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# **Government Operations Subcommittee**

**Friday, April 1, 2011  
8:45 AM  
Morris Hall (17 HOB)**

# **Meeting Packet**

**Dean Cannon  
Speaker**

**Jimmy Patronis  
Chair**

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Government Operations Subcommittee

**Start Date and Time:** Friday, April 01, 2011 08:45 am  
**End Date and Time:** Friday, April 01, 2011 11:30 am  
**Location:** Morris Hall (17 HOB)  
**Duration:** 2.75 hrs

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

HB 89 Effective Public Notices by Governmental Entities by Workman  
CS/HB 993 Rulemaking by Rulemaking & Regulation Subcommittee, Roberson, K.  
HB 1027 Pub. Rec./Law Enforcement & Investigatory Personnel & Firefighters by Steube  
HB 1245 Division of Emergency Management by Nehr

**Consideration of the following proposed committee bill(s):**

PCB GVOPS 11-13 -- OGSR SBA Alternative Investments

**Consideration of the following proposed committee substitute(s):**

PCS for HB 1355 -- Elections

**NOTICE FINALIZED on 03/30/2011 16:27 by Godwin.Chandra**



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 89 Effective Public Notices by Governmental Entities

SPONSOR(S): Workman and others

TIED BILLS: IDEN./SIM. BILLS: SB 914

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Thompson	Williamson
2) Economic Affairs Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law provides requirements for publishing legal notices and official advertisements. Publications must be in a newspaper that is printed and published at least once a week and that contains at least 25 percent of its words in the English language. In addition, the newspaper must qualify or be entered to qualify as periodicals matter at the post office in the county where published, and be generally available to the public for the purpose of publication of official or other notices.

The bill authorizes a local government to use its publicly accessible website for legally required advertisements and public notices. The use of such website constitutes legal notice.

The bill defines "publicly accessible website" to mean a local government's official website that is accessible on the Internet. If specifically authorized by ordinance, a local government may use its website for legally required advertisements and public notices if:

- A public library or other governmental facility providing free access to the Internet during regular business hours exists within the jurisdictional boundaries of the local government;
- The local government provides notice to its residents at least once per year in a newspaper of general circulation, or the local government's newsletter or periodical, or another publication mailed or delivered to all residents or property owners within its jurisdictional boundaries, indicating that residents can register with the local government to receive all advertisements and public notices by first-class mail or by e-mail; and
- The local government maintains a registry of names, addresses and e-mail addresses of residents who request in writing that they receive advertisements and notices by first-class mail or by e-mail.

Advertisements and public notices published on a publicly accessible website must be conspicuously placed on the homepage of that website or must be accessible through a direct link from the homepage. The advertisement must indicate the date on which it was first published on the website.

The bill also authorizes a local government with an authorized government access channel to include on such channel a summary of all advertisements and public notices published on its website.

Finally, the bill provides specific authorizations for a local government to advertise or notice on its publicly accessible website provided certain requirements are met.

The bill may reduce local government expenditures associated with publishing required notices and advertisements in the newspaper; however, local governments might have to expend funds to create, maintain, and issue correspondence from a registry of persons requesting notifications by first-class mail or e-mail. In addition, the bill also may cause a loss of revenue to the private sector and a loss of revenue to the state associated with corporate income tax revenue.

This bill has an effective date of October 1, 2011.

The amount a newspaper can charge for publication is standardized at 70 cents per square inch for the first insertion, and 40 cents per square inch for each subsequent insertion.<sup>10</sup> Where the regular established minimum commercial rate per square inch of the newspaper publishing the official notice or legal advertisement is greater than the per square inch rate established in statute, the minimum commercial rate may be charged or the government agency may procure publication through bids. All official notices and legal advertisements must be charged and paid for on the basis of 6-point type on 6-point body, unless otherwise specified in statute. There are criminal penalties for non-compliance with these rates and charges.<sup>11</sup>

### **Effect of Proposed Changes**

The bill creates a new section of law authorizing local governments to use its publicly accessible website for legally required advertisements and public notices. The use of such website constitutes legal notice.

The bill defines “publicly accessible website” to mean a local government’s official website that is accessible on the Internet. If specifically authorized by ordinance, a local government may use its website for legally required advertisements and public notices if:

- A public library or other governmental facility providing free access to the Internet during regular business hours exists within the jurisdictional boundaries of the local government;
- The local government provides notice to its residents at least once per year in a newspaper of general circulation, or the local government’s newsletter or periodical, or another publication mailed or delivered to all residents or property owners within its jurisdictional boundaries, indicating that residents can register with the local government to receive all advertisements and public notices by first-class mail or by e-mail; and
- The local government maintains a registry of names, addresses, and e-mail addresses of residents who request in writing that they receive advertisements and notices by first-class mail or by e-mail.

Any registry of names, addresses, and e-mail addresses of residents requesting receipt of legal advertisements and public notices by first-class mail or by e-mail is a public record unless a specific public record exemption exists. For example, information relating to the identification or location of a police officer or firefighter could remain protected in the database if the police officer or firefighter requests in writing the protection of such information.<sup>12</sup>

Advertisements and public notices published on a publicly accessible website must be conspicuously placed on the homepage of that website or must be accessible through a direct link from the homepage. The advertisement must indicate the date on which it was first published on the website.

The bill also authorizes a local government with a government access channel authorized under s. 610.109, F.S., to include on such channel a summary of all advertisements and public notices published on its website.

The bill specifically authorizes the following advertisements or public notices on a local government’s publicly accessible website provided the previously discussed requirements are met:

- Advertisement directed by law or order or decree of court.
- Notice regarding special election or referendums. The local government responsible for publication must publish the notice daily during the five weeks immediately preceding the election or referendum.

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<sup>10</sup> Section 50.061(2)(a) and (b), F.S., provides that counties with a population in excess of 304,000 may charge 80 cents per square inch for the first insertion and 60 cents per square inch for each subsequent insertion. Counties with a population in excess of 450,000 may charge 95 cents per square inch for the first insertion and 75 cents per square inch for each subsequent insertion.

