



Government Operations Appropriations Subcommittee

**Tuesday, January 24, 2012
8:00 AM-10:30 AM
Morris Hall (17 HOB)**

Meeting Packet

**Dean Cannon
Speaker**

**Ed Hooper
Chair**



The Florida House of Representatives

Appropriations Committee

Government Operations Appropriations Subcommittee

**Dean Cannon
Speaker**

**Ed Hooper
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January 24, 2012

**AGENDA
8:00 AM – 10:30 AM
Morris Hall**

- I. Call to Order/Roll Call**
- II. Consideration of Bills**
 - CS/HB 769 Pubic Accountancy – Rep. Ford**
 - HB 843 State Lottery – Rep. Roberson**
 - PCB GOAS 12-01 One-Stop Business Registration Portal**
 - PCB GOAS 12-02 One-Stop Business Registration Clearing Trust Fund**
 - PCB GOAS 12-03 Department of Financial Services**
 - PCB GOAS 12-05 Department of Management Services**
 - PCB GOAS 12-06 State Data Center System**
 - PCB GOAS 12-07 Department of Business and Professional Regulation**
- III. Chair's Budget Proposal for FY 2012-13**
- IV. Adjourn**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 769 Public Accountancy
SPONSOR(S): Business & Consumer Affairs Subcommittee and Ford
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Consumer Affairs Subcommittee	14 Y, 0 N, As CS	Collins	Creamer
2) Government Operations Appropriations Subcommittee		Topp	Topp BDT
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill amends s. 473.308(4)(a), F.S., to eliminate the requirement that a certified public accountant applicant can only have their work experience verified by the licensed certified public accountant that has supervised that applicant.

The bill amends s. 473.308(7), F.S., to allow licensure by endorsement for applicants who hold a valid out-of-state license, and have completed a licensing exam substantially equivalent to Florida's exam at least ten years before filing their endorsement application.

The bill amends s. 473.313, F.S., to require delinquent licensees to comply with board-imposed continuing education requirements prior to license reactivation. Additionally, for a limited period of time, licensees with inactive or delinquent licenses have the opportunity to receive partial amnesty related to their fulfillment of extensive continuing education courses. Qualified licensees will have to complete 120 hours of continuing education, compared to a possible 280 hours without the amnesty. Further, the bill allows licensees who are delinquent for failure to report continuing education requirements to reactivate their license by application to the department, so long as the application is submitted prior to March 15 of the year following the delinquency.

The bill requires DBPR to contract for a feasibility study to assess the viability of privatizing the Division of Certified Public Accountants, if approved by the Board of Accountancy.

The bill may have a positive revenue impact on the department's Professional Regulation Trust Fund related to a potential increase in the number of licensed accountants based on the revised licensure requirements in the bill. The bill may have a fiscal impact on the department's expenditures related to the feasibility study. However, any fiscal impact will likely be less than \$83,000 and will be handled within current appropriations.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Work Experience Requirement Verification

A certified public accountant (CPA) is regulated under the jurisdiction of the Board of Accountancy within the Department of Business and Professional Regulation (DBPR), Division of Certified Public Accountants. Under s. 473.308, F.S., in order to qualify for licensure, an applicant must have at least 150 semester hours of college education, including a baccalaureate or higher degree conferred by an accredited college or university, with a concentration in accounting and business. Additionally, the applicant must pass the Uniform CPA Exam, or a substantially equivalent national, regional, state or territorial exam. Finally, the applicant must have at least one year of work experience, which includes providing any type of service or advice involving the use of accounting, attest, compilation, management advisory, financial advisory, tax, or consulting skills. The applicant's work experience must be verified by a licensed CPA who has supervised the applicant.

Licensure by Endorsement

Out-of-state applicants who hold a valid license in another state or territory may be licensed by endorsement in Florida. Specifically, the applicant can seek endorsement of an out-of-state license if the criteria for issuance of that license is substantially equivalent to Florida's licensure standards at the time the license was issued. If the out-of-state license was not substantially equivalent to Florida's requirements at the time the license was issued, the applicant may still seek endorsement if he or she has passed the Uniform CPA Exam or a substantially similar exam, and otherwise meets the requirements for education, work experience, and good moral character under s. 473.308, F.S.

Additionally, the applicant for licensure by endorsement must have completed continuing education courses that are equivalent to the continuing education requirements for a Florida CPA during the two years immediately preceding the application, which is 80 hours.

Continuing Education Requirements

Section 473.313(1), F.S., allows a Florida CPA to request that their license be placed on inactive status. In order to reactivate the license, the licensee is required to complete a minimum of 120 hours of continuing education.¹ However, if the license has been inactive for more than one reporting period, the licensee will be required to complete up to 280 hours of continuing education, depending on the duration of the inactive status.

Further, s. 473.312, F.S., requires that licensees complete 80 hours of continuing education every two years; licensees who do not complete the requisite continuing education before the biennial renewal date are converted to a delinquent status. In order to reactivate a delinquent license, a licensee is required to complete a minimum of 120 hours of continuing education, as with the reactivation of an inactive license.² Similarly, if the licensee has been delinquent for more than one reporting period, he or she will be required to complete up to 280 hours of continuing education, depending on the duration of the delinquent status.

¹ Rule 61H1-33.006, F.A.C.

² *Id.*

Privatization Feasibility Study

In order to privatize a DBPR division, s. 455.32(4), F.S., requires that a request be made by the board seeking privatization. The privatization request must contain a business case that includes both a needs assessment and a financial feasibility study, to be performed by either the board itself or by an entity commissioned by the board.

The needs assessment must contain specific performance standards and measurable outcomes, as well as an evaluation of DBPR's current and projected performance in regard to those standards. The feasibility study must include the financial status of the board for the current and next two fiscal years. In addition, a financial model must be developed in order to assess the potential financial viability of the privatized division. Specifically, the financial model must include projected costs and expenses for the first two years of operation, as well as specific performance standards and measurable outcomes.

Section 455.32(4), F.S., gives DBPR the authority to contract with a non-profit corporation to provide services to the board, including such investigative services necessary to complete both a needs assessment and a feasibility study. However neither DBPR nor the board may proceed with the privatization unless specifically authorized by general law.

Effect of Proposed Changes

Work Experience Requirement Verification

The bill amends s. 473.308(4)(a), F.S., to eliminate the requirement that the attesting CPA supervise the applicant. As a result, it is not necessary for the attesting CPA to have actually supervised the applicant's work experience. The applicant still must complete the one year of related work experience.

Licensure by Endorsement

The bill amends s. 473.308(7), F.S., to also allow licensure by endorsement for applicants who hold a valid out-of-state license and have completed a license exam substantially equivalent to Florida's exam at least ten years before filing their endorsement application. The applicant must also meet the requirements for good moral character under s. 473.308(6), F.S., and must complete the equivalent continuing education courses for the two years immediately preceding the application as required by s. 473.308(7)(b)(2), F.S. Applicants obtaining licensure under this provision will not be required to complete substantially equivalent education and work experience requirements.

Continuing Education Requirements

The bill amends s. 473.313(2), F.S., to provide CPA's who hold an inactive or delinquent license on June 30, 2012 an opportunity to reenter the profession by completing 120 hours of continuing education courses, so long as the licensee notifies the Board of Accountancy of their intention by December 31, 2012 and completes the reactivation by June 30, 2014. If the licensee qualifies within the limited amnesty period, he or she will be required to complete 120 hours of continuing education, regardless of how long the license has been inactive or delinquent. In 2009, DBPR reactivated 214 licenses under a similar amnesty provision for inactive licenses.³

Further, the bill allows for reactivation of a delinquent license for failure to report the completed continuing education requirements in s. 473.312, F.S., assuming that the applicant has actually completed his or her continuing education courses. No additional continuing education courses need be completed for reactivation. In this circumstance, the delinquent license will be reactivated upon application to the department, payment of a fee, and certification that the applicant has, in fact, satisfactorily completed the continuing education requirements. To qualify, a licensee who is

³ Department of Business and Professional Regulation 2012 Legislative Analysis Form, December 12, 2011, on file with Government Operations Appropriations Subcommittee.

delinquent due to failure to report continuing education must submit an application to the board for review prior to March 15 of the year immediately following the delinquency.

Privatization Feasibility Study

The bill requires DBPR to contract for a feasibility study, pursuant to s. 455.32(4), F.S., in order to assess the viability of privatizing the Division of Certified Public Accountants. However, the feasibility study should only be conducted if approved by the Board of Accountancy, within the Division of Certified Public Accountants. If approved by the board, the study must be completed by November 30, 2012.

B. SECTION DIRECTORY:

Section 1: amends s. 473.308(4)(a), F.S., to eliminate the requirement that an applicant be supervised by the CPA who is attesting his or her work experience, and amends 473.308(7)(b)(1), F.S., to provide for an additional way to be licensed by endorsement.

Section 2: amends 473.313, F.S., to require delinquent licensees to comply with board-imposed continuing education requirements prior to license reactivation, to provide amnesty for inactive or delinquent licensees in certain situations, and to allow licensees who are delinquent for failure to report continuing education requirements to reactive their license by application to the department in certain situations.

Section 3: requires DBPR to contract for a feasibility study, if approved by the Board of Accountancy.

Section 4: provides for an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have a positive fiscal impact on the department's Professional Regulation Trust Fund related to a potential increase in the number of licensed accountants based on the revised licensure requirements in the bill.

2. Expenditures:

The bill may impact the department's expenditures. However, any expenditure for the feasibility study related to privatizing the Board of Accountancy will be handled within current appropriations. According to the department, a feasibility study if approved by the board, is estimated to cost in the range of \$64,828 to \$82,342.⁴

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

⁴ Department of Business and Professional Regulation 2012 Legislative Analysis Form, December 12, 2011, on file with Government Operations Appropriations Subcommittee.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will likely increase the number of certified public accountants practicing in Florida, as it reduces regulatory burdens in obtaining licensure.

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 will require amendments to existing rules by the Board of Accountancy, which has adequate rulemaking authority and sufficient guidance within the bill to promulgate the needed rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

At the January 11, 2012 meeting of the Business & Consumer Affairs Subcommittee, one amendment was proposed and adopted. The bill was reported favorably as a Committee Substitute.

The amendment clarified that the uncompleted continuing education amnesty provision is available to both inactive licenses and delinquent licenses, and that the completed continuing education amnesty provision is available to delinquent licenses.

The analysis is drafted to the Committee Substitute.

1 A bill to be entitled
 2 An act relating to public accountancy; amending s.
 3 473.308, F.S.; revising and updating education and
 4 work experience requirements for applicants for
 5 licensure as a certified public accountant; revising
 6 provisions governing licensure by endorsement;
 7 amending s. 473.313, F.S.; revising requirements for
 8 reactivation of an inactive license as a certified
 9 public accountant; requiring the Department of
 10 Business and Professional Regulation to contract for a
 11 feasibility study to assess the privatization of the
 12 Division of Certified Public Accounting; providing a
 13 deadline for completion of the study; providing an
 14 effective date.

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

17
 18 Section 1. Paragraph (a) of subsection (4) and paragraph
 19 (b) of subsection (7) of section 473.308, Florida Statutes, are
 20 amended to read:

21 473.308 Licensure.—

22 (4) (a) An applicant for licensure after December 31, 2008,
 23 must show that he or she has had 1 year of work experience. This
 24 experience shall include providing any type of service or advice
 25 involving the use of accounting, attest, compilation, management
 26 advisory, financial advisory, tax, or consulting skills, all of
 27 which must be verified by a certified public accountant who is
 28 licensed by a state or territory of the United States ~~and who~~

29 ~~has supervised the applicant.~~ This experience is acceptable if
 30 it was gained through employment in government, industry,
 31 academia, or public practice; constituted a substantial part of
 32 the applicant's duties; and was verified by ~~under the~~
 33 ~~supervision of~~ a certified public accountant licensed by a state
 34 or territory of the United States. The board shall adopt rules
 35 specifying standards and providing for the review and approval
 36 of the work experience required by this section.

37 (7) The board shall certify as qualified for a license by
 38 endorsement an applicant who:

39 (b)1.a. Holds a valid license to practice public
 40 accounting issued by another state or territory of the United
 41 States, if the criteria for issuance of such license were
 42 substantially equivalent to the licensure criteria that existed
 43 in this state at the time the license was issued; ~~or~~

44 b. Holds a valid license to practice public accounting
 45 issued by another state or territory of the United States but
 46 the criteria for issuance of such license did not meet the
 47 requirements of sub-subparagraph a.; has met the requirements of
 48 this section for education, work experience, and good moral
 49 character; and has passed a national, regional, state, or
 50 territorial licensing examination that is substantially
 51 equivalent to the examination required by s. 473.306; or ~~and~~

52 c. Holds a valid license to practice public accounting
 53 issued by another state or territory of the United States; has
 54 passed a national, regional, state, or territorial licensing
 55 examination that is substantially equivalent to the examination
 56 required by s. 473.306 at least 10 years before the date of

57 | application; and has met the requirements of this section for
 58 | good moral character; and

59 | 2. Has completed continuing education courses that are
 60 | equivalent to the continuing education requirements for a
 61 | Florida certified public accountant licensed in this state
 62 | during the 2 years immediately preceding her or his application
 63 | for licensure by endorsement.

64 | Section 2. Subsections (3) and (4) of section 473.313,
 65 | Florida Statutes, are redesignated as subsections (4) and (5)
 66 | respectively, a new subsection (3) is added to that section, and
 67 | subsection (2) of that section is amended to read:

68 | 473.313 Inactive status.—

69 | (2) A license that has become inactive under subsection
 70 | (1) or for failure to complete the requirements in s. 473.312
 71 | may be reactivated under s. 473.311 upon application to the
 72 | department. The board may prescribe by rule continuing education
 73 | requirements as a condition of reactivating a license. The
 74 | minimum continuing education requirements for reactivating a
 75 | license shall be those prescribed by board rule and those of the
 76 | most recent biennium plus one-half of the requirements in s.
 77 | 473.312. Notwithstanding any other provision of this section,
 78 | the continuing education requirements are 120 hours, including
 79 | at least 30 hours in accounting-related and auditing-related
 80 | subjects, not more than 30 hours in behavioral subjects, and a
 81 | minimum of 8 hours in ethics subjects approved by the board, for
 82 | the reactivation of a license that is inactive or delinquent on
 83 | June 30, 2012 ~~2009~~, if the Florida certified public accountant
 84 | notifies the Board of Accountancy by December 31, 2012 ~~2009~~, of

85 an intention to reactivate such a license and completes such
 86 reactivation by June 30, 2014 ~~2011~~.



87 (3) A license that has become delinquent for failure to
 88 report completion of the requirements in s. 473.312 may be
 89 reactivated under s. 473.311 upon application to the department.
 90 Reactivation requires the payment of an application fee as
 91 determined by the board and certification by the Florida
 92 certified public accountant that the applicant satisfactorily
 93 completed the continuing education requirements set forth under
 94 s. 473.311. If the license is delinquent on December 31 because
 95 of failure to report completed continuing education
 96 requirements, the applicant must submit a complete application
 97 to the board by March 15 immediately after the delinquent period.

98 Section 3. Upon approval of the Board of Accountancy, the
 99 Department of Business and Professional Regulation shall
 100 contract for a feasibility study in accordance with s.
 101 455.32(4), Florida Statutes, to assess the privatization of the
 102 Division of Certified Public Accounting. This study must be
 103 completed no later than November 30, 2012.

104 Section 4. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 843 State Lottery
SPONSOR(S): Roberson
TIED BILLS: IDEN./SIM. **BILLS:** SB 902

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	12 Y, 0 N	Naf	Williamson
2) Government Operations Appropriations Subcommittee		Keith 	Topp 
3) State Affairs Committee			

SUMMARY ANALYSIS

The Department of the Lottery operates as an entrepreneurial business whose mission is to generate revenue to enhance the quality of Florida's educational system, while offering innovative and entertaining Lottery products to the citizens and visitors of the state. Specifically, this bill amends the statutes related to state lotteries and is linked to the proposed House of Representatives' General Appropriations Act for Fiscal Year 2012-13.

The bill amends the statute to allow for the expansion of the types of permissible player-activated machines to also include 350 Full Service Vending Machines (FSVM's) that dispense both online (counter sales) and instant lottery tickets (scratch off). Under current Florida law, the Department of the Lottery only has permission to operate machines from which a player can buy instant lottery ticket games.

The November 3, 2011 Revenue Estimating Impact Conference estimates that revenues (generated by 350 FSVM's) for the Educational Enhancement Trust Fund will be \$8,100,000 in the first (partial) year, FY 2012-2013. The estimate then rises to \$21,000,000 in its first full year, FY 2013-14.

HB 843 conforms to the proposed House of Representatives' General Appropriations Act for FY 2012-13 as the \$8.1 million in funds generated from authorizing the FSVM's have been accounted for and included in the Educational Enhancement Trust Fund.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Department of the Lottery

In 1987, the Legislature enacted chapter 87-65, L.O.F.,¹ to implement a voter-approved constitutional amendment² allowing the State of Florida to operate a lottery. The Department of the Lottery (Lottery) was established for the purpose of operating the state lottery "so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens."³ Specified proceeds from the sale of lottery tickets are transferred to the Educational Enhancement Trust Fund and are used to benefit public education.⁴

Instant Ticket Vending Machines

Current law allows the Lottery to operate instant ticket vending machines (ITVMs) from which a player can buy instant lottery game tickets.⁵ No other player-activated machines are permissible.⁶ An ITVM must:

- Be under the supervision and within the direct line of sight of the lottery retailer to ensure that the machine is only operated by persons at least 18 years of age;
- Be capable of being electronically deactivated by the retailer to prohibit use by persons less than 18 years of age, using a lockout device that maintains the ITVM's deactivation for at least 5 minutes; and
- Be designed to prevent its use or conversion for use in any manner other than the dispensing of instant lottery tickets.⁷

An authorized ITVM dispenses instant lottery game tickets (scratch off) after the insertion of a coin or currency by a player.⁸ It may dispense change to players purchasing tickets but may not be used for paying the holders of any kind of winning tickets. At least one clerk must be on duty at the lottery retailer unless the retailer has violated s. 24.1055, F.S.,⁹ in which case at least two clerks must be on duty.¹⁰

The Lottery must lease all ITVMs.¹¹

According to a report by the Office of Program Policy Analysis and Government Accountability:

The first 1,000 ITVMs, which were installed at the Lottery's highest selling retailers around the state [in 2009], appear to have exceeded initial sales estimates. Scratch-off sales at these retailers increased 20% compared to a statewide decrease of 1% for all other retailers. Assuming the average increase of 20% in scratch-off sales at these retailers was primarily due to vending machine sales, the Lottery achieved nearly \$12 million more in transfers to education. Moreover, the vending machines provide players convenient access

¹ Codified as ch. 24, F.S.

² Section 15, Art. X of the State Constitution.

³ Section 24.104, F.S.

⁴ See s. 24.121(2), F.S.

⁵ See s. 24.105(9)(a)3. and 4., F.S.

⁶ *Id.*

⁷ See s. 24.105(9)(a)4., F.S.

⁸ *Id.*

⁹ Section 24.1055, F.S., prohibits the sale of lottery tickets to minors.

¹⁰ Section 24.105(9)(a)4., F.S.

¹¹ Section 24.111(2)(h), F.S.

to a larger selection of games; transmit sales data in real-time, allowing the Lottery to better track ticket sales; and improve retailer operational efficiency.¹²

Gaming Compact Provisions Related to Lottery Vending Machines

The gaming compact between the State of Florida (state) and the Seminole Tribe of Florida (Tribe) provides the Tribe the exclusive right to conduct specified types of gaming in return for revenue sharing payments by the Tribe to the state.¹³ If the state violates the exclusivity provisions of the compact, the Tribe may be able to reduce or cease payments to the state.¹⁴ The compact limits lottery game distribution, but provides an exception for three types of lottery vending machines (LVMs).¹⁵ However, the compact limits the numbers of LVMs that may be located at any one location to 10 and limits the usage of LVMs to provide that no LVM that dispenses instant tickets may be installed at any licensed pari-mutuel facility.¹⁶

Effect of Proposed Changes

The bill requires the Lottery to adopt rules governing the establishment and operation of full service vending machines (FSVMs). FSVMs are player-operated machines that dispense online lottery tickets (counter sales), instant lottery tickets (scratch off), or both online and instant lottery tickets.¹⁷

The bill relocates and amends the requirements for vending machines and vending machine retailers to include FSVMs. The bill makes drafting changes to the requirements but the content remains substantially the same, with an additional requirement that the vending machine, or any machine or device linked to the vending machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The bill specifies that this new requirement does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines.

