.

The bill provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida State Employee Wellness Council

The Florida State Employee Wellness Council was created in 2006 to advise the Department of Management Services on providing health education information to state employees and to assist DMS in developing minimum benefits for all health care providers when providing age and gender-based wellness benefits. The Department has stated that the Council has been inactive since 2008 and its duties related to wellness programs were reassigned to other state entities.¹ In 2008, the Office of Program Policy Analysis and Government Accountability (OPPAGA) recommended abolishing the Council.²

Effect of the Bill:

The bill repeals s. 110.123(13), F.S., relating to the Florida State Employee Wellness Council.

Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council

The Judah P. Benjamin Memorial at Gamble Plantation Historic State Park serves as a memorial to a former Confederate Secretary of State and as a historical site depicting the way of life and economic system that existed before the Civil War.³ Located in Manatee County, the Gamble Mansion is the only surviving antebellum plantation house in south Florida. In 1925, the mansion and 16 acres were saved by the United Daughters of the Confederacy and donated to the state.

Under current law, the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council was created to advise the Department of Environmental Protection's Division of Recreation and Parks in the operation, restoration, development, and preservation of the historical site. According to the DEP, the advisory council only meets on average once a year and does not regularly advise the Division. In addition, the park works more closely with its citizen support organization, the Gamble Plantation Preserve Alliance, the United Daughters of the Confederacy, other state entities within DEP and the Department of State.

Effect of the Bill:

The bill repeals s. 258.155, F.S., relating to the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council.

Small Business Regulatory Advisory Council

The Small Business Regulatory Advisory Council (SBRAC) was created by the Small Business Regulatory Relief Act passed during the 2008 legislative session. The Council was administratively housed with the Small Business Development Center Network. SBRAC provided state agencies and the Legislature with input regarding rules or programs that may adversely affect small business or private property rights. The Rules Ombudsman, within the Executive Office of the Governor, shares many of the same statutory duties and responsibilities with the SBRAC. The SBRAC was not funded in the current fiscal year and became inactive on June 30, 2011.

Effect of the Bill:

The bill repeals s. 288.7001, F.S., related to the Small Business Regulatory Advisory Council. Further, the bill transfers certain provisions related to rulemaking oversight from SBRAC to the Rules Ombudsman. The bill also deletes a requirement that OPPAGA, upon the Council's request and

¹ According to the Department of Management Services, the Council's last recorded meeting occurred in June 2008 and the last members appointed to the Council termed out in December 2010. No new appointments have been made to the council.

² Department of Management Services Advisory Committees Assessment, Office of Program Policy Analysis and Government Accountability, Dec. 2008, <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/08-S11.pdf> (last visited February 8, 2012).

³ P. Benjamin Confederate Memorial at Gamble Plantation Historic State Park, <http://www.floridastateparks.org/gambleplantation/> (Last visited February 8, 2012).

approval by the Legislature, conduct a study and issue a report related to the impact of an agency proposed rule and any alternative options rejected by such agency.

Office of the Small Business Advocate

The Office of the Small Business Advocate (OSBA) served as a liaison between state government and small businesses. The Office was charged with reaching out to small and medium-sized enterprises to identify issues, concerns, and solutions to help lessen the burden of state government and encourage small business development within the state. The OSBA was not funded in the current fiscal year and became inactive on June 30, 2011. Many of the duties charged to the OSBA are provided through the Small Business Development Center Network, the Department of Economic Opportunity and the Governor's Office of Fiscal Accountability and Regulatory Reform.

Effect of the Bill:

The bill repeals s. 288.7002, F.S., relating to the Office of the Small Business Advocate.

Bicycle Operators

In general, bicyclists must obey the same rules of the road as other vehicle operators, including obeying traffic signs, signals, and lane markings.⁴ Section 316.2065(7), F.S., specifies that operators of a bicycle must keep at least one hand upon the handlebars. Violators of this section are subject to a pedestrian violation and certain fines in ch. 318, F.S. The base fine is \$15 plus \$8.50 in required fees. Other fees depend upon the county in which the violation occurs, either because only certain counties are eligible to assess the fee by statute or because the option and amount is determined by ordinance.⁵

Effect of the Bill

The bill repeals s. 316.2065(7), F.S., relating to a requirement that bicycle operators must keep at least one hand upon the handlebars. The bill also corrects a cross reference related to bicycle regulations.

Statewide Intermodal Transportation Advisory Council

In 2003, the Strategic Intermodal System was established to serve the state's mobility needs, help the state become a worldwide economic leader, enhance economic prosperity and competitiveness, enrich quality of life and reflect responsible environmental stewardship. The 2003 law also created a Statewide Intermodal Transportation Advisory Council to advise and make recommendations to the Legislature and the Department of Transportation on the policies, planning, and funding of intermodal transportation projects. The Council is no longer active and held its last meeting in December 2004.⁶

Effect of the Bill:

The bill repeals s. 339.64(5), F.S., relating to the Statewide Intermodal Transportation Advisory Council.

Health Information Systems Council

The Florida Health Information Systems Council was created in the Department of Health by the Information Resource Management Reform Act of 1997.⁷ The purpose of the Council is to coordinate, and provide for, the identification, collection, standardization, and sharing of health-related data among federal, state, local, and private entities. According to the Department of Health, the Council has continued to meet as required, but takes no official action.⁸ The last meeting of the Council at which any official action was taken occurred on October 22, 2003.⁹ At that meeting, the Council adopted revisions to its Strategic Plan for FY 2004-05 through 2008-09.¹⁰ However, none of the

⁴ U.S. Department of Transportation, National Highway Traffic Safety Administration, Traffic Safety Facts: 2009 Data, <http://www-nrd.nhtsa.dot.gov/Pubs/811386.pdf> (Last visited February 13, 2012).

⁵ These fees are authorized by ss. 318.1215, 318.18, 938.15, and 938.19, F.S.

⁶ April 16, 2009, email from Department of Transportation to the Roads, Bridges & Ports Policy Committee staff.

⁷ Section 27, ch. 97-286, L.O.F.

⁸ Telephone conference between Department of Health legislative affairs staff and Health and Human Services Quality Subcommittee staff.

⁹ Florida Department of Health, Florida Health Information Systems Council, Meeting Minutes, October 22, 2003, <http://www.doh.state.fl.us/floridahisc/Meetings/102203mmts.html> (last viewed on February 8, 2012).

¹⁰ Department of Health, Florida Health Information Systems Council, Strategic Plan-Fiscal Years 2004-05 through 2008-09, May 15, 2003 (revised October 22, 2003), available at

recommendations contained in the Plan have been implemented over the last 8 years. In addition, the Council has not received any recent funding, nor have any appointments to the Council been made in the last two years.

Effect of the bill:

The bill repeals s. 381.90, F.S., relating to the Health Information Systems Council.

Developmental Disabilities Compact

Section 624.916, F.S., called the "Window of Opportunity Act", required the Office of Insurance Regulation (OIR) to convene a workgroup for the purpose of developing and executing a compact including a binding agreement among the participants relating to insurance and access to services for persons with developmental disabilities. Participants in the agreement would be exempt from the provisions of the Steven A. Geller Autism Act because the agreement covered autism spectrum disorder, as well as other developmental disabilities.¹¹

One company became a participant in the agreement prior to the April 1, 2009 deadline. During its period of operation under the Compact, the company had no claims for evaluation or treatment of developmental disabilities. According to OIR, effective April 30, 2010, the certificate of authority for this company was suspended because the company was winding down its commercial operations.¹² Currently, the company no longer operates in Florida.¹³ As a result, there are no longer any signatories to the Developmental Disabilities Compact.

Effect of the bill:

The bill repeals s. 624.916, F.S., relating to the Developmental Disabilities Compact. The bill also corrects several cross references related to the Compact. The bill does not have an impact on the coverage mandates contained in the Steven A. Geller Autism Act.

Florida Institute for Nuclear Detection and Security

In 2004, the Legislature created the Florida Institute for Nuclear Detection and Security within the Department of Nuclear Engineering and Radiological Sciences at the University of Florida. The Institute was to serve as a design-basis center for research, development, testing, and engineering projects that directly address certain critical nuclear detection and security needs.

The Institute was to solicit and receive state, federal, and private funds for the purpose of conducting research and development in the area of nuclear security technology. Faculty at the University's College of Engineering confirms that funding was never appropriated or obtained for the program. Further, the Institute's Board of Advisors was never established and the two faculty members that were to staff the Institute have since left the University.¹⁴

Effect of the bill:

The bill repeals s. 1004.63, F.S., relating to the Florida Institute for Nuclear Detection and Security.

The bill provides an effective date of July 1, 2012.

B. SECTION DIRECTORY:

Section 1: Repeals s. 1110.123(13), F.S., relating to the Florida State Employee Wellness Council.

http://www.doh.state.fl.us/floridahisc/Plan/FHISCSP_2003_approved_revision_10_22_2003.pdf (last viewed February 8, 2012).

¹¹ Sections 627.6686 and 641.31098, F.S.

¹² Florida Office of Insurance Regulation, *2011 Developmental Disabilities Compact Annual Report*, page 2, <http://www.floir.com/siteDocuments/DDCWGReport02142011.pdf> (Last viewed February 8, 2012).

¹³ January 11, 2012, telephone conference between Michelle Robleto, Deputy Insurance Commissioner of Life and Health Insurance, Florida Office of Insurance Regulation, and the Health and Human Services Quality Subcommittee staff.

¹⁴ Conversation with Dr. David P. Norton, Associate Dean for Research and Graduate Programs, College of Engineering, University of Florida, January 20, 2012.

- Section 2: Repeals s. 258.155, F.S., relating to the Judah P. Benjamin Memorial at Gamble Plantation Historical Site Advisory Council.
- Section 3: Repeals s. 288.7001, F.S., relating to the Small Business Regulatory Advisory Council.
- Section 4: Repeals s. 288.7002, F.S., relating to the Office of the Small Business Advocate.
- Section 5: Repeals s. 339.64(5), F.S., relating to the Statewide Intermodal Transportation Advisory Council.
- Section 6: Repeals s. 381.90, F.S., relating to the Health Information Systems Council.
- Section 7: Repeals s. 624.916, F.S., relating to the Developmental Disabilities Compact.
- Section 8: Repeals s. 1004.63, F.S., relating to the Florida Institute for Nuclear Detection and Security.
- Section 9: Amends s. 120.54, F.S., transferring certain provisions related to rulemaking oversight from the Small Business Regulatory Advisory Council to the Rules Ombudsman.
- Section 10: Amends s. 120.745, F.S., removing a requirement that the Office of Program Policy Analysis and Government Accountability conduct a study and issue a report related to proposed rules.
- Section 11: Repeals s. 316.2065(7), F.S., relating to a requirement that bicycle operators must keep at least one hand upon the handlebars.
- Sections 12, 13, and 14: Correct cross-references.
- Section 15: Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

PCS for HB 7043

ORIGINAL

YEAR

1 A bill to be entitled
 2 An act relating to obsolete or outdated programs and
 3 requirements; repealing s. 110.123(13), F.S., relating
 4 to the Florida State Employee Wellness Council;
 5 repealing s. 258.155, F.S., relating to the Judah P.
 6 Benjamin Memorial at Gamble Plantation Historical Site
 7 Advisory Council; repealing s. 288.7001, F.S.,
 8 relating to the Small Business Regulatory Advisory
 9 Council; repealing s. 288.7002, F.S., relating to the
 10 Office of Small Business Advocate; repealing s.
 11 339.64(5), F.S., relating to the Statewide Intermodal
 12 Transportation Advisory Council; repealing s. 381.90,
 13 F.S., relating to the Health Information Systems
 14 Council; repealing s. 624.916, F.S., relating to the
 15 Developmental Disabilities Compact Workgroup;
 16 repealing s. 1004.63, F.S., relating to the Florida
 17 Institute for Nuclear Detection and Security; amending
 18 ss. 120.54 and 120.745, F.S., relating to rule
 19 adoption by state agencies; requiring the rules
 20 ombudsman in the Executive Office of the Governor to
 21 assume certain duties formerly performed by the Small
 22 Business Regulatory Advisory Council; deleting
 23 provisions that require the Office of Program Policy
 24 Analysis and Government Accountability, upon request,
 25 to conduct a study and issue a report to the Governor,
 26 the President of the Senate, and the Speaker of the
 27 House of Representatives regarding the impact on small
 28 business of certain proposed agency rules that have

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29 | been rejected; amending s. 316.2065, F.S.; removing a
 30 | requirement to keep one hand on the handlebars while
 31 | operating a bicycle; amending ss. 322.27, 627.6686 and
 32 | 641.31098, F.S.; conforming cross-references to
 33 | changes made by the act; providing an effective date.
 34 |

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

36 | Section 1. Subsection (13) of section 110.123, Florida
 37 | Statutes, is repealed.

38 | Section 2. Section 258.155, Florida Statutes, is repealed.

39 | Section 3. Section 288.7001, Florida Statutes, is
 40 | repealed.

41 | Section 4. Section 288.7002, Florida Statutes, is
 42 | repealed.

43 | Section 5. Subsection (5) of section 339.64, Florida
 44 | Statutes, is repealed.

45 | Section 6. Section 381.90, Florida Statutes, is repealed.

46 | Section 7. Section 624.916, Florida Statutes, is repealed.

47 | Section 8. Section 1004.63, Florida Statutes, is repealed.

48 | Section 9. Paragraph (b) of subsection (3) of section
 49 | 120.54, Florida Statutes, is amended to read:

50 | 120.54 Rulemaking.—

51 | (3) ADOPTION PROCEDURES.—

52 | (b) Special matters to be considered in rule adoption.—

53 | 1. Statement of estimated regulatory costs.—Before the
 54 | adoption, amendment, or repeal of any rule other than an
 55 | emergency rule, an agency is encouraged to prepare a statement
 56 | of estimated regulatory costs of the proposed rule, as provided

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57 | by s. 120.541. However, an agency must prepare a statement of
 58 | estimated regulatory costs of the proposed rule, as provided by
 59 | s. 120.541, if:

60 | a. The proposed rule will have an adverse impact on small
 61 | business; or

62 | b. The proposed rule is likely to directly or indirectly
 63 | increase regulatory costs in excess of \$200,000 in the aggregate
 64 | in this state within 1 year after the implementation of the
 65 | rule.

66 | 2. Small businesses, small counties, and small cities.—

67 | a. Each agency, before the adoption, amendment, or repeal
 68 | of a rule, shall consider the impact of the rule on small
 69 | businesses as defined by s. 288.703 and the impact of the rule
 70 | on small counties or small cities as defined by s. 120.52.
 71 | Whenever practicable, an agency shall tier its rules to reduce
 72 | disproportionate impacts on small businesses, small counties, or
 73 | small cities to avoid regulating small businesses, small
 74 | counties, or small cities that do not contribute significantly
 75 | to the problem the rule is designed to address. An agency may
 76 | define "small business" to include businesses employing more
 77 | than 200 persons, may define "small county" to include those
 78 | with populations of more than 75,000, and may define "small
 79 | city" to include those with populations of more than 10,000, if
 80 | it finds that such a definition is necessary to adapt a rule to
 81 | the needs and problems of small businesses, small counties, or
 82 | small cities. The agency shall consider each of the following
 83 | methods for reducing the impact of the proposed rule on small
 84 | businesses, small counties, and small cities, or any combination

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85 of these entities:

86 (I) Establishing less stringent compliance or reporting
87 requirements in the rule.

88 (II) Establishing less stringent schedules or deadlines in
89 the rule for compliance or reporting requirements.

90 (III) Consolidating or simplifying the rule's compliance
91 or reporting requirements.

92 (IV) Establishing performance standards or best management
93 practices to replace design or operational standards in the
94 rule.

95 (V) Exempting small businesses, small counties, or small
96 cities from any or all requirements of the rule.

97 b.(I) If the agency determines that the proposed action
98 will affect small businesses as defined by the agency as
99 provided in sub-subparagraph a., the agency shall send written
100 notice of the rule to the rules ombudsman in the Executive
101 Office of the Governor ~~Small Business Regulatory Advisory~~
102 ~~Council and the Department of Economic Opportunity~~ at least 28
103 days before the intended action.

104 (II) Each agency shall adopt those regulatory alternatives
105 offered by the rules ombudsman in the Executive Office of the
106 Governor ~~Small Business Regulatory Advisory Council~~ and provided
107 to the agency no later than 21 days after the council's receipt
108 of the written notice of the rule which it finds are feasible
109 and consistent with the stated objectives of the proposed rule
110 and which would reduce the impact on small businesses. When
111 regulatory alternatives are offered by the rules ombudsman in
112 the Executive Office of the Governor ~~Small Business Regulatory~~

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113 ~~Advisory Council~~, the 90-day period for filing the rule in
 114 subparagraph (e)2. is extended for a period of 21 days.