<sup>11</sup> Section 50.061, F.S.

<sup>12</sup> See s. 119.071(4)(d), F.S.

Finally, the bill provides the following requirements for meeting the public disclosure system requirements for s. 403.7049, F.S., relating to local solid waste management fees:

- Mailing a copy of the full cost information to each residential and nonresidential user of solid waste management service within the solid waste management service area of the county or municipality;
- Enclosing a copy of the full cost information in or with a bill sent to each residential and nonresidential user of solid waste management services within the service area of the county or municipality;
- Publishing a copy of the full cost information in a newspaper of general circulation, within the county, that must be a display advertisement not less than one-quarter page in size; or
- Advertising a copy of the full cost information daily for at least two consecutive weeks on a publicly accessible website maintained by the municipality.

## B. SECTION DIRECTORY:

**Section 1:** Creates s. 50.0311, F.S., providing a definition, authorizing a local government to use its publicly accessible website for legally required advertisements and public notices, and providing an optional receipt of legally required advertisements and public notices by first-class mail or e-mail.

**Section 2:** Amends s. 50.011, F.S., providing that a notice, advertisement, or publication on a publicly accessible website of a local government constitutes legal notice.

**Section 3:** Amends s. 50.021, F.S., providing that advertisements directed by law or order or decree of court to be made in a county without a published newspaper may be made by publication on a publicly accessible website.

**Section 4:** Amends s. 50.051, F.S., clarifying provisions.

**Section 5:** Amends s. 50.061, F.S., clarifying provisions.

**Section 6:** Amends s. 100.342, F.S., providing that special election or referendum notices may be published on a publicly accessible website.

**Section 7:** Amends s. 125.66, F.S., providing that notices of consideration of a county ordinance by the board of county commissioners may be published on a publicly accessible website.

**Section 8:** Amends s. 129.03, F.S., providing that a summary statement of adopted tentative county budgets may be published on a publicly accessible website.

**Section 9:** Amends s. 129.06, F.S., providing that advertisement of a public hearing relating to the amendment of a county budget may be published on a publicly accessible website.

**Section 10:** Amends s. 153.79, F.S., providing that advertisement by a county water and sewer system district regarding a project to construct, reconstruct, acquire, or improve a water system or a sewer system, and of a call for sealed bids for such projects, may be published on a publicly accessible website.

**Section 11:** Amends s. 159.32, F.S., providing that the advertisement for competitive bids to contract construction projects under the Florida Industrial Development Financing Act may be published on a publicly accessible website.

**Section 12:** Amends s. 162.12, F.S., providing that code enforcement boards may notice violation of a county or municipal code on a publicly accessible website.

**Section 13:** Amends s. 163.3184, F.S., providing that notice of public hearings on the adoption of a local government comprehensive plan or plan amendment or the approval of a compliance agreement

1. Revenues:

None.

2. Expenditures:

The bill may reduce local government expenditures associated with publishing required notices and advertisements in the newspaper. Local governments might have to expend funds to create, maintain, and issue correspondence from a registry of persons requesting notifications by first-class mail or e-mail.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Corporations or other entities or individuals that publish required local government public notices and advertisements will have a loss of revenue associated with local governments moving such required advertising and noticing from newspapers to publicly accessible websites.

D. FISCAL COMMENTS:

None.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not authorize any new grants of rulemaking authority, nor are any additional grants necessary. However, the Department of Revenue has indicated that, due to changes proposed by the bill, there are several rules that will need to be amended.<sup>13</sup>

C. DRAFTING ISSUES OR OTHER COMMENTS:

Proponents claim that publishing legal and public notices electronically will reduce newspaper related expenditures for local governments and provide increased awareness to the citizens. Conversely, opponents claim the trend will reduce public awareness because poor and rural communities have limited access to the Internet, and would eliminate the legal and public notices portion of the ad business from newspapers, thereby negatively impacting business, and the newspaper industry as a whole.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1                                   A bill to be entitled  
2           An act relating to effective public notices by  
3           governmental entities; creating s. 50.0311, F.S.; defining  
4           the term "publicly accessible website"; authorizing a  
5           local government to use its publicly accessible website  
6           for legally required advertisements and public notices;  
7           providing conditions for such use; providing for optional  
8           receipt of legally required advertisements and public  
9           notices by first-class mail or e-mail; providing  
10          requirements for advertisements and public notices  
11          published on a publicly accessible website; amending s.  
12          50.011, F.S.; providing that a notice, advertisement, or  
13          publication on a publicly accessible website of a local  
14          government in accordance with s. 50.0311, F.S.,  
15          constitutes legal notice; amending s. 50.021, F.S.;  
16          providing that advertisements directed by law or order or  
17          decree of court to be made in a county in which no  
18          newspaper is published may be made by publication on a  
19          publicly accessible website; amending s. 50.051, F.S.;  
20          providing clarifying provisions; amending s. 50.061, F.S.;  
21          providing clarifying provisions; amending s. 100.342,  
22          F.S.; providing for notice of special election or  
23          referendum on a publicly accessible website; amending s.  
24          125.66, F.S.; providing for notice of consideration of an  
25          ordinance by a board of county commissioners to be  
26          published on a publicly accessible website; requiring  
27          maintenance of the advertisement for a specified period;  
28          providing clarifying provisions; amending s. 129.03, F.S.;