As a conforming change, the bill amends the requirement that the Lottery must lease all ITVMs to instead provide that the Lottery must lease all vending machines that dispense online lottery tickets, instant lottery tickets, or both online and instant lottery tickets.

¹² "Lottery Profits Decline; Options Available to Enhance Transfers to Education," Office of Program Policy Analysis and Government Accountability Report No. 11-12 (March 2011) at 4.

¹³ *Gaming Compact Between the Seminole Tribe of Florida and the State of Florida*, approved by the U.S. Department of the Interior effective July 6, 2010, 75 Fed. Reg. 128 (hereinafter Gaming Compact).

¹⁴ See part XII, Gaming Compact, *supra* at n. 8.

¹⁵ The three types of allowable lottery vending machines are:

1. A machine to dispense pre-printed paper instant lottery tickets, but that does not read or reveal the results of the ticket, or allow a player to redeem any ticket. The machine, or any machine or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. This does not preclude the use of casino game themes or titles on such tickets or signage or advertising displays on the machines; or
2. A machine to dispense pre-determined electronic instant lottery tickets that displays an image of the ticket on a video screen on the machine and the player must touch the image of the ticket on the video screen to reveal the outcome of the ticket, provided the machine does not permit a player to redeem winnings, does not make use of video reels or mechanical reels or simulate the play of any casino game, and the lottery retailer is paid the same amount as would be paid for the sale of paper instant lottery tickets; or
3. A machine to dispense a paper lottery ticket with numbers selected by the player or randomly by the machine. The machine does not reveal the winning numbers and the winning numbers are selected at a subsequent time and different location through a drawing by the Florida Lottery. The machine, or any machines or device linked to the machine, may not include or make use of video reels or mechanical reels or other video depictions of slot machine or casino game themes or titles for game play. The machine may not be used to redeem a winning ticket. This does not preclude the use of casino game themes or titles for signage or advertising displays on the machine. (See parts III.F. and XII.B.8., Gaming Compact, *supra* at n. 7)

¹⁶ See part XII.B.8, Gaming Compact, *supra* at n. 8.

¹⁷ Online games are games where the player picks numbers and the drawing occurs at a later time and location and which are connected to a central computer. Instant games are paper scratch-off tickets. (See "Review Options for New Lottery Games and Game Distribution," Florida Senate Issue Brief 2012-220.) The type of full service vending machine created by the bill appears to be a lottery vending machine permitted under the gaming compact.

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

B. SECTION DIRECTORY:

Section 1. Amends s. 24.105, F.S., relating to permissible Lottery player-activated vending machines.

Section 2. Amends s. 24.111, F.S., relating to the Lottery's lease of player-activated vending machines.

Section 3. Amends s. 24.112, F.S., relating to requirements for Lottery player-activated vending machines and vending machine retailers.

Section 4. Provides an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Fiscal Year 2012-2013: \$8,100,000.

Fiscal Year 2013-2014: \$21,000,000.

Also see FISCAL COMMENTS.

2. Expenditures:

Fiscal Year 2012-2013: \$3,652,331. *Also see FISCAL COMMENTS.*

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Lottery estimates that the cost for one FSVM would be \$700 per month, and has requested funding for 350 FSVMs in the department's FY 2012-13 Legislative Budget Request.¹⁸

The revenue estimating conference held on November 3, 2011 estimated that, with the costs of leasing the 350 FSVM's accounted for, the additional revenue to the Educational Enhancement Trust Fund would be \$8,100,000 in Fiscal Year 2012-2013 and \$21,000,000 in Fiscal Year 2013-2014.¹⁹

¹⁸ Because lease of the FSVMs would be subject to an open procurement process pending the passage of this bill, this funding approximation is based on information from the industry and providers. (See email correspondence between House of Representatives staff and Lottery staff, January 16, 2012. On file with the Government Operations Subcommittee.)

¹⁹ "Revenue Impacts of Authorization for Additional Lottery Sales Equipment," Revenue Estimating Conference analysis (November 3, 2011), available online at <http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2012/pdf/impact1103.pdf> (last visited January 16, 2011).

HB 843 conforms to the proposed House of Representatives' General Appropriations Act for FY 2012-13 as the \$8.1 million in funds generated from authorizing the FSVM's have been accounted for and included in the Educational Enhancement Trust Fund.

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:

Section 24.105(9)(a), F.S., requires the Lottery to adopt rules governing the establishment and operation of the state lottery, including the type of lottery games to be conducted. The Lottery may need to amend any existing rules relating to ITVMs to also include FSVMs, and appears to have sufficient authority to do so.

The Lottery does not appear to have any existing rules limiting the locations of LVMs. However, Lottery staff states there are no instances in which the amount of LVMs in one location would exceed 10, the maximum allowable under the terms of the gaming compact.²⁰

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

²⁰ See email correspondence between House of Representatives staff and Lottery staff, January 16, 2012. On file with the Government Operations Subcommittee.

1 A bill to be entitled
 2 An act relating to the state lottery; amending s.
 3 24.105, F.S.; deleting a provision relating to player-
 4 activated vending machines; conforming provisions to
 5 changes made by the act; amending s. 24.111, F.S.;
 6 revising the requirement that the Department of the
 7 Lottery lease certain vending machines; amending s.
 8 24.112, F.S.; allowing vending machines to dispense
 9 lottery tickets if certain requirements are met;
 10 providing an effective date.

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

13
 14 Section 1. Paragraph (a) of subsection (9) of section
 15 24.105, Florida Statutes, is amended to read:

16 24.105 Powers and duties of department.—The department
 17 shall:

18 (9) Adopt rules governing the establishment and operation
 19 of the state lottery, including:

20 (a) The type of lottery games to be conducted, except
 21 that:

22 1. No name of an elected official shall appear on the
 23 ticket or play slip of any lottery game or on any prize or on
 24 any instrument used for the payment of prizes, unless such prize
 25 is in the form of a state warrant.

26 2. No coins or currency shall be dispensed from any
 27 electronic computer terminal or device used in any lottery game.

28 3. Other than as specifically provided in s. 24.112

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29 ~~subparagraph 4.~~, no terminal or device may be used for any
 30 lottery game which may be operated solely by the player without
 31 the assistance of the retailer.

32 ~~4. The only player-activated machine which may be utilized~~
 33 ~~is a machine which dispenses instant lottery game tickets~~
 34 ~~following the insertion of a coin or currency by a ticket~~
 35 ~~purchaser. To be authorized a machine must: be under the~~
 36 ~~supervision and within the direct line of sight of the lottery~~
 37 ~~retailer to ensure that the machine is monitored and only~~
 38 ~~operated by persons at least 18 years of age; be capable of~~
 39 ~~being electronically deactivated by the retailer to prohibit use~~
 40 ~~by persons less than 18 years of age through the use of a~~
 41 ~~lockout device that maintains the machine's deactivation for a~~
 42 ~~period of no less than 5 minutes; and be designed to prevent its~~
 43 ~~use or conversion for use in any manner other than the~~
 44 ~~dispensing of instant lottery tickets. Authorized machines may~~
 45 ~~dispense change to players purchasing tickets but may not be~~
 46 ~~utilized for paying the holders of winning tickets of any kind.~~
 47 ~~At least one clerk must be on duty at the lottery retailer while~~
 48 ~~the machine is in operation. However, at least two clerks must~~
 49 ~~be on duty at any lottery location which has violated s.~~
 50 ~~24.1055.~~

51 Section 2. Paragraph (h) of subsection (2) of section
 52 24.111, Florida Statutes, is amended to read:

53 24.111 Vendors; disclosure and contract requirements.—

54 (2) The department shall investigate the financial
 55 responsibility, security, and integrity of each vendor with
 56 which it intends to negotiate a contract for major procurement.

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57 Such investigation may include an investigation of the financial
 58 responsibility, security, and integrity of any or all persons
 59 whose names and addresses are required to be disclosed pursuant
 60 to paragraph (a). Any person who submits a bid, proposal, or
 61 offer as part of a major procurement must, at the time of
 62 submitting such bid, proposal, or offer, provide the following:

63 (h) The department shall lease all ~~instant ticket~~ vending
 64 machines that dispense online lottery tickets, instant lottery
 65 tickets, or both online and instant lottery tickets.

66
 67 The department shall not contract with any vendor who fails to
 68 make the disclosures required by this subsection, and any
 69 contract with a vendor who has failed to make the required
 70 disclosures shall be unenforceable. Any contract with any vendor
 71 who does not comply with such requirements for periodically
 72 updating such disclosures during the tenure of such contract as
 73 may be specified in such contract may be terminated by the
 74 department. This subsection shall be construed broadly and
 75 liberally to achieve the ends of full disclosure of all
 76 information necessary to allow for a full and complete
 77 evaluation by the department of the competence, integrity,
 78 background, and character of vendors for major procurements.

79 Section 3. Subsection (15) is added to section 24.112,
 80 Florida Statutes, to read:

81 24.112 Retailers of lottery tickets; authorization of
 82 vending machines to dispense lottery tickets.-

83 (15) A vending machine may be used to dispense online
 84 lottery tickets, instant lottery tickets, or both online and

85 instant lottery tickets.

86 (a) The vending machine must:

87 1. Dispense a lottery ticket after a purchaser inserts a
 88 coin or currency in the machine.

89 2. Be capable of being electronically deactivated for a
 90 period of 5 minutes or more.

91 3. Be designed to prevent its use for any purpose other
 92 than dispensing a lottery ticket.

93 (b) In order to be authorized to use a vending machine to
 94 dispense lottery tickets, a retailer must:

95 1. Locate the vending machine in the retailer's direct
 96 line of sight to ensure that purchases are only made by persons
 97 at least 18 years of age.

98 2. Ensure that at least one employee is on duty when the
 99 vending machine is available for use. However, if the retailer
 100 has previously violated s. 24.1055, at least two employees must
 101 be on duty when the vending machine is available for use.

102 (c) A vending machine that dispenses a lottery ticket may
 103 dispense change to a purchaser but may not be used to redeem any
 104 type of winning lottery ticket.

105 (d) The vending machine, or any machine or device linked
 106 to the vending machine, may not include or make use of video
 107 reels or mechanical reels or other video depictions of slot
 108 machine or casino game themes or titles for game play. This does
 109 not preclude the use of casino game themes or titles on such
 110 tickets or signage or advertising displays on the machines.

111 Section 4. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 843 (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: Government Operations
 2 Appropriations Subcommittee
 3 Representative Hooper offered the following:

Amendment

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

8 Remove line 2 and insert:
 9 An act relating to the Department of the Lottery; amending s.

10

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 12-01 One-Stop Business Registration Portal
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Lloyd <i>B</i>	Topp <i>BDT</i>

SUMMARY ANALYSIS

This Proposed Committee Bill (PCB) directs the Department of Revenue (DOR) to establish and implement, by January 1, 2013, a One-Stop Business Registration Portal, through an Internet website, that provides individuals and businesses with a single point-of-entry into state government for completing and submitting of documents required for transacting business in Florida.

Specifically, the One-Stop Business Registration Portal must provide businesses and individuals a single point-of-entry for:

- Completing and submitting applications for various licenses, registrations or permits that must be issued by state agencies or departments to do business in Florida.
- Filing of documents that must be submitted to state agencies or departments to transact business in Florida.
- Remitting of payments for the various fees that must be paid to state agencies or departments to obtain licensure, registration or a permit.

The PCB authorizes the DOR to competitively procure and contract for services to develop and maintain the One-Stop Business Registration Portal.

The Departments of Business and Professional Regulation, Economic Opportunity, Financial Services, Lottery, Management Services and State are directed to cooperate with DOR in the development and implementation of the One-Stop Business Registration Portal.

The PCB conforms to the proposed House of Representatives' FY 2012-13 General Appropriations Act (GAA) as the GAA contains a \$3.0 million nonrecurring General Revenue appropriation from which DOR will contract, build and implement the One-Stop Business Registration Portal.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Currently, an individual desiring to start a business in the State of Florida must interact with several state agencies to register for taxes, request a license or receive certain permits. These tasks include visits to multiple state agency websites which collect duplicative information data from the potential applicant. The State of Florida does not have a single point-of-entry where businesses can accomplish these tasks.

Presently, obsolete language contained in section 288.109, F.S., directs the State Technology Office to establish and implement an Internet website for a One-Stop Permitting System, which would allow an applicant to complete and submit application forms for various permits to state agencies and counties by January 1, 2001. However, despite the current statutory language, the system was not built and the State Technology Office was later abolished.

Effect of the PCB

Section 288.109, F.S., is substantially reworded. The section is renamed as the One-Stop Business Registration Portal. The Department of Revenue, rather than the State Technology Office, is to establish and implement an Internet website for the One-Stop Business Registration Portal by January 1, 2013. The Internet website will provide individuals and businesses with a single point-of-entry for:

- (a) Completing and submitting applications for various licenses, registrations, or permits that must be issued by a state agency or department in order for the applicant to transact business in the state.
- (b) Filing various documents that must be filed with state agencies or departments in order for the filer to transact business in the state.
- (c) Remitting payment for various fees that must be paid to state agencies or departments.

The DOR is to establish the website and implement it in the timeliest manner practicable. The DOR is to design and construct the Internet website and may competitively procure and contract for services to develop the site.

The Department of Business and Professional Regulation, the Department of Economic Opportunity, the Department of Financial Services, the Department of the Lottery, the Department of Management Services, and the Department of State shall cooperate with the DOR in the development and implementation of the portal.

The DOR must submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of the One-Stop Business Registration Portal, beginning January 1, 2013. The report must include a complete and detailed description of the DOR's activities and accomplishments related to implementation of the One-Stop Business Registration Portal during the previous calendar year and a plan for expansion of the portal. The report may also include recommendations for improving the effectiveness of the portal.

The Department of Revenue may adopt rules necessary to carry out Section 288.109, F.S.

Under the provisions of the PCB, the DOR may provide information collected from applicants under section 288.109, F.S., to agencies or local governments participating in the One-Stop Business Registration Portal while conducting official duties. Information collected from an individual or business by a state department or agency or local government that is not otherwise confidential does not become confidential solely because the information is collected through the One-Stop Business Registration Portal.

The PCB also repeals obsolete statutes (sections 288.1092, 288.1093, and 288.1095, F.S.), that relate to the former State Technology Office and One-Stop Permitting.

B. SECTION DIRECTORY:

Section 1. Substantially rewrites Section 288.109 which was designed to govern one-stop permitting in 1998 to address the current requirements for the One Stop Business Registration Portal.

Section 2. Repeals Sections 288.1092, 288.1093, and 288.1095, F.S., which relate to the former State Technology Office and One-Stop Permitting.

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:

The proposed House FY 2012-13 General Appropriation Act will contain an appropriation of \$3.0 million to implement the One-Stop Business Registration Portal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Individuals and new businesses starting in Florida should have a positive impact as a result of the passage of this PCB and the implementation of the One-Stop Business Registration Portal.

D. FISCAL COMMENTS:

The DOR has developed a tentative implementation plan for the One Stop Business Registration Portal, which includes up to four potential phases over the next three fiscal years. The total estimated cost of the multi-year project is \$7.0 to \$9.0 million. The implementation of phase 1, which provides the One Stop Business Registration Portal for new businesses includes an appropriation of \$3.0 million in the proposed House of Representatives' GAA.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The PCB 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 state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR is authorized to adopt rules to implement the One-Stop Business Registration Portal.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled

2 An act relating to the One-Stop Business Registration

3 Portal; amending s. 288.109, F.S.; directing the

4 Department of Revenue to establish the One-Stop

5 Business Registration Portal through which individuals

6 and businesses may submit applications for various

7 licenses, registrations, or permits, file various

8 documents, or remit payment for various fees to a

9 state department or agency; authorizing the department

10 to contract for the development and maintenance of the

11 portal's Internet website; requiring certain state

12 departments to cooperate with the department in the

13 development and implementation of the portal;

14 requiring the department to submit an annual report to

15 the Governor and the Legislature on the portal's

16 implementation and expansion; authorizing the

17 department to provide certain information relative to

18 the One-Stop Business Registration Portal to certain

19 state departments and agencies and local governments;

20 authorizing the department to adopt rules; deleting

21 provisions relating to the One-Stop Permitting System

22 of the former State Technology Office, including

23 provisions authorizing individuals and businesses to

24 apply for certain state, regional, and local

25 development permits through an Internet site developed

26 by the office; repealing ss. 288.1092, 288.1093, and

27 288.1095, F.S., relating to the One-Stop Permitting

28 System Grant Program and the award of grants to

29 counties that participate in the One-Stop Permitting
 30 System, the Quick Permitting County Designation
 31 Program and the designation of a county as a Quick
 32 Permitting County, and the distribution of literature
 33 explaining the One-Stop Permitting System and the
 34 Quick Permitting County designations; providing an
 35 effective date.

36

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

38

39 Section 1. Section 288.109, Florida Statutes, is amended
 40 to read:

41 (Substantial rewording of section. See
 42 s. 288.109, F.S., for present text.)

43 288.109 One-Stop Business Registration Portal.—

44 (1) By January 1, 2013, the Department of Revenue shall
 45 establish and implement the One-Stop Business Registration
 46 Portal that, through an Internet website, provides individuals
 47 and businesses with a single point of entry for:

48 (a) Completing and submitting applications for various
 49 licenses, registrations, or permits that must be issued by a
 50 state department or agency in order for the applicants to
 51 transact business in the state.

52 (b) Filing various documents that must be filed with a
 53 state department or agency in order for the filers to transact
 54 business in the state.

55 (c) Remitting payment for various fees that must be paid
 56 to a state department or agency, including, but not limited to,

57 application fees, license fees, registration fees, permit fees,
 58 and filing fees.

59 (2) The Department of Revenue, after establishment of the
 60 Internet website for the One-Stop Business Registration Portal,
 61 shall implement, in the most timely manner practicable, the
 62 capabilities described in subsection (1).

63 (3) The Department of Revenue may competitively procure
 64 and contract for services to develop and maintain the Internet
 65 website for the One-Stop Business Registration Portal.

66 (4) The following departments shall cooperate with the
 67 Department of Revenue in the development and implementation of
 68 the One-Stop Business Registration Portal:

69 (a) The Department of Business and Professional
 70 Regulation.

71 (b) The Department of Economic Opportunity.

72 (c) The Department of Financial Services.

73 (d) The Department of the Lottery.

74 (e) The Department of Management Services.

75 (f) The Department of State.

76 (5) By January 1 of each year, beginning in 2013, the
 77 Department of Revenue shall submit a report to the Governor, the
 78 President of the Senate, and the Speaker of the House of
 79 Representatives on the implementation of the One-Stop Business
 80 Registration Portal. The report must include a complete and
 81 detailed description of the department's activities and
 82 accomplishments related to implementation of the One-Stop
 83 Business Registration Portal during the previous calendar year.
 84 The report must also include a plan for expansion of the One-

85 Stop Business Registration Portal to allow individuals and
 86 businesses to submit applications through the portal for various
 87 licenses, registrations, or permits issued by local governments.
 88 The report may also include recommendations for improving the
 89 effectiveness of the One-Stop Business Registration Portal and
 90 increasing participation by state departments and agencies and
 91 local governments.

92 (6) The Department of Revenue may provide information
 93 relative to this section to each state department or agency and
 94 local government that, in the conduct of its official duties,
 95 participates in the One-Stop Business Registration Portal.
 96 However, to the extent that such information is not otherwise
 97 confidential, information collected from an individual or
 98 business by a state department or agency or local government
 99 does not become confidential solely because the information is
 100 collected through the One-Stop Business Registration Portal.