115 (III) If an agency does not adopt all alternatives offered
 116 pursuant to this sub-subparagraph, it shall, before rule
 117 adoption or amendment and pursuant to subparagraph (d)1., file a
 118 detailed written statement with the committee explaining the
 119 reasons for failure to adopt such alternatives. Within 3 working
 120 days after the filing of such notice, the agency shall send a
 121 copy of such notice to the rules ombudsman in the Executive
 122 Office of the Governor ~~Small Business Regulatory Advisory~~
 123 ~~Council. The Small Business Regulatory Advisory Council may make~~
 124 ~~a request of the President of the Senate and the Speaker of the~~
 125 ~~House of Representatives that the presiding officers direct the~~
 126 ~~Office of Program Policy Analysis and Government Accountability~~
 127 ~~to determine whether the rejected alternatives reduce the impact~~
 128 ~~on small business while meeting the stated objectives of the~~
 129 ~~proposed rule. Within 60 days after the date of the directive~~
 130 ~~from the presiding officers, the Office of Program Policy~~
 131 ~~Analysis and Government Accountability shall report to the~~
 132 ~~Administrative Procedures Committee its findings as to whether~~
 133 ~~an alternative reduces the impact on small business while~~
 134 ~~meeting the stated objectives of the proposed rule. The Office~~
 135 ~~of Program Policy Analysis and Government Accountability shall~~
 136 ~~consider the proposed rule, the economic impact statement, the~~
 137 ~~written statement of the agency, the proposed alternatives, and~~
 138 ~~any comment submitted during the comment period on the proposed~~
 139 ~~rule. The Office of Program Policy Analysis and Government~~
 140 ~~Accountability shall submit a report of its findings and~~

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141 ~~recommendations to the Governor, the President of the Senate,~~
 142 ~~and the Speaker of the House of Representatives. The~~
 143 ~~Administrative Procedures Committee shall report such findings~~
 144 ~~to the agency, and the agency shall respond in writing to the~~
 145 ~~Administrative Procedures Committee if the Office of Program~~
 146 ~~Policy Analysis and Government Accountability found that the~~
 147 ~~alternative reduced the impact on small business while meeting~~
 148 ~~the stated objectives of the proposed rule. If the agency will~~
 149 ~~not adopt the alternative, it must also provide a detailed~~
 150 ~~written statement to the committee as to why it will not adopt~~
 151 ~~the alternative.~~

152 Section 10. Paragraphs (a) and (c) of subsection (5) of
 153 section 120.745, Florida Statutes, are amended to read:

154 120.745 Legislative review of agency rules in effect on or
 155 before November 16, 2010.—

156 (5) COMPLIANCE ECONOMIC REVIEW OF RULES AND REQUIRED
 157 REPORT.—Each agency shall perform a compliance economic review
 158 and report for all rules, including separate reviews of
 159 subparts, listed under Group 1 "Group 1 rules" or Group 2 "Group
 160 2 rules" pursuant to subparagraph (2)(g)3. Group 1 rules shall
 161 be reviewed and reported on in 2012, and Group 2 rules shall be
 162 reviewed and reported on in 2013.

163 (a) No later than May 1, each agency shall:

164 1. Complete a compliance economic review for each entire
 165 rule or subpart in the appropriate group.

166 2. File the written certification of the agency head with
 167 the committee verifying the completion of each compliance
 168 economic review required for the respective year. The

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169 certification shall be dated and published as an addendum to the
 170 report required in subsection (3). The duty to certify
 171 completion of the required compliance economic reviews is the
 172 responsibility solely of the agency head as defined in s.
 173 120.52(3) and may not be delegated to any other person. If the
 174 defined agency head is a collegial body, the written
 175 certification must be prepared by the chair or equivalent
 176 presiding officer of that body.

177 3. Publish a copy of the compliance economic review,
 178 directions on how and when interested parties may submit lower
 179 cost regulatory alternatives to the agency, and the date the
 180 notice is published in the manner provided in subsection (7).

181 4. Publish notice of the publications required in
 182 subparagraphs 2. and 3. in the manner provided in subsection
 183 (7).

184 5. Submit each compliance economic review to the rules
 185 ombudsman in the Executive Office of the Governor ~~Small Business~~
 186 ~~Regulatory Advisory Council~~ for its review.

187 (c) No later than August 1, the rules ombudsman in the
 188 Executive Office of the Governor ~~Small Business Regulatory~~
 189 ~~Advisory Council~~ may submit lower cost regulatory alternatives
 190 to any rule to the agency that adopted the rule. No later than
 191 June 15, other interested parties may submit lower cost
 192 regulatory alternatives to any rule.

193 Section 11. Subsections (7) through (20) of section
 194 316.2065, Florida Statutes, are amended to read:

195 316.2065 Bicycle regulations.—

196 ~~(7) Any person operating a bicycle shall keep at least one~~

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197 ~~hand upon the handlebars.~~

198 (7)~~(8)~~ Every bicycle in use between sunset and sunrise
 199 shall be equipped with a lamp on the front exhibiting a white
 200 light visible from a distance of at least 500 feet to the front
 201 and a lamp and reflector on the rear each exhibiting a red light
 202 visible from a distance of 600 feet to the rear. A bicycle or
 203 its rider may be equipped with lights or reflectors in addition
 204 to those required by this section.

205 (8)~~(9)~~ No parent of any minor child and no guardian of any
 206 minor ward may authorize or knowingly permit any such minor
 207 child or ward to violate any of the provisions of this section.

208 (9)~~(10)~~ A person propelling a vehicle by human power upon
 209 and along a sidewalk, or across a roadway upon and along a
 210 crosswalk, has all the rights and duties applicable to a
 211 pedestrian under the same circumstances.

212 (10)~~(11)~~ A person propelling a bicycle upon and along a
 213 sidewalk, or across a roadway upon and along a crosswalk, shall
 214 yield the right-of-way to any pedestrian and shall give an
 215 audible signal before overtaking and passing such pedestrian.

216 (11)~~(12)~~ No person upon roller skates, or riding in or by
 217 means of any coaster, toy vehicle, or similar device, may go
 218 upon any roadway except while crossing a street on a crosswalk;
 219 and, when so crossing, such person shall be granted all rights
 220 and shall be subject to all of the duties applicable to
 221 pedestrians.

222 (12)~~(13)~~ This section shall not apply upon any street
 223 while set aside as a play street authorized herein or as
 224 designated by state, county, or municipal authority.

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225 ~~(13)~~~~(14)~~ Every bicycle shall be equipped with a brake or
 226 brakes which will enable its rider to stop the bicycle within 25
 227 feet from a speed of 10 miles per hour on dry, level, clean
 228 pavement.

229 ~~(14)~~~~(15)~~ A person engaged in the business of selling
 230 bicycles at retail shall not sell any bicycle unless the bicycle
 231 has an identifying number permanently stamped or cast on its
 232 frame.

233 ~~(15)~~~~(16)~~(a) A person may not knowingly rent or lease any
 234 bicycle to be ridden by a child who is under the age of 16 years
 235 unless:

- 236 1. The child possesses a bicycle helmet; or
- 237 2. The lessor provides a bicycle helmet for the child to
 238 wear.

239 (b) A violation of this subsection is a nonmoving
 240 violation, punishable as provided in s. 318.18.

241 ~~(16)~~~~(17)~~ The court may waive, reduce, or suspend payment
 242 of any fine imposed under subsection (3) or subsection ~~(15)~~ ~~(16)~~
 243 and may impose any other conditions on the waiver, reduction, or
 244 suspension. If the court finds that a person does not have
 245 sufficient funds to pay the fine, the court may require the
 246 performance of a specified number of hours of community service
 247 or attendance at a safety seminar.

248 ~~(17)~~~~(18)~~ Notwithstanding s. 318.21, all proceeds collected
 249 pursuant to s. 318.18 for violations under paragraphs (3)(e) and
 250 ~~(15)(b)~~ ~~(16)(b)~~ shall be deposited into the State Transportation
 251 Trust Fund.

252 ~~(18)~~~~(19)~~ The failure of a person to wear a bicycle helmet

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253 or the failure of a parent or guardian to prevent a child from
 254 riding a bicycle without a bicycle helmet may not be considered
 255 evidence of negligence or contributory negligence.

256 (19)~~(20)~~ Except as otherwise provided in this section, a
 257 violation of this section is a noncriminal traffic infraction,
 258 punishable as a pedestrian violation as provided in chapter 318.
 259 A law enforcement officer may issue traffic citations for a
 260 violation of subsection (3) or subsection (15) ~~(16)~~ only if the
 261 violation occurs on a bicycle path or road, as defined in s.
 262 334.03. However, a law enforcement officer may not issue
 263 citations to persons on private property, except any part
 264 thereof which is open to the use of the public for purposes of
 265 vehicular traffic.

266 Section 12. Paragraph (d) of subsection (3) of section
 267 322.27, Florida Statutes, is amended to read:

268 322.27 Authority of department to suspend or revoke
 269 license.—

270 (3) There is established a point system for evaluation of
 271 convictions of violations of motor vehicle laws or ordinances,
 272 and violations of applicable provisions of s. 403.413(6)(b) when
 273 such violations involve the use of motor vehicles, for the
 274 determination of the continuing qualification of any person to
 275 operate a motor vehicle. The department is authorized to suspend
 276 the license of any person upon showing of its records or other
 277 good and sufficient evidence that the licensee has been
 278 convicted of violation of motor vehicle laws or ordinances, or
 279 applicable provisions of s. 403.413(6)(b), amounting to 12 or
 280 more points as determined by the point system. The suspension

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281 shall be for a period of not more than 1 year.

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

285 1. Reckless driving, willful and wanton-4 points.

286 2. Leaving the scene of a crash resulting in property
 287 damage of more than \$50-6 points.

288 3. Unlawful speed resulting in a crash-6 points.

289 4. Passing a stopped school bus-4 points.

290 5. Unlawful speed:

291 a. Not in excess of 15 miles per hour of lawful or posted
 292 speed-3 points.

293 b. In excess of 15 miles per hour of lawful or posted
 294 speed-4 points.

295 6. A violation of a traffic control signal device as
 296 provided in s. 316.074(1) or s. 316.075(1)(c)1.-4 points.

297 However, no points shall be imposed for a violation of s.
 298 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 299 stop at a traffic signal and when enforced by a traffic
 300 infraction enforcement officer. In addition, a violation of s.
 301 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to
 302 stop at a traffic signal and when enforced by a traffic
 303 infraction enforcement officer may not be used for purposes of
 304 setting motor vehicle insurance rates.

305 7. All other moving violations (including parking on a
 306 highway outside the limits of a municipality)-3 points. However,
 307 no points shall be imposed for a violation of s. 316.0741 or s.
 308 316.2065(11) ~~316.2065(12)~~; and points shall be imposed for a

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309 violation of s. 316.1001 only when imposed by the court after a
 310 hearing pursuant to s. 318.14(5).

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

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

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

315 Section 13. Subsection (10) of section 627.6686, Florida
 316 Statutes, is amended to read:

317 627.6686 Coverage for individuals with autism spectrum
 318 disorder required; exception.-

319 ~~(10) The Office of Insurance Regulation may not enforce~~
 320 ~~this section against an insurer that is a signatory no later~~
 321 ~~than April 1, 2009, to the developmental disabilities compact~~
 322 ~~established under s. 624.916. The Office of Insurance Regulation~~
 323 ~~shall enforce this section against an insurer that is a~~
 324 ~~signatory to the compact established under s. 624.916 if the~~
 325 ~~insurer has not complied with the terms of the compact for all~~
 326 ~~health insurance plans by April 1, 2010.~~

327 Section 14. Subsection (9) of section 641.31098, Florida
 328 Statutes, is amended to read:

329 641.31098 Coverage for individuals with developmental
 330 disabilities.-

331 ~~(9) The Office of Insurance Regulation may not enforce~~
 332 ~~this section against a health maintenance organization that is a~~
 333 ~~signatory no later than April 1, 2009, to the developmental~~
 334 ~~disabilities compact established under s. 624.916. The Office of~~
 335 ~~Insurance Regulation shall enforce this section against a health~~
 336 ~~maintenance organization that is a signatory to the compact~~

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337 | ~~established under s. 624.916 if the health maintenance~~
338 | ~~organization has not complied with the terms of the compact for~~
339 | ~~all health maintenance contracts by April 1, 2010.~~

340 | Section 15. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 1373 Commemoration of the 40th Anniversary of the End of the United States' Involvement in the Vietnam War

SPONSOR(S): Economic Affairs Committee

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee		Tait <i>me</i>	Tinker <i>TBT</i>

SUMMARY ANALYSIS

The United States Armed Forces began serving in an advisory role to South Vietnam in the mid-1950s, but became directly involved in the mid-1960s when troops were sent into Vietnam. United States ground troops were withdrawn from Vietnam on March 30, 1973, under the terms of the Paris Peace Accords. More than 58,000 United States service members lost their lives in the war, including 1,952 Floridians, and more than 153,000 were wounded and required hospital care. There are approximately 7.5 million living veterans of the Vietnam War, with approximately 454,000 living in Florida. Due to the controversy surrounding the Vietnam War, many veterans returned to the United States without formal recognition of their service.

Current law establishes 50 legal holidays and special observance days, including Memorial Day, Veterans' Day, and Patriots' Day. Legal holidays and special observances may apply throughout the state or they may be limited to particular counties. Designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees. Current law does not contain a designation for the commemoration of the 40th anniversary of the end of the United States' Involvement in the Vietnam War.

The bill designates March 30, 2013 as the date for the State of Florida to commemorate the 40th anniversary of the end of the United States' involvement in the Vietnam War. It authorizes the Governor to issue a proclamation in honor of the anniversary. The bill provides that the day is to be observed for the purpose of providing opportunities throughout the state to demonstrate and express appreciation for the honorable service and sacrifice of veterans from the Vietnam Era. It also provides that the date shall be observed by public exercises in the State Capitol and elsewhere as the Governor designates.

Additionally, the bill allows the Florida Veterans' Foundation to collaborate with Florida's veterans' organizations to administratively promote and support the efforts of counties, municipalities, and bona fide veterans' organizations that voluntarily hold special community events to commemorate the anniversary. These events may include, but are not limited to, parades or ceremonies held on or about March 30, 2013.

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

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

United States Involvement in the Vietnam War

The Geneva Accords were signed in July of 1954, dividing Vietnam into a communist north and democratic south. The rationale developed by the Eisenhower Administration to explain its economic and military support of South Vietnam became known as the "domino theory." Likening the countries of southeast Asia to a row of dominos, the President argued that if one country fell, it would trigger the fall of others.¹ Thus, the United States began to endorse and support South Vietnam's effort to defend against the communist North.

The U.S. initially supported South Vietnam in an advisory role but, by the mid-1960s, U.S. military forces were directly involved in combat operations against the North. More than 3 million Americans served in the Vietnam War, some 1.5 million of whom actually saw combat in Vietnam.² American involvement in the war began to decline after the Paris Peace Accords were signed on January 27, 1973. The U.S. completed withdrawal of its ground troops from Vietnam on March 30, 1973, but thousands of U.S. support personnel remained in Vietnam. All remaining U.S. personnel were evacuated when Saigon fell on April 30, 1975.³

The United States supported South Vietnam from the beginning of the war until its end on May 7, 1975. The U.S. Congress and President have defined the Vietnam era as beginning February 28, 1961, and ending on May 7, 1975.⁴ This is the period used to determine qualification for veterans' benefits. The Vietnam Veterans Association likewise uses this period to determine eligibility for membership.⁵

Military involvement in Vietnam, and the neighboring countries of Laos and Cambodia, resulted in the deaths of 58,220 U.S. service members, 1,952 of whom were from Florida.⁶ An additional 153,303 U.S. service members required hospital care as a result of wounds.⁷ There are approximately 7.5 million surviving veterans of the Vietnam War⁸, with approximately 454,000 residing in Florida.⁹

The Vietnam War was a divisive issue in the U.S., and many veterans did not return to the acknowledgment and appreciation of their service traditionally afforded veterans of other military conflicts.

¹ *The War in Vietnam, 1954-1964*; <http://faculty.smu.edu/dsimon/Change-Viet.html>.

² *Echoes of Combat: The Vietnam War in American Memory*, Stanford University (June 2001).

³ U.S. Congress, President, and Florida Legislature recognize May 7, 1975, as the end of the Vietnam War (for purpose of veteran affairs). Text at: <http://www.gpo.gov/fdsys/pkg/CFR-2005-title45-vol3/pdf/CFR-2005-title45-vol3-sec506-10.pdf>; 14 Fla. Prac., Elder Law § 14:5 (2010-11 ed.).

⁴ U.S. Code of Federal Regulations, Title 45, Volume 3, Sec. 506.10, "Vietnam Conflict" defined, available at <http://frwebgate2.access.gpo.gov/cgi-bin/TEXTgate.cgi?WAISdocID=xr1v3B/30/1/0&WAISaction=retrieve>

⁵ Vietnam Veterans Association, *Membership Brochure*, http://www.vva.org/member_brochure.html

⁶ <http://thewall-usa.com/summary.asp>.

⁷ Anne Leland; Mari-Jana "M-J" Oboroceanu, *American War and Military Operations: Casualties: Lists and Statistics*, Congressional Research Service, <http://www.fas.org/sgp/crs/natsec/RL32492.pdf> (February 26, 2010); <http://siadapp.dmdc.osd.mil/personnel/CASUALTY/castop.htm>.

⁸ *Statistics at a Glance*, Dep't of Veterans Affairs (as of 8/12/2011) and *America's Wars*, Dep't of Veterans Affairs (May 2010) available at http://www1.va.gov/opa/publications/factsheets/fs_americas_wars.pdf.