29 providing for the advertisement of a summary statement of  
 30 adopted tentative county budgets on a publicly accessible  
 31 website; amending s. 129.06, F.S.; providing for  
 32 advertisement of a public hearing relating to the  
 33 amendment of a county budget on a publicly accessible  
 34 website; amending s. 153.79, F.S.; providing for public  
 35 advertisement by a county water and sewer system district  
 36 of projects to construct, reconstruct, acquire, or improve  
 37 a water system or a sewer system, and of a call for sealed  
 38 bids for such projects, on a publicly accessible website;  
 39 amending s. 159.32, F.S.; providing for advertisement for  
 40 competitive bids for contracts for the construction of a  
 41 project under the Florida Industrial Development Financing  
 42 Act on a publicly accessible website; amending s. 162.12,  
 43 F.S.; providing for optional serving of notice by a code  
 44 enforcement board of a violation of a county or municipal  
 45 code via a publicly accessible website; amending s.  
 46 163.3184, F.S.; providing for notice of public hearings on  
 47 the adoption of a local government comprehensive plan or  
 48 plan amendment or the approval of a compliance agreement  
 49 under the Local Government Comprehensive Planning and Land  
 50 Development Regulation Act via a publicly accessible  
 51 website; amending s. 166.041, F.S.; providing for notice  
 52 of adoption of a municipal ordinance via a publicly  
 53 accessible website; providing clarifying provisions;  
 54 amending s. 170.05, F.S.; providing for publication on a  
 55 publicly accessible website of a resolution relating to  
 56 municipal public improvements financed by special

57 assessments; amending s. 170.07, F.S.; providing for  
 58 publication on a publicly accessible website of notice of  
 59 hearing on municipal public improvements financed by  
 60 special assessments; amending s. 180.24, F.S.; providing  
 61 for advertisement via a publicly accessible website of  
 62 specified construction contracts for utilities or  
 63 extensions to a previously constructed utility; amending  
 64 s. 197.3632, F.S.; providing for publication on a publicly  
 65 accessible website of a local government's notice of  
 66 intent to use the uniform method of collecting non-ad  
 67 valorem assessments; amending s. 200.065, F.S.; providing  
 68 for advertisement on a publicly accessible website of a  
 69 taxing authority's intent to adopt a millage rate and  
 70 budget; providing for advertisement on a publicly  
 71 accessible website of the intention of a specified  
 72 multicounty taxing authority to adopt a tentative budget  
 73 and millage rate; providing clarifying and conforming  
 74 provisions; providing for notice via a publicly accessible  
 75 website of correction of a specified error contained in a  
 76 notice of proposed property taxes mailed to taxpayers;  
 77 amending s. 255.0525, F.S.; providing for advertisement  
 78 via a publicly accessible website for the solicitation of  
 79 competitive bids or proposals for construction projects of  
 80 a county, municipality, or other political subdivision  
 81 which are projected to exceed specified costs; amending s.  
 82 380.06, F.S.; providing for publication of an  
 83 advertisement on a publicly accessible website of a public  
 84 hearing by a local government on an areawide development

85 of regional impact under the Florida Environmental Land  
 86 and Water Management Act of 1972; amending s. 403.7049,  
 87 F.S.; prescribing procedures for fulfilling public  
 88 disclosure system requirements with respect to the duty of  
 89 a municipality to disclose costs for solid waste  
 90 management; amending s. 403.973, F.S.; redefining the term  
 91 "duly noticed" to include publication on a publicly  
 92 accessible website; providing conforming provisions;  
 93 amending s. 420.9075, F.S.; providing for advertisement of  
 94 notice on a publicly accessible website of funding  
 95 availability through a local housing assistance plan under  
 96 the State Housing Initiatives Partnership Act; providing  
 97 an effective date.

98  
 99 Be It Enacted by the Legislature of the State of Florida:

100  
 101 Section 1. Section 50.0311, Florida Statutes, is created  
 102 to read:

103 50.0311 Publication of advertisements and public notices  
 104 on a local government's publicly accessible website and  
 105 government access channels.-

106 (1) For purposes of notices and advertisements required by  
 107 statute to be published by a local government, the term  
 108 "publicly accessible website" means a county or municipal  
 109 government's official website that is accessible via the  
 110 Internet.

111 (2) If specifically authorized by ordinance, a local  
 112 government may use its website for legally required

113 advertisements and public notices if:

114 (a) A public library or other governmental facility  
 115 providing free access to the Internet during regular business  
 116 hours exists within the jurisdictional boundaries of such county  
 117 or municipality;

118 (b) The local government provides notice to its residents  
 119 at least once per year in a newspaper of general circulation,  
 120 the county or municipality's newsletter or periodical, or  
 121 another publication that is mailed or delivered to all residents  
 122 or property owners throughout the local government's  
 123 jurisdiction, indicating that residents may receive legally  
 124 required advertisements and public notices from the local  
 125 government by first-class mail or e-mail upon registering their  
 126 name and address or e-mail address with the local governmental  
 127 entity; and

128 (c) The local government maintains a registry of names,  
 129 addresses, and e-mail addresses of residents who request in  
 130 writing that they receive legally required advertisements and  
 131 public notices from the local government by first-class mail or  
 132 e-mail.

133 (3) Advertisements and public notices published on a  
 134 publicly accessible website shall be conspicuously placed on the  
 135 website's homepage or accessible through a direct link from the  
 136 homepage. The advertisement shall indicate the date on which the  
 137 advertisement was first published on the publicly accessible  
 138 website.

139 (4) The local government that has a government access  
 140 channel authorized under s. 610.109 may also include on its

141 government access channel a summary of all advertisements and  
 142 public notices that are published on its website.