101 (7) The Department of Revenue may adopt rules to
 102 administer this section.

103 Section 2. Sections 288.1092, 288.1093, and 288.1095,
 104 Florida Statutes, are repealed.

105 Section 3. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 12-02 One-Stop Business Registration Clearing Trust Fund
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Lloyd <i>B</i>	Topp <i>BDT</i>

SUMMARY ANALYSIS

The Proposed Committee Bill (PCB) creates the One-Stop Business Registration Portal Clearing Trust Fund within the Department of Revenue (DOR). The trust fund is established for use as a depository for receipts generated through the utilization of the One-Stop Business Registration Portal to be established in section 288.109, F.S., per Proposed Committee Bill GOAS 12-01. The DOR will distribute the moneys collected in the trust fund to the appropriate agencies and accounts in the month following receipt.

Section 19(f), Article III of the Florida Constitution requires that every trust fund be created by a three-fifth vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. In addition, the Florida Constitution provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This trust fund will terminate on July 1, 2016, pursuant to section 19(f)(2), Article III of the Florida Constitution, unless terminated sooner or re-created by the Legislature.

This PCB has no fiscal impact.

This PCB is effective July 1, 2012, if Proposed Committee Bill GOAS 12-01 or similar legislation is adopted in the same legislative session or an extension thereof and becomes law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

The PCB creates the One-Stop Business Registration Portal Clearing Trust Fund within the Department of Revenue for use as a depository for fees paid through the One-Stop Business Registration Portal, to be established in section 288.109, F.S., (per Proposed Committee Bill GOAS 12-01) and for subsequent transfer or distribution of those fees to the appropriate agencies and accounts.

Section 19(f), Article III of the Florida Constitution requires that every trust fund be created by a three-fifth vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. In addition, the Florida Constitution provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This trust fund will terminate on July 1, 2016, pursuant to section 19(f)(2), Article III of the Florida Constitution, unless terminated sooner or re-created by the Legislature.

The creation of this trust fund is directly linked to Proposed GOAS 12-01, which creates the One Stop Business Registration Portal.

B. SECTION DIRECTORY:

Section 1. Creates the One Stop Business Registration Portal Clearing Trust Fund in the Department of Revenue.

Section 2. Provides an effective date of July 1, 2012, if Proposed Committee Bill GOAS 12-01 or similar legislation is adopted in the same legislative session or an extension thereof and becomes 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:

None.

D. FISCAL COMMENTS:

This PCB has no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

Section 19(f), Article III of the Florida Constitution requires that every trust fund be created by a three-fifth vote of the membership of each house of the Legislature in a separate bill for the sole purpose of creating a trust fund. In addition, the Florida Constitution provides that all newly created trust funds terminate not more than four years after the initial creation unless re-created. This trust fund will terminate on July 1, 2016, pursuant to section 19(f)(2), Article III of the Florida Constitution, unless terminated sooner or re-created by the Legislature.

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 trust funds; creating s. 215.1995,
 3 F.S.; creating the One-Stop Business Registration
 4 Portal Clearing Trust Fund within the Department of
 5 Revenue; providing for the purpose of the trust fund
 6 and sources of funds; providing a requirement with
 7 respect to transfer and distribution of funds;
 8 providing for future review and termination or re-
 9 creation of the trust fund; providing a contingent
 10 effective date.

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

13
 14 Section 1. Section 215.1995, Florida Statutes, is created
 15 to read:

16 215.1995 One-Stop Business Registration Portal Clearing
 17 Trust Fund.—

18 (1) The One-Stop Business Registration Portal Clearing
 19 Trust Fund is created within the Department of Revenue.

20 (2) The trust fund is established for use as a depository
 21 for receipts generated through utilization of the One-Stop
 22 Business Registration Portal established by s. 288.109, and for
 23 subsequent transfer or distribution of such funds to appropriate
 24 agencies and accounts.

25 (3) The Department of Revenue shall transfer or distribute
 26 the moneys in the trust fund to the appropriate agencies and
 27 accounts in the month following receipt.

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28 (4) In accordance with s. 19(f)(2), Art. III of the trust
 29 fund shall, unless terminated sooner, be terminated on July 1,
 30 2016. Before its scheduled termination, the trust fund shall be
 31 reviewed as provided in s. 215.3206(1) and (2).

32 Section 2. This act shall take effect July 1, 2012, if PCB
 33 GOAS 12-01 or similar legislation is adopted in the same
 34 legislative session or an extension thereof and becomes law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 12-03 Department of Financial Services
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Keith 	Topp 

SUMMARY ANALYSIS

The Department of Financial Services (DFS) manages and oversees several major functions of state government including the Treasury, State Fire Marshal, Insurance Fraud, State Accounting and Auditing, Workers' Compensation, Risk Management, Funeral & Cemetery Regulation as well as providing the licensing oversight functions of the Insurance Industry. Specifically, this Proposed Committee Bill (PCB) amends the statutes related to Workers' Compensation to achieve efficiencies and cost savings measures linked to the proposed House of Representatives' General Appropriations Act for Fiscal Year 2012-13.

The PCB amends the statute to allow for the electronic submission of workers' compensation exemption applications, with streamlined reporting requirements (e.g., elimination of notarization requirement and, for construction industry exemptions, the filing of copies of stock certificates). Under Florida law, corporate officers can elect to be exempt from workers' compensation coverage requirements. Individuals who make such election are not considered "employees" for premium calculation purposes, and are not eligible to receive workers' compensation benefits.

Under the PCB, the DFS will require applicants for workers' compensation exemptions to report their date of birth, Florida driver's license number or Florida identification card number. Applicants for a construction industry exemption will also provide a statement of ownership interest. Within 60 days of expiration of a construction industry exemption, the DFS is required to send notice to the exemption holder, either at the address on the exemption certificate or to the e-mail on file with DFS. The PCB also provides that all certificates of election to be exempt issued on or after January 1, 2013 are valid for 2 years from the effective date stated on the certificate.

The PCB repeals s. 440.59, F.S., which requires the DFS to prepare an annual report on the administration of the workers' compensation laws for the preceding calendar year. The statute currently requires DFS to submit the annual report by September 15 of each year to the Legislature and the Governor. DFS indicates that information contained in the Workers' Compensation Annual Report will continue to be available on the department's website.

The provisions of this PCB will allow for a reduction of 9.00 FTE positions and an annual cost savings of \$348,289 from the Workers' Compensation Administration Trust Fund. The cost savings have been included in the proposed House of Representatives' General Appropriations Act for FY 2012-13. The cost of providing and implementing the electronic web-based application for exemption to workers' compensation will be covered from within existing DFS budget authority.

Except as otherwise expressly provided, the PCB takes effect July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Workers' Compensation Exemptions¹

Section 440.05, F.S., "Election of exemption; revocation of election; notice, certification," permits corporate officers to elect to be exempt from workers' compensation coverage requirements. Individuals who make such election are not considered employees for premium calculation purposes, and are not eligible to receive workers' compensation benefits if they suffer a workplace injury. The term "corporate officers" is defined in s. 440.02(9), F.S., to include members of limited liability companies (LLCs) in the construction industry who own at least 10% of the LLC.

Construction Industry and Non-Construction Exemptions

The Division of Workers' Compensation (DWC) processes applications for construction industry exemptions (which are valid for 2 years) and non-construction industry exemptions (which have no expiration date). In the construction industry, corporate officers and members of limited liability companies (LLCs) with a minimum 10% ownership interest in the corporation or LLC, respectively, may elect to be exempt. There is no ownership requirement associated with non-construction industry exemptions. However, as non-construction LLC members are not considered corporate officers, they are not eligible for an exemption. The total number of exemption applications has been in decline for the past four years. In FY 2010-11, 62,293 construction industry exemption applications were processed, representing a 9% decrease from the previous year. Non-Construction industry exemption applications also fell in FY 2010-11 to 11,448, representing a 9.6% decrease from the previous year. As of June 30, 2011, there were 1,123,275 active exemptions.²

Applications for Exemption³

Currently, applicants for exemption complete a "Notice of Election to be Exempt" form (DWC-250). The application must be notarized, and submitted to the Division of Workers' Compensation. Construction industry applications must also be accompanied by a \$50 application fee and proof of requisite ownership (a copy of the stock certificate or documentation of 10% ownership of the LLC). A construction industry exemption is valid for 2 years, while there is no time limit on non-construction exemptions.

Workers' Compensation Annual Report

Section 440.59, F.S., requires the DFS to prepare an annual report of the administration of ch. 440, F.S., for the preceding calendar year. The report is to include a detailed statement of the receipts of and expenditures from the Workers' Compensation Administration Trust Fund and a statement of the causes of the accidents leading to the injuries for which the awards were made. On or before September 15 of each year, the DFS is required to submit a copy of the report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Democratic and Republican Leaders of the Senate and the House of Representatives, and the chairs of the legislative committees having jurisdiction over workers' compensation.

¹For an overview of the exemption process and eligibility requirements, see the Department of Financial Services website: <http://www.myfloridacfo.com/wc/employer/exemption.html> (last accessed November 9, 2011).

²Information can be found here; www.myfloridacfo.com/wc/pdf/DWC-Annual-Report-2011.pdf

³The application fee for a construction industry exemption is \$50. There is no application fee for a non-construction industry exemption application. Pursuant to s. 440.05(8)(b), F.S., monies collected by the Division of Workers' Compensation are used to fund the division's investigative efforts, most of which relate to the construction industry.

The 2011 Annual Report of the Florida Division of Workers' Compensations contains narrative, as well as charts and graphs depicting the activities of the division. In addition, the report includes information regarding claims, such as the nature of the injury, cause of the injury, body location of workplace injuries, and medical data.

DFS indicates that a total of 2,223 work hours by the Division of Workers' Compensation employees is devoted each year to producing the annual report.

Effects of the Proposed PCB

Paperless Exemption Application Process

The PCB allows for the electronic submission of workers' compensation exemption applications, with streamlined reporting requirements (e.g., elimination of notarization requirement and, for construction industry exemptions, the filing of copies of stock certificates). Additional data elements to be reported by all applicants electronically are date of birth, Florida driver's license number or Florida identification card number. Construction industry applicants will also provide a statement of ownership interest. Within 60 days of expiration of a construction industry exemption, the Department of Financial Services (DFS) is required to send notice to the exemption holder, either at the address on the exemption certificate or to the e-mail on file with DFS.

The PCB provides that all certificates of exemption issued by the Division of Workers' Compensation on or after January 1, 2013 are valid for 2 years.

Repeal of the Workers' Compensation Annual Report

The PCB repeals section 440.59, F.S., which requires the DFS to prepare an annual report on the administration of the workers' compensation laws of the prior year.

The Division of Workers' Compensation maintains a website that provides much of the information currently contained in the annual report. In addition, the division's website contains forms, publications, and other information to assist injured workers, employers, insurance carriers, health care providers, and other interested parties

The PCB will allow for the reduction of 1.00 FTE position and a cost savings annually of \$46,473 from the Workers' Compensation Administration Trust Fund. DFS indicates that a total of 2,223 work hours by DFS employees is devoted each year to producing the annual report. Based on the number of hours devoted to producing the workers' compensation annual report the enactment of this PCB would allow for a reduction of 1.00 FTE (Insurance Analyst II) and a cost saving annually of \$46,473.

B. SECTION DIRECTORY:

Section 1. Amends s. 440.02, F.S., to eliminate the requirement of filing "written" notice of election to be exempt.

Section 2. Amends s. 440.05, F.S., providing for the electronic submission of workers' compensation exemption applications.

Section 3. Amends s. 440.05(6), F.S., providing a 2-year expiration period for all certificates of election to be exempt issued on or after January 1, 2013.

Section 4. Repeals s. 440.59, F.S., which requires DFS to prepare an annual report on the administration of the Workers' Compensation laws.

Section 5: Except as otherwise expressly provided, the PCB takes effect July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

No Impact.

2. Expenditures:

The DFS indicates that providing for an electronic application process for workers' compensation exemptions in addition to repealing annual report requirements in section 440.59, F.S., will eliminate the need for 9.00 FTE staff (8.00 FTE who review and process the exemptions; 1.00 FTE who prepares the annual report). The potential reduction in staff represents a total annual cost savings of \$348,289 from the Workers' Compensation Administration Trust Fund, which has been incorporated into the proposed House of Representatives' General Appropriations Act for FY 2012-13. The cost savings of \$348,289 will be from two appropriation categories: \$333,998 from Salaries and Benefits and \$14,291 from Expenses.

The cost of providing and implementing the electronic web-based application for exemption to workers' compensation will be covered from within existing DFS budget authority.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The changes will streamline the exemption process and make it easier for applicants to complete and submit an exemption. The elimination of the requirement to notarize the exemption application will reduce a regulatory step for applicants and eliminate the cost associated with using a notary.

With an established expiration period for all exemptions, persons with non-construction industry exemptions will have to apply for an exemption every 2 years. Presently, non-construction industry exemptions do not have an expiration date. The PCB, however, will not result in new fees, as there continues to be no application fee for non-construction industry exemptions.

D. FISCAL COMMENTS:

The streamlining of the exemption reporting process with an electronic submission process (which allows for a reduction of 8.00 positions and an annual cost savings of \$301,816) is part of the DFS' Legislative Budget Request and Schedule VIII-B-2 submission for FY 2012-2013. DFS indicates that costs associated with modifying its exemption technology to provide for electronic submissions will be minimal and completed within current budget authority.

DFS indicates that a total of 2,223 work hours by the Division of Workers' Compensation (DWC) employees is devoted each year to producing the annual report. Based on the number of hours devoted to producing the workers' compensation annual report the enactment of this PCB would allow for a reduction of 1.00 FTE (Insurance Analyst II) and a cost saving annually of \$46,473 from the Workers' Compensation Administration Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This PCB 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 Division of Workers' Compensation would have to amend Rule 69L-6.012 "Notice of Election to be Exempt" to reflect the new statutory requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Division of Workers' Compensation presently provides walk-in assistance in all Compliance District Offices and will continue to provide assistance. Computers will be available in the District Offices for exemption applicants who may not have access to a computer.

Non-construction industry exemptions do not have an expiration date. The PCB provides for a 2-year expiration date for all exemptions. While this will require non-construction industry exemption holders to re-apply for exemption every 2 years, it will assist in ensuring that the information on which each exemption is based remains timely during the exemption period. For example, currently a corporate officer with a construction industry exemption who leaves the corporation remains in possession of a "certificate of election to be exempt" that does not have an expiration date.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Department of Financial
 3 Services; amending s. 440.02, F.S.; redefining the
 4 term "employee" for purposes of workers' compensation;
 5 amending s. 440.05, F.S.; revising requirements for
 6 submitting a notice of election of exemption; revising
 7 duties of the Department of Financial Services
 8 relating to the expiration of certificates of
 9 exemption; expanding applicability of requirements
 10 relating to certificates of exemption; repealing s.
 11 440.59, F.S., relating to the duty of the Department
 12 of Financial Services to make an annual report on the
 13 administration of ch. 440, F.S., the Workers'
 14 Compensation Law, to specified officials; providing
 15 effective dates.

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

18
 19 Section 1. Paragraph (b) of subsection (15) of section
 20 440.02, Florida Statutes, is amended to read:

21 440.02 Definitions.—When used in this chapter, unless the
 22 context clearly requires otherwise, the following terms shall
 23 have the following meanings:

24 (15)

25 (b) "Employee" includes any person who is an officer of a
 26 corporation and who performs services for remuneration for such
 27 corporation within this state, whether or not such services are
 28 continuous.

29 1. Any officer of a corporation may elect to be exempt
 30 from this chapter by filing ~~written~~ notice of the election with
 31 the department as provided in s. 440.05.

32 2. As to officers of a corporation who are engaged in the
 33 construction industry, no more than three officers of a
 34 corporation or of any group of affiliated corporations may elect
 35 to be exempt from this chapter by filing ~~written~~ notice of the
 36 election with the department as provided in s. 440.05. Officers
 37 must be shareholders, each owning at least 10 percent of the
 38 stock of such corporation and listed as an officer of such
 39 corporation with the Division of Corporations of the Department
 40 of State, in order to elect exemptions under this chapter. For
 41 purposes of this subparagraph, the term "affiliated" means and
 42 includes one or more corporations or entities, any one of which
 43 is a corporation engaged in the construction industry, under the
 44 same or substantially the same control of a group of business
 45 entities which are connected or associated so that one entity
 46 controls or has the power to control each of the other business
 47 entities. The term "affiliated" includes, but is not limited to,
 48 the officers, directors, executives, shareholders active in
 49 management, employees, and agents of the affiliated corporation.
 50 The ownership by one business entity of a controlling interest
 51 in another business entity or a pooling of equipment or income
 52 among business entities shall be prima facie evidence that one
 53 business is affiliated with the other.

54 3. An officer of a corporation who elects to be exempt
 55 from this chapter by filing a ~~written~~ notice of the election
 56 with the department as provided in s. 440.05 is not an employee.

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Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

Section 2. Subsections (3) and (6) of section 440.05, Florida Statutes, are amended to read:

440.05 Election of exemption; revocation of election; notice; certification.—

(3) Each officer of a corporation who is engaged in the construction industry and who elects an exemption from this chapter or who, after electing such exemption, revokes that exemption, must electronically submit ~~mail~~ a ~~written~~ notice to such effect to the department on a form prescribed by the department. ~~The notice of election to be exempt from the provisions of this chapter must be notarized and under oath.~~ The notice of election to be exempt which is electronically submitted to the department by the officer of a corporation who is allowed to claim an exemption as provided by this chapter must list the name, federal tax identification number, date of birth, Florida driver license number or Florida identification card ~~social security number~~, all certified or registered licenses issued pursuant to chapter 489 held by the person seeking the exemption, ~~a copy of relevant documentation as to employment status filed with the Internal Revenue Service as specified by the department, a copy of the relevant occupational license in the primary jurisdiction of the business, and the registration number of the corporation filed with the Division of Corporations of the Department of State, and the percentage~~

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85 of ownership ~~along with a copy of the stock certificate~~
86 evidencing the required ownership under this chapter. The notice
87 of election to be exempt must identify each corporation that
88 employs the person electing the exemption and must list the
89 social security number or federal tax identification number of
90 each such employer and the additional documentation required by
91 this section. In addition, the notice of election to be exempt
92 must provide that the officer electing an exemption is not
93 entitled to benefits under this chapter, must provide that the
94 election does not exceed exemption limits for officers provided
95 in s. 440.02, and must certify that any employees of the
96 corporation whose officer elects an exemption are covered by
97 workers' compensation insurance. Upon receipt of the notice of
98 the election to be exempt, receipt of all application fees, and
99 a determination by the department that the notice meets the
100 requirements of this subsection, the department shall issue a
101 certification of the election to the officer, unless the
102 department determines that the information contained in the
103 notice is invalid. The department shall revoke a certificate of
104 election to be exempt from coverage upon a determination by the
105 department that the person does not meet the requirements for
106 exemption or that the information contained in the notice of
107 election to be exempt is invalid. The certificate of election
108 must list the name of the corporation listed in the request for
109 exemption. A new certificate of election must be obtained each
110 time the person is employed by a new or different corporation
111 that is not listed on the certificate of election. A copy of the
112 certificate of election must be sent to each workers'

113 compensation carrier identified in the request for exemption.
 114 Upon filing a notice of revocation of election, an officer who
 115 is a subcontractor or an officer of a corporate subcontractor
 116 must notify her or his contractor. Upon revocation of a
 117 certificate of election of exemption by the department, the
 118 department shall notify the workers' compensation carriers
 119 identified in the request for exemption.