⁹ *Fast Facts*, Fl. Dep't of Veterans' Affairs, <http://www.floridavets.org/>.

The National Defense Authorization Act of 2008 authorized the Secretary of Defense to commemorate the 50th anniversary of the Vietnam War.¹⁰ In doing so, the Secretary “shall coordinate, support, and facilitate other programs of the Federal Government, State and local governments, and other persons or organizations in the commemoration of the Vietnam War.” The commemoration program consists of events and activities, held across the nation and over the course of several years, to thank, honor, and recognize the contributions and sacrifices made by veterans during the Vietnam War.¹¹

On March 7, 2011, the U.S. Senate unanimously adopted a resolution that designated March 30, 2011, as “Welcome Home Vietnam Veterans Day.”¹² The resolution honors Vietnam veterans who, because of the divisiveness and controversy surrounding the war, were not properly acknowledged or honored upon return. The resolution encourages individual states to establish a “Welcome Home Vietnam Veterans Day” holiday as well.

Legal Holidays and Special Observances in Florida

Current Florida law establishes 50 legal holidays and special observance days, including Memorial Day, Veterans’ Day, and Patriots’ Day.¹³ Legal holidays and special observances may apply throughout the state or they may be limited to particular counties. Designation of a day as a legal holiday does not necessarily make that day a paid holiday for public employees.¹⁴ Current law does not contain a designation for the commemoration of the 40th anniversary of the end of the United States’ Involvement in the Vietnam War.¹⁵

Effects of Proposed Changes

The bill designates March 30, 2013, as the date for the State of Florida to commemorate the 40th anniversary of the end of the United States’ involvement in the Vietnam War. The bill provides that the intent behind the act is to provide legislative direction and to ensure the appropriate commemoration of this anniversary and proper demonstration of appreciation for the honorable service and tremendous sacrifice of Vietnam Era veterans.

The bill authorizes the Governor to issue a proclamation in honor of the anniversary. The bill provides that the day is to be observed for the purpose of providing opportunities throughout the state to demonstrate and express appreciation for the honorable service and sacrifice of veterans from the Vietnam Era. It also provides that the date shall be observed by public exercises in the State Capitol and elsewhere as the Governor designates.

Additionally, the bill allows the Florida Veterans’ Foundation¹⁶ to collaborate with Florida’s veterans’ organizations to administratively promote and support the efforts of counties, municipalities, and bona fide veterans’ organizations that voluntarily hold special community events to commemorate the anniversary. These events may include, but are not limited to, parades or ceremonies held on or about March 30, 2013.

B. SECTION DIRECTORY:

Section 1 Creates s. 683.025, F.S., to designate March 30, 2013, as the date for the State of Florida to commemorate the 40th anniversary of the end of the United States’ involvement in the Vietnam War.

¹⁰ National Defense Authorization Act for Fiscal Year 2008, Pub. L. no. 110-181, 598, 122 Stat. 141 (2008).

¹¹ http://www.vietnamwar50th.com/assets/1/7/Commemoration_Fact_Sheet_Sept_2010_v2.pdf.

¹² S. RES 55, 112th CONGRESS, 1st Session.

¹³ See chapter 683, F.S.

¹⁴ Section 110.117, F.S., establishes which legal holidays are paid holidays for public employees.

¹⁵ See chapter 683, F.S.

¹⁶ The Florida Veterans’ Foundation is a 501(c)(3) organization that serves as the Florida Department of Veteran Affairs’ Direct Support Organization. It is authorized in s. 292.055, F.S.

Section 2 Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to commemoration of the 40th
 3 anniversary of the end of the United States'
 4 involvement in the Vietnam War; creating s. 683.025,
 5 F.S.; designating March 30, 2013, as the date for the
 6 observance of the 40th anniversary of the end of the
 7 United States' involvement in the Vietnam War;
 8 specifying purpose of the observance; allowing the
 9 Florida Veterans' Foundation to collaborate with
 10 Florida's veterans' organizations and their local
 11 posts and chapters to administratively promote and
 12 support the efforts of counties, municipalities, and
 13 veterans' organizations that voluntarily hold special
 14 community events commemorating the 40th anniversary of
 15 the end of the United States' involvement in the
 16 Vietnam War; providing an effective date.

17
 18 WHEREAS, March 30, 2013, marks the 40th anniversary of the
 19 end of United States' involvement in the Vietnam War, and

20 WHEREAS, it is the intent of this act to provide
 21 legislative direction and support for recognition of the
 22 importance of this event and to ensure the appropriate
 23 commemoration of this anniversary and proper demonstration of
 24 appreciation for the honorable service and tremendous sacrifice
 25 of veterans who served in the United States Armed Services
 26 during the Vietnam Era, NOW, THEREFORE,

27
 28 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 683.025, Florida Statutes, is created to read:

683.025 Commemoration of 40th anniversary of end of United States' involvement in Vietnam War.-

(1) In recognition of the historical significance of the 40th anniversary of the end of United States' involvement in the Vietnam War, March 30, 2013, shall be observed as the 40th anniversary of the end of United States' involvement in the Vietnam War.

(2) The Governor may issue a proclamation in honor of the 40th anniversary of the end of United States' involvement in the Vietnam War. The day shall be suitably observed for the purpose of providing opportunities throughout the state to demonstrate and express appreciation for the honorable service and sacrifice of veterans who served in the United States Armed Forces during the Vietnam Era and shall otherwise be suitably observed by such public exercises in the State Capitol and elsewhere as the Governor may designate.

(3) The Florida Veterans' Foundation created under s. 292.055 may collaborate with Florida's veterans' organizations and their local posts and chapters to administratively promote and support the efforts of counties, municipalities, and bona fide veterans' organizations that voluntarily hold special community events commemorating the 40th anniversary of the end of the United States' involvement in the Vietnam War on March 30, 2013, as provided in s. 683.025. Such events may include,

PCS for HB 1373

ORIGINAL

2012

56 | but are not limited to, parades or ceremonies held on or about
57 | that date.

58 | Section 2. This act shall take effect July 1, 2012.



ECONOMIC AFFAIRS COMMITTEE

Amendment Packet

**Thursday, February 16, 2012
11:30 A.M.
Reed Hall (102 HOB)**

**Dean Cannon
Speaker**

**Dorothy L. Hukill
Chair**

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1001 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Eisnaugle offered the following:

3
4 **Amendment**

5 Remove lines 188-194 and insert:

6 (e) Make or submit any charge to a consumer timeshare reseller's
7 credit card account; make or cause to be made any electronic
8 transfer of consumer timeshare reseller funds; or collect any
9 payment from a consumer timeshare reseller that exceeds an
10 aggregate total amount of \$75 or more in any 12-month period
11 until after the resale advertiser has received a written
12 contract complying in all respects with paragraph (f) that has
13 been signed by the consumer timeshare reseller.

14 (g)make or submit any charge to a consumer timeshare
15 reseller's credit card account; make or cause any electronic
16 transfer of consumer timeshare reseller funds; or collect any
17 payment from a consumer timeshare reseller in an aggregate
18 amount totaling less than \$75 in any 12-month period unless: (1)
19 the consumer timeshare reseller has been provided a copy of the

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 1001 (2012)

Amendment No. 1

20 terms and conditions of the contract provided for in paragraph
21 (f), and (2) the consumer timeshare reseller has agreed to the
22 terms and conditions provided for them whether through
23 electronic delivery or by mail.
24

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 1065 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Broxson offered the following:

3
4 **Amendment**

5 Remove line 263 and insert:
6 pursuant to subsection (7) regardless of whether the insurer
7

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7039 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Drake offered the following:

3
4 **Amendment**

5 Between lines 284 and 285, insert:

6 Section 32. Purple Heart Memorial Highway Designated;
7 Department of Transportation to erect suitable markers.-

8 (1) That portion of State Road 20/John Sims Parkway (57-
9 040-000) between State Road 85 and the Walton County Line in
10 Okaloosa County is designated as "Purple Heart Memorial
11 Highway."

12 (2) The Department of Transportation is directed to erect
13 suitable markers designating "Purple Heart Memorial Highway" as
14 described in subsection (1).

15 Section 33. BRIGADA 2506 STREET, Carlos Rodriguez Santana
16 designated; Department of Transportation to erect suitable
17 markers.-

18 (1) That portion of U.S. 41/State Road 90/S.W. 8th
19 Street/Tamiami Trail between S.W. 10th Avenue and State Road

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7039 (2012)

Amendment No. 1

20 933/S.W. 12th Avenue in Miami-Dade County is designated as
21 "BRIGADA 2506 STREET, Carlos Rodriguez Santana."

22 (2) The Department of Transportation is directed to erect
23 suitable markers designating BRIGADA 2506 STREET, Carlos
24 Rodriguez Santana as described in subsection (1).

25 Section 34. Brett Fulton & Josh Burch Memorial Highway
26 designated; Department of Transportation to erect suitable
27 markers.-

28 (1) That portion of State Road 6 in Hamilton and Columbia
29 Counties is designated as "Brett Fulton & Josh Burch Memorial
30 Highway."

31 (2) The Department of Transportation is directed to erect
32 suitable markers designating Brett Fulton & Josh Burch Memorial
33 Highway as described in subsection (1).

34 Section 35. Deputy John C. Mecklenburg Memorial Highway
35 designated; Department of Transportation to erect suitable
36 markers.-

37 (1) That portion of U.S. Highway 41/State Road 45 between
38 State Road 50 in Hernando County and State Road 52 in Pasco
39 County is designated as "Deputy John C. Mecklenburg Memorial
40 Highway."

41 (2) The Department of Transportation is directed to erect
42 suitable markers designating Deputy John C. Mecklenburg Memorial
43 Highway as described in subsection (1).

44 Section 36. Hugh Anderson Boulevard designated; Department
45 of Transportation to erect suitable markers.-

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7039 (2012)

Amendment No. 1

46 (1) That portion of Biscayne Boulevard from N.E. 88th Street
47 to N.E. 105th Street in Miami Shores Village in Miami-Dade County
48 is designated as "Hugh Anderson Boulevard."

49 (2) The Department of Transportation is directed to erect
50 suitable markers designating Hugh Anderson Boulevard as
51 described in subsection (1).

52 Section 37. P.E. "Gene" Carpenter Memorial Highway
53 designated; Department of Transportation to erect suitable
54 markers.-

55 (1) That portion of State Road 679/Pinellas Bayway South
56 from north of the Pedestrian Crossing to State Road 682/Pinellas
57 Bayway South in Pinellas County is designated as "P.E. "Gene"
58 Carpenter Memorial Highway."

59 (2) The Department of Transportation is directed to erect
60 suitable markers designating the P.E. "Gene" Carpenter Memorial
61 Highway as described in subsection (1).

62 Section 38. Verna Bell Way designated; Department of
63 Transportation to erect suitable markers.-

64 (1) That portion of State Road 200 between Lime Street and
65 Beech Street in the City of Fernandina Beach in Nassau County is
66 designated as "Verna Bell Way."

67 (2) The Department of Transportation is directed to erect
68 suitable markers designating Verna Bell Way as described in
69 subsection (1).

70 Section 39. Deputy Hal P. Croft and Deputy Ronald Jackson
71 Highway designated; Department of Transportation to erect
72 suitable markers.-

Amendment No. 1

73 (1) That portion of State Road 100 East at the Bradford
74 County, Union County line to the Columbia County Line in Union
75 County is designated as "Deputy Hal P. Croft and Deputy Ronald
76 Jackson Highway."

77 (2) The Department of Transportation is directed to erect
78 suitable markers designating Deputy Hal P. Croft and Deputy
79 Ronald Jackson Highway as described in subsection (1).

80 Section 40. Veterans' Parkway designated; Department of
81 Transportation to erect suitable markers.-

82 (1) That portion of State Road 22 between U.S. Highway 98
83 in the City of Springfield in Bay County and State Road 71 in
84 the City of Wewahitchka in Gulf County is designated as
85 "Veterans' Parkway."

86 (2) The Department of Transportation is directed to erect
87 suitable markers designating Veterans' Parkway as described in
88 subsection (1).

89 Section 41. Elvin Martinez Road designated; Department of
90 Transportation to erect suitable markers.-

91 (1) That portion of Tampa Bay Boulevard between Armenia
92 Avenue and Himes Avenue in Hillsborough County is designated as
93 "Elvin Martinez Road."

94 (2) The Department of Transportation is directed to erect
95 suitable markers designating Elvin Martinez Road as described in
96 subsection (1).

97 Section 42. Miami Medical Team Way designated; Department
98 of Transportation to erect suitable markers.-

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Bill No. HB 7039 (2012)

Amendment No. 1

99 (1) That portion of State Road 972/S.W. 22nd Street
100 between S.W. 24th Avenue and State Road 9/S.W. 27th Avenue in
101 Miami-Dade County is designated as "Miami Medical Team Way."

102 (2) The Department of Transportation is directed to erect
103 suitable markers designating Miami Medical Team Way as described
104 in subsection (1).

105 Section 43. Benjamin Leon, Jr., Way designated; Department
106 of Transportation to erect suitable markers.-

107 (1) That portion of State Road 9/27th Avenue between U.S.
108 1/State Road 5/South Dixie Highway and U.S. 441/State Road 7 in
109 Miami-Dade County is designated as "Benjamin Leon, Jr., Way."

110 (2) The Department of Transportation is directed to erect
111 suitable markers designating Benjamin Leon, Jr., Way as
112 described in subsection (1).

113 Section 44. Reverend Max Salvador Avenue designated;
114 Department of Transportation to erect suitable markers.-

115 (1) That portion of State Road 9/S.W. 27th Avenue between
116 U.S. 41/State Road 90/S.W. 8th Street/Tamiami Trail and S.W.
117 13th Street in Miami-Dade County is designated as "Reverend Max
118 Salvador Avenue."

119 (2) The Department of Transportation is directed to erect
120 suitable markers designating Reverend Max Salvador Avenue as
121 described in subsection (1).

122 Section 45. Aleida Leal Way designated; Department of
123 Transportation to erect suitable markers.-

124 (1) That portion of State Road 968/West Flagler Street
125 between S.W. 39th Avenue and N.W. 37th Avenue in Miami-Dade
126 County is designated as "Aleida Leal Way."

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Amendment No. 1

127 (2) The Department of Transportation is directed to erect
128 suitable markers designating Aleida Leal Way as described in
129 subsection (1).

130 Section 46. Mrs. Ann Carlton Bridge designated; Department
131 of Transportation to erect suitable markers.-

132 (1) Bridge No. 870002 on US 1/SR 5/Biscayne Blvd. between
133 N.E. 77th Street and N.E. 78th Street crossing Little River
134 Canal in Miami-Dade County is designated as "Mrs. Ann Carlton
135 Bridge"

136 (2) The Department of Transportation is directed to erect
137 suitable markers designating Mrs. Ann Carlton Bridge as
138 described in subsection (1).

139 Section 47. Amadeo Lopez Castro, Jr., Road designated;
140 Department of Transportation to erect suitable markers.-

141 (1) That portion of S.W. 57th Avenue/Red Road between S.W.
142 78th Street and S.W. 88th Street/Kendall Drive in Miami-Dade
143 County is designated as "Amadeo Lopez Castro, Jr., Road"

144 (2) The Department of Transportation is directed to erect
145 suitable markers designating Amadeo Lopez Castro, Jr., Road as
146 described in subsection (1).

147 Section 48. Pastor Marvin Gochenour Way designated;
148 Department of Transportation to erect suitable markers.-

149 (1) That portion of Miller Road/S.W. 56th Street between
150 S.W. 120th Avenue and S.W. 117th Avenue in Miami-Dade County is
151 designated as "Pastor Marvin Gochenour Way"

152 (2) The Department of Transportation is directed to erect
153 suitable markers designating Pastor Marvin Gochenour Way as
154 described in subsection (1).

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Bill No. HB 7039 (2012)

Amendment No. 1

155 Section 49. Rev. Jorge Comesanas Way designated;

156 Department of Transportation to erect suitable markers.-

157 (1) That portion of S.W. 87th Avenue between S.W. 8th
158 Street and S.W. 24th Street in Miami-Dade County is designated
159 as "Rev. Jorge Comesanas Way."

160 (2) The Department of Transportation is directed to erect
161 suitable markers designating Rev. Jorge Comesanas Way as
162 described in subsection (1)

163

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 7065 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Drake offered the following:

3
4 **Amendment**

5 Remove lines 23-24 and insert:
6 purpose of paying, prepaying, or collecting tolls and associated
7 administrative charges due for the use of toll facilities using
8 a credit card,
9

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7119 (2012)

Amendment No. 1

20 children at risk of future school failure, enhance the
21 educational readiness of eligible children, and support family
22 education. Each school readiness program shall provide the
23 elements necessary to prepare at-risk children for school,
24 including health screening and referral and an appropriate
25 educational program.

26 (b) It is the intent of the Legislature that school
27 readiness programs be operated on a full-day, year-round basis
28 to the maximum extent possible to enable parents to work and
29 become financially self-sufficient.

30 (c) It is the intent of the Legislature that school
31 readiness programs not exist as isolated programs, but build
32 upon existing services and work in cooperation with other
33 programs for young children, and that school readiness programs
34 be coordinated to achieve full effectiveness.