143 Section 2. Section 50.011, Florida Statutes, is amended to  
 144 read:

145 50.011 Where and in what language legal notices to be  
 146 published.—Whenever by statute an official or legal  
 147 advertisement or a publication, or notice in a newspaper has  
 148 been or is directed or permitted in the nature of or in lieu of  
 149 process, or for constructive service, or in initiating,  
 150 assuming, reviewing, exercising or enforcing jurisdiction or  
 151 power, or for any purpose, including all legal notices and  
 152 advertisements of sheriffs and tax collectors, the  
 153 contemporaneous and continuous intent and meaning of such  
 154 legislation all and singular, existing or repealed, is and has  
 155 been and is hereby declared to be and to have been, and the rule  
 156 of interpretation is and has been, a publication in a newspaper  
 157 printed and published periodically once a week or oftener,  
 158 containing at least 25 percent of its words in the English  
 159 language, entered or qualified to be admitted and entered as  
 160 periodicals matter at a post office in the county where  
 161 published, for sale to the public generally, available to the  
 162 public generally for the publication of official or other  
 163 notices and customarily containing information of a public  
 164 character or of interest or of value to the residents or owners  
 165 of property in the county where published, or of interest or of  
 166 value to the general public. Notwithstanding any provisions to  
 167 the contrary, and as specifically authorized by s. 50.0311, a  
 168 notice, advertisement, or publication on a publicly accessible

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169 website of a local government in accordance with s. 50.0311  
 170 constitutes legal notice.

171 Section 3. Section 50.021, Florida Statutes, is amended to  
 172 read:

173 50.021 Publication when no newspaper in county.—When any  
 174 law, or order or decree of court, shall direct advertisements to  
 175 be made in any county and there be no newspaper published in the  
 176 said county, the advertisement may be made, in the case of a  
 177 county or municipality, by publishing such advertisement on a  
 178 publicly accessible website maintained by the entity responsible  
 179 for publication or posting three copies thereof in three  
 180 different places in said county, one of which shall be at the  
 181 front door of the courthouse, and by publication in the nearest  
 182 county in which a newspaper is published.

183 Section 4. Section 50.051, Florida Statutes, is amended to  
 184 read:

185 50.051 Proof of publication; form of uniform affidavit.—  
 186 The printed form upon which all such affidavits establishing  
 187 proof of publication in a newspaper are to be executed shall be  
 188 substantially as follows:

189  
 190 NAME OF NEWSPAPER  
 191 Published (Weekly or Daily)  
 192 (Town or City) (County) FLORIDA

193  
 194 STATE OF FLORIDA

195  
 196 COUNTY OF .....

197 Before the undersigned authority personally appeared ....,  
 198 who on oath says that he or she is .... of the ....., a ....  
 199 newspaper published at .... in .... County, Florida; that the  
 200 attached copy of advertisement, being a .... in the matter of  
 201 .... in the .... Court, was published in said newspaper in the  
 202 issues of .....

203 Affiant further says that the said .... is a newspaper  
 204 published at ....., in said .... County, Florida, and that the  
 205 said newspaper has heretofore been continuously published in  
 206 said .... County, Florida, each .... and has been entered as  
 207 periodicals matter at the post office in ....., in said ....  
 208 County, Florida, for a period of 1 year next preceding the first  
 209 publication of the attached copy of advertisement; and affiant  
 210 further says that he or she has neither paid nor promised any  
 211 person, firm or corporation any discount, rebate, commission or  
 212 refund for the purpose of securing this advertisement for  
 213 publication in the said newspaper.

214  
 215 Sworn to and subscribed before me this .... day of .....,  
 216 ...(year)..., by ....., who is personally known to me or who has  
 217 produced (type of identification) as identification.

218  
 219  
 220 ...(Signature of Notary Public)...

221  
 222 ...(Print, Type, or Stamp Commissioned Name of Notary Public)...

223  
 224 ...(Notary Public)...

225 Section 5. Subsection (4) of section 50.061, Florida  
 226 Statutes, is amended to read:

227 50.061 Amounts chargeable.—

228 (4) All official public notices and legal advertisements  
 229 published in a newspaper shall be charged and paid for on the  
 230 basis of 6-point type on 6-point body, unless otherwise  
 231 specified by statute.

232 Section 6. Section 100.342, Florida Statutes, is amended  
 233 to read:

234 100.342 Notice of special election or referendum.—In any  
 235 special election or referendum not otherwise provided for there  
 236 shall be at least 30 days' notice of the election or referendum  
 237 by publication in a newspaper of general circulation in the  
 238 county, district, or municipality, as the case may be, or, in  
 239 the case of a county or municipality, publication on a publicly  
 240 accessible website maintained by the local government  
 241 responsible for publication and published daily during the 5  
 242 weeks immediately preceding the election or referendum. If  
 243 advertised in the newspaper, the publication shall be made at  
 244 least twice, once in the fifth week and once in the third week  
 245 prior to the week in which the election or referendum is to be  
 246 held. If there is no newspaper of general circulation in the  
 247 county, district, or municipality and publication is not made on  
 248 a publicly accessible website maintained by the local government  
 249 responsible for publication, the notice shall be posted in no  
 250 fewer ~~less~~ than five places within the territorial limits of the  
 251 county, district, or municipality.

252 Section 7. Paragraph (a) of subsection (2) and paragraph



253 (b) of subsection (4) of section 125.66, Florida Statutes, are  
 254 amended to read:

255 125.66 Ordinances; enactment procedure; emergency  
 256 ordinances; rezoning or change of land use ordinances or  
 257 resolutions.—

258 (2)(a) The regular enactment procedure shall be as  
 259 follows: The board of county commissioners at any regular or  
 260 special meeting may enact or amend any ordinance, except as  
 261 provided in subsection (4), if notice of intent to consider such  
 262 ordinance is given at least 10 days before the ~~prior to said~~  
 263 meeting on a publicly accessible website maintained by the  
 264 county or by publication in a newspaper of general circulation  
 265 in the county. If advertised on a publicly accessible website,  
 266 the advertisement shall be published daily during the 10 days  
 267 immediately preceding the meeting. A copy of such notice shall  
 268 be kept available for public inspection during the regular  
 269 business hours of the office of the clerk of the board of county  
 270 commissioners. The notice of proposed enactment shall state the  
 271 date, time, and place of the meeting; the title or titles of  
 272 proposed ordinances; and the place or places within the county  
 273 where such proposed ordinances may be inspected by the public.  
 274 The notice shall also advise that interested parties may appear  
 275 at the meeting and be heard with respect to the proposed  
 276 ordinance.