120 (6) A construction industry certificate of election to be
 121 exempt which is issued in accordance with this section shall be
 122 valid for 2 years after the effective date stated thereon. Both
 123 the effective date and the expiration date must be listed on the
 124 face of the certificate by the department. The construction
 125 industry certificate must expire at midnight, 2 years from its
 126 issue date, as noted on the face of the exemption certificate. A
 127 construction industry certificate of election to be exempt may
 128 be revoked before its expiration by the officer for whom it was
 129 issued or by the department for the reasons stated in this
 130 section. At least 60 days before ~~prior to~~ the expiration date of
 131 a construction industry certificate of exemption ~~issued after~~
 132 ~~December 1, 1998~~, the department shall send notice of the
 133 expiration date ~~and an application for renewal~~ to the
 134 certificateholder at the address on the certificate or to the e-
 135 mail address on file with the department.

136 Section 3. Effective January 1, 2013, subsection (6) of
 137 section 440.05, Florida Statutes, as amended by this act, is
 138 amended to read:

139 440.05 Election of exemption; revocation of election;
 140 notice; certification.-

141 (6) A ~~construction industry~~ certificate of election to be
 142 exempt which is issued on or after January 1, 2013, in
 143 accordance with this section shall be valid for 2 years after
 144 the effective date stated thereon. Both the effective date and
 145 the expiration date must be listed on the face of the
 146 certificate by the department. The ~~construction industry~~
 147 certificate must expire at midnight, 2 years from its issue
 148 date, as noted on the face of the exemption certificate. A
 149 ~~construction industry~~ certificate of election to be exempt may
 150 be revoked before its expiration by the officer for whom it was
 151 issued or by the department for the reasons stated in this
 152 section. At least 60 days before the expiration date of a
 153 ~~construction industry~~ certificate of exemption, the department
 154 shall send notice of the expiration date to the
 155 certificateholder at the address on the certificate or to the e-
 156 mail address on file with the department.

157 Section 4. Section 440.59, Florida Statutes, is repealed.

158 Section 5. Except as otherwise expressly provided in this
 159 act, this act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 12-05 Department of Management Services
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Lloyd <i>EL</i>	Topp <i>BDT</i>

SUMMARY ANALYSIS

The Department of Management Services (DMS) is the administrative arm of Florida's state government. The Proposed Committee Bill (PCB) amends statutes relating to the department to conform to the proposed House of Representatives' General Appropriations Act (GAA) for FY 2012-13 by:

- Revising provisions relating to the reimbursement of DMS for actual costs of coordinating the annual Florida State Employees' Charitable Campaign.
- Providing for the transfer of funds generated by fees collected for the use of the DMS online procurement system and electronic information services (commonly known as MyFloridaMarketPlace) from the DMS to the Department of Financial Services to support statewide purchasing operations associated with the online procurement system and electronic information services.
- Repealing the statute which establishes the executive aircraft pool within the DMS. In addition, the PCB terminates the Bureau of Aircraft Trust Fund and transfers the cash balance to the General Revenue Fund. Eliminates the need for providing an annual report on executive aircraft usage.
- Amends the statute to continue the \$3 surcharge on certain criminal offenses and noncriminal moving traffic violations by extending the sunset date of the provision. The surcharge annually provides \$5.2 million to support the Statewide Law Enforcement Radio System.
- Requires contractors of private correctional facilities to directly reimburse the DMS for contract monitoring and administrative costs rather than the current practice of reimbursing the Department of Corrections for contract monitoring. The direct reimbursement to DMS for administrative costs will allow for a General Revenue savings of \$1.2 million.

To conform to the proposed House GAA, this PCB ensures that the department is fully reimbursed the actual cost for coordinating the annual Florida State Employees' Charitable Campaign; authorizes the transfers of funds to the Department of Financial Services for statewide purchasing operations; eliminates the requirement that DMS provide on-demand executive aircraft travel (appropriations eliminated in FY 2011-12); amends the statute to continue the \$3 surcharge on certain criminal and non-criminal moving traffic violations to insure that \$5.2 million is collected to support the Statewide Law Enforcement Radio System; and requires contractors of private correctional facilities to reimburse DMS directly for administrative and contract monitoring which provides an annual General Revenue savings of \$1.2 million.

This PCB takes effect on July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Florida State Employees' Charitable Campaign

Background:

Pursuant to s. 110.181, F.S., the DMS is required to establish and maintain, in coordination with the payroll system of the Department of Financial Services, an annual Florida State Employees' Charitable Campaign. The annual fundraising drive is authorized to be directed toward state employees within work areas during work hours. The state provides payroll deduction based upon employee elections.

The department is responsible for selecting through the competitive procurement process a fiscal agent or agents to receive, account for, and distribute charitable contributions among participating charitable organizations. Pursuant to s. 110.181(2)(b), F.S., the fiscal agent is required to withhold the reasonable costs for conducting the campaign and for accounting and distribution to the participating organizations. The fiscal agent is further required to reimburse the department the actual cost, not to exceed 1 percent of gross pledges, for coordinating the campaign in accordance with the rules of the department.

Department analysis shows that approximately \$100,000 in out-of-pocket costs was not reimbursable to the department in one of the two recently completed fiscal years due to the reimbursement limit of 1 percent of gross pledges.¹

Effect of Bill:

This PCB amends s. 110.181, F.S., to require the fiscal agent to reimburse the DMS the actual cost of conducting the campaign; thus, removing the limitation that the department's reimbursement will not exceed 1 percent of gross pledges.

Electronic Procurement System Transaction Fees Collected by the Department

Background:

Pursuant to sections 287.042 and 287.057, F.S., the DMS has the authority to impose and collect transaction fees from private sector vendors for the use of its online procurement system and electronic information services (commonly known as MyFloridaMarketPlace). Accordingly, DMS has established and imposed a transaction fee in an amount sufficient to cover the projected costs of services, including administrative and project service costs. All transaction fees collected under the statutory provisions are required to be used for disbursements as provided by law.

The transaction fees are collected and used for the purpose of making contractor payments associated with the online procurement system and electronic information services and for department administrative costs for functions and services within the DMS Support Program – i.e., The Office of Supplier Diversity, Fleet Management, and the Division of State Purchasing.

Transaction fees collected from vendors in excess of what is needed to fund the legislatively authorized disbursements accumulate in the Purchasing Oversight account in the Operating Trust Fund and become unobligated cash balances. These cash balances are deposited with the State Treasury and earn modest rates of return.

¹ Department of Management Services' analysis is on file with the Government Operations Appropriations Subcommittee.

Effect of Bill:

This PCB amends sections 287.042 and 287.057, F.S., to require the department to transfer funds generated by fees collected from private sector vendors for the use of its online procurement system and electronic information services (commonly known as MyFloridaMarketPlace) from the Purchasing Oversight account in the Operating Trust Fund to the Administrative Trust Fund in the Department of Financial Services to fund staff that support statewide purchasing operations associated with the online procurement system and electronic information services.

This PCB specifies that unless provided for in the General Appropriations Act, the amount of the transfer shall be established each year in the department's nonoperating budget based upon the estimated cost of staff support provided by the Department of Financial Services, not to exceed \$500,000. The proposed House Appropriations Act for FY 2012-13, transfers \$350,000 from DMS to the Department of Financial Services for statewide purchasing functions.

Executive Aircraft Pool

Background:

The DMS established an executive aircraft pool for the purpose of furnishing executive air travel pursuant to s 287.161, F.S. Most recently, the aircraft pool consisted of a state-owned Beechcraft King Air 350 Turbo-Prop and a leased Cessna Citation Bravo business jet.

Upon taking office, the Governor directed the department to sell both aircraft and to terminate employment of the 11-member crew of pilots, mechanics, and administrative staff. Both aircraft have been sold. The \$1.5 million in annual appropriations to support the executive aircraft program and 11.00 staff positions were eliminated in the FY 2011-12 General Appropriations Act.

The Bureau of Aircraft Trust Fund, FLAIR number 72-2-066, was previously used as the depository for fee collections for persons traveling on an executive aircraft and for expenditures associated with the costs incurred to operate aircraft management activities of the department. The trust fund has a remaining cash balance of \$35,651. However, in the current fiscal year, there are no appropriations for expenditures from the trust fund.

Effect of Bill:

This PCB repeals s. 287.161, F.S., which establishes the executive aircraft pool within the DMS. Additionally, the bill terminates the Bureau of Aircraft Trust Fund and transfers the remaining cash balance to the General Revenue Fund.

Statewide Law Enforcement Radio System (SLERS) Funding

Background:

A surcharge of \$3 is imposed on criminal offenses listed in s. 318.17 and for noncriminal moving traffic violations under Chapter 316. These funds are deposited in the SLERS trust fund and are used to support the statewide communications systems for law enforcement and emergency personnel. This surcharge is scheduled to sunset on July 1, 2012.

Effect of the Bill:

The PCB amends current law to continue the surcharge through July 1, 2021. The surcharge will continue to provide approximately \$5.2 million in annual revenue to support the Statewide Law Enforcement Radio System. The surcharge revenues account for approximately 23% of the overall cost of providing the Statewide Law Enforcement Radio System.

Private Prison Monitoring

Background:

Chapter 957, F.S., charges the Department of Management Services, Bureau of Private Prison Monitoring (Bureau) with issuing contracts, establishing operating standards, and monitoring compliance of the state's private prisons. The Bureau is responsible for entering into contracts for the design, construction, and operation of privately operated correctional facilities. The Bureau may not enter into a contract unless it determines that the contract or series of contracts in total for the facility will result in cost savings to the state of at least seven percent under the Department of Corrections costs. Once the savings is determined, the Bureau enters into a contract with a private vendor to operate the facility for an agreed daily per diem. The per diem includes the cost of all facility operations and the cost of the contract monitors employed by DMS. The Bureau currently oversees the operational contracts for seven facilities: Bay, Blackwater River, Gadsden, Graceville, Lake City, Moore Haven, and South Bay correctional facilities.

The Bureau currently has 14 authorized positions. Seven of those positions are associated with the administration of the contracts. The other seven positions monitor the contracts from each private institution. Section 957.04(1)(g), F.S., requires a full-time contract monitor that is appointed and supervised by DMS, and the contractor is required to reimburse DMS for the salary and expenses of the contract monitor. However current law does not require the contractor to reimburse DMS for the seven positions associated with the administration of the contracts. Also, currently the private prison contractors reimburse the Department of Corrections rather than the DMS the cost of the contract monitors.

Effects of Bill:

This PCB amends s. 957.04(1)(g), F.S., to require private prison contractors to reimburse DMS for their proportional share of the costs associated with the administration of the contracts in addition to the reimbursement for the contract monitor. The PCB clarifies that one full-time monitor is required at each private correctional facility. In addition, the PCB specifies that the reimbursements are in addition to all contracted per diems and may not result in increased per diems or decreased services.

B. SECTION DIRECTORY:

Section 1. Amends s. 110.181, F.S., revising provisions relating to the reimbursement of the DMS for actual costs of coordinating the Florida State Employees' Charitable Campaign.

Section 2. Amends s. 287.042, F.S., providing for the transfer of funds generated by fees collected for the use of the DMS online procurement system and electronic information services (commonly known as MyFloridaMarketPlace) from DMS to the Department of Financial Services to support statewide purchasing operations. In addition, provides that the transfer of cash to the Department of Financial Services may not exceed \$500,000.

Section 3. Amends s. 287.16, F.S., eliminating a duty of the Department of Management Services to provide an annual report concerning utilization of aircraft in the executive aircraft pool.

Section 4. Repeals s. 287.161, F.S., which establishes the executive aircraft pool within the DMS.

Section 5. Terminating the Bureau of Aircraft Trust Fund within the DMS; providing for the disposition of balances in and revenues of the trust fund; and prescribing procedures for terminating the trust fund.

Section 6. Amends 318.18 & 318.21, continues \$3 surcharge on certain criminal penalties and traffic violations with a revised sunset date of July 1, 2021.

Section 7. Amends 957.04, requires contractors of private correctional facilities to directly reimburse the DMS for contract monitoring and administrative oversight.

Section 8. Providing an effective date of July 1, 2012.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See "Fiscal Comments" section.

2. Expenditures:

See "Fiscal Comments" section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Florida State Employees' Charitable Campaign

An analysis prepared by the DMS shows that an additional amount up to \$100,000 in out-of-pocket costs will be reimbursable to the department beyond the amount of reimbursements for the two recently completed fiscal years - assuming the same level of department effort to conduct the campaign.

Electronic Procurement System Transaction Fees Collected by the Department

An amount not to exceed \$500,000, per year, may be transferred from the Purchasing Oversight account in the DMS Operating Trust Fund to the Administrative Trust Fund in the Department of Financial Services to fund staff that support statewide purchasing operations associated with the department's online procurement systems and electronic information services (commonly known as MyFloridaMarketPlace). The Proposed House of Representatives' General Appropriations Act for FY 2012-13, provides \$350,000 to Department of Financial Services for statewide purchasing functions.

Statewide Law Enforcement Radio System Funding

The \$3 surcharge imposed on criminal offenses listed in s. 318.17 and for all noncriminal moving traffic violations under Chapter 316, F.S., currently provides \$5,250,000 in annual revenues for the support of the Statewide Law Enforcement Radio System. The surcharge revenues account for approximately 23% of the overall cost of providing the Statewide Law Enforcement Radio System. The proposed House of Representatives' General Appropriations Act for FY 2012-13, includes the \$5.2 million revenue stream from the \$3 surcharge for appropriations related to operating the Statewide Law Enforcement Radio System.

Private Prison Monitoring

The DMS will be reimbursed by the private prison contractors for all 14 of the positions in the Bureau of Private Prison Monitoring, including the administrative contract oversight, which will provide a General Revenue savings of \$1.2 million in the proposed House of Representatives' General Appropriations Act for FY 2012-13. The proposed appropriations act also includes a newly create budget entity for private prison monitoring so as to easily distinguish the cost of the Bureau of Private Prison Monitoring. The appropriations of the new budget entity for FY 2012-13 total, \$2.1 million.

The PCB requires private prison contractors to reimburse DMS for their proportional share of the costs associated with the administration of the contracts in addition to the reimbursement for the contract monitors. Presently, the private prison contractors are reimbursing the Department of Corrections for the monitoring oversight costs. In addition, the PCB requires the three private prison contractors currently operating institutions in this state to proportionally share the cost between them. The PCB specifies that the reimbursements are in addition to all contracted per diems and may not result in increased per diems or decreased services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The PCB does not appear to require a county or municipality to spend funds or take an action requiring expenditures; reduce the authority that counties and municipalities had as of February 1, 1989, to raise revenues in the aggregate; or reduce the percentage of a state tax shared in the aggregate with counties and municipalities as of February 1, 1989.

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 Department of Management
 3 Services; amending s. 110.181, F.S.; revising
 4 provisions relating to reimbursement of the department
 5 for actual costs of coordinating the Florida State
 6 Employees' Charitable Campaign; amending s. 287.042,
 7 F.S.; providing for the transfer of funds generated by
 8 fees collected for the use of the department's
 9 electronic information services from the department to
 10 the Department of Financial Services to support
 11 statewide purchasing operations; establishing the
 12 amount of transfer; amending s. 287.16, F.S.;
 13 eliminating a duty of the department to provide an
 14 annual report concerning utilization of aircraft in
 15 the executive aircraft pool; repealing s. 287.161,
 16 F.S., which establishes the executive aircraft pool
 17 within the department and provides procedures and
 18 requirements with respect thereto; terminating the
 19 Bureau of Aircraft Trust Fund within the department;
 20 providing for the disposition of balances in and
 21 revenues of the trust fund; prescribing procedures for
 22 the termination of the trust fund; amending ss. 318.18
 23 and 318.21, F.S.; revising the expiration date of
 24 provisions governing the remission of surcharges for
 25 specified criminal offenses and noncriminal moving
 26 traffic violations to the Department of Revenue to
 27 fund the state agency law enforcement radio system and
 28 to provide technical assistance with respect to

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29 statewide systems of regional law enforcement
 30 communications; amending s. 957.04, F.S.; requiring
 31 contractors of private correctional facilities to
 32 directly reimburse the Department of Management
 33 Services for administration costs; providing an
 34 effective date.

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

37
 38 Section 1. Paragraph (b) of subsection (2) of section
 39 110.181, Florida Statutes, is amended to read:

40 110.181 Florida State Employees' Charitable Campaign.—

41 (2) SELECTION OF FISCAL AGENTS; COST.—

42 (b) The fiscal agent shall withhold the reasonable costs
 43 for conducting the campaign and for accounting and distribution
 44 to the participating organizations and shall reimburse the
 45 department the actual cost, ~~not to exceed 1 percent of gross~~
 46 ~~pledges,~~ for coordinating the campaign in accordance with the
 47 rules of the department. In any fiscal year in which the
 48 Legislature specifically appropriates to the department its
 49 total costs for coordinating the campaign from the General
 50 Revenue Fund, the fiscal agent is not required to reimburse such
 51 costs to the department under this subsection. Otherwise,
 52 reimbursement will be the difference between actual costs and
 53 the amount appropriated.

54 Section 2. Paragraph (h) of subsection (1) of section
 55 287.042, Florida Statutes, is amended to read:

56 287.042 Powers, duties, and functions.—The department

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57 | shall have the following powers, duties, and functions:

58 | (1)

59 | (h)1. The department may collect fees for the use of its
 60 | electronic information services. The fees may be imposed on an
 61 | individual transaction basis or as a fixed subscription for a
 62 | designated period of time. At a minimum, the fees shall be
 63 | determined in an amount sufficient to cover the department's
 64 | projected costs of the services, including overhead in
 65 | accordance with the policies of the department ~~of Management~~
 66 | ~~Services~~ for computing its administrative assessment. All fees
 67 | collected under this paragraph shall be deposited in the
 68 | Operating Trust Fund for disbursement as provided by law.

69 | 2. The department shall transfer funds generated by fees
 70 | collected for the use of the department's electronic information
 71 | services from the Purchasing Oversight Account in the Operating
 72 | Trust Fund to the Administrative Trust Fund in the Department of
 73 | Financial Services to support statewide purchasing operations.
 74 | Unless provided for in the General Appropriations Act, the
 75 | amount of transfer shall be established each year in the
 76 | department's nonoperating budget based upon the estimated cost
 77 | of statewide purchasing operations provided by the Department of
 78 | Financial Services and may not exceed \$500,000.

79 | Section 3. Subsection (10) of section 287.16, Florida
 80 | Statutes, is amended, and subsections (11) and (12) of that
 81 | section are renumbered as subsections (10) and (11),
 82 | respectively, to read:

83 | 287.16 Powers and duties of department.—The Department of
 84 | Management Services shall have the following powers, duties, and

85 | responsibilities:

86 | ~~(10) To provide the Legislature annual reports at the end~~
 87 | ~~of each calendar year concerning the utilization of all aircraft~~
 88 | ~~in the executive pool.~~

89 | Section 4. Section 287.161, Florida Statutes, is repealed.

90 | Section 5. (1) The Bureau of Aircraft Trust Fund within
 91 | the Department of Management Services, FLAIR number 72-2-066, is
 92 | terminated.

93 | (2) All current balances remaining in, and all revenues
 94 | of, the Bureau of Aircraft Trust Fund on the date of termination
 95 | shall be transferred to the General Revenue Fund.

96 | (3) The Department of Management Services shall pay any
 97 | outstanding debts and obligations of the terminated fund as soon
 98 | as practicable, and the Chief Financial Officer shall close out
 99 | and remove the terminated fund from various state accounting
 100 | systems using generally accepted accounting principles
 101 | concerning warrants outstanding, assets, and liabilities.