35 (d) It is the intent of the Legislature that the
36 administrative staff for school readiness programs be kept to
37 the minimum necessary to administer the duties of the Office of
38 Early Learning and early learning coalitions. The Office of
39 Early Learning shall adopt system support services at the state
40 level to build a comprehensive early learning system. Each early
41 learning coalition shall implement and maintain direct
42 enhancement services at the local level, as approved in its
43 school readiness plan by the Office of Early Learning, and
44 ensure access to such services in all 67 counties.

45 (e) It is the intent of the Legislature that the school
46 readiness program coordinate and operate in conjunction with the
47 district school systems. However, it is also the intent of the

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48 Legislature that the school readiness program not be construed
49 as part of the system of free public schools but rather as a
50 separate program for children under the age of kindergarten
51 eligibility, funded separately from the system of free public
52 schools, utilizing a mandatory sliding fee scale, and providing
53 an integrated and seamless system of school readiness services
54 for the state's birth-to-kindergarten population.

55 (f) It is the intent of the Legislature that school
56 readiness services be an integrated and seamless program of
57 services with a developmentally appropriate education component
58 for the state's eligible birth-to-kindergarten population
59 described in subsection (6) and not be construed as part of the
60 seamless K-20 education system.

61 (3) This section does not:

62 (a) Relieve parents and guardians of their own obligations
63 to prepare their children for school; or

64 (b) Create any obligation to provide publicly funded
65 school readiness programs or services beyond those authorized by
66 the Legislature.

67 431.03 Definitions.—As used in this chapter, the term:

68 (1) "Adjusted payment rate percentage" means a specified
69 percentage provided in the General Appropriations Act that is
70 applied to the prevailing market rate for each type of school
71 readiness provider and level of care.

72 (2) "At-risk child" means:

73 (a) A child who is from a family that is under
74 investigation by the Department of Children and Family Services

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7119 (2012)

Amendment No. 1

75 or a designated sheriff's office for child abuse, neglect,
76 abandonment, or exploitation.

77 (b) A child who is in a diversion program provided by the
78 Department of Children and Family Services or its contracted
79 provider and is from a family that is actively participating and
80 complying in department-prescribed activities, including
81 education, health services, or work.

82 (c) A child who is from a family that is under supervision
83 by the Department of Children and Family Services or a
84 contracted service provider for abuse, neglect, abandonment, or
85 exploitation.

86 (d) A child who is placed in court-ordered, long-term
87 custody or under the guardianship of a relative or nonrelative
88 after termination of supervision by the Department of Children
89 and Family Services or its contracted provider.

90 (3) "Authorized hours of care" means the hours of care
91 that are necessary to provide protection or complete work
92 activities or eligible educational activities, including
93 reasonable travel time.

94 (4) "Coalition" means an early learning coalition
95 established under s. 431.07.

96 (5) "Earned income" means gross remuneration derived from
97 work, professional service, or self-employment. The term
98 includes commissions, bonuses, back pay awards, and the cash
99 value of all remuneration paid in a medium other than cash.

100 (6) "Economically disadvantaged" means having a family
101 income that does not exceed 150 percent of the federal poverty
102 level.

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103 (7) "Family income" means the combined gross income,
104 whether earned or unearned, that is derived from any source by
105 all family or household members who are 18 years of age or older
106 and currently reside together in the same dwelling unit. The
107 term does not include income earned by a currently enrolled high
108 school student who, since attaining the age of 18 years, has not
109 terminated school enrollment or received a high school diploma,
110 high school equivalency diploma, special diploma, or certificate
111 of high school completion. The term also does not include food
112 stamp benefits or federal housing assistance payments issued
113 directly to a landlord or the associated utilities expenses.

114 (8) "Family or household members" means spouses, former
115 spouses, persons related by blood or marriage, persons who are
116 parents of a child in common regardless of whether they have
117 been married, and other persons who are currently residing
118 together in the same dwelling unit as if a family.

119 (9) "Fraud" means an intentional deception or
120 misrepresentation made by a person with knowledge that the
121 deception or misrepresentation may result in unauthorized
122 benefit to that person or another person. The term includes any
123 act that constitutes fraud under applicable federal or state
124 law.

125 (10) "Full-time care" means at least 6 hours, but not more
126 than 11 hours, of child care or early childhood education
127 services within a 24-hour period.

128 (11) "Gold Seal premium percentage" means a specified
129 percentage provided in the General Appropriations Act that, for
130 a school readiness provider that has the Gold Seal Quality Care

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Amendment No. 1

131 designation under s. 402.281, is applied to the provider's
132 adjusted payment rate.

133 (12) "Informal child care provider" means, to the extent
134 authorized in the state's Child Care and Development Fund Plan
135 as approved by the United States Department of Health and Human
136 Services pursuant to 45 C.F.R. s. 98.18, an in-home child care
137 provider as defined in 45 C.F.R. s. 98.2 or a relative, such as
138 a grandparent, great grandparent, aunt, uncle, or sibling who
139 provides care for the child.

140 (13) "In loco parentis" means acting as a child's
141 temporary guardian.

142 (14) "Market rate" means the price that a child care or
143 early childhood education provider charges for full-time or
144 part-time daily, weekly, or monthly child care or early
145 childhood education services.

146 (15) "Office" means the Office of Early Learning of the
147 Department of Education established under s. 20.15(3)(h).

148 (16) "Parent" means a parent by blood, marriage, or
149 adoption; a legal guardian; or another person standing in loco
150 parentis.

151 (17) "Part-time care" means less than 6 hours of child
152 care or early childhood education services within a 24-hour
153 period.

154 (18) "Payment certificate" means a child care certificate
155 as defined in 45 C.F.R. s. 98.2.

156 (19) "Prevailing market rate" means the biennially
157 determined statewide median of the market rate for child care
158 and early childhood education services.

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159 (20) "Single point of entry" means an integrated
160 information system that allows a parent to enroll his or her
161 child in the school readiness program at various locations
162 throughout a county, that may allow a parent to enroll his or
163 her child by telephone or through an Internet website, and that
164 uses a unified waiting list to track eligible children waiting
165 for enrollment in the school readiness program.

166 (21) "Unearned income" means income other than earned
167 income. The term includes, but is not limited to:

168 (a) Documented alimony and child support received.

169 (b) Social security benefits.

170 (c) Supplemental security income benefits.

171 (d) Workers' compensation benefits.

172 (e) Unemployment compensation benefits.

173 (f) Veterans' benefits.

174 (g) Retirement benefits.

175 (h) Temporary cash assistance under chapter 414.

176 (i) Military housing assistance under the federal Family
177 Subsistence Supplemental Allowance Program.

178 (22) "Working family" means:

179 (a) A single-parent family in which the parent with whom
180 the child resides is employed or engaged in eligible education
181 activities for at least 20 hours per week;

182 (b) A two-parent family in which both parents with whom
183 the child resides are each employed or engaged in eligible
184 education activities for at least 20 hours per week; or

185 (c) A family in which the parents, as prescribed by rules
186 adopted by the office, are exempt from work requirements due to

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187 age or disability as determined and documented by a physician
188 licensed under chapter 458 or chapter 459.

189 431.05 Office of Early Learning; powers and duties.—

190 (1) The Governor shall designate the Office of Early
191 Learning as the lead agency for administration of the federal
192 Child Care and Development Fund, 45 C.F.R. parts 98 and 99, and
193 the office shall comply with the lead agency responsibilities
194 under federal law.

195 (2) The office shall:

196 (a) Administer the school readiness program at the state
197 level and coordinate with the early learning coalitions to
198 ensure the availability of school readiness services to support
199 the efforts of parents to work and be financially self-
200 sufficient and to enhance the quality of child care programs in
201 the state.

202 (b) Provide the school readiness services authorized in
203 this chapter in a manner that ensures the preservation of
204 parental choice by permitting parents to choose from a variety
205 of child care categories, including: center-based care; group
206 home child care; family child care; and in-home child care. Care
207 and curriculum by a sectarian provider may not be limited or
208 excluded in any of these categories.

209 (c) Be responsible for the prudent use of all public and
210 private funds in accordance with all legal and contractual
211 requirements, safeguarding the effective use of federal, state,
212 and local resources to achieve the highest practicable level of
213 school readiness for the children described in s. 431.13.

COMMITTEE/SUBCOMMITTEE AMENDMENT

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214 (d) Maintain a single statewide information system that
215 each coalition must use for the purposes of managing the single
216 point of entry, tracking children's progress, coordinating
217 services among stakeholders, determining eligibility, tracking
218 child attendance, and streamlining administrative processes for
219 providers and coalitions.

220 (e) Ensure statewide access to school readiness services
221 throughout each county.

222 (f) Ensure that each coalition serves the minimum number
223 of children required in s. 431.07(1)(b) and that the maximum
224 number of coalitions is not exceeded.

225 (g) Approve school readiness plans annually.

226 (h) Monitor and evaluate the performance of each coalition
227 in administering the school readiness program, ensuring proper
228 payments for school readiness services, and implementing the
229 coalition's school readiness plan. These monitoring and
230 performance evaluations must include, at a minimum, onsite
231 monitoring of each coalition's finances, management, operations,
232 and programs.

233 (i) Monitor each coalition to ensure that additional
234 regulations or requirements are not placed upon school readiness
235 providers that exceed the authority provided under this chapter
236 or rules adopted pursuant to this chapter.

237 (j) Provide technical assistance to early learning
238 coalitions consistent with the purposes of this chapter to avoid
239 duplication of services.

240 (k) Ensure that all expenditures are properly allocated by
241 expenditure type, clearly accounting for indirect and direct

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242 expenditures, and ensuring that funds used to support staff and
243 salaries, contracts, and vendors are accounted for separate and
244 apart from other expenditures within each expenditure type.

245 (1) Coordinate with the Child Care Services Program Office
246 of the Department of Children and Family Services with respect
247 to health and safety monitoring, background screenings, and the
248 collection and maintenance of data pertaining to child care
249 training and credentialing.

250 (m) Coordinate with the Department of Economic Opportunity
251 to perform data matches on families participating in the school
252 readiness program and receiving unemployment compensation.

253 (3) The office has authority to administer this chapter,
254 including the power to receive and accept grants, loans, or
255 advances of funds from any public or private agency and to
256 receive and accept from any source contributions of money,
257 property, labor, or any other thing of value, to be held, used,
258 and applied for purposes of this chapter.

259 (4) The office must exercise due diligence in securing
260 full payment of all accounts receivable and other claims due to
261 the state and comply with procedures for collections under s.
262 17.20.

263 (5) The office shall prepare and submit a unified budget
264 request for the school readiness system in accordance with
265 chapter 216.

266 (6) The office shall adopt rules prescribing child
267 development standards for the physical health, approaches to
268 learning, social and emotional development, language and
269 communication, cognitive development, and general knowledge and

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Bill No. HB 7119 (2012)

Amendment No. 1

270 motor development of children served in the school readiness
271 program. The child development standards must align with
272 performance standards adopted by the Department of Education for
273 the Voluntary Prekindergarten Education Program pursuant to s.
274 1002.67.

275 (7) The office shall implement a statewide preassessment
276 and postassessment aligned with the child development standards
277 adopted pursuant to subsection (6). The assessment shall be
278 implemented and used by school readiness providers to inform
279 classroom instruction. The assessment may not be used for
280 evaluating providers or for high-stakes accountability. The
281 office shall collect the results of the preassessments and
282 postassessments statewide to evaluate the effectiveness of the
283 school readiness program. At a minimum, a preassessment shall be
284 administered to each school readiness child that participates in
285 the program within the first 60 days after enrollment. By May 30
286 of each year, a postassessment shall be administered to each
287 school readiness child who participates in a provider's program
288 for at least the previous 6 months.

289 (8) The office shall adopt by rule a statewide standard
290 monitoring tool that will be used by coalitions to determine
291 provider compliance with meeting the requirements of s. 431.15.

292 (9) The office shall adopt a list of approved curricula
293 that meet the prescribed child developmental standards for the
294 school readiness program. In addition, the office shall adopt a
295 review process to determine if a provider's curriculum meets the
296 standards and is approved.

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297 (10) By January 1 of each year, the office shall submit an
298 annual report of its activities conducted under this chapter to
299 the Governor, the President of the Senate, and the Speaker of
300 the House of Representatives. The report must include a summary
301 of the coalitions' annual reports, a statewide summary, and the
302 following:

303 (a) An analysis of school readiness activities throughout
304 the state.

305 (b) The total and average number of children served in the
306 school readiness program, enumerated by age, eligibility
307 priority category, and coalition.

308 (c) A summary of expenditures by coalition, including a
309 breakdown by coalition of the percentage of expenditures for
310 administrative activities, quality activities, nondirect
311 services, and direct services for children.

312 (d) A description of the office's and each coalition's
313 expenditures for the quality activities described in s.
314 431.19(4)(b).

315 (e) A summary of annual findings and collections related
316 to provider fraud and parent fraud.

317 (f) Coalition scorecard performance data to measure the
318 success of the coalitions in implementing the early learning
319 programs.

320 (g) The total number of children disenrolled statewide and
321 the reason for disenrollment.

322 (h) The total number of provider contracts revoked and the
323 reasons for revocation.

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324 (i) The statewide results obtained through preassessments
325 and postassessments.

326 431.07 Early learning coalitions; coalition boards.-

327 (1)(a) A coalition is established upon the approval of the
328 coalition's school readiness plan by the Office of Early
329 Learning pursuant to s. 431.09.

330 (b) No more than 31 coalitions may be established, and
331 each coalition must serve at least 1,700 children, which shall
332 be calculated according to the average number of children served
333 per month in the school readiness program during the previous 12
334 months. Each coalition's service area shall comprise one or more
335 counties. If a coalition would serve fewer children than the
336 minimum number established in this paragraph, the coalition must
337 merge with another county to form a multicounty coalition.

338 (c) The office shall adopt rules prescribing procedures
339 for merging coalitions, including procedures for the
340 consolidation of merging coalitions, and for the early
341 termination of the terms of coalition board members, which are
342 necessary to accomplish the mergers.

343 (2) Each coalition shall be governed by a coalition board
344 composed of at least 15 members but not more than 30 members:

345 (a) The Governor shall appoint the chair and at least two
346 additional members who must each be private sector business
347 members and meet the qualifications in paragraph (d).

348 (b) The coalition board shall include the following public
349 sector members:

350 1. The Department of Children and Family Services circuit
351 administrator or his or her designee who is authorized by the

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352 Secretary of Children and Family Services to make decisions on
353 behalf of the department or, if applicable, the head of a local
354 licensing agency approved under ss. 402.306 and 402.307 or his
355 or her designee. If the coalition's service area includes
356 multiple circuits or counties and in the event of a local
357 conflict, the Governor shall make the appointment from one of
358 the circuits or counties.

359 2. A district superintendent of schools or his or her
360 designee who is authorized by the district school board to make
361 decisions on behalf of the district. If the coalition's service
362 area includes multiple school districts and in the event of a
363 local conflict, the Governor shall, from term to term, rotate
364 the appointment among each of the districts.

365 3. A regional workforce board executive director or his or
366 her designee. If the coalition's service area includes multiple
367 regional workforce board service delivery areas and in the event
368 of a local conflict, the Governor shall make the appointment
369 from one of the regional workforce boards.

370 4. A county health department director or his or her
371 designee. If the coalition's service area includes multiple
372 counties and in the event of a local conflict, the Governor
373 shall make the appointment from one of the counties.

374 5. If the coalition's service area includes a Florida
375 College System institution, the college president or his or her
376 designee. If the coalition's service area includes multiple
377 Florida College System institutions and in the event of a local
378 conflict, the Governor shall make the appointment from one of
379 the institutions.

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380 6. One member appointed by a board of county
381 commissioners. If the coalition's service area includes multiple
382 counties and in the event of a local conflict, the Governor
383 shall determine which county shall make the appointment.

384 7. If the coalition's service area includes a
385 municipality, one member appointed by the governing board of the
386 municipality. If the coalition's service area includes multiple
387 municipalities and in the event of a local conflict, the
388 Governor shall determine which municipality shall make the
389 appointment.

390 8. If the coalition's service area includes a federal Head
391 Start program, the Head Start director. If the coalition's
392 service area includes multiple Head Start programs and in the
393 event of a local conflict, the Governor shall make the
394 appointment from one of the programs.

395 9. A representative of programs for children with
396 disabilities under the federal Individuals with Disabilities
397 Education Act.

398 10. A children's services council or juvenile welfare
399 board chair or executive director, if applicable.

400 (c) The following members shall be selected by providers:

401 1. A representative of private for-profit child care
402 providers, including private for-profit family day care homes,
403 who shall be selected by majority vote of such providers located
404 in the coalition's service area.

405 2. A representative of faith-based child care providers
406 who shall be selected by majority vote of such providers located
407 in the coalition's service area.

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408 (d) At least one-third of the members of each coalition
409 board must be private sector business members who do not have,
410 and none of whose relatives as defined in s. 112.3143 has, a
411 substantial financial interest in the design or delivery of the
412 Voluntary Prekindergarten Education Program created under part V
413 of chapter 1002 or the school readiness program. The coalition
414 board shall appoint additional members to the early learning
415 coalition in order to meet the requirements of this paragraph.
416 Private sector board members serve at the pleasure of the
417 Governor.

418 (e) A coalition serving more than one county must include
419 representation from each county.