277 (4) Ordinances or resolutions, initiated by other than the  
 278 county, that change the actual zoning map designation of a  
 279 parcel or parcels of land shall be enacted pursuant to  
 280 subsection (2). Ordinances or resolutions that change the actual

281 | list of permitted, conditional, or prohibited uses within a  
 282 | zoning category, or ordinances or resolutions initiated by the  
 283 | county that change the actual zoning map designation of a parcel  
 284 | or parcels of land shall be enacted pursuant to the following  
 285 | procedure:

286 |         (b) In cases in which the proposed ordinance or resolution  
 287 | changes the actual list of permitted, conditional, or prohibited  
 288 | uses within a zoning category, or changes the actual zoning map  
 289 | designation of a parcel or parcels of land involving 10  
 290 | contiguous acres or more, the board of county commissioners  
 291 | shall provide for public notice and hearings as follows:

292 |             1. The board of county commissioners shall hold two  
 293 | advertised public hearings on the proposed ordinance or  
 294 | resolution. At least one hearing shall be held after 5 p.m. on a  
 295 | weekday, unless the board of county commissioners, by a majority  
 296 | plus one vote, elects to conduct that hearing at another time of  
 297 | day. The first public hearing shall be held at least 7 days  
 298 | after the day that the first advertisement is published. The  
 299 | second hearing shall be held at least 10 days after the first  
 300 | hearing and shall be advertised at least 5 days prior to the  
 301 | public hearing.

302 |             2. The required newspaper advertisements shall be no less  
 303 | than 2 columns wide by 10 inches long in a standard size or a  
 304 | tabloid size newspaper, and the headline in the advertisement  
 305 | shall be in a type no smaller than 18 point. The newspaper  
 306 | advertisement shall not be placed in that portion of the  
 307 | newspaper where legal notices and classified advertisements  
 308 | appear. The newspaper advertisement shall be placed in a

309 newspaper of general paid circulation in the county and of  
 310 general interest and readership in the community pursuant to  
 311 chapter 50, not one of limited subject matter. It is the  
 312 legislative intent that, whenever possible, the newspaper  
 313 advertisement shall appear in a newspaper that is published at  
 314 least 5 days a week unless the only newspaper in the community  
 315 is published less than 5 days a week. The newspaper  
 316 advertisement shall be in substantially the following form:

317  
 318 NOTICE OF (TYPE OF) CHANGE  
 319

320 The ...(name of local governmental unit)... proposes to  
 321 adopt the following by ordinance or resolution:...(title of  
 322 ordinance or resolution)....

323 A public hearing on the ordinance or resolution will be  
 324 held on ...(date and time)... at ...(meeting place)....

325  
 326 Except for amendments which change the actual list of permitted,  
 327 conditional, or prohibited uses within a zoning category, the  
 328 advertisement shall contain a geographic location map which  
 329 clearly indicates the area within the local government covered  
 330 by the proposed ordinance or resolution. The map shall include  
 331 major street names as a means of identification of the general  
 332 area.

333 3. In lieu of publishing the advertisements set out in  
 334 this paragraph, the board of county commissioners may mail a  
 335 notice to each person owning real property within the area  
 336 covered by the ordinance or resolution. Such notice shall

337 clearly explain the proposed ordinance or resolution and shall  
 338 notify the person of the time, place, and location of both  
 339 public hearings on the proposed ordinance or resolution.

340 Section 8. Paragraph (b) of subsection (3) of section  
 341 129.03, Florida Statutes, is amended to read:

342 129.03 Preparation and adoption of budget.—

343 (3) No later than 15 days after certification of value by  
 344 the property appraiser pursuant to s. 200.065(1), the county  
 345 budget officer, after tentatively ascertaining the proposed  
 346 fiscal policies of the board for the ensuing fiscal year, shall  
 347 prepare and present to the board a tentative budget for the  
 348 ensuing fiscal year for each of the funds provided in this  
 349 chapter, including all estimated receipts, taxes to be levied,  
 350 and balances expected to be brought forward and all estimated  
 351 expenditures, reserves, and balances to be carried over at the  
 352 end of the year.

353 (b) Upon receipt of the tentative budgets and completion  
 354 of any revisions made by the board, the board shall prepare a  
 355 statement summarizing all of the adopted tentative budgets. This  
 356 summary statement shall show, for each budget and the total of  
 357 all budgets, the proposed tax millages, the balances, the  
 358 reserves, and the total of each major classification of receipts  
 359 and expenditures, classified according to the classification of  
 360 accounts prescribed by the appropriate state agency. The board  
 361 shall cause this summary statement to be advertised one time in  
 362 a newspaper of general circulation published in the county, on a  
 363 publicly accessible website maintained by the county, or by  
 364 posting at the courthouse door if there is no such newspaper or

365 website, and the advertisement shall appear adjacent to the  
 366 advertisement required pursuant to s. 200.065.

367 Section 9. Paragraph (f) of subsection (2) of section  
 368 129.06, Florida Statutes, is amended to read:

369 129.06 Execution and amendment of budget.-

370 (2) The board at any time within a fiscal year may amend a  
 371 budget for that year, and may within the first 60 days of a  
 372 fiscal year amend the budget for the prior fiscal year, as  
 373 follows:

374 (f) If an amendment to a budget is required for a purpose  
 375 not specifically authorized in paragraphs (a)-(e), unless  
 376 otherwise prohibited by law, the amendment may be authorized by  
 377 resolution or ordinance of the board of county commissioners  
 378 adopted following a public hearing. ~~The public hearing must be~~  
 379 ~~advertised at least 2 days, but not more than 5 days, before the~~  
 380 ~~date of the hearing.~~ The advertisement must appear on a publicly  
 381 accessible website maintained by the county or in a newspaper of  
 382 paid general circulation and must identify the name of the  
 383 taxing authority, the date, place, and time of the hearing, and  
 384 the purpose of the hearing. If advertised in the newspaper, the  
 385 public hearing must be advertised at least 2 days, but not more  
 386 than 5 days, before the date of the hearing. If advertised on a  
 387 publicly accessible website, the notice must be published daily  
 388 during the 5 days immediately preceding the hearing. The  
 389 advertisement must also identify each budgetary fund to be  
 390 amended, the source of the funds, the use of the funds, and the  
 391 total amount of each budget.