102 | Section 6. Subsection (17) of section 318.18, Florida
 103 | Statutes, is amended to read:

104 | 318.18 Amount of penalties.—The penalties required for a
 105 | noncriminal disposition pursuant to s. 318.14 or a criminal
 106 | offense listed in s. 318.17 are as follows:

107 | (17) In addition to any penalties imposed, a surcharge of
 108 | \$3 must be paid for all criminal offenses listed in s. 318.17
 109 | and for all noncriminal moving traffic violations under chapter
 110 | 316. Revenue from the surcharge shall be remitted to the
 111 | Department of Revenue and deposited quarterly into the State
 112 | Agency Law Enforcement Radio System Trust Fund of the Department

PCB GOAS 12-05

ORIGINAL

2012

113 of Management Services for the state agency law enforcement
 114 radio system, as described in s. 282.709, and to provide
 115 technical assistance to state agencies and local law enforcement
 116 agencies with their statewide systems of regional law
 117 enforcement communications, as described in s. 282.7101. This
 118 subsection expires July 1, 2021 ~~2012~~. The Department of
 119 Management Services may retain funds sufficient to recover the
 120 costs and expenses incurred for managing, administering, and
 121 overseeing the Statewide Law Enforcement Radio System, and
 122 providing technical assistance to state agencies and local law
 123 enforcement agencies with their statewide systems of regional
 124 law enforcement communications. The Department of Management
 125 Services working in conjunction with the Joint Task Force on
 126 State Agency Law Enforcement Communications shall determine and
 127 direct the purposes for which these funds are used to enhance
 128 and improve the radio system.

129 Section 7. Subsection (17) of section 318.21, Florida
 130 Statutes, is amended to read:

131 318.21 Disposition of civil penalties by county courts.—
 132 All civil penalties received by a county court pursuant to the
 133 provisions of this chapter shall be distributed and paid monthly
 134 as follows:

135 (17) Notwithstanding subsections (1) and (2), the proceeds
 136 from the surcharge imposed under s. 318.18(17) shall be
 137 distributed as provided in that subsection. This subsection
 138 expires July 1, 2021 ~~2012~~.

139 Section 8. Paragraph (g) of subsection (1) of section
 140 957.04, Florida Statutes, is amended to read:

141 957.04 Contract requirements.—

142 (1) A contract entered into under this chapter for the
 143 operation of private correctional facilities shall maximize the
 144 cost savings of such facilities and shall:

145 (g) Require the contractor to reimburse the Department of
 146 Management Services for costs associated with contract
 147 monitoring and the administrative oversight of the contract.
 148 Such reimbursements are in addition to all contracted per diems
 149 and may not result in increased per diems or decreased services
 150 selection and appointment of a full-time contract monitor.

151 1. A full-time The contract monitor shall be appointed for
 152 each correctional facility and supervised by the Department of
 153 Management Services. The contractor is required to reimburse the
 154 Department of Management Services for the salary and expenses of
 155 the contract monitor. It is the obligation of the contractor to
 156 provide suitable office space for the contract monitor at the
 157 correctional facility. The contract monitor shall have unlimited
 158 access to the correctional facility.

159 2. The contractor is required to reimburse the Department
 160 of Management Services for their proportional share of the
 161 appropriations for the Bureau of Private Prison Monitoring as
 162 provided in the General Appropriations Act.

163 Section 9. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 12-06 State Data Center System
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Lloyd <i>EL</i>	Topp <i>BDT</i>

SUMMARY ANALYSIS

This Proposed Committee Bill (PCB) amends various provisions of law related to the consolidation of agency data centers to conform to the proposed House of Representatives' General Appropriations Act (GAA) for Fiscal Year 2012-13.

Currently, section 282.201, F.S., establishes a state data center system and requires all agency data centers and computing facilities to be consolidated into a primary data center by 2019. In 2011, the Legislature codified in statute the data center consolidation schedule recommended by the Agency for Enterprise Information Technology (AEIT). The consolidation schedule identified the agencies required to consolidate, the primary data center each agency would consolidate into and the fiscal year the agencies would consolidate.

Additionally, the Legislature established in law the requirement for agencies, primary data centers, and the AEIT to submit consolidation transition plans and identified the components required to be included in these plans.

Specifically, the PCB:

- Amends the schedule for agency data center consolidations and exempts certain agencies from consolidating to a primary data center.
- Deletes the requirement that agencies must submit information relating to their data centers and computing facilities to the AEIT.
- Deletes the requirement for the AEIT to submit a comprehensive transition plan.
- Amends certain duties and responsibilities of a primary data center, to include the Northwest Regional Data Center.

The PCB amends the agency data center consolidation schedule for Fiscal Year 2012-2013, which conforms to the proposed FY 2012-13 House GAA, by making a number of statewide adjustments to appropriations in the various agencies impacted by data center consolidation. These statewide adjustments increased General Revenue by \$1.9 million and decreased trust funds by \$607,577; for a net increase of \$1.33 million.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Data Center Consolidations

Current Situation

The Legislature established the state data center system and required all agency data centers and computing facilities to be consolidated into a primary data center by 2019.¹ By December 1 of each year, beginning in 2009, the Legislature directed the Agency for Enterprise Information Technology (AEIT) to identify at least two agency data centers or computing facilities for consolidation into a primary data center.²

The Legislature initiated the first phase of data center consolidation in 2009 with proviso included in the fiscal year 2009-2010 General Appropriations Act that required the:

- Florida Parole Commission to transfer its information technology services, to include its data center functions, to the Department of Corrections by July 1, 2009.
- Department of Juvenile Justice to consolidate its data center functions into the Northwood Shared Resource Center (NSRC) by July 1, 2010.
- Department of Business and Professional Regulation to consolidate its data center functions into the NSRC by November 30, 2010.

The AEIT submitted its recommendation as required by law on September 30, 2009,³ for the next phase of data center consolidations and the Legislature directed via proviso in the fiscal year 2010-2011 General Appropriations Act the following consolidations:

To the Northwood Shared Resource Center (NSRC)

- Department of Juvenile Justice by July 1, 2010
- Department of Business and Professional Regulation by November 30, 2010
- Department of Children and Families' Winewood Office Complex by June 30, 2012
- Department of Transportation's Motor Carrier Compliance Office by July 1, 2011.

To the Southwood Shared Resource Center (SSRC)

- Department of Transportation Burns Office Building by March 31, 2012.
- Department of Transportation Survey and Mapping Office by March 31, 2012.

To the Northwest Regional Data Center (NWRDC)

- Department of Education by December 31, 2011.
- College Center for Library Automation by December 31, 2011.
- Florida Center for Library Automation by December 31, 2011.

To the NSRC or SSRC

- Agency for Health Care Administration by June 30, 2012.
- Department of Highway Safety and Motor Vehicles by December 31, 2011.

On December 23, 2010, the AEIT submitted its *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers by 2019*. This document provided recommendations for the consolidation of all remaining agency data centers and computing facilities.

In 2011, the Legislature codified in statute the recommendations included in AEIT's December 23, 2010, report identifying the agencies required to consolidate into a primary data center within that fiscal year.⁴

¹ 2008-116, Laws of Florida.

² 2008-116, Laws of Florida.

³ *Recommendation of Non-primary Data Centers for Consolidation into Primary Data Centers*. Agency for Enterprise Information Technology, September 30, 2009.

Proposed Change

The PCB amends the agency data center consolidation schedule as follows:

To the NSRC

- Department of Health's Test and Development Lab and all remaining data center resources located at the Capital Circle Office Complex by December 31, 2012.
- Department of Veterans' Affairs by July 1, 2013.
- Department of Legal Affairs by December 31, 2013.
- Department of Agriculture and Consumer Services' Agriculture Management Information Center in the Mayo Building and the Division of Licensing by March 31, 2014.

To the SSRC

- Fish and Wildlife Conservation Commission, except of the commission's Fish and Wildlife Research Institute in St. Petersburg, by July 1, 2013.
- Department of Economic Opportunity by October 31, 2013.
- Executive Office of the Governor, to include the Division of Emergency Management except for the Emergency Operation Center's management system in Tallahassee and the Camp Blanding Emergency Operations Center in Starke, by December 31, 2013.
- Department of Elderly Affairs by March 31, 2014.

To the NWRDC

- Department of Revenue's Carlton Building and Imaging Center locations by September 30, 2012.

The PCB exempts the following from data center consolidation:

- Florida Department of Law Enforcement
- Department of Lottery's Gaming System
- Systems Design and Development in the Office of Policy and Budget
- State Board of Administration

The PCB amends the date that the Department of Financial Services must consolidate from Fiscal Year 2013-2014 to Fiscal Year 2015-2016.

And finally, the PCB requires that each agency identified for consolidation into a primary data center must submit with its respective legislative budget request the specific recurring and nonrecurring budget adjustments of resources by appropriation category into the appropriate data processing category pursuant to the legislative budget request instructions in s. 216.023.

Transition Plans

Current Situation

The Fiscal Years 2009-2010 and 2010-2011 General Appropriations Acts' directed the submission of transition plans for both the agencies identified for consolidation and the primary data centers identified to receive the consolidations; based on requirements established by the AEIT. For the agency transition plans, proviso in Fiscal Year 2010-2011 General Appropriations Act required agencies to include:

- Inventory of all resources;
- Description of resources proposed to remain at the agency;
- Budget, full-time personnel, and contracted services associated with the cost of the agency's current computing services;
- Necessary budget adjustments required to accomplish the transfer of computing resources; and
- Timetable with significant milestones for completion of the relocation.

⁴ 2011-50, Laws of Florida.

Additionally, the Fiscal Years 2009-2010 and 2010-2011 General Appropriations Acts' required the primary data centers to develop and submit a transition plan for absorbing the transfer of customer agency data center resources into their centers. Primary data center transition plans were required to describe and make recommendations relating to issues which need to be resolved to accomplish the transfer.

In 2011 the Legislature codified in statute⁵ the requirement for the development and submission of:

- *Agency transition plans.* Requires plans to be submitted to the AEIT by September 1 of the fiscal year before the fiscal year of the agency's scheduled consolidation and identifies the required components of the plan.
- *Primary data center transition plans.* Requires plans to be submitted to the AEIT, Executive Office of the Governor, and the chairs of the legislative appropriations committees by September 30 of the fiscal year before the fiscal year of the scheduled consolidation and identifies the required components of the plan.
- *Comprehensive transition plan.* Requires the AEIT to develop a comprehensive plan that must be submitted by October 15 of the fiscal year before the scheduled consolidations to the Governor and the chairs of the legislative appropriations committees. The comprehensive transition plan must be developed in consultation with the agencies submitting the agency transition plans and the affected primary data center. The required components of the comprehensive transition plan are also identified.

Proposed Change

The PCB amends the required transition plans as follows:

- *Agency transition plans.* Requires plans to be submitted to the appropriate primary data center by July 1 of the fiscal year before the agency's scheduled consolidation and amends the required components of the plan.
- *Primary data center transitions plans.* Requires plans to be submitted to the AEIT, the Executive Office of the Governor, and the chairs of the legislative appropriations committees by September 1 of the fiscal year before the scheduled consolidation.
- *Comprehensive transition plan.* Eliminates the requirement for AEIT to submit a comprehensive plan.

And finally, the PCB eliminates the requirement that agencies submit certain agency data center information to the AEIT as the information is a component of the agency's transition plan.

Primary Data Centers

Current Situation

In 2009 the Legislature established a primary data center as a part of the state data center system.⁶ As required by s. 282.203, F.S., a primary data center was required to perform several duties, to include providing transparent financial statements to customer entities, the center's board of trustees, and the AEIT.

Additionally, a primary data center was authorized to enter into a memorandum of understanding with the agency where the center was administratively located for the provision of administrative services.

Proposed Change

The PCB amends the duties of a primary data center to include:

- Requiring a primary data center to provide to each agency head by September 1 the projected costs to provide data center services for the next fiscal year.
- Providing a plan for consideration by the Legislative Budget Commission if the governing body of a data center approves the use of a billing rate schedule after the start of the fiscal year that increases any state agency's cost for that fiscal year.

⁵ 2011-50, Laws of Florida.

⁶ 2008-116, Laws of Florida.

- Requiring that any administrative overhead costs charged by the agency providing administrative services to the SSRC and NSRC must be appropriated by a specific appropriation in the General Appropriations Act.

B. SECTION DIRECTORY:

Section 1. Amends s. 282.201, F.S., relating to the state data center system and the schedule for consolidating agency data centers into a primary data center.

Section 2. Amends s. 282.203, F.S., relating to the duties and responsibilities of a primary data center and its board of trustees. Requires Northwood Share Resource Center and the Southwood Shared Resource Center to provide a plan for consideration by the Legislative Budget Commission, if the center's governing body approves a billing rate structure for its state agency customers after the start of a fiscal year that increases any of these customers' costs. In addition, the statute is amended to provide that any administrative overhead costs paid by a primary data center require a specific appropriation in the General Appropriations Act.

Section 3. Amends s. 1004.649, F.S., relating to the Northwest Regional Data Center to require the center to provide a plan for consideration by the Legislative Budget Commission, if the center's governing body approves a billing rate structure for its state agency customers after the start of a fiscal year that increases any of these customers' costs.

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:

None.

D. FISCAL COMMENTS:

The PCB amends the agency data center consolidation schedule for Fiscal Year 2012-2013, which conforms to the proposed FY 2012-13 House GAA, by making a number of statewide adjustments to appropriations in the various agencies impacted by data center consolidation. These statewide adjustments increased General Revenue by \$1.9 million and decreased trust funds by \$607,577; for a net increase of \$1.33 million.

Adjustments by department/agency for proposed FY 2012-13 Data Center Consolidation

DEPARTMENT	GENERAL REVENUE	ALL TRUST FUNDS	
AGENCY/HEALTH CARE ADMIN		\$50,116	
AGENCY/PERSONS WITH DISABL	(\$74,309)	(\$467,907)	
BUSINESS/PROFESSIONAL REG		(\$408,956)	
CHILDREN & FAMILY SERVICES	(\$7,096)	\$2,372,391	
CITRUS, DEPT OF		(\$34,686)	
CORRECTIONS, DEPT OF	\$1,762,545		
ECONOMIC OPPORTUNITY		\$855,948	
EDUCATION, DEPT OF	(\$96,316)	(\$114,018)	
ELDER AFFAIRS, DEPT OF	\$0	\$0	
ENVIR PROTECTION, DEPT OF		\$179,204	
FINANCIAL SERVICES		(\$2,024)	
FISH/WILDLIFE CONSERV COMM		(\$9,612)	
GOVERNOR, EXECUTIVE OFFICE	(\$72,923)	(\$38,867)	
HEALTH, DEPT OF		\$34,367	
HIWAY SAFETY/MTR VEH, DEPT		(\$1,003,575)	
JUSTICE ADMINISTRATION	(\$2,699)		
JUVENILE JUSTICE, DEPT OF	(\$175,011)		
MANAGEMENT SRVCS, DEPT OF	(\$4,239)	(\$1,196,196)	
MILITARY AFFAIRS, DEPT OF	(\$578)		
PUBLIC SERVICE COMMISSION		(\$15,953)	
REVENUE, DEPARTMENT OF	\$369,899	(\$96,010)	
STATE, DEPT OF	\$230,327		
TRANSPORTATION, DEPT OF		(\$711,799)	
UNIVERSITIES, DIVISION OF	(\$52)		
VETERANS' AFFAIRS, DEPT OF	\$9,984		
Grand Total	\$1,939,532	(\$607,577)	NET: \$1,331,955

The increase for the Department of Corrections is based on annualizing prior year's indirect costs and incorporating projected data center costs for FY2012-2013.

The PCB requires the AEIT to develop standards for hardware and operations software for the primary data centers. Such standardization could result in future savings.

Additionally, the PCB requires a primary data center to submit a plan for consideration by the Legislative Budget Commission if the center's board of trustees approves a change to the billing rate schedule after the start of Fiscal Year 2012-2013 that increases any state agency's costs for the fiscal year.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None

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 state data center system;
 3 amending s. 282.201, F.S.; revising duties of the
 4 Agency for Enterprise Information Technology and state
 5 agencies relating to consolidation of agency data
 6 centers into a primary data center; removing a
 7 requirement for publishing notice of rule development;
 8 removing a requirement that agencies submit certain
 9 information to the Agency for Enterprise Information
 10 Technology; revising the schedule of consolidations;
 11 providing a timeframe for specified agency facilities
 12 to be consolidated; providing exemptions for specified
 13 agencies and facilities; requiring an agency and
 14 primary data center to submit a report to the
 15 Executive Office of the Governor and the chairs of the
 16 legislative appropriations committees if they are
 17 unable to execute a service-level agreement within a
 18 certain time period; requiring agencies to submit a
 19 transition plan to the appropriate primary data center
 20 by a certain date; providing for content of the plan;
 21 requiring the primary data centers to develop and
 22 submit transition plans to the Agency for Enterprise
 23 Information Technology, the Executive Office of the
 24 Governor, and the chairs of the legislative
 25 appropriations committees by a certain date; providing
 26 for content of the plans; requiring an agency that is
 27 consolidating facilities into a primary data center to
 28 submit certain information concerning adjustments of

29 resources with its legislative budget request;
30 removing a requirement that the Agency for Enterprise
31 Information Technology develop comprehensive
32 transition plans; revising restrictions on agencies
33 relating to technology facilities and services;
34 amending s. 282.203, F.S.; revising duties of primary
35 data centers and boards of trustees of such centers;
36 requiring the centers to provide agencies with
37 projected costs for inclusion in the agencies' budget
38 requests; requiring boards to provide a plan for
39 consideration by the Legislative Budget Commission
40 under certain conditions; providing that certain
41 administrative overhead costs require a specific
42 appropriation in the General Appropriation Act;
43 amending s. 1004.649, F.S.; revising responsibilities
44 of the Northwest Regional Data Center; revising the
45 date by which the center must provide agencies with
46 projected costs; requiring the center to submit a plan
47 to the Legislative Budget Commission when a billing
48 rate schedule is revised after the beginning of the
49 fiscal year and increases an agency's costs; providing
50 an effective date.

51

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

53

54 Section 1. Subsection (1), paragraphs (d) and (e) of
55 subsection (2), subsections (3) and (4), and paragraph (a) of

56 subsection (5) of section 282.201, Florida Statutes, are amended
 57 to read:

58 282.201 State data center system; agency duties and
 59 limitations.—A state data center system that includes all
 60 primary data centers, other nonprimary data centers, and
 61 computing facilities, and that provides an enterprise
 62 information technology service as defined in s. 282.0041, is
 63 established.

64 (1) INTENT.—The Legislature finds that the most efficient
 65 and effective means of providing quality utility data processing
 66 services to state agencies requires that computing resources be
 67 concentrated in quality facilities that provide the proper
 68 security, infrastructure, and staff resources to ensure that the
 69 state's data is maintained reliably and safely, and is
 70 recoverable in the event of a disaster. Efficiencies resulting
 71 from such consolidation include the increased ability to
 72 leverage technological expertise and hardware and software
 73 capabilities; increased savings through consolidated purchasing
 74 decisions; and the enhanced ability to deploy technology
 75 improvements and implement new policies consistently throughout
 76 the consolidated organization. Unless otherwise exempt by law,
 77 ~~Therefore~~ it is the intent of the Legislature that all agency
 78 data centers and computing facilities be consolidated into a
 79 primary data center ~~centers to the maximum extent possible by~~
 80 2019.

81 (2) AGENCY FOR ENTERPRISE INFORMATION TECHNOLOGY DUTIES.—
 82 The Agency for Enterprise Information Technology shall:

83 (d) By October 1 of each year ~~beginning in 2011,~~ provide

84 recommendations to the Governor and Legislature relating to
 85 changes to the schedule for the consolidations of state agency
 86 data centers as provided in subsection (4).

87 1. The recommendations must be based on the goal of
 88 maximizing current and future cost savings by:

89 a. Consolidating purchase decisions.†

90 b. Leveraging expertise and other resources to gain
 91 economies of scale.†

92 c. Implementing state information technology policies more
 93 effectively.† and

94 d. Maintaining or improving the level of service provision
 95 to customer entities.

96 2. The agency shall establish workgroups as necessary to
 97 ensure participation by affected agencies in the development of
 98 recommendations related to consolidations.

99 (e) Develop and establish rules relating to the operation
 100 of the state data center system which comply with applicable
 101 federal regulations, including 2 C.F.R. part 225 and 45 C.F.R.
 102 ~~The agency shall publish notice of rule development in the~~
 103 ~~Florida Administrative Weekly by October 1, 2011.~~ The rules must
 104 address:

105 1. Ensuring that financial information is captured and
 106 reported consistently and accurately.