420 (3)(a) A majority of the voting membership of a coalition
421 board constitutes a quorum required to conduct the business of
422 the coalition. A coalition board may use any method of
423 telecommunications to conduct meetings, including establishing a
424 quorum through telecommunications, provided that the public is
425 given proper notice of a telecommunications meeting and
426 reasonable access to observe and, when appropriate, participate.

427 (b) Except as otherwise provided in subsection (2), a
428 member of a coalition board may not appoint a designee to act in
429 his or her place. A member may send a representative to
430 coalition board meetings, but that representative does not have
431 voting privileges. When a member appoints a designee under
432 subsection (2), the designee serves at the pleasure of the
433 designating official. Unless the designee is removed by the
434 designating official, the designee is the voting member of the
435 coalition board, and any individual attending in the designee's

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436 place, including the designating official, does not have voting
437 privileges.

438 (c) Each member of a coalition board is subject to ss.
439 112.313, 112.3135, and 112.3143. For purposes of s.
440 112.3143(3)(a), each member is a local public officer who must
441 abstain from voting when a voting conflict exists.

442 (d) For purposes of tort liability, each coalition board
443 member and employee is governed by s. 768.28.

444 (4) Each coalition board shall establish terms for all
445 appointed members of the board. The terms of members must be
446 staggered and must be a uniform length that does not exceed 4
447 years per term. Members appointed under paragraph (2)(a),
448 subparagraphs (2)(b)6.-9., or paragraphs (2)(c) or (d) may serve
449 a maximum of 8 consecutive years, not including any unexpired
450 term for which the member was originally appointed. When a
451 vacancy occurs in an appointed position, the coalition must
452 advertise the vacancy, and notify the appointing authority.

453 (5) Each coalition board member who is not otherwise
454 required to file financial disclosure pursuant to s. 8, Art. II
455 of the State Constitution or s. 112.3144 shall file a disclosure
456 of financial interest pursuant to s. 112.3145. A coalition's
457 executive director or other person designated as being
458 responsible for the coalition's operational and administrative
459 functions who is not otherwise required to file financial
460 disclosure pursuant to s. 8, Art. II of the State Constitution
461 or s. 112.3144 shall file disclosure of financial interests
462 pursuant to s. 112.3145.

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463 (6) The Governor may, for cause, remove any coalition
464 board member or executive director. As used in this subsection,
465 the term "cause" includes engaging in fraud or other criminal
466 acts, incapacity, unfitness, neglect of duty, and official
467 incompetence and irresponsibility justifying removal in the
468 public interest.

469 (7) State, federal, and local maintenance-of-effort and
470 matching funds provided to the early learning coalitions may not
471 be used directly or indirectly to pay for meals, food, or
472 beverages for coalition board members or employees. Preapproved,
473 reasonable, and necessary per diem allowances and travel
474 expenses may be reimbursed. Such reimbursement shall be at the
475 standard travel reimbursement rates established in s. 112.061
476 and must comply with all applicable federal and state
477 requirements.

478 (8) The office may contract with a qualified entity to
479 administer the school readiness program or Voluntary
480 Prekindergarten Education Program in the coalition's service
481 area under the programmatic and fiscal requirements established
482 by law or rule for coalitions if:

483 (a) The coalition serves fewer children than the minimum
484 number required in paragraph (1)(b) and does not merge on its
485 own;

486 (b) The office determines through monitoring and
487 performance evaluations that a coalition has not administered
488 its school readiness plan or the Voluntary Prekindergarten
489 Education Program in accordance with law or rule; or

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490 (c) The office determines through monitoring and
491 performance that a coalition has not met the legal requirements
492 of federal or state law to implement the school readiness
493 program or the Voluntary Prekindergarten Education Program.

494 (9) The office may determine whether any adverse findings
495 shall result in terminating a contract with a coalition.

496 (10) The office may shift school readiness funds from a
497 designated coalition to another qualified entity if, for any
498 reason, the contract with the coalition is terminated under
499 subsection (8).

500 431.09 School readiness plans; scorecard.-

501 (1) The Office of Early Learning shall adopt rules
502 prescribing the standardized format and required content of
503 school readiness plans as necessary for a coalition or other
504 qualified entity to administer the school readiness program as
505 provided in this section and s. 431.11.

506 (2) Each coalition must annually submit a school readiness
507 plan to the office before the expenditure of funds. A coalition
508 may not implement its school readiness plan until it receives
509 approval from the office. A coalition may not implement any
510 revision to its school readiness plan until the coalition
511 submits the revised plan to and receives approval from the
512 office. If the office rejects a plan or revision, the coalition
513 must continue to operate under its previously approved plan. The
514 plan must include:

515 (a) The coalition's business organization, which must
516 include the coalition's articles of incorporation and bylaws if
517 the coalition is organized as a corporation. If the coalition is

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518 not organized as a corporation or other business entity, the
519 plan must include the contract with a fiscal agent.

520 (b) A detailed budget that outlines estimated expenditures
521 for state, federal, and local maintenance-of-effort and matching
522 funds at the lowest level of detail available by other-cost-
523 accumulator code number; all estimated sources of revenue with
524 identifiable descriptions; a listing of full-time equivalent
525 positions; contracted subcontractor costs with related annual
526 gross salary amount or hourly rate of compensation; and a
527 capital improvements plan outlining existing fixed capital
528 outlay projects and proposed capital outlay projects that will
529 begin during the budget year.

530 (c) A detailed accounting, in the format prescribed by the
531 office, of all revenues and expenditures during the previous
532 state fiscal year. Revenue sources should be identifiable and
533 expenditures should be reported by three categories: state and
534 federal funds, local maintenance-of-effort and matching funds,
535 and Child Care Executive Partnership Program funds.

536 (d) A description of the quality activities as described
537 in s. 431.19(4)(b) and related expenditures used to meet the
538 minimum requirements in 45 C.F.R. s. 98.51 for expenditures to
539 improve the quality of child care. Quality activities shall be
540 described and include a summary of the activity, estimated
541 costs, and a timeline indicating when each activity will occur
542 and be completed.

543 (e) Updated policies and procedures, including those
544 governing procurement, maintenance of tangible personal

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545 property, maintenance of records, information technology

546 security and expenses, and disbursement controls.

547 (f) Documentation that the coalition has solicited and
548 considered comments regarding the proposed school readiness plan
549 from the local community.

550 (3) The coalition may periodically amend its plan as
551 necessary. An amended plan must be submitted to the office
552 before any expenditures for quality activities are incurred on
553 new direct activities.

554 (4) The office shall publish a copy of the standardized
555 format and required content of school readiness plans on its
556 Internet website and provide a copy of the format and content to
557 each early learning coalition.

558 (5) The office shall establish a scorecard to measure
559 coalition performance. In considering potential measures for the
560 scorecard, the office shall consider measures related to
561 provider satisfaction, parent satisfaction, payment processes,
562 fraud intervention, child attendance and stability, use of child
563 care resource and referral to support families, and school
564 readiness outcomes for children in the Voluntary Prekindergarten
565 Education Program upon entry into kindergarten. The office shall
566 request input from the coalitions, the Department of Education,
567 and school readiness providers before finalizing the scorecard
568 format and measures to be used. The scorecard shall be
569 implemented beginning July 1, 2013, and results of the scorecard
570 must be included in the office's annual report under s.
571 431.05(8).

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572 431.11 Early learning coalitions; powers and duties.—Each
573 early learning coalition shall:

574 (1) Administer the school readiness program at the county
575 or regional level in accordance with this chapter.

576 (2) Establish a unified waiting list to track eligible
577 children waiting for enrollment in the school readiness program.

578 (3) Establish a resource and referral network operating
579 under s. 431.25 to assist parents in making an informed choice
580 and to provide maximum parental choice of providers.

581 (4) Establish a regional Warm-Line under s. 431.29 as
582 directed by the office.

583 (5) Determine child eligibility pursuant to s. 431.13 and
584 provider eligibility pursuant to s. 431.15. Child eligibility
585 must be redetermined annually. A coalition must document the
586 reason why a child is no longer eligible for the school
587 readiness program according to the termination codes prescribed
588 by the office.

589 (6) Determine provider eligibility annually pursuant to s.
590 431.15.

591 (7) Ensure proper maintenance of records related to
592 eligibility and enrollment files, provider payments, coalition
593 staff background screenings, and other documents required for
594 the implementation of the school readiness program.

595 (8) Establish a records-retention requirement for sign-in
596 and sign-out sheets that is consistent with state and federal
597 law.

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598 (9) Follow the requirements established by the Chief
599 Financial Officer for the recording of real property and for the
600 periodic review of property for inventory purposes.

601 (10) Comply with federal procurement requirements and the
602 expenditure requirements of federal and state law and state
603 rules.

604 (11) Ensure that proper information technology security
605 controls are in place, including, but not limited to,
606 periodically reviewing the appropriateness of access privileges
607 assigned to users of certain systems; monitoring system hardware
608 performance and capacity-related issues; and ensuring
609 appropriate backup procedures and disaster recovery plans are in
610 place.

611 (12) Develop written policies, procedures, and standards
612 for monitoring vendor contracts, including, but not limited to,
613 provisions specifying the particular procedures that may be used
614 to evaluate contractor performance and the documentation that is
615 to be maintained to serve as a record of contractor performance.
616 This subsection does not apply to contracts with school
617 readiness providers.

618 (13) Monitor school readiness providers on an annual
619 basis, or in response to a parental complaint, to ensure that
620 the standards prescribed in ss. 431.15 and 431.17 are met using
621 a standard monitoring tool adopted by the Office of Early
622 Learning. Providers determined to be high risk by the
623 coalition, as demonstrated by substantial findings of violations
624 of federal law or the general or local laws of the state, shall
625 be monitored more frequently.

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626 (14) Monitor the provider's records, including child
627 eligibility and child attendance, to reduce the risk of fraud
628 and overpayment and to recover state, federal, and local funds.

629 (15) By October 1 of each year, submit an annual report to
630 the office. The report must include:

631 (a) Segregation of school readiness funds, Voluntary
632 Prekindergarten Education Program funds, and Child Care
633 Executive Partnership Program funds.

634 (b) Details of expenditures, including total expenditures
635 for administrative activities, quality activities, nondirect
636 services, and direct services for children.

637 (c) The total number of coalition staff and the related
638 expenditures for salaries and benefits.

639 (d) The number of children served in the school readiness
640 program, enumerated by age and eligibility priority category,
641 which shall be calculated using the number of children served
642 during the first week of every month, the average full-time
643 equivalent child participation throughout the month, and the
644 number of children served during the last week of the month.

645 (e) The total number of children disenrolled during the
646 year and the reasons for disenrollment.

647 (f) A listing of any school readiness providers, by type,
648 whose eligibility to deliver the school readiness program is
649 revoked, including a brief description of the state or federal
650 violation that resulted in the revocation.

651 431.13 School readiness program; eligibility and
652 enrollment.-

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653 (1) Effective July 1, 2012, or upon reevaluation of
654 eligibility for children currently served, whichever is later,
655 each coalition shall give priority for participation in the
656 school readiness program as follows:

657 (a) Priority shall be given first to a child younger than
658 13 years of age from a working family that includes an adult
659 receiving temporary cash assistance under chapter 414.

660 (b) Priority shall be given next to an at-risk child
661 younger than 9 years of age.

662 (c) Priority shall be given next to a child from birth to
663 the beginning of the school year for which the child is eligible
664 for admission to kindergarten in a public school under s.
665 1003.21(1)(a)2. from a working family that is economically
666 disadvantaged. However, the child ceases to be eligible if his
667 or her family income exceeds 200 percent of the federal poverty
668 level.

669 (d) Priority shall be given next to an at-risk child who
670 is at least 9 years of age, but younger than 13 years of age. An
671 at-risk child whose sibling is enrolled in the school readiness
672 program within an eligibility priority category listed in
673 paragraphs (a)-(c) shall be given priority over other children
674 who are eligible under this paragraph.

675 (e) Priority shall be given next to a child who is younger
676 than the age of 13 and who is a sibling of a child enrolled in
677 the school readiness program under paragraph (c).

678 (f) Priority shall be given next to a child who has
679 special needs, who is 3 through 5 years of age, who has been
680 determined eligible as a student with disabilities, and who has

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681 a current individual education plan with a Florida school
682 district.

683 (g) Notwithstanding paragraphs (a)-(d), priority shall be
684 given last to a child who otherwise meets one of the eligibility
685 criteria in paragraphs (a)-(d) but who is also enrolled
686 concurrently in the federal Head Start Program and the Voluntary
687 Prekindergarten Education Program.

688 (2) (a) Each parent enrolling a child in the school
689 readiness program must complete and submit an application to the
690 coalition through the single point of entry established under s.
691 431.05(2) (d).

692 (b) Each coalition shall coordinate with each school
693 district within the coalition's service area in the development
694 of procedures for enrolling children in the school readiness
695 program who are served by public schools.

696 (c) A coalition shall enroll all eligible children,
697 including those from its waiting list, according to the
698 eligibility priorities provided in subsection (1).

699 (3) A school readiness provider may be paid only for the
700 authorized hours of care provided for a child in the school
701 readiness program. A child enrolled in the Voluntary
702 Prekindergarten Education Program may receive part-time care
703 from the school readiness program if the child is eligible
704 according to the eligibility priorities provided in subsection
705 (1).

706 (4) The parent of a child enrolled in the school readiness
707 program must notify the coalition or its designee within 10 days
708 after any change in employment, income, or family size. Upon

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709 notification by the parent, the child's eligibility must be
710 reevaluated.

711 (5) A child from a working family ceases to be eligible
712 for the school readiness program if a parent with whom the child
713 resides does not reestablish employment within 30 days after
714 becoming unemployed.

715 (6) Eligibility for each child must be reevaluated
716 annually. Upon reevaluation, a child may not continue to receive
717 school readiness services if he or she has ceased to be eligible
718 under this section.

719 (7) If a coalition disenrolls children from the school
720 readiness program, the coalition must disenroll the children in
721 reverse order of the eligibility priorities listed in subsection
722 (1), beginning with children from families with the highest
723 family incomes. A notice of disenrollment must be sent to
724 parents and school readiness providers at least 2 weeks before
725 disenrollment to ensure adequate time for parents to arrange
726 alternative care for their children. However, an at-risk child
727 shall not be disenrolled from the program without written
728 approval from the Family Safety Program Office of the Department
729 of Children and Family Services or the community-based lead
730 agency.

731 (8) (a) If a child is absent for 5 consecutive days without
732 contact from a parent, the school readiness provider shall
733 report the absences to the coalition for a determination of the
734 need for continued care.

735 (b) Notwithstanding s. 39.604, a school readiness
736 provider, regardless of whether the provider is licensed, shall

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737 comply with the reporting requirements of the Rilya Wilson Act
738 for each at-risk child enrolled in the school readiness program,
739 regardless of the child's age or eligibility for protective
740 services.

741 431.15 School readiness provider standards; eligibility to
742 deliver school readiness program.-

743 (1) To be eligible to deliver the school readiness
744 program, a school readiness provider must:

745 (a) Be a child care facility licensed under s. 402.305,
746 family day care home licensed or registered under s. 402.313,
747 large family child care home licensed under s. 402.3131, public
748 school or nonpublic school exempt from licensure under s.
749 402.3025, faith-based child care provider exempt from licensure
750 under s. 402.316, before-school or after-school program
751 described in s. 402.305(1)(c), or an informal child care
752 provider, to the extent authorized in the state's Child Care and
753 Development Fund Plan as approved by the United States
754 Department of Health and Human Services pursuant to 45 C.F.R. s.
755 98.18.

756 (b) Enhance the age-appropriate progress of each child in
757 attaining the child development standards adopted by the office
758 under s. 431.05(6).

759 (c) Ensure the basic health and safety of its premises and
760 facilities and compliance with requirements for age-appropriate
761 immunizations of children enrolled in the school readiness
762 program. For a child care facility, large family child care
763 home, or licensed family day care home, compliance with s.
764 402.305, s. 402.3131, or s. 402.313 satisfies this requirement.

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765 For a public or nonpublic school, compliance with s. 402.3025 or
766 s. 1003.22 satisfies this requirement. A faith-based child care
767 provider exempt from licensure under s. 402.316 must meet or
768 exceed the requirements of s. 402.305, except for square
769 footage, as determined by an onsite inspection by an early
770 learning coalition. An informal child care provider, a
771 registered family day care home, or a before-school or after-
772 school program, must meet or exceed the requirements of s.
773 402.313.

774 (d) Implement a curriculum approved by the Office of Early
775 Learning that meets the child development standards.

776 (e) Provide child development screenings as determined
777 needed by the provider or as requested by the parent for any
778 child in the school readiness program. Screenings may be
779 performed on any school readiness child upon parental consent.

780 (f) Ensure the minimum standards associated with child
781 discipline under s. 402.3105(12) are met.

782 (g) Ensure before-school or after-school programs meet or
783 exceed the requirements of s. 402.305(5), (6), and (7).

784 (h) Execute the statewide provider agreement prescribed
785 under s. 431.17, except that:

786 1. An individual who owns or operates multiple providers
787 within a coalition's service area may execute a single agreement
788 on behalf of each provider.

789 2. A school district may execute a single agreement with
790 the coalition on behalf of all district schools delivering the
791 school readiness program.