392 Section 10. Section 153.79, Florida Statutes, is amended

393 to read:

394 153.79 Contracts for construction of improvements, sealed

395 bids.—All contracts let, awarded, or entered into by the

396 district for the construction, reconstruction, or acquisition or

397 improvement of a water system or a sewer system or both or any

398 part thereof, if the amount thereof shall exceed \$1,000, shall

399 be awarded only after public advertisement and call for sealed

400 bids therefor on a publicly accessible website maintained by the

401 county or in a newspaper published in the county circulating in

402 the district, or, if there is ~~be~~ no such website or newspaper,

403 ~~then~~ in a newspaper published in the state and circulating in

404 the district. If advertised in the newspaper, such advertisement

405 shall ~~to~~ be published at least once at least 3 weeks before the

406 date set for the receipt of such bids. If advertised on a

407 publicly accessible website, such advertisement shall be

408 published daily during the 3 weeks immediately preceding the

409 date set for the receipt of such bids. Such advertisements for

410 bids in addition to the other necessary and pertinent matter

411 shall state in general terms the nature and description of the

412 improvement or improvements to be undertaken and shall state

413 that detailed plans and specifications for such work are on file

414 for inspection in the office of the district clerk and copies

415 thereof shall be furnished to any interested party upon payment

416 of reasonable charges to reimburse the district for its expenses

417 in providing such copies. The award shall be made to the

418 responsible and competent bidder or bidders who shall offer to

419 undertake the improvements at the lowest cost to the district

420 and such bidder or bidders shall be required to file bond for

421 the full and faithful performance of such work and the execution  
 422 of any such contract in such amount as the district board shall  
 423 determine, and in all other respects the letting of such  
 424 construction contracts shall comply with applicable provisions  
 425 of the general laws relating to the letting of public contracts.  
 426 Nothing in this section shall be deemed to prevent the district  
 427 from hiring or retaining such consulting engineers, attorneys,  
 428 financial experts or other technicians as it shall determine, in  
 429 its discretion, or from undertaking any construction work with  
 430 its own resources, without any such public advertisement.

431 Section 11. Section 159.32, Florida Statutes, is amended  
 432 to read:

433 159.32 Construction contracts.—Contracts for the  
 434 construction of the project may be awarded by the local agency  
 435 in such manner as in its judgment will best promote free and  
 436 open competition, including advertisement for competitive bids  
 437 in a newspaper of general circulation within the boundaries of  
 438 the local agency or on a publicly accessible website maintained  
 439 by the county; however, if the local agency shall determine that  
 440 the purposes of this part will be more effectively served, the  
 441 local agency in its discretion may award or cause to be awarded  
 442 contracts for the construction of any project, or any part  
 443 thereof, upon a negotiated basis as determined by the local  
 444 agency. The local agency shall prescribe bid security  
 445 requirements and other procedures in connection with the award  
 446 of such contracts as in its judgment shall protect the public  
 447 interest. The local agency may by written contract engage the  
 448 services of the lessee, purchaser, or prospective lessee or

449 purchaser of any project in the construction of the project and  
 450 may provide in the contract that the lessee, purchaser, or  
 451 prospective lessee or purchaser may act as an agent of, or an  
 452 independent contractor for, the local agency for the performance  
 453 of the functions described therein, subject to such conditions  
 454 and requirements consistent with the provisions of this part as  
 455 shall be prescribed in the contract, including functions such as  
 456 the acquisition of the site and other real property for the  
 457 project; the preparation of plans, specifications, and contract  
 458 documents; the award of construction and other contracts upon a  
 459 competitive or negotiated basis; the construction of the  
 460 project, or any part thereof, directly by the lessee, purchaser,  
 461 or prospective lessee or purchaser; the inspection and  
 462 supervision of construction; the employment of engineers,  
 463 architects, builders, and other contractors; and the provision  
 464 of money to pay the cost thereof pending reimbursement by the  
 465 local agency. Any such contract may provide that the local  
 466 agency may, out of proceeds of bonds, make advances to or  
 467 reimburse the lessee, purchaser, or prospective lessee or  
 468 purchaser for its costs incurred in the performance of those  
 469 functions, and shall set forth the supporting documents required  
 470 to be submitted to the local agency and the reviews,  
 471 examinations, and audits that shall be required in connection  
 472 therewith to assure compliance with the provisions of this part  
 473 and the contract.

474 Section 12. Paragraph (a) of subsection (2) of section  
 475 162.12, Florida Statutes, is amended to read:

476 162.12 Notices.-



477 (2) In addition to providing notice as set forth in  
 478 subsection (1), at the option of the code enforcement board,  
 479 notice may also be served by publication or posting, as follows:

480 (a)1. Such notice shall be published once during each week  
 481 for 4 consecutive weeks (four publications being sufficient) in  
 482 a newspaper of general circulation in the county where the code  
 483 enforcement board is located or daily during the 4 weeks  
 484 immediately preceding the hearing on a publicly accessible  
 485 website maintained by the local government. The website and  
 486 newspaper shall meet such requirements as are prescribed under  
 487 chapter 50 for legal and official advertisements.

488 2. Proof of newspaper publication shall be made as  
 489 provided in ss. 50.041 and 50.051.

490  
 491 Evidence that an attempt has been made to hand deliver or mail  
 492 notice as provided in subsection (1), together with proof of  
 493 publication or posting as provided in subsection (2), shall be  
 494 sufficient to show that the notice requirements of this part  
 495 have been met, without regard to whether or not the alleged  
 496 violator actually received such notice.