107 2. Identifying standards for hardware, including standards
 108 for a shared, virtualized server environment, and operations
 109 system software and other operational software, including
 110 security and network infrastructure, for the primary data
 111 centers; requiring compliance with such standards in order to

112 enable the efficient consolidation of the agency data centers or
 113 computing facilities; and providing an exemption process from
 114 compliance with such standards, which must be consistent with
 115 paragraph (5) (b).

116 3. Requiring annual full cost recovery on an equitable
 117 rational basis. The cost-recovery methodology must ensure that
 118 no service is subsidizing another service and may include
 119 adjusting the subsequent year's rates as a means to recover
 120 deficits or refund surpluses from a prior year.

121 4. Requiring that any special assessment imposed to fund
 122 expansion is based on a methodology that apportions the
 123 assessment according to the proportional benefit to each
 124 customer entity.

125 5. Requiring that rebates be given when revenues have
 126 exceeded costs, that rebates be applied to offset charges to
 127 those customer entities that have subsidized the costs of other
 128 customer entities, and that such rebates may be in the form of
 129 credits against future billings.

130 6. Requiring that all service-level agreements have a
 131 contract term of up to 3 years, but may include an option to
 132 renew for up to 3 additional years contingent on approval by the
 133 board, and require at least a 180-day notice of termination.

134 (3) STATE AGENCY DUTIES.—

135 (a) For the purpose of completing the ~~its~~ work activities
 136 ~~as~~ described in subsections ~~subsection~~ (1) and (2), each state
 137 agency shall provide to the Agency for Enterprise Information
 138 Technology all requested information relating to its data
 139 centers and computing facilities and any other information

140 relevant to the agency's ability to effectively transition its
 141 computer services into a primary data center. The agency shall
 142 also participate as required in workgroups relating to specific
 143 consolidation planning and implementation tasks as assigned by
 144 the Agency for Enterprise Information Technology and determined
 145 necessary to accomplish consolidation goals.

146 ~~(b) Each state agency shall submit to the Agency for~~
 147 ~~Enterprise Information Technology information relating to its~~
 148 ~~data centers and computing facilities as required in~~
 149 ~~instructions issued by July 1 of each year by the Agency for~~
 150 ~~Enterprise Information Technology. The information required may~~
 151 ~~include:~~

- 152 ~~1. Amount of floor space used and available.~~
- 153 ~~2. Numbers and capacities of mainframes and servers.~~
- 154 ~~3. Storage and network capacity.~~
- 155 ~~4. Amount of power used and the available capacity.~~
- 156 ~~5. Estimated expenditures by service area, including~~
 157 ~~hardware and software, numbers of full-time equivalent~~
 158 ~~positions, personnel turnover, and position reclassifications.~~
- 159 ~~6. A list of contracts in effect for the fiscal year,~~
 160 ~~including, but not limited to, contracts for hardware, software~~
 161 ~~and maintenance, including the expiration date, the contract~~
 162 ~~parties, and the cost of the contract.~~
- 163 ~~7. Service-level agreements by customer entity.~~

164 (b)(e) Each state agency customer of a primary data center
 165 shall notify the data center, by May 31 and November 30 of each
 166 year, of any significant changes in anticipated utilization of
 167 data center services pursuant to requirements established by the

168 boards of trustees of each primary data center.

169 (4) SCHEDULE FOR CONSOLIDATIONS OF AGENCY DATA CENTERS.—

170 (a) Consolidations of agency data centers shall be made by
 171 the date and to the specified primary data center as provided in
 172 this section and in accordance with budget adjustments contained
 173 in the General Appropriations Act.

174 (b) By December 31, 2011, the following shall be
 175 consolidated into the Northwest Regional Data Center:

176 1. The Department of Education's Knott Data Center in the
 177 Turlington Building.

178 2. The Department of Education's Division of Vocational
 179 Rehabilitation.

180 3. The Department of Education's Division of Blind
 181 Services, except for the division's disaster recovery site in
 182 Daytona Beach.

183 4. The FCAT Explorer.

184 5. FACTS.org.

185 (c) During the 2011-2012 fiscal year, the following shall
 186 be consolidated into the Southwood Shared Resource Center:

187 1. By September 30, 2011, the Department of Corrections.

188 2. By March 31, 2012, the Department of Transportation's
 189 Burns Building.

190 3. By March 31, 2012, the Department of Transportation's
 191 Survey & Mapping Office.

192 (d) During the 2011-2012 fiscal year, the following shall
 193 be consolidated into the Northwood Shared Resource Center:

194 1. By July 1, 2011, the Department of Transportation's
 195 Office of Motor Carrier Compliance.

196 2. By March 31, 2012, the Department of Highway Safety and
197 Motor Vehicles.

198 (e) By September 30, 2012, the Department of Revenue's
199 Carlton Building and Imaging Center locations shall be
200 consolidated into the Northwest Regional Data Center. ~~During the~~
201 ~~2012-2013 fiscal year, the following shall be consolidated into~~
202 ~~the Southwood Shared Resource Center:~~

203 1. ~~By September 30, 2012, the Division of Emergency~~
204 ~~Management and the Department of Community Affairs, except for~~
205 ~~the Emergency Operation Center's management system in~~
206 ~~Tallahassee and the Camp Blanding Emergency Operations Center in~~
207 ~~Starke.~~

208 2. ~~By September 30, 2012, the Department of Revenue's~~
209 ~~Carlton Building and Imaging Center locations.~~

210 3. ~~By December 31, 2012, the Department of Health's Test~~
211 ~~and Development Lab and all remaining data center resources~~
212 ~~located at the Capital Circle Office Complex.~~

213 (f) During the 2012-2013 fiscal year, the following shall
214 be consolidated into the Northwood Shared Resource Center:

215 1. By July 1, 2012, the Agency for Health Care
216 Administration.

217 2. By December 31, 2012, the Department of Environmental
218 Protection's Palmetto Commons.

219 3. By December 31, 2012, the Department of Health's Test
220 and Development Lab and all remaining data center resources
221 located at the Capital Circle Office Complex ~~March 30, 2013, the~~
222 ~~Department of Law Enforcement's headquarters location.~~

223 (g) During the 2013-2014 fiscal year, the following

224 ~~agencies shall be consolidated into the Southwood Shared~~
 225 ~~Resource Center work with the Agency for Enterprise Information~~
 226 ~~Technology to begin preliminary planning for consolidation into~~
 227 ~~a primary data center:~~

- 228 ~~1. The Department of the Lottery's headquarters location.~~
- 229 ~~2. The Department of Legal Affairs.~~

230 1.3. By July 1, 2013, the Fish and Wildlife Conservation
 231 Commission, except for the commission's Fish and Wildlife
 232 Research Institute in St. Petersburg.

233 2. By October 31, 2013, the Department of Economic
 234 Opportunity.

235 3.4. By December 31, 2013, the Executive Office of the
 236 Governor, to include the Division of Emergency Management except
 237 for the Emergency Operation Center's management system in
 238 Tallahassee and the Camp Blanding Emergency Operations Center in
 239 Starke.

- 240 ~~5. The Department of Veterans' Affairs.~~

241 4.6. By March 31, 2014, the Department of Elderly Affairs.

- 242 ~~7. The Department of Financial Services' Hartman, Larson,~~
 243 ~~and Fletcher Building Data Centers.~~

244 ~~8. The Department of Agriculture and Consumer Services'~~
 245 ~~Agriculture Management Information Center in the Mayo Building~~
 246 ~~and Division of Licensing.~~

247 (h) During the 2013-2014 fiscal year, the following shall
 248 be consolidated into the Northwood Shared Resource Center:

- 249 1. By July 1, 2013, the Department of Veterans' Affairs.
- 250 2. By December 31, 2013, the Department of Legal Affairs.
- 251 3. By March 31, 2014, the Department of Agriculture and

252 Consumer Services' Agriculture Management Information Center in
 253 the Mayo Building and the Division of Licensing.

254 (i)~~(h)~~ During the 2014-2015 fiscal year, the following
 255 agencies shall work with the Agency for Enterprise Information
 256 Technology to begin preliminary planning for consolidation into
 257 a primary data center:

- 258 1. The Department of Health's Jacksonville Lab Data
 259 Center.
- 260 2. The Department of Transportation's district offices,
 261 toll offices, and the District Materials Office.
- 262 3. The Department of Military Affairs' Camp Blanding Joint
 263 Training Center in Starke.
- 264 4. The Department of Community Affairs' Camp Blanding
 265 Emergency Operations Center in Starke.
- 266 5. The Department of Education's Division of Blind
 267 Services disaster recovery site in Daytona Beach.
- 268 6. The Department of Education's disaster recovery site at
 269 Santa Fe College.
- 270 7. The Department of the Lottery's Disaster Recovery
 271 Backup Data Center in Orlando.
- 272 8. The Fish and Wildlife Conservation Commission's Fish
 273 and Wildlife Research Institute in St. Petersburg.
- 274 9. The Department of Children and Family Services'
 275 Suncoast Data Center in Tampa.
- 276 10. The Department of Children and Family Services'
 277 Florida State Hospital in Chattahoochee.

278 (j)~~(i)~~ During the 2015-2016 fiscal year, all computing
 279 resources remaining within an agency ~~nonprimary~~ data center or

280 | computing facility, to include the Department of Financial
 281 | Services' Hartman, Larson, and Fletcher Buildings data centers,
 282 | shall be transferred to a primary data center for consolidation
 283 | unless otherwise required to remain in the agency for specified
 284 | financial, technical, or business reasons that must be justified
 285 | in writing and approved by the Agency for Enterprise Information
 286 | Technology. Such data centers, computing facilities, and
 287 | resources must be identified by the Agency for Enterprise
 288 | Information Technology by October 1, 2014.

289 | (k) The Department of Law Enforcement, the Department of
 290 | the Lottery's Gaming System, Systems Design and Development in
 291 | the Office of Policy and Budget, and the State Board of
 292 | Administration are exempt from data center consolidation under
 293 | this section.

294 | (l)~~(j)~~ Any agency that is consolidating agency data
 295 | centers into a primary data center must execute a new or update
 296 | an existing service-level agreement within 60 days after the
 297 | specified consolidation date, as required by s. 282.203, in
 298 | order to specify the services and levels of service it is to
 299 | receive from the primary data center as a result of the
 300 | consolidation. If an agency and primary data center are ~~is~~
 301 | unable to execute a service-level agreement by that date, the
 302 | agency and the primary data center shall submit a report to the
 303 | Executive Office of the Governor and to the chairs of the
 304 | legislative appropriations committees within 5 working days
 305 | after that date which explains the specific issues preventing
 306 | execution and describing the ~~its~~ plan and schedule for resolving
 307 | those issues.

308 ~~(m)-(k)~~ Beginning September 1, 2011, and every 6 months
 309 thereafter until data center consolidations are complete, the
 310 Agency for Enterprise Information Technology shall provide a
 311 status report on the implementation of the consolidations that
 312 must be completed during the fiscal year. The report shall be
 313 submitted to the Executive Office of the Governor and the chairs
 314 of the legislative appropriations committees. The report must,
 315 at a minimum, describe:

316 1. Whether the consolidation is on schedule, including
 317 progress on achieving the milestones necessary for successful
 318 and timely consolidation of scheduled agency data centers and
 319 computing facilities. ~~and~~

320 2. The risks that may affect the progress or outcome of
 321 the consolidation and how these risks are being addressed,
 322 mitigated, or managed.

323 ~~(n)-(l)~~ Each agency identified in this subsection for
 324 consolidation into a primary data center shall submit a
 325 transition plan to the appropriate primary data center ~~Agency~~
 326 ~~for Enterprise Information Technology~~ by July ~~September~~ 1 of the
 327 fiscal year before the fiscal year in which the scheduled
 328 consolidation will occur. Transition plans shall be developed in
 329 consultation with the appropriate primary data centers and the
 330 Agency for Enterprise Information Technology, and must include:

331 1. An inventory of the agency data center's resources
 332 being consolidated, including all hardware and its associated
 333 life cycle replacement schedule, software, staff, ~~and~~ contracted
 334 services, and ~~the~~ facility resources performing data center
 335 management and operations, security, backup and recovery,

336 disaster recovery, system administration, database
 337 administration, system programming, job control, production
 338 control, print, storage, technical support, help desk, and
 339 managed services, but excluding application development, and the
 340 agency's costs supporting these resources.†

341 2. A list of contracts in effect, including, but not
 342 limited to, contracts for hardware, software, and maintenance,
 343 which identifies the expiration date, the contract parties, and
 344 the cost of each contract.

345 3.2. A detailed description of the level of services
 346 needed to meet the technical and operational requirements of the
 347 platforms being consolidated. ~~and an estimate of the primary~~
 348 ~~data center's cost for the provision of such services;~~

349 4.3. A description of resources for computing services
 350 proposed to remain in the department.†

351 5.4. A timetable with significant milestones for the
 352 completion of the consolidation.† ~~and~~

353 ~~5. The specific recurring and nonrecurring budget~~
 354 ~~adjustments of budget resources by appropriation category into~~
 355 ~~the appropriate data processing category pursuant to the~~
 356 ~~legislative budget instructions in s. 216.023 necessary to~~
 357 ~~support agency costs for the transfer.~~

358 (o) (m) Each primary data center shall develop a transition
 359 plan for absorbing the transfer of agency data center resources
 360 based upon the timetables for transition as provided in this
 361 subsection. The plan shall be submitted to the Agency for
 362 Enterprise Information Technology, the Executive Office of the
 363 Governor, and the chairs of the legislative appropriations

364 committees by September 1 ~~30~~ of the fiscal year before the
 365 fiscal year in which the scheduled consolidations will occur.
 366 Each plan must include:

- 367 1. ~~An estimate of~~ The projected cost to provide data
 368 center services for each agency scheduled for consolidation. ~~†~~
- 369 2. A staffing plan that identifies the projected staffing
 370 needs and requirements based on the estimated workload
 371 identified in the agency transition plan. ~~†~~
- 372 3. The fiscal year adjustments to budget categories in
 373 order to absorb the transfer of agency data center resources
 374 pursuant to the legislative budget request instructions provided
 375 in s. 216.023. ~~†~~
- 376 4. An analysis of the cost effects resulting from the
 377 planned consolidations on existing agency customers. ~~† and~~
- 378 5. A description of any issues that must be resolved in
 379 order to accomplish as efficiently and effectively as possible
 380 all consolidations required during the fiscal year.

381 (p) Each agency identified in this subsection for
 382 consolidation into a primary data center shall submit with its
 383 respective legislative budget request the specific recurring and
 384 nonrecurring budget adjustments of resources by appropriation
 385 category into the appropriate data processing category pursuant
 386 to the legislative budget request instructions in s. 216.023.

387 ~~(n) The Agency for Enterprise Information Technology shall~~
 388 ~~develop a comprehensive transition plan, which shall be~~
 389 ~~submitted by October 15th of the fiscal year before the fiscal~~
 390 ~~year in which the scheduled consolidations will occur to each~~
 391 ~~primary data center, to the Executive Office of the Governor,~~

392 ~~and the chairs of the legislative appropriations committees. The~~
 393 ~~transition plan shall be developed in consultation with agencies~~
 394 ~~submitting agency transition plans and with the affected primary~~
 395 ~~data centers. The comprehensive transition plan must include:~~

396 ~~1. Recommendations for accomplishing the proposed~~
 397 ~~transitions as efficiently and effectively as possible with~~
 398 ~~minimal disruption to customer agency business processes;~~

399 ~~2. Strategies to minimize risks associated with any of the~~
 400 ~~proposed consolidations;~~

401 ~~3. A compilation of the agency transition plans submitted~~
 402 ~~by agencies scheduled for consolidation for the following fiscal~~
 403 ~~year; and~~

404 ~~4. Revisions to any budget adjustments provided in the~~
 405 ~~agency or primary data center transition plans.~~

406 ~~(e) Any agency data center scheduled for consolidation~~
 407 ~~after the 2011-2012 fiscal year may consolidate into a primary~~
 408 ~~data center before its scheduled date contingent upon the~~
 409 ~~approval of the Agency for Enterprise Information Technology.~~

410 (5) AGENCY LIMITATIONS.-

411 (a) Unless authorized by the Legislature or as provided in
 412 paragraphs (b) and (c), a state agency may not:

413 1. Create a new computing facility or data center, or
 414 expand the capability to support additional computer equipment
 415 in an existing computing facility or nonprimary data center;

416 2. Spend funds before the agency's scheduled consolidation
 417 into a primary data center to purchase or modify hardware or
 418 operations software that does not comply with hardware and
 419 software standards established by the Agency for Enterprise

420 Information Technology pursuant to paragraph (2)(e) for the
 421 efficient consolidation of the agency data centers or computing
 422 facilities;

423 3. Transfer existing computer services to any data center
 424 other than a primary data center;

425 4. Terminate services with a primary data center or
 426 transfer services between primary data centers without giving
 427 written notice of intent to terminate or transfer services 180
 428 days before such termination or transfer; or

429 5. Initiate a new computer service ~~if it does not~~
 430 ~~currently have an internal data center~~ except with a primary
 431 data center.

432 Section 2. Subsection (1) and paragraphs (e) and (1) of
 433 subsection (3) of section 282.203, Florida Statutes, are amended
 434 to read:

435 282.203 Primary data centers.—

436 (1) DATA CENTER DUTIES.—Each primary data center shall:

437 (a) Serve customer entities as an information-system
 438 utility.

439 (b) Cooperate with customer entities to offer, develop,
 440 and support the services and applications as defined and
 441 provided by the center's board of trustees and customer
 442 entities.

443 (c) Comply with rules adopted by the Agency for Enterprise
 444 Information Technology, pursuant to this section, and coordinate
 445 with the agency in the consolidation of data centers.

446 (d) Provide to each agency head by September 1 of the
 447 fiscal year before the fiscal year in which the agency's

448 consolidation is scheduled to occur the projected costs to
 449 provide data center services. Each agency head shall use the
 450 projected cost for inclusion in his or her respective
 451 legislative budget request for budget adjustments necessary to
 452 fund the agency's data center services.

453 (e)-(d) Provide transparent financial statements in a
 454 format approved by the center's board of trustees to customer
 455 entities, ~~the center's board of trustees,~~ and the Agency for
 456 Enterprise Information Technology. The financial statements
 457 shall be provided as follows:

458 1. Annually, by July 30 for the current fiscal year and by
 459 December 1 for the subsequent fiscal year, the data center must
 460 provide the total annual budgeted costs by major expenditure
 461 category, including, but not limited to, salaries, expense,
 462 operating capital outlay, contracted services, or other
 463 personnel services, which directly relate to the provision of
 464 each service and which separately indicate the administrative
 465 overhead allocated to each service.

466 2. Annually, by July 30 for the current fiscal year and by
 467 December 1 for the subsequent fiscal year, the data center must
 468 provide total projected billings for each customer entity which
 469 are required to recover the costs of the data center.

470 3. Annually, by January 31, the data center must provide
 471 updates of the financial statements required under subparagraphs
 472 1. and 2. for the current fiscal year.

473 ~~4. By February 15, for proposed legislative budget~~
 474 ~~increases, the data center must provide updates of the financial~~
 475 ~~statements required under subparagraphs 1. and 2. for the~~

476 ~~subsequent fiscal year.~~

477

478 The financial information required under subparagraphs 1., 2.,
479 and 3. must be based on current law and current appropriations.

480 (f)~~(e)~~ Annually, by October 1, submit to the board of
481 trustees cost-reduction proposals, including strategies and
482 timetables for lowering customer entities' costs without
483 reducing the level of services.

484 (g)~~(f)~~ Maintain the performance of the facility, which
485 includes ensuring proper data backup, data backup recovery, an
486 effective disaster recovery plan, and appropriate security,
487 power, cooling and fire suppression, and capacity.

488 (h)~~(g)~~ Develop a business continuity plan and conduct a
489 live exercise of the plan at least annually. The plan must be
490 approved by the board and the Agency for Enterprise Information
491 Technology.

492 (i)~~(h)~~ Enter into a service-level agreement with each
493 customer entity to provide services as defined and approved by
494 the board. A service-level agreement may not have a term
495 exceeding 3 years but may include an option to renew for up to 3
496 years contingent on approval by the board.