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792 (2) If a school readiness provider fails or refuses to
793 comply with this chapter or any contractual obligation of the
794 statewide provider agreement under s. 431.17, the coalition or
795 the office may revoke the provider's eligibility to deliver the
796 school readiness program or receive state or federal funds under
797 this chapter.

798 (3) The office and the coalitions may not:

799 (a) Impose any requirement on a child care or early
800 childhood education provider that does not deliver services
801 under the school readiness program or receive state or federal
802 funds under this chapter; or

803 (b) Impose any requirement on a school readiness provider
804 that exceeds the authority provided under this chapter or rules
805 adopted pursuant to this chapter.

806 431.17 Statewide provider agreement.-

807 (1) (a) The Office of Early Learning shall adopt rules
808 prescribing the statewide provider agreement for the school
809 readiness program.

810 (b) A coalition must use the statewide provider agreement
811 to annually contract with each school readiness provider that
812 delivers the school readiness program within the coalition's
813 service area.

814 (c) The rules must prescribe the standardized uniform
815 format for the statewide provider agreement. A coalition may not
816 omit, supplement, or amend any provision of the statewide
817 provider agreement. In addition, a coalition may not insert or
818 append attachments, addenda, or exhibits to the statewide
819 provider agreement.

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- 820 (2) The statewide provider agreement must include:
821 (a) Child eligibility and enrollment procedures and
822 requirements under s. 431.13.
823 (b) Funding, payment, and expenditures for the school
824 readiness program under s. 431.19.
825 (c) Child development standards for the school readiness
826 program under s. 431.05(6).
827 (d) School readiness provider standards under s. 431.15.
828 (e) Requirements for the maintenance of records and data
829 and the confidentiality of such information.
830 (f) Requirements for notifications between the early
831 learning coalition, the school readiness provider, and the
832 parent, which may include, but are not limited to:
833 1. Changes to information submitted in the provider's
834 registration form.
835 2. A parent's withdrawal of his or her child from the
836 school readiness program or a provider's dismissal of a child.
837 3. Temporary closure of a school readiness provider's
838 facility and subsequent reopening of the facility.
839 (g) Procedures for the reporting and certification of
840 child attendance.
841 (h) Specific grounds for termination of the agreement for
842 failure to comply with federal or state law.
843 (i) Specific grounds for monitoring by the coalition of
844 providers determined to be high risk.
845 (j) Dispute resolution procedures, including a method for
846 a provider to seek guidance from the office on a dispute.

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847 (k) Provisions under which the school readiness provider
848 indemnifies the coalition from liability arising under the
849 agreement.

850 (3) (a) A coalition may not execute the statewide provider
851 agreement with a school readiness provider before the coalition
852 determines that the provider is eligible to deliver the school
853 readiness program under s. 431.15.

854 (b) A coalition shall make a copy of each fully executed
855 and dated agreement available to the office. The coalition shall
856 provide a copy of the executed agreement to the school readiness
857 provider or school district that executed the agreement. The
858 coalition shall also maintain the executed agreement in the
859 coalition's records.

860 (c) A school readiness provider may not deliver the school
861 readiness program until the statewide provider agreement is
862 fully executed.

863 (4) The office shall publish a copy of the statewide
864 provider agreement on its Internet website and provide a copy of
865 the agreement to each coalition.

866 431.19 School readiness program; funding.-

867 (1) Funding for the school readiness program shall be
868 allocated among the coalitions in accordance with this section
869 as provided in the General Appropriations Act.

870 (2) (a) The Office of Early Learning shall administer
871 school readiness funds and shall prepare and submit a unified
872 budget request for the school readiness system in accordance
873 with chapter 216.

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874 (b) All instructions to coalitions for administering this
875 chapter shall emanate from the office as provided by law.

876 (3) All state, federal, and required local maintenance-of-
877 effort and matching funds provided to a coalition for purposes
878 of this section shall be used for implementation of its approved
879 school readiness plan, including the hiring of staff to
880 effectively operate the coalition's school readiness program.

881 (4) Costs shall be kept to the minimum necessary for the
882 efficient and effective administration of the school readiness
883 program but, of the funds described in subsection (3) no more
884 than 18 percent may be used on administrative, quality and
885 nondirect activities, of which the total administrative
886 expenditures must not exceed 4 percent, as follows:

887 (a) Administrative activities as described in 45 C.F.R. s.
888 98.52.

889 (b) Activities to improve the quality of child care as
890 described in 45 C.F.R. s. 98.51, which shall be limited to the
891 following:

892 1. Developing, establishing, expanding, operating, and
893 coordinating resource and referral programs specifically related
894 to the provision of comprehensive consumer education to parents
895 and the public regarding participation in the school readiness
896 program.

897 2. Awarding grants to school readiness providers to assist
898 them in implementing developmentally appropriate curricula and
899 related classroom resources that support the curricula, literacy
900 supports, and professional development.

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901 3. Providing training and technical assistance to school
902 readiness providers, staff, and parents on child development
903 standards, child screenings, child assessments, developmentally
904 appropriate curricula, character development, teacher-child
905 interactions, age-appropriate discipline practices, health and
906 safety, nutrition, first aid, the recognition of communicable
907 diseases, and child abuse detection and prevention.

908 4. Providing from among the funds provided for the
909 activities described in subparagraphs 1.-3., adequate funding of
910 direct services for infants and toddlers as necessary to meet
911 federal requirements related to expenditures for quality
912 activities for infant and toddler care.

913 5. Assisting the provider to implement a preassessment and
914 postassessment approved by the office.

915 6. Responding to Warm-Line requests by providers related
916 to school readiness children, including providing developmental
917 and health screenings to school readiness children as requested
918 under s. 431.29.

919 (c) Nondirect service activities pursuant to Federal
920 Register, Volume 63 No. 142 pages 39962-39963 and applicable
921 Office of Management and Budget instructions required to
922 administer the school readiness program. As used in this
923 paragraph, the term "nondirect services" does not include
924 payments to school readiness providers for direct services
925 provided to eligible children pursuant to s. 431.15,
926 administrative activities described in paragraph (a), or quality
927 activities described in paragraph (b).
928

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929 The Office of Early Learning shall ensure that each coalition
930 meets the minimum quality expenditures required for the state to
931 continue receiving full federal funding.

932 (5) (a) A sliding fee scale percentage shall be provided in
933 the General Appropriations Act, which shall be the same for all
934 school readiness providers. A parent's copayment for the school
935 readiness program shall be determined by multiplying the sliding
936 fee scale percentage by the family income and adjusting for
937 family size.

938 (b) Each coalition shall implement the sliding fee scale
939 as provided in the General Appropriations Act. A coalition may,
940 on a case-by-case basis, waive the copayment for an at-risk
941 child or temporarily waive the copayment for a child whose
942 family experiences a natural disaster or emergency situation
943 such as a household fire or burglary.

944 (6) (a) An adjusted payment rate percentage shall be
945 provided in the General Appropriations Act, which shall be used
946 to determine annual payment rates for school readiness
947 providers. The annual payment rates for each type of school
948 readiness provider and level of care shall be calculated by:

949 1. Multiplying the prevailing market rate for the
950 respective type of school readiness provider and level of care
951 by the adjusted payment rate percentage;

952 2. Adjusting the product of subparagraph 1. by the
953 district cost differential as provided in s. 1011.62(2) for the
954 county in which the school readiness provider is located; and

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955 3. If the school readiness provider has the Gold Seal
956 Quality Care designation under s. 402.281, multiplying the
957 product of subparagraph 2. by the Gold Seal premium percentage.

958 (b) A school readiness provider's total payment for a
959 child shall be equal to the payment rate calculated under
960 paragraph (a) less the amount of the parent's copayment as
961 determined under subsection (5). However, payments made to the
962 school readiness provider may not exceed the provider's charges
963 to the general public for the same services.

964 (7) The office may increase the adjusted payment rate
965 percentage for a specific geographic area to ensure that care
966 levels are available throughout the state. Any increase in an
967 adjusted payment rate percentage must be funded through the
968 current year's appropriation and within each early learning
969 coalition's allocation for the affected geographic area.

970 (8) State funds appropriated for the school readiness
971 program may not be used for the construction of new facilities
972 or the purchase of buses.

973 (9) (a) The school readiness program, in accordance with 45
974 C.F.R. s. 98.30, shall provide parental choice through a payment
975 certificate that ensures, to the maximum extent possible,
976 flexibility in the school readiness program and payment
977 arrangements. The payment certificate must bear the names of the
978 beneficiary and the school readiness provider and, when
979 redeemed, must bear the signatures of both the beneficiary and
980 the provider's authorized representative.

981 (b) If it is determined that a school readiness provider
982 has given any cash to the beneficiary in return for receiving a

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983 payment certificate, the coalition or its fiscal agent shall
984 refer the matter to the Department of Financial Services
985 pursuant to s. 414.411 for investigation.

986 431.23 Fraudulent submission of false enrollment or
987 attendance information.-

988 (1) To recover state, federal, and local maintenance-of-
989 effort and matching funds, the inspector general of the Office
990 of Early Learning shall investigate coalitions, recipients, and
991 providers of the school readiness program and the Voluntary
992 Prekindergarten Education Program to determine possible fraud or
993 overpayment. If by its own inquiries, or as a result of a
994 complaint, the office has reason to believe that a person has
995 engaged in, or is engaging in a fraudulent act, it shall
996 investigate and determine whether any overpayment has occurred
997 due to the fraudulent act. During the investigation, the office
998 may examine all records, including electronic benefits transfer
999 records, and make inquiry of all persons who may have knowledge
1000 as to any irregularity incidental to the disbursement of public
1001 moneys or other items or benefit authorizations to recipients.

1002 (2) If the inspector general determines that an
1003 overpayment has occurred due to a fraudulent act, the parent or
1004 provider is responsible for repayment and restitution of any
1005 costs associated with the fraud, and the office shall pursue
1006 collection through any legal means. A provider or parent may not
1007 participate in the program until the repayment is made in full.
1008 Any provider that shares an officer or director with a provider
1009 that is ineligible to participate under this section is not
1010 permitted to participate until repayment is made in full.

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1011 (3) Based on the results of the investigation, the
1012 inspector general may, in his or her discretion, refer the
1013 investigation to the Department of Law Enforcement for criminal
1014 prosecution, seek civil enforcement, or refer the matter to the
1015 applicable coalition. Any suspected criminal violation
1016 identified by the inspector general must be referred to the
1017 Department of Legal Affairs for investigation.

1018 (4) If a school readiness provider, after investigation
1019 and adjudication by a court of competent jurisdiction, is
1020 convicted of fraudulently misrepresenting enrollment or
1021 attendance related to the school readiness program or the
1022 Voluntary Prekindergarten Education Program, the coalition shall
1023 permanently refrain from contracting with, or using the services
1024 of, that provider. In addition, the coalition shall permanently
1025 refrain from contracting with, or using the services of, any
1026 provider that shares an officer or director with a provider that
1027 is convicted of fraudulently misrepresenting enrollment or
1028 attendance related to the school readiness program or the
1029 Voluntary Prekindergarten Education Program.

1030 (5) If the investigation is not confidential or otherwise
1031 exempt from disclosure by law, the results of an investigation
1032 may be reported by the Office of Early Learning to the
1033 appropriate legislative committees, the Department of Education,
1034 the Department of Children and Family Services, and to such
1035 other persons as the office deems appropriate.

1036 (6) A person who commits an act of fraud as defined in s.
1037 431.03 is subject to the penalties provided in s. 414.39(5)(a)
1038 and (b).

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1039 431.41 Rulemaking.-In addition to the requirements of s.
1040 120.54, at least 30 days before publication in the Florida
1041 Administrative Weekly of notice of the proposed adoption,
1042 amendment, or repeal of any rule authorized by this chapter, the
1043 office must provide copies of the notice and the proposed rule
1044 to the President of the Senate and the Speaker of the House of
1045 Representatives.

1046 Section 2. Section 411.011, Florida Statutes, is
1047 transferred and renumbered as section 431.21, Florida Statutes,
1048 and subsection (1) and paragraph (g) of subsection (3) of that
1049 section are amended to read:

1050 431.21 ~~411.011~~ Records of children in the school readiness
1051 program programs.-

1052 (1) The individual records of children enrolled in the
1053 school readiness program programs provided under this chapter s-
1054 ~~411.01~~, held by an early learning coalition or the Office of
1055 Early Learning, are confidential and exempt from s. 119.07(1)
1056 and s. 24(a), Art. I of the State Constitution. For purposes of
1057 this section, records include assessment data, health data,
1058 records of teacher observations, and personal identifying
1059 information.

1060 (3) School readiness records may be released to:

1061 (g) Parties to an interagency agreement among early
1062 learning coalitions, local governmental agencies, school
1063 readiness providers of school readiness programs, state
1064 agencies, and the Office of Early Learning for the purpose of
1065 implementing the school readiness program.

1066

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1067 Agencies, organizations, or individuals that receive school
1068 readiness records in order to carry out their official functions
1069 must protect the data in a manner that does not permit the
1070 personal identification of a child enrolled in a school
1071 readiness program and his or her parents by persons other than
1072 those authorized to receive the records.

1073 Section 3. Section 411.0101, Florida Statutes, is
1074 transferred and renumbered as section 431.25, Florida Statutes,
1075 and subsection (1) and paragraph (a) of subsection (3) of that
1076 section are amended to read:

1077 431.25 ~~411.0101~~ Child care and early childhood resource
1078 and referral.—

1079 (1) As a part of the school readiness program ~~programs~~,
1080 the Office of Early Learning shall establish a statewide child
1081 care resource and referral network that is unbiased and provides
1082 referrals to families for child care. Preference shall be given
1083 to using the already established early learning coalitions as
1084 the child care resource and referral agencies. If an early
1085 learning coalition cannot comply with the requirements to offer
1086 the resource information component or does not want to offer
1087 that service, the early learning coalition shall select the
1088 resource and referral agency for its county or multicounty
1089 region based upon a request for proposal pursuant to s. 287.057
1090 ~~s. 411.01(5)(c)1.~~

1091 (3) Child care resource and referral agencies shall
1092 provide the following services:

1093 (a) Identification of existing public and private child
1094 care and early childhood education services, including child

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1095 care services by public and private employers, and the
1096 development of a resource file of those services through the
1097 single statewide information system developed by the Office of
1098 Early Learning under s. 431.05(2)(d) ~~s. 411.01(5)(e)~~ 1.e. These
1099 services may include family day care, public and private child
1100 care programs, the Voluntary Prekindergarten Education Program,
1101 Head Start, the school readiness program, special education
1102 programs for prekindergarten children with disabilities,
1103 services for children with developmental disabilities, full-time
1104 and part-time programs, before-school and after-school programs,
1105 vacation care programs, parent education, the Temporary Cash
1106 Assistance Program, and related family support services. The
1107 resource file shall include, but not be limited to:

- 1108 1. Type of program.
- 1109 2. Hours of service.
- 1110 3. Ages of children served.
- 1111 4. Number of children served.
- 1112 5. Significant program information.
- 1113 6. Fees and eligibility for services.
- 1114 7. Availability of transportation.

1115 Section 4. Section 411.01013, Florida Statutes, is
1116 transferred, renumbered as section 431.27, Florida Statutes, and
1117 amended to read:

1118 431.27 ~~411.01013~~ Prevailing market rate schedule.—

1119 ~~(1) As used in this section, the term:~~

1120 ~~(a) "Market rate" means the price that a child care~~
1121 ~~provider charges for daily, weekly, or monthly child care~~
1122 ~~services.~~

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1123 ~~(b) "Prevailing market rate" means the annually determined~~
1124 ~~75th percentile of a reasonable frequency distribution of the~~
1125 ~~market rate in a predetermined geographic market at which child~~
1126 ~~care providers charge a person for child care services.~~

1127 ~~(1)(2) The Office of Early Learning shall establish~~
1128 ~~procedures for the adoption of a prevailing market rate~~
1129 ~~schedule. The schedule must include, at a minimum, county-by-~~
1130 ~~county rates:~~

1131 ~~(a) At the prevailing market rate, plus the maximum rate,~~
1132 ~~for child care providers that hold a Gold Seal Quality Care~~
1133 ~~designation under s. 402.281.~~

1134 ~~(b) At the prevailing market rate for child care providers~~
1135 ~~that do not hold a Gold Seal Quality Care designation.~~

1136 ~~(3) The prevailing market rate schedule, at a minimum,~~
1137 ~~must:~~

1138 (a) Differentiate rates by type, including, but not
1139 limited to, ~~a child care provider that holds a Gold Seal Quality~~
1140 ~~Care designation under s. 402.281, a child care facility~~
1141 ~~licensed under s. 402.305, a public or nonpublic school exempt~~
1142 ~~from licensure under s. 402.3025, a faith-based child care~~
1143 ~~facility exempt from licensure under s. 402.316 that does not~~
1144 ~~hold a Gold Seal Quality Care designation, a large family child~~
1145 ~~care home licensed under s. 402.3131, or a family day care home~~
1146 ~~licensed or registered under s. 402.313.~~

1147 (b) Differentiate rates by the type of child care services
1148 provided for children with special needs or risk categories,
1149 infants, toddlers, preschool-age children, and school-age
1150 children.

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1151 (c) Differentiate rates between full-time and part-time
1152 child care services.