497 Section 13. Paragraph (b) of subsection (15) and paragraph  
 498 (c) of subsection (16) of section 163.3184, Florida Statutes,  
 499 are amended to read:

500 163.3184 Process for adoption of comprehensive plan or  
 501 plan amendment.—

502 (15) PUBLIC HEARINGS.—

503 (b) The local governing body shall hold at least two  
 504 advertised public hearings on the proposed comprehensive plan or

505 | plan amendment as follows:

506 |       1. The first public hearing shall be held at the  
 507 | transmittal stage pursuant to subsection (3). It shall be held  
 508 | on a weekday at least 7 days after the day that the first  
 509 | advertisement is published or after the notice of the first  
 510 | public hearing is initially published on the publicly accessible  
 511 | website.

512 |       2. The second public hearing shall be held at the adoption  
 513 | stage pursuant to subsection (7). It shall be held on a weekday  
 514 | at least 5 days after the day that the second advertisement is  
 515 | published or after the notice of the second public hearing is  
 516 | initially published on the publicly accessible website.

517 |       (16) COMPLIANCE AGREEMENTS.—

518 |       (c) Before ~~Prior to~~ its execution of a compliance  
 519 | agreement, the local government must approve the compliance  
 520 | agreement at a public hearing advertised at least 10 days before  
 521 | the public hearing in a newspaper of general circulation in the  
 522 | area or daily during the 10 days immediately preceding the  
 523 | hearing on a publicly accessible website maintained by the local  
 524 | government in accordance with the advertisement requirements of  
 525 | subsection (15).

526 |       Section 14. Paragraphs (a) and (c) of subsection (3) of  
 527 | section 166.041, Florida Statutes, are amended to read:

528 |       166.041 Procedures for adoption of ordinances and  
 529 | resolutions.—

530 |       (3) (a) Except as provided in paragraph (c), a proposed  
 531 | ordinance may be read by title, or in full, on at least 2  
 532 | separate days and shall, at least 10 days before ~~prior to~~

533 adoption, be noticed once in a newspaper of general circulation  
 534 in the municipality or noticed daily during the 10 days  
 535 immediately preceding the adoption on a publicly accessible  
 536 website maintained by the municipality. The notice of proposed  
 537 enactment shall state the date, time, and place of the meeting;  
 538 the title or titles of proposed ordinances; and the place or  
 539 places within the municipality where such proposed ordinances  
 540 may be inspected by the public. The notice shall also advise  
 541 that interested parties may appear at the meeting and be heard  
 542 with respect to the proposed ordinance.

543 (c) Ordinances initiated by other than the municipality  
 544 that change the actual zoning map designation of a parcel or  
 545 parcels of land shall be enacted pursuant to paragraph (a).  
 546 Ordinances that change the actual list of permitted,  
 547 conditional, or prohibited uses within a zoning category, or  
 548 ordinances initiated by the municipality that change the actual  
 549 zoning map designation of a parcel or parcels of land shall be  
 550 enacted pursuant to the following procedure:

551 1. In cases in which the proposed ordinance changes the  
 552 actual zoning map designation for a parcel or parcels of land  
 553 involving less than 10 contiguous acres, the governing body  
 554 shall direct the clerk of the governing body to notify by mail  
 555 each real property owner whose land the municipality will  
 556 redesignate by enactment of the ordinance and whose address is  
 557 known by reference to the latest ad valorem tax records. The  
 558 notice shall state the substance of the proposed ordinance as it  
 559 affects that property owner and shall set a time and place for  
 560 one or more public hearings on such ordinance. Such notice shall

561 | be given at least 30 days prior to the date set for the public  
 562 | hearing, and a copy of the notice shall be kept available for  
 563 | public inspection during the regular business hours of the  
 564 | office of the clerk of the governing body. The governing body  
 565 | shall hold a public hearing on the proposed ordinance and may,  
 566 | upon the conclusion of the hearing, immediately adopt the  
 567 | ordinance.

568 |         2. In cases in which the proposed ordinance changes the  
 569 | actual list of permitted, conditional, or prohibited uses within  
 570 | a zoning category, or changes the actual zoning map designation  
 571 | of a parcel or parcels of land involving 10 contiguous acres or  
 572 | more, the governing body shall provide for public notice and  
 573 | hearings as follows:

574 |             a. The local governing body shall hold two advertised  
 575 | public hearings on the proposed ordinance. At least one hearing  
 576 | shall be held after 5 p.m. on a weekday, unless the local  
 577 | governing body, by a majority plus one vote, elects to conduct  
 578 | that hearing at another time of day. The first public hearing  
 579 | shall be held at least 7 days after the day that the first  
 580 | advertisement is published. The second hearing shall be held at  
 581 | least 10 days after the first hearing and shall be advertised at  
 582 | least 5 days prior to the public hearing.

583 |             b. The required newspaper advertisements shall be no less  
 584 | than 2 columns wide by 10 inches long in a standard size or a  
 585 | tabloid size newspaper, and the headline in the advertisement  
 586 | shall be in a type no smaller than 18 point. The newspaper  
 587 | advertisement shall not be placed in that portion of the  
 588 | newspaper where legal notices and classified advertisements

589 appear. The newspaper advertisement shall be placed in a  
 590 newspaper of general paid circulation in the municipality and of  
 591 general interest and readership in the municipality, not one of  
 592 limited subject matter, pursuant to chapter 50. It is the  
 593 legislative intent that, whenever possible, the newspaper  
 594 advertisement appear in a newspaper that is published at least 5  
 595 days a week unless the only newspaper in the municipality is  
 596 published less than 5 days a week. The newspaper advertisement  
 597 shall be in substantially the following form:

598 NOTICE OF (TYPE OF) CHANGE

599  
 600 The ...(name of local governmental unit)... proposes to  
 601 adopt the following ordinance:...(title of the ordinance)....  
 602 A public hearing on the ordinance will be held on ...(date  
 603 and time)... at ...(meeting place)....