497 1. A service-level agreement, at a minimum, must:

498 a. Identify the parties and their roles, duties, and
499 responsibilities under the agreement.†

500 b. Identify the legal authority under which the service-
501 level agreement was negotiated and entered into by the parties.†

502 c. State the duration of the contractual term and specify
503 the conditions for contract renewal.†

504 d. Prohibit the transfer of computing services between
 505 primary data center facilities without at least 180 days' notice
 506 of service cancellation.+

507 e. Identify the scope of work.+

508 f. Identify the products or services to be delivered with
 509 sufficient specificity to permit an external financial or
 510 performance audit.+

511 g. Establish the services to be provided, the business
 512 standards that must be met for each service, the cost of each
 513 service, and the process by which the business standards for
 514 each service are to be objectively measured and reported.+

515 h. Identify applicable funds and funding streams for the
 516 services or products under contract.+

517 i. Provide a timely billing methodology for recovering the
 518 cost of services provided to the customer entity.+

519 j. Provide a procedure for modifying the service-level
 520 agreement to address changes in projected costs of service.+

521 k. Provide that a service-level agreement may be
 522 terminated by either party for cause only after giving the other
 523 party and the Agency for Enterprise Information Technology
 524 notice in writing of the cause for termination and an
 525 opportunity for the other party to resolve the identified cause
 526 within a reasonable period.+ ~~and~~

527 1. Provide for mediation of disputes by the Division of
 528 Administrative Hearings pursuant to s. 120.573.

529 2. A service-level agreement may include:

530 a. A dispute resolution mechanism, including alternatives
 531 to administrative or judicial proceedings;

532 b. The setting of a surety or performance bond for
 533 service-level agreements entered into with agency primary data
 534 centers established by law; or

535 c. Additional terms and conditions as determined advisable
 536 by the parties if such additional terms and conditions do not
 537 conflict with the requirements of this section or rules adopted
 538 by the Agency for Enterprise Information Technology.

539 3. The failure to execute a service-level agreement within
 540 60 days after service commencement shall, in the case of an
 541 existing customer entity, result in a continuation of the terms
 542 of the service-level agreement from the prior fiscal year,
 543 including any amendments that were formally proposed to the
 544 customer entity by the primary data center within the 3 months
 545 before service commencement, and a revised cost-of-service
 546 estimate. If a new customer entity fails to execute an agreement
 547 within 60 days after service commencement, the data center may
 548 cease services.

549 (j)~~(i)~~ Plan, design, establish pilot projects for, and
 550 conduct experiments with information technology resources, and
 551 implement enhancements in services if such implementation is
 552 cost-effective and approved by the board.

553 (k)~~(j)~~ Enter into a memorandum of understanding with the
 554 agency where the data center is administratively located if the
 555 data center requires the agency to provide any administrative
 556 services to the data center and the cost of such services. Any
 557 administrative overhead costs charged shall require a specific
 558 appropriation in the General Appropriation Act.

559 (l)~~(k)~~ Be the custodian of resources and equipment that

560 are located, operated, supported, and managed by the center for
 561 the purposes of chapter 273.

562 (m) ~~(l)~~ Assume administrative access rights to the
 563 resources and equipment, such as servers, network components,
 564 and other devices that are consolidated into the primary data
 565 center.

566 1. Upon the date of each consolidation specified in s.
 567 282.201, the General Appropriations Act, or the Laws of Florida,
 568 each agency shall relinquish all administrative access rights to
 569 such resources and equipment.

570 2. Each primary data center shall provide its customer
 571 agencies with the appropriate level of access to applications,
 572 servers, network components, and other devices necessary for
 573 agencies to perform their core business activities and
 574 functions.

575 (3) BOARD DUTIES.—Each board of trustees of a primary data
 576 center shall:

577 (e) Ensure the sufficiency and transparency of the primary
 578 data center financial information by:

579 1. Establishing policies that ensure that cost-recovery
 580 methodologies, billings, receivables, expenditure, budgeting,
 581 and accounting data are captured and reported timely,
 582 consistently, accurately, and transparently and, upon adoption
 583 of rules by the Agency for Enterprise Information Technology,
 584 are in compliance with such rules.

585 2. Requiring execution of service-level agreements by the
 586 data center and each customer entity for services provided by
 587 the data center to the customer entity.

588 3. Requiring cost recovery for the full cost of services,
 589 including direct and indirect costs. The cost-recovery
 590 methodology must ensure that no service is subsidizing another
 591 service without an affirmative vote of approval by the customer
 592 entity providing the subsidy.

593 4. Establishing special assessments to fund expansions
 594 based on a methodology that apportions the assessment according
 595 to the proportional benefit to each customer entity.

596 5. Providing rebates to customer entities when revenues
 597 exceed costs and offsetting charges to those who have subsidized
 598 other customer entity costs based on actual prior year final
 599 expenditures. Rebates may be credited against future billings.

600 6. Approving all expenditures committing over \$50,000 in a
 601 fiscal year.

602 7. Projecting costs and revenues at the beginning of the
 603 third quarter of each fiscal year through the end of the fiscal
 604 year. If in any given fiscal year the primary data center is
 605 projected to earn revenues that are below costs for that fiscal
 606 year after first reducing operating costs where possible, the
 607 board shall implement any combination of the following remedies
 608 to cover the shortfall:

609 a. The board may direct the primary data center to adjust
 610 current year chargeback rates through the end of the fiscal year
 611 to cover the shortfall. The rate adjustments shall be
 612 implemented using actual usage rate and billing data from the
 613 first three quarters of the fiscal year and the same principles
 614 used to set rates for the fiscal year.

615 b. The board may direct the primary data center to levy

616 one-time charges on all customer entities to cover the
 617 shortfall. The one-time charges shall be implemented using
 618 actual usage rate and billing data from the first three quarters
 619 of the fiscal year and the same principles used to set rates for
 620 the fiscal year.

621 c. The customer entities represented by each board member
 622 may provide payments to cover the shortfall in proportion to the
 623 amounts each entity paid in the prior fiscal year.

624 8. Providing a plan for consideration by the Legislative
 625 Budget Commission if the board approves the use of a billing
 626 rate schedule after the start of the fiscal year that increases
 627 any agency's costs for that fiscal year.

628 (1) Contract with other primary data centers for the
 629 provision of administrative services or with the agency within
 630 which the primary data center is housed, whichever is most cost-
 631 effective. Any administrative overhead costs requires a specific
 632 appropriation in the General Appropriations Act.

633 Section 3. Subsection (1) of section 1004.649, Florida
 634 Statutes, is amended to read:

635 1004.649 Northwest Regional Data Center.—

636 (1) For the purpose of serving its state agency customers,
 637 the Northwest Regional Data Center at Florida State University
 638 is designated as a primary data center and shall ~~comply with the~~
 639 ~~following~~:

640 (a) Operate ~~Operates~~ under a governance structure that
 641 represents its customers proportionally.

642 (b) Maintain ~~Maintains~~ an appropriate cost-allocation
 643 methodology that accurately bills state agency customers based

644 solely on the actual direct and indirect costs of the services
 645 provided to state agency customers, and prohibits the
 646 subsidization of nonstate agency customers' costs by state
 647 agency customers.

648 (c) Enter ~~Enters~~ into a service-level agreement with each
 649 state agency customer to provide services as defined and
 650 approved by the governing board of the center. At a minimum,
 651 such service-level agreements must:

- 652 1. Identify the parties and their roles, duties, and
- 653 responsibilities under the agreement;
- 654 2. State the duration of the agreement term and specify
- 655 the conditions for renewal;
- 656 3. Identify the scope of work;
- 657 4. Establish the services to be provided, the business
- 658 standards that must be met for each service, the cost of each
- 659 service, and the process by which the business standards for
- 660 each service are to be objectively measured and reported;
- 661 5. Provide a timely billing methodology for recovering the
- 662 cost of services provided; and
- 663 6. Provide a procedure for modifying the service-level
- 664 agreement to address any changes in projected costs of service.

665 (d) Provide ~~Provides~~ to the Board of Governors the total
 666 annual budget by major expenditure category, including, but not
 667 limited to, salaries, expenses, operating capital outlay,
 668 contracted services, or other personnel services by July 30 each
 669 fiscal year.

670 (e) Provide ~~Provides~~ to each state agency customer its
 671 projected annual cost for providing the agreed-upon data center

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672 services by September ~~August~~ 1 each fiscal year.

673 (f) Provide a plan for consideration by the Legislative
674 Budget Commission if the governing body of the center approves
675 the use of a billing rate schedule after the start of the fiscal
676 year that increases any state agency customer's costs for that
677 fiscal year.

678 Section 4. This act shall take effect July 1, 2012.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB GOAS 12-07 Department of Business and Professional Regulation
SPONSOR(S): Government Operations Appropriations Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Appropriations Subcommittee		Topp	Topp BDT

SUMMARY ANALYSIS

Chapter 2010-161, Laws of Florida, transferred the Drugs, Devices and Cosmetics Regulatory Program (DDC) and the administration of chapter 499, Florida Statutes, from the Department of Health (DOH) to the Department of Business and Professional Regulation (DBPR), effective October 1, 2011.

This Proposed Committee Bill (PCB) amends current law to transfer the funding of the DDC between trust funds within DBPR and update chapter 20, F.S., to include the DDC within the DBPR organizational structure.

Specifically, the PCB:

- Terminates the Drugs, Devices and Cosmetics Trust Fund and transfers funding of the DDC to the Professional Regulation Trust Fund.
- Designates the DDC as a division in the department's organizational structure in section 20.165, F.S.
- Updates references in chapter 499, F.S., to replace DOH with DBPR.

The PCB conforms to the proposed House of Representatives General Appropriations Act for FY 2012-13 as \$2.7 million in trust fund appropriations for the DDC have been transferred from the Drugs, Devices and Cosmetics Trust Fund to the Professional Regulation Trust Fund.

The PCB provides an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Chapter 2010-161, Laws of Florida, transferred the Drugs, Devices and Cosmetics Regulatory Program and the administration of chapter 499, Florida Statutes, from the Department of Health to the Department of Business and Professional Regulation, effective October 1, 2011.

The Legislature during the 2011 Session created the Drugs, Devices and Cosmetics Trust Fund¹ within the DBPR and provided nine months of funding for the DDC in the FY 2011-12 General Appropriations Act. However, DBPR now indicates that organizationally the DDC should be placed within the Professional Regulation Trust Fund with similar regulated professions (such as architecture, veterinarians, accountants, realtors, engineers and geologists).²

Proposed Changes

The PCB proposes to transfer funding for the DDC from the Drugs, Devices and Cosmetics Trust Fund to the Professional Regulation Trust Fund and designates the DDC as a division within DBPR's organizational structure in section 20.165, F.S. The PCB terminates the Drugs, Devices, and Cosmetics Trust Fund.

In addition, the definition of the department and numerous references in chapter 499, F.S., are updated to delete the DOH and surgeon general with the secretary and DBPR.

B. SECTION DIRECTORY:

Section 1. Amends paragraph (d) of subsection 20.165(2)(d), F.S., to create the Division of Drugs, Devices, and Cosmetics within DBPR.

Section 2. Amends subsection 455.116(8), F.S., by eliminating the Drugs, Devices, and Cosmetics Trust Fund.

Section 3. Amends subsection 499.003(15), F.S., changing the definition of "Department" from DOH, to DBPR. Amends paragraph (a) of subsection 499.003(54), F.S., changing the reference from the "Surgeon General" of DOH, to the "Secretary of Business and Professional Regulation."

Section 4. Amends subsection 499.01211(2), F.S., changing the references from the "Surgeon General" of DOH, to the "Secretary of Business and Professional Regulation."

Section 5. Amends section 499.024, F.S., changing the reference from the "Surgeon General" of DOH, to the Department (i.e., DBPR),

Section 6. Amends subsection 499.065(2), F.S., changing the reference from the "Surgeon General" of DOH, to the "Secretary of Business and Professional Regulation."

Section 7. Amends subsection 499.601(2), F.S., changing the reference from DOH to the "Department" (i.e., DBPR).

¹ Chapter 2011-30, Laws of Florida

² Department of Business and Professional Regulation, Bill Analysis, dated January 18, 2012, on file with the Government Operations Appropriations Subcommittee.

Section 8. Amends subsection 499.61(2), F.S., changing the definition of "Department" from DOH, to DBPR.

Section 9. Repeals section 499.0031, F.S., eliminating the Drugs, Device, and Cosmetics Trust Fund.

Section 10. Terminates the Drugs, Devices, and Cosmetics Trust Fund; transfers current balance and remaining revenues of Drugs, Devices, and Cosmetics Trust Fund to the Professional Regulation Trust Fund; requires DBPR to pay outstanding debts of Drugs, Devices, and Cosmetics Trust fund as soon as practicable. This section is effective November 1, 2012.

Section 11. Amends paragraphs (d), (e), and (l) of subsection 499.01(2), F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 12. Amends subsection 499.028(13), F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 13. Amends subsection 499.04, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 14. Amends subsection 499.057, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund. Also provides that unless otherwise provided in the General Appropriations Act all salaries and expenses of the DDC shall be paid from the Professional Regulation Trust Fund.

Section 15. Amends subsection 499.062, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 16. Amends subsection 499.066, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 17. Amends subsection 499.62 (7), F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 18. Amends subsection 499.72, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund.

Section 19. Amends subsection 499.79, F.S., to replace references to the Drugs, Devices, and Cosmetics Trust Fund with references to the Professional Regulation Trust Fund. Clarifies that moneys of the DDC shall be used by the DBPR in the administration of chapter 499, F.S.

Section 20. Provides an effective date July 1, 2012, except as otherwise expressly provided in the PCB.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The PCB conforms to the proposed House of Representatives General Appropriations Act for FY 2012-13 as \$2.7 million in trust fund appropriations for the DDC have been transferred from the Drugs, Devices and Cosmetics Trust Fund to the Professional Regulation Trust Fund. The PCB directs all revenues of the DDC to be deposited into the Professional Regulation Trust Fund.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No specific rule making authority is provided in the PCB. However, DBPR will update several rules upon passage of this PCB due to the transfer of funding of the DDC to the Professional Regulation Trust Fund. In addition, rules will continue to require updates related to the transfer of DDC from DOH to DBPR.

Specifically, rules that will require updates:

Rule Chapter 64F-12 to be amended to delete references to DOH forms. Rules 64F-12.012, 12.013, 12.015, 12.016, 12.020, 12.022 and 12.026, refer to DOH forms while the PCB changes the references in chapter 499, F.S., from DOH to DBPR.³

Rule 64F-12.024 refers to administrative fees and fines being paid into the DDC trust fund, which the PCB eliminates effective November 1, 2012.⁴

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

³ Department of Business and Professional Regulation, Bill Analysis, dated January 18, 2012, on file with the Government Operations Appropriations Subcommittee, page 5.

⁴ Department of Business and Professional Regulation, Bill Analysis, dated January 18, 2012, on file with the Government Operations Appropriations Subcommittee, page 5.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the Department of Business and
 3 Professional Regulation; amending s. 20.165, F.S.;
 4 creating the Division of Drugs, Devices, and Cosmetics
 5 within the Department of Business and Professional
 6 Regulation; amending s. 455.116, F.S.; deleting the
 7 Florida Drug, Device, and Cosmetic Trust Fund from the
 8 list of trust funds placed in the department, to
 9 conform; amending ss. 499.003, 499.01211, 499.024,
 10 499.065, 499.601, and 499.61, F.S.; conforming
 11 provisions to the transfer by s. 27, ch. 2010-161,
 12 Laws of Florida, of regulatory authority for chapter
 13 499, F.S., from the Department of Health to the
 14 Department of Business and Professional Regulation;
 15 repealing s. 499.0031, F.S., relating to the Florida
 16 Drug, Device, and Cosmetic Trust Fund; terminating the
 17 Florida Drug, Device, and Cosmetic Trust Fund;
 18 providing for the disposition of balances in and
 19 revenues of such trust fund; prescribing procedures
 20 for the termination of such trust fund; amending ss.
 21 499.01, 499.028, 499.04, 499.057, 499.062, 499.066,
 22 499.62, 499.72, and 499.79, F.S.; conforming
 23 provisions; providing effective dates.

24
 25 Be It Enacted by the Legislature of the State of Florida:

26
 27 Section 1. Paragraphs (d) through (k) of subsection (2) of
 28 section 20.165, Florida Statutes, are redesignated as paragraphs

29 (e) through (l), respectively, and a new paragraph (d) is added
 30 to that subsection to read:

31 20.165 Department of Business and Professional
 32 Regulation.—There is created a Department of Business and
 33 Professional Regulation.

34 (2) The following divisions of the Department of Business
 35 and Professional Regulation are established:

36 (d) Division of Drugs, Devices, and Cosmetics.

37 Section 2. Effective November 1, 2012, subsection (8) of
 38 section 455.116, Florida Statutes, is amended to read:

39 455.116 Regulation trust funds.—The following trust funds
 40 shall be placed in the department:

41 ~~(8) Florida Drug, Device, and Cosmetic Trust Fund.~~

42 Section 3. Subsection (15) and paragraph (a) of subsection
 43 (54) of section 499.003, Florida Statutes, are amended to read:

44 499.003 Definitions of terms used in this part.—As used in
 45 this part, the term:

46 (15) "Department" means the Department of Business and
 47 Professional Regulation Health.

48 (54) "Wholesale distribution" means distribution of
 49 prescription drugs to persons other than a consumer or patient,
 50 but does not include:

51 (a) Any of the following activities, which is not a
 52 violation of s. 499.005(21) if such activity is conducted in
 53 accordance with s. 499.01(2)(g):

54 1. The purchase or other acquisition by a hospital or
 55 other health care entity that is a member of a group purchasing
 56 organization of a prescription drug for its own use from the

57 group purchasing organization or from other hospitals or health
 58 care entities that are members of that organization.

59 2. The sale, purchase, or trade of a prescription drug or
 60 an offer to sell, purchase, or trade a prescription drug by a
 61 charitable organization described in s. 501(c)(3) of the
 62 Internal Revenue Code of 1986, as amended and revised, to a
 63 nonprofit affiliate of the organization to the extent otherwise
 64 permitted by law.

65 3. The sale, purchase, or trade of a prescription drug or
 66 an offer to sell, purchase, or trade a prescription drug among
 67 hospitals or other health care entities that are under common
 68 control. For purposes of this subparagraph, "common control"
 69 means the power to direct or cause the direction of the
 70 management and policies of a person or an organization, whether
 71 by ownership of stock, by voting rights, by contract, or
 72 otherwise.

73 4. The sale, purchase, trade, or other transfer of a
 74 prescription drug from or for any federal, state, or local
 75 government agency or any entity eligible to purchase
 76 prescription drugs at public health services prices pursuant to
 77 Pub. L. No. 102-585, s. 602 to a contract provider or its
 78 subcontractor for eligible patients of the agency or entity
 79 under the following conditions:

80 a. The agency or entity must obtain written authorization
 81 for the sale, purchase, trade, or other transfer of a
 82 prescription drug under this subparagraph from the Secretary of
 83 Business and Professional Regulation ~~State Surgeon General~~ or
 84 his or her designee.

85 b. The contract provider or subcontractor must be
86 authorized by law to administer or dispense prescription drugs.

87 c. In the case of a subcontractor, the agency or entity
88 must be a party to and execute the subcontract.

89 d. A contract provider or subcontractor must maintain
90 separate and apart from other prescription drug inventory any
91 prescription drugs of the agency or entity in its possession.

92 e. The contract provider and subcontractor must maintain
93 and produce immediately for inspection all records of movement
94 or transfer of all the prescription drugs belonging to the
95 agency or entity, including, but not limited to, the records of
96 receipt and disposition of prescription drugs. Each contractor
97 and subcontractor dispensing or administering these drugs must
98 maintain and produce records documenting the dispensing or
99 administration. Records that are required to be maintained
100 include, but are not limited to, a perpetual inventory itemizing
101 drugs received and drugs dispensed by prescription number or
102 administered by patient identifier, which must be submitted to
103 the agency or entity quarterly.