1153 ~~(d) Consider discounted rates for child care services for~~
1154 ~~multiple children in a single family.~~

1155 (2)~~(4)~~ The prevailing market rate schedule must be based
1156 exclusively on the prices charged for child care services. If a
1157 conflict exists between this subsection and federal
1158 requirements, the federal requirements shall control.

1159 (3)~~(5)~~ Each child care and early childhood education
1160 provider that receives school readiness funds must submit its
1161 market rate by August 1 of each year to the office for inclusion
1162 in the calculation of the prevailing market rate shall be
1163 considered by an early learning coalition in the adoption of a
1164 payment schedule in accordance with s. 411.01(5)(e)2.

1165 (4)~~(6)~~ The office of ~~Early Learning~~ may contract with one
1166 or more qualified entities to administer this section and
1167 provide support and technical assistance for child care
1168 providers.

1169 (5)~~(7)~~ The office of ~~Early Learning~~ may adopt rules
1170 pursuant to ~~ss. 120.536(1) and 120.54~~ for establishing
1171 procedures for the collection of child care providers' market
1172 rate, the calculation of a reasonable frequency distribution of
1173 the market rate, and the publication of a prevailing market rate
1174 schedule.

1175 Section 5. Section 411.01015, Florida Statutes, is
1176 transferred and renumbered as section 431.29, Florida Statutes,
1177 and subsection (3) of that section is amended to read:

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1178 431.29 ~~411.01015~~ Consultation to child care centers and
1179 family day care homes regarding health, developmental,
1180 disability, and special needs issues.-

1181 (3) The office of ~~Early Learning~~ shall annually inform
1182 child care centers and family day care homes of the availability
1183 of this service through the child care resource and referral
1184 network under s. 431.25 ~~s. 411.0101~~.

1185 Section 6. Section 411.0102, Florida Statutes, is
1186 transferred, renumbered as section 431.31, Florida Statutes, and
1187 amended to read:

1188 431.31 ~~411.0102~~ Child Care Executive Partnership Act;
1189 findings and intent; grant; limitation; rules.-

1190 ~~(1) This section may be cited as the "Child Care Executive~~
1191 ~~Partnership Act."~~

1192 (1)~~(2)~~(a) The Legislature finds that when private
1193 employers provide onsite child care or provide other child care
1194 benefits, they benefit by improved recruitment and higher
1195 retention rates for employees, lower absenteeism, and improved
1196 employee morale. The Legislature also finds that there are many
1197 ways in which private employers can provide child care
1198 assistance to employees: information and referral, vouchering,
1199 employer contribution to child care programs, and onsite care.
1200 Private employers can offer child care as part of a menu of
1201 employee benefits. The Legislature recognizes that flexible
1202 compensation programs providing a child care option are
1203 beneficial to the private employer through increased
1204 productivity, to the private employee in knowing that his or her
1205 children are being cared for in a safe and nurturing

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1206 environment, and to the state in more dollars being available
1207 for purchasing power and investment.

1208 (b) It is the intent of the Legislature to promote public-
1209 private ~~public/private~~ partnerships to ensure that the children
1210 of the state be provided safe and enriching child care at any
1211 time, but especially while parents work to remain self-
1212 sufficient. It is the intent of the Legislature that private
1213 employers be encouraged to participate in the future of this
1214 state by providing employee child care benefits. Further, it is
1215 the intent of the Legislature to encourage private employers to
1216 explore innovative ways to assist employees to obtain quality
1217 child care.

1218 (c) The Legislature further recognizes that many parents
1219 need assistance in paying the full costs of quality child care.
1220 The public and private sectors, by working in partnership, can
1221 promote and improve access to quality child care and early
1222 education for children of working families who need it.
1223 Therefore, a more formal mechanism is necessary to stimulate the
1224 establishment of public-private partnerships. It is the intent
1225 of the Legislature to expand the availability of scholarship
1226 options for working families by providing incentives for
1227 employers to contribute to meeting the needs of their employees'
1228 families through matching public dollars available for child
1229 care.

1230 (2) (a) ~~(3)~~ The office ~~There is created a body politic and~~
1231 ~~corporate known as the Child Care Executive Partnership which~~
1232 shall ~~establish and~~ govern the Child Care Executive Partnership
1233 Program. The purpose of the Child Care Executive Partnership

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1234 Program is to utilize state and federal funds as incentives for
1235 matching local funds derived from local governments, employers,
1236 charitable foundations, and other sources so that Florida
1237 communities may create local flexible partnerships with
1238 employers. The Child Care Executive Partnership Program funds
1239 shall be used at the discretion of local communities to meet the
1240 needs of working parents. A child care purchasing pool shall be
1241 developed with the state, federal, and local funds to provide
1242 subsidies to low-income working parents whose family income does
1243 not exceed the allowable income for any federally subsidized
1244 child care program with a dollar-for-dollar match from
1245 employers, local government, and other matching contributions.
1246 The funds used from the child care purchasing pool must be used
1247 to supplement or extend the use of existing public or private
1248 funds.

1249 ~~(4) The Child Care Executive Partnership, staffed by the~~
1250 ~~Office of Early Learning, shall consist of a representative of~~
1251 ~~the Executive Office of the Governor and nine members of the~~
1252 ~~corporate or child care community, appointed by the Governor.~~

1253 ~~(a) Members shall serve for a period of 4 years, except~~
1254 ~~that the representative of the Executive Office of the Governor~~
1255 ~~shall serve at the pleasure of the Governor.~~

1256 ~~(b) The Child Care Executive Partnership shall be chaired~~
1257 ~~by a member chosen by a majority vote and shall meet at least~~
1258 ~~quarterly and at other times upon the call of the chair. The~~
1259 ~~Child Care Executive Partnership may use any method of~~
1260 ~~telecommunications to conduct meetings, including establishing a~~
1261 ~~quorum through telecommunications, only if the public is given~~

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1262 ~~proper notice of a telecommunications meeting and reasonable~~
1263 ~~access to observe and, when appropriate, participate.~~

1264 ~~(c) Members shall serve without compensation, but may be~~
1265 ~~reimbursed for per diem and travel expenses in accordance with~~
1266 ~~s. 112.061.~~

1267 ~~(d) The Child Care Executive Partnership shall have all~~
1268 ~~the powers and authority, not explicitly prohibited by statute,~~
1269 ~~necessary to carry out and effectuate the purposes of this~~
1270 ~~section, as well as the functions, duties, and responsibilities~~
1271 ~~of the partnership, including, but not limited to, the~~
1272 ~~following:~~

1273 ~~1. Assisting in the formulation and coordination of the~~
1274 ~~state's child care policy.~~

1275 ~~2. Adopting an official seal.~~

1276 ~~3. Soliciting, accepting, receiving, investing, and~~
1277 ~~expending funds from public or private sources.~~

1278 ~~4. Contracting with public or private entities as~~
1279 ~~necessary.~~

1280 ~~5. Approving an annual budget.~~

1281 ~~6. Carrying forward any unexpended state appropriations~~
1282 ~~into succeeding fiscal years.~~

1283 ~~7. Providing a report to the Governor, the Speaker of the~~
1284 ~~House of Representatives, and the President of the Senate, on or~~
1285 ~~before December 1 of each year.~~

1286 ~~(5) (a) The Legislature shall annually determine the amount~~
1287 ~~of state or federal low-income child care moneys which shall be~~
1288 ~~used to create Child Care Executive Partnership Program child~~
1289 ~~care purchasing pools in counties chosen by the Child Care~~

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1290 ~~Executive Partnership, provided that at least two of the~~
1291 ~~counties have populations of no more than 300,000. The~~
1292 ~~Legislature shall annually review the effectiveness of the child~~
1293 ~~care purchasing pool program and reevaluate the percentage of~~
1294 ~~additional state or federal funds, if any, which can be used for~~
1295 ~~the program's expansion.~~

1296 (b) To ensure a seamless service delivery and ease of
1297 access for families, an early learning coalition or the office
1298 ~~of Early Learning~~ shall administer the child care purchasing
1299 pool funds.

1300 (c) The office ~~of Early Learning, in conjunction with the~~
1301 ~~Child Care Executive Partnership,~~ shall adopt rules develop
1302 procedures for the disbursement of Child Care Executive
1303 Partnership Program funds ~~through the child care purchasing~~
1304 ~~pools~~. In order to be considered for funding, an early learning
1305 coalition or the office ~~of Early Learning~~ must commit to:

1306 1. Matching the state purchasing pool funds on a dollar-
1307 for-dollar basis; and

1308 2. Expending only those public funds that are matched by
1309 employers, local government, and other matching contributors who
1310 contribute to the purchasing pool. Parents shall also pay a fee,
1311 which may not be less than the amount identified in the ~~early~~
1312 ~~learning coalition's~~ school readiness program sliding fee scale.

1313 ~~(d) Each early learning coalition shall establish a~~
1314 ~~community child care task force for each child care purchasing~~
1315 ~~pool. The task force must be composed of employers, parents,~~
1316 ~~private child care providers, and one representative from the~~
1317 ~~local children's services council, if one exists in the area of~~

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1318 ~~the purchasing pool. The early learning coalition is expected to~~
1319 ~~recruit the task force members from existing child care~~
1320 ~~councils, commissions, or task forces already operating in the~~
1321 ~~area of a purchasing pool. A majority of the task force shall~~
1322 ~~consist of employers.~~

1323 (d) ~~(e)~~ Each participating early learning coalition board
1324 shall develop a plan for the use of child care purchasing pool
1325 funds. The plan must show how many children will be served by
1326 the purchasing pool, how many will be new to receiving child
1327 care services, and how the early learning coalition intends to
1328 attract new employers and their employees to the program.

1329 ~~(6) The Office of Early Learning shall adopt any rules~~
1330 ~~necessary for the implementation and administration of this~~
1331 ~~section.~~

1332 (3) Child Care Executive Partnership Program funds are
1333 subject to the funding requirements of s. 431.19.

1334 (4) The office shall report the activities and detailed
1335 expenditures related to the Child Care Executive Partnership
1336 Program in the annual report required under s. 431.05(8). Each
1337 coalition receiving Child Care Executive Partnership Program
1338 funds shall include a summary of related activities and detailed
1339 expenditures associated with this program in its annual report
1340 required under s. 431.11(15)(b).

1341 Section 7. Section 411.0103, Florida Statutes, is
1342 transferred and renumbered as section 431.33, Florida Statutes.

1343 Section 8. Section 411.0105, Florida Statutes, is
1344 transferred and renumbered as section 431.35, Florida Statutes.

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1345 Section 9. Section 411.0106, Florida Statutes, is
1346 transferred, renumbered as section 431.37, Florida Statutes, and
1347 amended to read:

1348 431.37 ~~411.0106~~ Infants and toddlers in state-funded
1349 education and care programs; brain development activities.—Each
1350 state-funded education and care program for children from birth
1351 to 5 years of age must provide activities to foster brain
1352 development in infants and toddlers. A program must provide an
1353 environment that helps children attain the child development
1354 ~~performance~~ standards adopted by the office of ~~Early Learning~~
1355 under s. 431.05(6) ~~s. 411.01(4)(d)8.~~ and must be rich in
1356 language and music and filled with objects of various colors,
1357 shapes, textures, and sizes to stimulate visual, tactile,
1358 auditory, and linguistic senses in the children and must include
1359 classical music and at least 30 minutes of reading to the
1360 children each day. A program may be offered through an existing
1361 early childhood program such as Healthy Start, the Title I
1362 program, the school readiness program, the Head Start program,
1363 or a private child care program. A program must provide training
1364 for the infants' and toddlers' parents including direct dialogue
1365 and interaction between teachers and parents demonstrating the
1366 urgency of brain development in the first year of a child's
1367 life. Family day care centers are encouraged, but not required,
1368 to comply with this section.

1369 Section 10. Section 1002.77, Florida Statutes, is
1370 transferred, renumbered as section 431.39, Florida Statutes, and
1371 subsections (1) and (3) of that section are amended to read:

1372 431.39 ~~1002.77~~ Florida Early Learning Advisory Council.—

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1373 (1) There is created the Florida Early Learning Advisory
1374 Council within the Office of Early Learning. The purpose of the
1375 advisory council is to share best practices ~~submit~~
1376 ~~recommendations to the department on the early learning policy~~
1377 ~~of this state, including recommendations~~ relating to effective
1378 administration of the Voluntary Prekindergarten Education
1379 Program under part V of chapter 1002 ~~this part~~ and the school
1380 readiness program ~~programs~~ under this chapter ~~s. 411.01~~.

1381 (3) The advisory council shall meet at least annually
1382 ~~quarterly but may meet as often as necessary~~ to carry out its
1383 duties and responsibilities.

1384 Section 11. Paragraph (p) of subsection (3) of section
1385 11.45, Florida Statutes, is amended to read:

1386 11.45 Definitions; duties; authorities; reports; rules.—

1387 (3) AUTHORITY FOR AUDITS AND OTHER ENGAGEMENTS.—The
1388 Auditor General may, pursuant to his or her own authority, or at
1389 the direction of the Legislative Auditing Committee, conduct
1390 audits or other engagements as determined appropriate by the
1391 Auditor General of:

1392 (p) The school readiness system, including the early
1393 learning coalitions, created under chapter 431 ~~s. 411.01~~.

1394 Section 12. Paragraph (h) of subsection (3) of section
1395 20.15, Florida Statutes, is amended to read:

1396 20.15 Department of Education.—There is created a
1397 Department of Education.

1398 (3) DIVISIONS.—The following divisions of the Department
1399 of Education are established:

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1400 (h) The Office of Early Learning, which shall administer
1401 the school readiness system in accordance with chapter 431 s.
1402 ~~411.01~~ and the operational requirements of the Voluntary
1403 Prekindergarten Education Program in accordance with part V of
1404 chapter 1002. The office is a separate budget entity and is not
1405 subject to control, supervision, or direction by the Department
1406 of Education or the State Board of Education in any manner
1407 including, but not limited to, personnel, purchasing,
1408 transactions involving personal property, and budgetary matters.
1409 The office director shall be appointed by the Governor and
1410 confirmed by the Senate, shall serve at the pleasure of the
1411 Governor, and shall be the agency head of the office for all
1412 purposes. The office shall enter into a service agreement with
1413 the department for professional, technological, and
1414 administrative support services. The office shall be subject to
1415 review and oversight by the Chief Inspector General or his or
1416 her designee.

1417 Section 13. Subsection (8) of section 216.136, Florida
1418 Statutes, is amended to read:

1419 216.136 Consensus estimating conferences; duties and
1420 principals.-

1421 (8) EARLY LEARNING PROGRAMS ESTIMATING CONFERENCE.-

1422 (a) The Early Learning Programs Estimating Conference
1423 shall develop estimates and forecasts of the unduplicated count
1424 of children eligible for the school readiness program ~~programs~~
1425 in accordance with the standards of eligibility established in
1426 s. 431.13 s. 411.01(6), and of children eligible for the
1427 Voluntary Prekindergarten Education Program in accordance with

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1428 s. 1002.53(2), as the conference determines are needed to
1429 support the state planning, budgeting, and appropriations
1430 processes.

1431 (b) The Office of Early Learning shall provide information
1432 on needs and waiting lists for the school readiness program
1433 ~~programs~~, and information on the needs for the Voluntary
1434 Prekindergarten Education Program, as requested by the Early
1435 Learning Programs Estimating Conference or individual conference
1436 principals in a timely manner.

1437 Section 14. Subsection (9) of section 402.302, Florida
1438 Statutes, is amended to read:

1439 402.302 Definitions.—As used in this chapter, the term:

1440 (9) "Household children" means children who are related by
1441 blood, marriage, or legal adoption to, or who are the legal
1442 wards of, the family day care home operator, the large family
1443 child care home operator, or an adult household member who
1444 permanently or temporarily resides in the home. Supervision of
1445 the operator's household children shall be left to the
1446 discretion of the operator unless those children receive
1447 subsidized child care through the school readiness program
1448 pursuant to s. 431.23 ~~s. 411.0101~~ to be in the home.

1449 Section 15. Paragraph (a) of subsection (2) of section
1450 490.014, Florida Statutes, is amended to read:

1451 490.014 Exemptions.—

1452 (2) No person shall be required to be licensed or
1453 provisionally licensed under this chapter who:

1454 (a) Is a salaried employee of a government agency; a
1455 developmental disability facility or program; a mental health,

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1456 alcohol, or drug abuse facility operating under chapter 393,
1457 chapter 394, or chapter 397; the statewide child care resource
1458 and referral network operating under s. 431.25 ~~s. 411.0101~~; a
1459 child-placing or child-caring agency licensed pursuant to
1460 chapter 409; a domestic violence center certified pursuant to
1461 chapter 39; an accredited academic institution; or a research
1462 institution, if such employee is performing duties for which he
1463 or she was trained and hired solely within the confines of such
1464 agency, facility, or institution, so long as the employee is not
1465 held out to the public as a psychologist pursuant to s.
1466 490.012(1)(a).