104 f. The contract provider or subcontractor may administer
105 or dispense the prescription drugs only to the eligible patients
106 of the agency or entity or must return the prescription drugs
107 for or to the agency or entity. The contract provider or
108 subcontractor must require proof from each person seeking to
109 fill a prescription or obtain treatment that the person is an
110 eligible patient of the agency or entity and must, at a minimum,
111 maintain a copy of this proof as part of the records of the
112 contractor or subcontractor required under sub-subparagraph e.

113 g. In addition to the departmental inspection authority
 114 set forth in s. 499.051, the establishment of the contract
 115 provider and subcontractor and all records pertaining to
 116 prescription drugs subject to this subparagraph shall be subject
 117 to inspection by the agency or entity. All records relating to
 118 prescription drugs of a manufacturer under this subparagraph
 119 shall be subject to audit by the manufacturer of those drugs,
 120 without identifying individual patient information.

121 Section 4. Subsection (2) of section 499.01211, Florida
 122 Statutes, is amended to read:

123 499.01211 Drug Wholesale Distributor Advisory Council.—

124 (2) The Secretary of Business and Professional Regulation
 125 ~~State Surgeon General~~, or his or her designee, and the Secretary
 126 of Health Care Administration, or her or his designee, shall be
 127 members of the council. The Secretary of Business and
 128 Professional Regulation ~~State Surgeon General~~ shall appoint nine
 129 additional members to the council who shall be appointed to a
 130 term of 4 years each, as follows:

131 (a) Three different persons each of whom is employed by a
 132 different prescription drug wholesale distributor licensed under
 133 this part which operates nationally and is a primary wholesale
 134 distributor, as defined in s. 499.003(47).

135 (b) One person employed by a prescription drug wholesale
 136 distributor licensed under this part which is a secondary
 137 wholesale distributor, as defined in s. 499.003(52).

138 (c) One person employed by a retail pharmacy chain located
 139 in this state.

140 (d) One person who is a member of the Board of Pharmacy

141 and is a pharmacist licensed under chapter 465.

142 (e) One person who is a physician licensed pursuant to
 143 chapter 458 or chapter 459.

144 (f) One person who is an employee of a hospital licensed
 145 pursuant to chapter 395 and is a pharmacist licensed pursuant to
 146 chapter 465.

147 (g) One person who is an employee of a pharmaceutical
 148 manufacturer.

149 Section 5. Section 499.024, Florida Statutes, is amended
 150 to read:

151 499.024 Drug product classification.—The department ~~State~~
 152 ~~Surgeon General~~ shall adopt rules to classify drug products
 153 intended for use by humans which the United States Food and Drug
 154 Administration has not classified in the federal act or the Code
 155 of Federal Regulations.

156 (1) Drug products must be classified as proprietary,
 157 prescription, or investigational drugs.

158 (2) If a product is distributed without required labeling,
 159 it is misbranded while held for sale.

160 (3) Any product that falls under the definition of drug in
 161 s. 499.003(19) may be classified under the authority of this
 162 section. This section does not subject portable emergency oxygen
 163 inhalators to classification; however, this section does not
 164 exempt any person from ss. 499.01 and 499.015.

165 (4) Any product classified under the authority of this
 166 section reverts to the federal classification, if different,
 167 upon the federal regulation or act becoming effective.

168 (5) The department may by rule reclassify drugs subject to

169 | this part when such classification action is necessary to
 170 | protect the public health.

171 | (6) The department may adopt rules that exempt from any
 172 | labeling or packaging requirements of this part drugs classified
 173 | under this section if those requirements are not necessary to
 174 | protect the public health.

175 | Section 6. Subsection (2) of section 499.065, Florida
 176 | Statutes, is amended to read:

177 | 499.065 Inspections; imminent danger.—

178 | (2) To protect the public from prescription drugs that are
 179 | adulterated or otherwise unfit for human or animal consumption,
 180 | the department may examine, sample, seize, and stop the sale or
 181 | use of prescription drugs to determine the condition of those
 182 | drugs. The department may immediately seize and remove any
 183 | prescription drugs if the Secretary of Business and Professional
 184 | Regulation ~~State Surgeon General~~ or his or her designee
 185 | determines that the prescription drugs represent a threat to the
 186 | public health. The owner of any property seized under this
 187 | section may, within 10 days after the seizure, apply to a court
 188 | of competent jurisdiction for whatever relief is appropriate. At
 189 | any time after 10 days, the department may destroy the drugs as
 190 | contraband.

191 | Section 7. Subsection (2) of section 499.601, Florida
 192 | Statutes, is amended to read:

193 | 499.601 Legislative intent; construction.—

194 | (2) The provisions of this part are cumulative and shall
 195 | not be construed as repealing or affecting any powers, duties,
 196 | or authority of the department ~~of Health~~ under any other law of

197 | this state; except that, with respect to the regulation of ether
 198 | as herein provided, in instances in which the provisions of this
 199 | part may conflict with any other such law, the provisions of
 200 | this part shall control.

201 | Section 8. Subsection (2) of section 499.61, Florida
 202 | Statutes, is amended to read:

203 | 499.61 Definitions.—As used in this part:

204 | (2) "Department" means the Department of Business and
 205 | Professional Regulation Health.

206 | Section 9. Effective November 1, 2012, section 499.0031,
 207 | Florida Statutes, is repealed.

208 | Section 10. (1) The Florida Drug, Device, and Cosmetic
 209 | Trust Fund within the Department of Business and Professional
 210 | Regulation, FLAIR number 20-2-173005, is terminated.

211 | (2) The current balance remaining in, and all revenues of,
 212 | the Florida Drug, Device, and Cosmetic Trust Fund shall be
 213 | transferred to the Professional Regulation Trust Fund.

214 | (3) The Department of Business and Professional Regulation
 215 | shall pay any outstanding debts or obligations of the Florida
 216 | Drug, Device, and Cosmetic Trust Fund as soon as practicable,
 217 | and the Chief Financial Officer shall close out and remove the
 218 | terminated fund from the various state accounting systems using
 219 | generally accepted accounting principles concerning warrants
 220 | outstanding, assets, and liabilities.

221 | (4) This section shall take effect November 1, 2012.

222 | Section 11. Paragraphs (d), (e), and (l) of subsection (2)
 223 | of section 499.01, Florida Statutes, are amended to read:

224 | 499.01 Permits.—

225 (2) The following permits are established:
 226 (d) Prescription drug wholesale distributor permit.—A
 227 prescription drug wholesale distributor is a wholesale
 228 distributor that may engage in the wholesale distribution of
 229 prescription drugs. A prescription drug wholesale distributor
 230 that applies to the department for a new permit or the renewal
 231 of a permit must submit a bond of \$100,000, or other equivalent
 232 means of security acceptable to the department, such as an
 233 irrevocable letter of credit or a deposit in a trust account or
 234 financial institution, payable to the Professional Regulation
 235 ~~Florida Drug, Device, and Cosmetic~~ Trust Fund. The purpose of
 236 the bond is to secure payment of any administrative penalties
 237 imposed by the department and any fees and costs incurred by the
 238 department regarding that permit which are authorized under
 239 state law and which the permittee fails to pay 30 days after the
 240 fine or costs become final. The department may make a claim
 241 against such bond or security until 1 year after the permittee's
 242 license ceases to be valid or until 60 days after any
 243 administrative or legal proceeding authorized in this part which
 244 involves the permittee is concluded, including any appeal,
 245 whichever occurs later. The department may adopt rules for
 246 issuing a prescription drug wholesale distributor-broker permit
 247 to a person who engages in the wholesale distribution of
 248 prescription drugs and does not take physical possession of any
 249 prescription drugs.
 250 (e) Out-of-state prescription drug wholesale distributor
 251 permit.—An out-of-state prescription drug wholesale distributor
 252 is a wholesale distributor located outside this state which

253 engages in the wholesale distribution of prescription drugs into
 254 this state and which must be permitted by the department and
 255 comply with all the provisions required of a wholesale
 256 distributor under this part. An out-of-state prescription drug
 257 wholesale distributor that applies to the department for a new
 258 permit or the renewal of a permit must submit a bond of
 259 \$100,000, or other equivalent means of security acceptable to
 260 the department, such as an irrevocable letter of credit or a
 261 deposit in a trust account or financial institution, payable to
 262 the Professional Regulation Florida Drug, Device, and Cosmetic
 263 Trust Fund. The purpose of the bond is to secure payment of any
 264 administrative penalties imposed by the department and any fees
 265 and costs incurred by the department regarding that permit which
 266 are authorized under state law and which the permittee fails to
 267 pay 30 days after the fine or costs become final. The department
 268 may make a claim against such bond or security until 1 year
 269 after the permittee's license ceases to be valid or until 60
 270 days after any administrative or legal proceeding authorized in
 271 this part which involves the permittee is concluded, including
 272 any appeal, whichever occurs later.

273 1. The out-of-state prescription drug wholesale
 274 distributor must maintain at all times a license or permit to
 275 engage in the wholesale distribution of prescription drugs in
 276 compliance with laws of the state in which it is a resident.

277 2. An out-of-state prescription drug wholesale distributor
 278 permit is not required for an intracompany sale or transfer of a
 279 prescription drug from an out-of-state establishment that is
 280 duly licensed as a prescription drug wholesale distributor, in

281 its state of residence, to a licensed prescription drug
 282 wholesale distributor in this state, if both wholesale
 283 distributors conduct wholesale distributions of prescription
 284 drugs under the same business name. The recordkeeping
 285 requirements of ss. 499.0121(6) and 499.01212 must be followed
 286 for this transaction.

287 (1) Limited prescription drug veterinary wholesale
 288 distributor permit.—Unless engaging in the activities of and
 289 permitted as a prescription drug manufacturer, nonresident
 290 prescription drug manufacturer, prescription drug wholesale
 291 distributor, or out-of-state prescription drug wholesale
 292 distributor, a limited prescription drug veterinary wholesale
 293 distributor permit is required for any person that engages in
 294 the distribution in or into this state of veterinary
 295 prescription drugs and prescription drugs subject to, defined
 296 by, or described by s. 503(b) of the Federal Food, Drug, and
 297 Cosmetic Act under the following conditions:

298 1. The person is engaged in the business of wholesaling
 299 prescription and veterinary prescription drugs to persons:

300 a. Licensed as veterinarians practicing on a full-time
 301 basis;

302 b. Regularly and lawfully engaged in instruction in
 303 veterinary medicine;

304 c. Regularly and lawfully engaged in law enforcement
 305 activities;

306 d. For use in research not involving clinical use; or

307 e. For use in chemical analysis or physical testing or for
 308 purposes of instruction in law enforcement activities, research,

309 or testing.

310 2. No more than 30 percent of total annual prescription
 311 drug sales may be prescription drugs approved for human use
 312 which are subject to, defined by, or described by s. 503(b) of
 313 the Federal Food, Drug, and Cosmetic Act.

314 3. The person does not distribute in any jurisdiction
 315 prescription drugs subject to, defined by, or described by s.
 316 503(b) of the Federal Food, Drug, and Cosmetic Act to any person
 317 who is authorized to sell, distribute, purchase, trade, or use
 318 these drugs on or for humans.

319 4. A limited prescription drug veterinary wholesale
 320 distributor that applies to the department for a new permit or
 321 the renewal of a permit must submit a bond of \$20,000, or other
 322 equivalent means of security acceptable to the department, such
 323 as an irrevocable letter of credit or a deposit in a trust
 324 account or financial institution, payable to the Professional
 325 Regulation Florida Drug, Device, and Cosmetic Trust Fund. The
 326 purpose of the bond is to secure payment of any administrative
 327 penalties imposed by the department and any fees and costs
 328 incurred by the department regarding that permit which are
 329 authorized under state law and which the permittee fails to pay
 330 30 days after the fine or costs become final. The department may
 331 make a claim against such bond or security until 1 year after
 332 the permittee's license ceases to be valid or until 60 days
 333 after any administrative or legal proceeding authorized in this
 334 part which involves the permittee is concluded, including any
 335 appeal, whichever occurs later.

336 5. A limited prescription drug veterinary wholesale

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337 distributor must maintain at all times a license or permit to
 338 engage in the wholesale distribution of prescription drugs in
 339 compliance with laws of the state in which it is a resident.

340 6. A limited prescription drug veterinary wholesale
 341 distributor must comply with the requirements for wholesale
 342 distributors under ss. 499.0121 and 499.01212, except that a
 343 limited prescription drug veterinary wholesale distributor is
 344 not required to provide a pedigree paper as required by s.
 345 499.01212 upon the wholesale distribution of a prescription drug
 346 to a veterinarian.

347 7. A limited prescription drug veterinary wholesale
 348 distributor may not return to inventory for subsequent wholesale
 349 distribution any prescription drug subject to, defined by, or
 350 described by s. 503(b) of the Federal Food, Drug, and Cosmetic
 351 Act which has been returned by a veterinarian.

352 8. A limited prescription drug veterinary wholesale
 353 distributor permit is not required for an intracompany sale or
 354 transfer of a prescription drug from an out-of-state
 355 establishment that is duly licensed to engage in the wholesale
 356 distribution of prescription drugs in its state of residence to
 357 a licensed limited prescription drug veterinary wholesale
 358 distributor in this state if both wholesale distributors conduct
 359 wholesale distributions of prescription drugs under the same
 360 business name. The recordkeeping requirements of ss. 499.0121(6)
 361 and 499.01212 must be followed for this transaction.

362 Section 12. Subsection (13) of section 499.028, Florida
 363 Statutes, is amended to read:

364 499.028 Drug samples or complimentary drugs; starter

365 packs; permits to distribute.—

366 (13) The department may, pursuant to chapter 120, impose
 367 an administrative fine, not to exceed \$5,000 per violation per
 368 day, for the violation of this section or rules adopted under
 369 this section. Each day such violation continues constitutes a
 370 separate violation, and each such separate violation is subject
 371 to a separate fine. All amounts collected under this section
 372 shall be deposited into the Professional Regulation Drug,
 373 ~~Device, and Cosmetic~~ Trust Fund. In determining the amount of
 374 fine to be levied for a violation, the following factors must be
 375 considered:

376 (a) The severity of the violation.

377 (b) Any actions taken by the permittee to correct the
 378 violation or to remedy complaints.

379 (c) Any previous violations.

380 Section 13. Section 499.04, Florida Statutes, is amended
 381 to read:

382 499.04 Fee authority.—The department may collect fees for
 383 all drug, device, and cosmetic applications, permits, product
 384 registrations, and free-sale certificates. The total amount of
 385 fees collected from all permits, applications, product
 386 registrations, and free-sale certificates must be adequate to
 387 fund the expenses incurred by the department in carrying out
 388 this part. The department shall, by rule, establish a schedule
 389 of fees that are within the ranges provided in this section and
 390 shall adjust those fees from time to time based on the costs
 391 associated with administering this part. The fees are payable to
 392 the department to be deposited into the Professional Regulation

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393 ~~Florida Drug, Device, and Cosmetic Trust Fund~~ for the sole
 394 purpose of carrying out ~~the provisions of~~ this part.

395 Section 14. Section 499.057, Florida Statutes, is amended
 396 to read:

397 499.057 Expenses and salaries.—Except as otherwise
 398 provided in the General Appropriations Act, all expenses and
 399 salaries shall be paid out of the Professional Regulation Trust
 400 Fund. ~~special fund hereby created in the office of the Chief~~
 401 ~~Financial Officer, which fund is to be known as the "Florida~~
 402 ~~Drug, Device, and Cosmetic Trust Fund."~~

403 Section 15. Paragraph (a) of subsection (2) of section
 404 499.062, Florida Statutes, is amended to read:

405 499.062 Seizure and condemnation of drugs, devices, or
 406 cosmetics.—

407 (2) Whenever a duly authorized officer or employee of the
 408 department finds cause, or has probable cause to believe that
 409 cause exists, for the seizure of any drug, device, or cosmetic,
 410 as set out in this part, he or she shall affix to the article a
 411 tag, stamp, or other appropriate marking, giving notice that the
 412 article is, or is suspected of being, subject to seizure under
 413 this part and that the article has been detained and seized by
 414 the department. Such officer or employee shall also warn all
 415 persons not to remove or dispose of the article, by sale or
 416 otherwise, until permission is given by the department or the
 417 court. Any person who violates this subsection is guilty of a
 418 felony of the second degree, punishable as provided in s.

419 775.082, s. 775.083, or s. 775.084.

420 (a) When any article detained or seized under this

421 subsection has been found by the department to be subject to
 422 seizure and condemnation, the department shall petition the
 423 court for an order of condemnation or sale, as the court
 424 directs. The proceeds of the sale of drugs, devices, and
 425 cosmetics, less the legal costs and charges, shall be deposited
 426 into the Professional Regulation Florida Drug, Device, and
 427 Cosmetic Trust Fund.

428 Section 16. Subsections (3) and (4) of section 499.066,
 429 Florida Statutes, are amended to read:

430 499.066 Penalties; remedies.—In addition to other
 431 penalties and other enforcement provisions:

432 (3) The department may impose an administrative fine, not
 433 to exceed \$5,000 per violation per day, for the violation of any
 434 provision of this part or rules adopted under this part. Each
 435 day a violation continues constitutes a separate violation, and
 436 each separate violation is subject to a separate fine. All
 437 amounts collected pursuant to this section shall be deposited
 438 into the Professional Regulation Florida Drug, Device, and
 439 Cosmetic Trust Fund and are appropriated for the use of the
 440 department in administering this part. In determining the amount
 441 of the fine to be levied for a violation, the department shall
 442 consider:

- 443 (a) The severity of the violation;
- 444 (b) Any actions taken by the person to correct the
 445 violation or to remedy complaints; and
- 446 (c) Any previous violations.
- 447 (4) The department shall deposit any rewards, fines, or
 448 collections that are due the department and which derive from

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449 joint enforcement activities with other state and federal
 450 agencies which relate to this part, chapter 893, or the federal
 451 act, into the Professional Regulation Florida Drug, Device, and
 452 ~~Cosmetic~~ Trust Fund. The proceeds of those rewards, fines, and
 453 collections are appropriated for the use of the department in
 454 administering this part.

455 Section 17. Subsection (7) of section 499.62, Florida
 456 Statutes, is amended to read:

457 499.62 License or permit required of manufacturer,
 458 distributor, dealer, or purchaser of ether.—

459 (7) A licensed or permitted facility shall renew its
 460 license or permit prior to its expiration date. If a renewal
 461 application and fee are not filed by the expiration date of any
 462 year, the permit may be reinstated only upon payment of a
 463 delinquent fee of \$50, plus the required renewal fee, within 30
 464 days after the date of expiration. If any person who is subject
 465 to the requirements of this part fails to comply with the
 466 renewal, the department shall have the authority to seize all
 467 ether products and dispose of them as of November 1 of the year
 468 the license or permit expires. Any funds collected from the
 469 disposal shall be placed in the Professional Regulation Florida
 470 ~~Drug, Device, and Cosmetic~~ Trust Fund.

471 Section 18. Subsection (2) of section 499.72, Florida
 472 Statutes, is amended to read:

473 499.72 Administrative fines.—

474 (2) All such fines, monetary penalties, and costs received
 475 by the department in connection with this part shall be
 476 deposited in the Professional Regulation Florida Drug, Device,

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477 ~~and Cosmetic~~ Trust Fund.

478 Section 19. Section 499.79, Florida Statutes, is amended
 479 to read:

480 499.79 Deposit of fees.—All fees collected for licenses
 481 and permits required by this part shall be deposited in the
 482 Professional Regulation Florida Drug, Device, and Cosmetic Trust
 483 Fund created by s. 499.057, and all moneys collected under ~~the~~
 484 ~~provisions of~~ this part and deposited in the ~~such~~ trust fund
 485 shall be used by ~~are hereby appropriated for the use of~~ the
 486 department in the administration of this part.

487 Section 20. Except as otherwise expressly provided in this
 488 act, this act shall take effect July 1, 2012.