1467 Section 16. Paragraph (a) of subsection (4) of section
1468 491.014, Florida Statutes, is amended to read:

1469 491.014 Exemptions.—

1470 (4) No person shall be required to be licensed,
1471 provisionally licensed, registered, or certified under this
1472 chapter who:

1473 (a) Is a salaried employee of a government agency; a
1474 developmental disability facility or program; a mental health,
1475 alcohol, or drug abuse facility operating under chapter 393,
1476 chapter 394, or chapter 397; the statewide child care resource
1477 and referral network operating under s. 431.25 ~~s. 411.0101~~; a
1478 child-placing or child-caring agency licensed pursuant to
1479 chapter 409; a domestic violence center certified pursuant to
1480 chapter 39; an accredited academic institution; or a research
1481 institution, if such employee is performing duties for which he
1482 or she was trained and hired solely within the confines of such
1483 agency, facility, or institution, so long as the employee is not

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1484 held out to the public as a clinical social worker, mental
1485 health counselor, or marriage and family therapist.

1486 Section 17. Subsection (4) of section 1002.51, Florida
1487 Statutes, is amended to read:

1488 1002.51 Definitions.—As used in this part, the term:

1489 (4) "Early learning coalition" or "coalition" means an
1490 early learning coalition established ~~created~~ under s. 431.07 ~~s.~~
1491 ~~411.01~~.

1492 Section 18. Paragraph (a) of subsection (4) of section
1493 1002.53, Florida Statutes, is amended to read:

1494 1002.53 Voluntary Prekindergarten Education Program;
1495 eligibility and enrollment.—

1496 (4)(a) Each parent enrolling a child in the Voluntary
1497 Prekindergarten Education Program must complete and submit an
1498 application to the early learning coalition through the single
1499 point of entry established under s. 431.05(2)(d) ~~s. 411.01~~.

1500 Section 19. Paragraph (i) of subsection (3) of
1501 section 1002.55, Florida Statutes, is redesignated as
1502 paragraph (j), and a new paragraph (i) is added to that
1503 subsection, to read:

1504 1002.55 School-year prekindergarten program delivered by
1505 private prekindergarten providers.—

1506 (3) To be eligible to deliver the prekindergarten program,
1507 a private prekindergarten provider must meet each of the
1508 following requirements:

1509 (i) The private prekindergarten provider must execute the
1510 statewide provider agreement prescribed under s. 1002.64, except
1511 that an individual who owns or operates multiple private

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1512 prekindergarten providers within a coalition's service area may
1513 execute a single agreement with the coalition on behalf of each
1514 provider.

1515 Section 20. Subsection (3) of section 1002.61, Florida
1516 Statutes, is amended to read:

1517 1002.61 Summer prekindergarten program delivered by public
1518 schools and private prekindergarten providers.—

1519 (3) (a) Each district school board shall determine which
1520 public schools in the school district are eligible to deliver
1521 the summer prekindergarten program. The school district shall
1522 use educational facilities available in the public schools
1523 during the summer term for the summer prekindergarten program.

1524 (b) Each public school delivering the summer
1525 prekindergarten program must execute the statewide provider
1526 agreement prescribed under s. 1002.64, except that the school
1527 district may execute a single agreement with the early learning
1528 coalition on behalf of all district schools.

1529 (c) ~~(b)~~ Except as provided in this section, to be eligible
1530 to deliver the summer prekindergarten program, a private
1531 prekindergarten provider must meet each requirement in s.
1532 1002.55.

1533 Section 21. Subsection (3) of section 1002.63, Florida
1534 Statutes, is amended to read:

1535 1002.63 School-year prekindergarten program delivered by
1536 public schools.—

1537 (3) (a) The district school board of each school district
1538 shall determine which public schools in the district may deliver
1539 the prekindergarten program during the school year.

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1540 (b) Each public school delivering the school-year
1541 prekindergarten program must execute the statewide provider
1542 agreement prescribed under s. 1002.64, except that the school
1543 district may execute a single agreement with the early learning
1544 coalition on behalf of all district schools.

1545 Section 22. Section 1002.64, Florida Statutes, is created
1546 to read:

1547 1002.64 Statewide provider agreement.-

1548 (1) (a) The Office of Early Learning shall adopt rules
1549 prescribing the statewide provider agreement for the Voluntary
1550 Prekindergarten Education Program.

1551 (b) An early learning coalition must use the statewide
1552 provider agreement to annually contract with each private
1553 prekindergarten provider and public school that delivers the
1554 Voluntary Prekindergarten Education Program within the
1555 coalition's service area.

1556 (c) The rules must prescribe a standardized uniform format
1557 for the statewide provider agreement. An early learning
1558 coalition may not omit, supplement, or amend any provision of
1559 the statewide provider agreement. In addition, an early learning
1560 coalition may not insert or append attachments, addenda, or
1561 exhibits to the statewide provider agreement.

1562 (2) The statewide provider agreement must include:

1563 (a) Child eligibility and enrollment procedures and
1564 requirements under s. 1002.53.

1565 (b) Student reenrollment requirements under s. 1002.71.

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1566 (c) Eligibility requirements for private prekindergarten
1567 providers and public schools delivering the program under ss.
1568 1002.55, 1002.61, 1002.63, and 1002.66.

1569 (d) Program performance and accountability requirements
1570 under ss. 1002.67 and 1002.69.

1571 (e) Requirements for the maintenance of records and data
1572 and the confidentiality of such information.

1573 (f) Provisions requiring compliance with the
1574 antidiscrimination requirements of s. 1002.53(6)(c).

1575 (g) Provisions prohibiting a private prekindergarten
1576 provider or public school from requiring payment of any fee or
1577 charge that is inconsistent with s. 1002.71(8)(a).

1578 (h) Provisions prohibiting a private prekindergarten
1579 provider or public school from requiring a child's enrollment in
1580 or payment of any fee or charge for supplemental services in a
1581 manner that is inconsistent with s. 1002.71(8)(b).

1582 (i) Requirements for notifications between the early
1583 learning coalition, the private prekindergarten provider or
1584 public school, and the parent, which may include, but are not
1585 limited to:

1586 1. Changes to information submitted in the private
1587 prekindergarten provider's or public school's registration form
1588 or the prekindergarten class registration.

1589 2. A parent's withdrawal of his or her child from the
1590 program or a private prekindergarten provider's or public
1591 school's dismissal of a child under s. 1002.71.

1592 3. Temporary closure of a private prekindergarten
1593 provider's facility and subsequent reopening of the facility.

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1594 (j) Procedures for the reporting and certification of
1595 student attendance under s. 1002.71.

1596 (k) Specific grounds for termination of the agreement.

1597 (l) Dispute resolution procedures.

1598 (m) Provisions under which the private prekindergarten
1599 provider, public school, or school district indemnifies the
1600 early learning coalition from liability arising under the
1601 agreement.

1602 (3) (a) An early learning coalition may not execute the
1603 statewide provider agreement with a private prekindergarten
1604 provider before the coalition determines that the provider is
1605 eligible to deliver the Voluntary Prekindergarten Education
1606 Program under s. 1002.55 or s. 1002.61.

1607 (b) An early learning coalition shall make a copy of each
1608 fully executed and dated agreement available to the Office of
1609 Early Learning. The coalition shall provide a copy of the
1610 executed agreement to the private prekindergarten provider,
1611 public school, or school district that executed the agreement.
1612 The coalition shall maintain the executed agreement in the
1613 coalition's records.

1614 (c) A private prekindergarten provider or public school
1615 may not deliver the Voluntary Prekindergarten Education Program
1616 until the statewide provider agreement is fully executed.

1617 (4) In addition to the requirements of s. 120.54, at least
1618 30 days before publication in the Florida Administrative Weekly
1619 of notice of the proposed adoption, amendment, or repeal of any
1620 rule prescribing the statewide provider agreement, the Office of
1621 Early Learning must provide copies of the notice and the

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1622 proposed rule to the President of the Senate and the Speaker of
1623 the House of Representatives. The Office of Early Learning shall
1624 also publish a copy of the statewide provider agreement on its
1625 Internet website and provide a copy of the agreement to each
1626 early learning coalition.

1627 Section 23. Paragraph (d) of subsection (3) of section
1628 1002.67, Florida Statutes, is amended to read:

1629 1002.67 Performance standards; curricula and
1630 accountability.—

1631 (3)

1632 (d) Each early learning coalition, the Office of Early
1633 Learning, and the department shall coordinate with the Child
1634 Care Services Program Office of the Department of Children and
1635 Family Services to minimize interagency duplication of
1636 activities for monitoring private prekindergarten providers for
1637 compliance with requirements of the Voluntary Prekindergarten
1638 Education Program under this part, the school readiness program
1639 ~~programs~~ under chapter 431 s. 411.01, and the licensing of
1640 providers under ss. 402.301-402.319.

1641 Section 24. Paragraph (c) of subsection (3) and paragraph
1642 (a) of subsection (5) of section 1002.71, Florida Statutes, is
1643 amended, and subsection (10) is added to that section, to read:

1644 1002.71 Funding; financial and attendance reporting.—

1645 (3)

1646 (c) The initial allocation shall be based on estimated
1647 student enrollment in the Voluntary Prekindergarten Education
1648 Program in each coalition service area. The Office of Early
1649 Learning shall reallocate funds among the coalitions based on

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1650 actual full-time equivalent student enrollment in the Voluntary
1651 Prekindergarten Education Program in each coalition service
1652 area. Each early learning coalition shall submit monthly reports
1653 of student enrollment to the Office of Early Learning in
1654 accordance with subsection (2). A student enrollment report may
1655 not be amended after December 31 of any year, for the prior
1656 fiscal year.

1657 (5) (a) Each early learning coalition shall maintain
1658 through the single point of entry established under s.
1659 431.05(2) (d) s. 411.01 a current database of the students
1660 enrolled in the Voluntary Prekindergarten Education Program for
1661 each county within the coalition's region.

1662 (10) The Auditor General shall conduct audits of early
1663 learning coalitions as provided in s. 11.45.

1664 Section 25. Subsections (1) and (4) of section 1002.75,
1665 Florida Statutes, are amended to read:

1666 1002.75 Office of Early Learning; powers and duties;
1667 operational requirements.—

1668 (1) The Office of Early Learning shall:

1669 (a) Administer the operational requirements of the
1670 Voluntary Prekindergarten Education Program at the state level.

1671 (b) Monitor and evaluate the performance of each early
1672 learning coalition and of the coalition's finances and
1673 operations related to administration of the Voluntary
1674 Prekindergarten Education Program.

1675 (4) The Office of Early Learning shall also adopt
1676 procedures for the office's agency's distribution of funds to
1677 early learning coalitions under s. 1002.71.

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1678 Section 26. Subsection (4) of section 1006.03, Florida
1679 Statutes, is amended to read:

1680 1006.03 Diagnostic and learning resource centers.—

1681 (4) Diagnostic and learning resource centers may assist
1682 districts in providing testing and evaluation services for
1683 infants and preschool children with or at risk of developing
1684 disabilities, and may assist districts in providing
1685 interdisciplinary training and resources to parents of infants
1686 and preschool children with or at risk of developing
1687 disabilities and to the school readiness program programs.

1688 Section 27. Sections 411.01, 411.01014, 411.0104, 445.023,
1689 445.032, and 1002.65, Florida Statutes, are repealed.

1690 Section 28. This act shall take effect July 1, 2012.

1691

1692

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

1693 Remove the entire title and insert:

1694 A bill to be entitled

1695 An act relating to early learning programs; creating
1696 chapter 431, F.S.; providing a short title; defining
1697 terms; providing for designation of the Office of
1698 Early Learning as lead agency for the federal Child
1699 Care and Development Fund; providing the office's
1700 powers and duties for administering the school
1701 readiness program; providing for a preassessment and
1702 postassessment of children enrolled in the school
1703 readiness program; limiting uses of assessment data;
1704 requiring the office to submit an annual report to the
1705

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1706 Governor and Legislature; providing for the
1707 establishment and duties of early learning coalitions;
1708 limiting the number of coalitions and providing the
1709 minimum number of children that each coalition must
1710 serve; providing for the merger of coalitions under
1711 certain circumstances; providing for the membership of
1712 coalition boards; limiting the use of certain funds by
1713 coalitions; requiring coalitions to annually submit
1714 school readiness plans to the Office of Early Learning
1715 in the format prescribed by the office; establishing a
1716 scorecard to measure coalition performance; providing
1717 the coalitions' powers and duties for administering
1718 the school readiness program; requiring the coalitions
1719 to submit annual reports to the Office of Early
1720 Learning; establishing eligibility criteria for the
1721 enrollment of children in the school readiness program
1722 and the priorities by which children are enrolled;
1723 providing procedures and notice requirements for the
1724 disenrollment of children; providing reporting
1725 requirements for children who are absent from the
1726 program; providing standards and eligibility criteria
1727 for school readiness providers; requiring school
1728 readiness providers to execute the statewide provider
1729 agreement prescribed by the Office of Early Learning;
1730 providing for the allocation of school readiness funds
1731 as specified in the General Appropriations Act;
1732 limiting expenditures for administrative activities,
1733 quality activities, and nondirect services; providing

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1734 for the payment of school readiness providers
1735 according to calculations of payment rates and sliding
1736 fee scales as provided in the General Appropriations
1737 Act; authorizing the Office of Early Learning to
1738 request budget amendments for increased payment rates
1739 in certain geographic areas under certain
1740 circumstances; providing for compliance with federal
1741 parental choice requirements through payment of school
1742 readiness providers with payment certificates;
1743 providing for investigations of fraud or overpayment
1744 in the school readiness program; providing for the
1745 repayment of identified overpayments; limiting the
1746 participation of school readiness providers and
1747 parents in the program until repayment is made in
1748 full; providing penalties for certain acts of fraud;
1749 authorizing the Office of Early Learning to adopt
1750 rules; specifying additional rulemaking requirements;
1751 transferring, renumbering, and amending ss. 411.0101
1752 and 411.011, F.S.; conforming cross-references;
1753 transferring, renumbering, and amending s. 411.01013,
1754 F.S.; revising provisions for calculation of the
1755 prevailing market rate schedule; requiring school
1756 readiness providers to annually submit their market
1757 rates by a specified date; transferring, renumbering,
1758 and amending s. 411.01015, F.S.; conforming a cross-
1759 reference; transferring, renumbering, and amending s.
1760 411.0102, F.S.; deleting a short title; deleting
1761 provisions for the membership and duties of the Child

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1762 Care Executive Partnership; requiring the Office of
1763 Early Learning to administer the Child Care Executive
1764 Partnership Program; deleting provisions of community
1765 child care task forces and the disbursement of funds
1766 through local purchasing pools; transferring and
1767 renumbering ss. 411.0103 and 411.0105, F.S.;
1768 transferring, renumbering, and amending s. 411.0106,
1769 F.S.; conforming a cross-reference; transferring,
1770 renumbering, and amending s. 1002.77, F.S.; revising
1771 the purpose of the Florida Early Learning Advisory
1772 Council; revising frequency of council meetings;
1773 conforming cross-references; amending s. 1002.55,
1774 F.S.; requiring the execution of a statewide provider
1775 agreement for private prekindergarten providers;
1776 amending s. 1002.61, F.S.; requiring the execution of
1777 a statewide provider agreement for a public school
1778 delivering the summer prekindergarten program;
1779 amending s. 1002.63, F.S.; requiring the execution of
1780 a statewide provider agreement for a public school
1781 delivering the school-year prekindergarten program;
1782 amending s. 1002.64, F.S.; requiring a statewide
1783 provider agreement for the Voluntary Prekindergarten
1784 Education Program; amending ss. 11.45, 20.15, 216.136,
1785 402.302, 490.014, 491.014, 1002.51, 1002.53, ,
1786 1002.67, 1002.71, 1002.75 and 1006.03, F.S.;

1787 conforming cross-references; conforming terminology;
1788 creating s. 1002.64, F.S.; repealing ss. 411.01,
1789 411.01014, 411.0104, 445.023, 445.032, and 1002.65,

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COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7119 (2012)

Amendment No. 1

1790 F.S., relating to the School Readiness Act, school
1791 readiness transportation services, Early Head Start
1792 collaboration grants, dependent care for families with
1793 children with special needs, transitional child care,
1794 and aspirational goals for VPK instructor credentials;
1795 providing an effective date.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7119 (2012)

Amendment No. 1a

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Economic Affairs Committee
2 Representative Rouson offered the following:

3
4 **Amendment to Amendment (463553) by Representative Ahern**

5 Remove line 331 of the amendment and insert:
6 each coalition must serve at least 2,000 children, which shall
7

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7119 (2012)

Amendment No. 2a

COMMITTEE/SUBCOMMITTEE ACTION

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

Committee/Subcommittee hearing bill: Economic Affairs Committee
Representative Rouson offered the following:

**Amendment to Amendment (463553) by Representative Ahern
(with title amendment)**

Remove line 883 of the amendment and insert:
program. If the Office of Early Learning determines through
monitoring, performance evaluations, or adverse findings that
the office is authorized pursuant to s. 431.07(8) or (9) to
terminate its contract with an early learning coalition or
contract with a qualified entity to administer the school
readiness program or Voluntary Prekindergarten Education Program
in the coalition's service area, as a corrective measure in lieu
of such actions, the office may limit the coalition's use of the
funds described in subsection (3) to require that no more

Amendment No. 2a

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

Remove lines 1732-1733 of the amendment and insert:
authorizing the Office of Early Learning to limit expenditures
for administrative activities, quality activities, and nondirect
services under certain circumstances; providing