604  
 605 Except for amendments which change the actual list of permitted,  
 606 conditional, or prohibited uses within a zoning category, the  
 607 advertisement shall contain a geographic location map which  
 608 clearly indicates the area covered by the proposed ordinance.  
 609 The map shall include major street names as a means of  
 610 identification of the general area.

611 c. In lieu of publishing the advertisement set out in this  
 612 paragraph, the municipality may mail a notice to each person  
 613 owning real property within the area covered by the ordinance.  
 614 Such notice shall clearly explain the proposed ordinance and  
 615 shall notify the person of the time, place, and location of any  
 616 public hearing on the proposed ordinance.

617 Section 15. Section 170.05, Florida Statutes, is amended  
 618 to read:

619 170.05 Publication of resolution.—Upon the adoption of the  
 620 resolution provided for in s. 170.03, the municipality shall  
 621 cause said resolution to be published on a publicly accessible  
 622 website maintained by the municipality or one time in a  
 623 newspaper of general circulation published in said municipality,  
 624 and if there ~~is~~ be no website or newspaper published in said  
 625 municipality, the governing authority of said municipality shall  
 626 cause said resolution to be published once a week for a period  
 627 of 2 weeks in a newspaper of general circulation published in  
 628 the county in which said municipality is located.

629 Section 16. Section 170.07, Florida Statutes, is amended  
 630 to read:

631 170.07 Publication of preliminary assessment roll.—Upon  
 632 the completion of said preliminary assessment roll, the  
 633 governing authority of the municipality shall by resolution fix  
 634 a time and place at which the owners of the property to be  
 635 assessed or any other persons interested therein may appear  
 636 before said governing authority and be heard as to the propriety  
 637 and advisability of making such improvements, as to the cost  
 638 thereof, as to the manner of payment therefor, and as to the  
 639 amount thereof to be assessed against each property so improved.  
 640 Thirty days' notice in writing of such time and place shall be  
 641 given to such property owners. The notice shall include the  
 642 amount of the assessment and shall be served by mailing a copy  
 643 to each of such property owners at his or her last known  
 644 address, the names and addresses of such property owners to be

645 | obtained from the records of the property appraiser or from such  
 646 | other sources as the city or town clerk or engineer deems  
 647 | reliable, proof of such mailing to be made by the affidavit of  
 648 | the clerk or deputy clerk of said municipality, or by the  
 649 | engineer, said proof to be filed with the clerk, provided, that  
 650 | failure to mail said notice or notices shall not invalidate any  
 651 | of the proceedings hereunder. Notice of the time and place of  
 652 | such hearing shall also be given by two publications a week  
 653 | apart in a newspaper of general circulation in said municipality  
 654 | or by publication daily for 2 weeks on a publicly accessible  
 655 | website maintained by the municipality, and if there is ~~be~~ no  
 656 | website or newspaper published in said municipality, the  
 657 | governing authority of said municipality shall cause said notice  
 658 | to be published in like manner in a newspaper of general  
 659 | circulation published in the county in which said municipality  
 660 | is located; provided that the last publication shall be at least  
 661 | 1 week before ~~prior to~~ the date of the hearing. Said notice  
 662 | shall describe the streets or other areas to be improved and  
 663 | advise all persons interested that the description of each  
 664 | property to be assessed and the amount to be assessed to each  
 665 | piece or parcel of property may be ascertained at the office of  
 666 | the clerk of the municipality. Such service by publication shall  
 667 | be verified by the affidavit of the publisher and filed with the  
 668 | clerk of said municipality.

669 |       Section 17. Subsection (1) of section 180.24, Florida  
 670 | Statutes, is amended to read:

671 |       180.24 Contracts for construction; bond; publication of  
 672 | notice; bids.-

673 (1) Any municipality desiring the accomplishment of any or  
 674 all of the purposes of this chapter may make contracts for the  
 675 construction of any of the utilities mentioned in this chapter,  
 676 or any extension or extensions to any previously constructed  
 677 utility, which said contracts shall be in writing, and the  
 678 contractor shall be required to give bond, which said bond shall  
 679 be executed by a surety company authorized to do business in the  
 680 state; provided, however, construction contracts in excess of  
 681 \$25,000 shall be advertised by the publication of a notice in a  
 682 newspaper of general circulation in the county in which said  
 683 municipality is located at least once each week for 2  
 684 consecutive weeks, by publication daily for 2 weeks on a  
 685 publicly accessible website maintained by the municipality, or  
 686 by posting three notices in three conspicuous places in said  
 687 municipality, one of which shall be on the door of the city  
 688 hall; and that at least 10 days shall elapse between the date of  
 689 the first publication or posting of such notice and the date of  
 690 receiving bids and the execution of such contract documents. For  
 691 municipal construction projects identified in s. 255.0525, the  
 692 notice provision of that section supersedes and replaces the  
 693 notice provisions in this section.

694 Section 18. Paragraph (a) of subsection (3) of section  
 695 197.3632, Florida Statutes, is amended to read:

696 197.3632 Uniform method for the levy, collection, and  
 697 enforcement of non-ad valorem assessments.—

698 (3)(a) Notwithstanding any other provision of law to the  
 699 contrary, a local government which is authorized to impose a  
 700 non-ad valorem assessment and which elects to use the uniform



701 method of collecting such assessment for the first time as  
 702 authorized in this section shall adopt a resolution at a public  
 703 hearing before ~~prior to~~ January 1 or, if the property appraiser,  
 704 tax collector, and local government agree, March 1. The  
 705 resolution shall clearly state its intent to use the uniform  
 706 method of collecting such assessment. The local government shall  
 707 publish notice of its intent to use the uniform method for  
 708 collecting such assessment weekly in a newspaper of general  
 709 circulation within each county contained in the boundaries of  
 710 the local government for 4 consecutive weeks preceding the  
 711 hearing or, in the case of a county or municipality, daily  
 712 during the 4 consecutive weeks immediately preceding the hearing  
 713 on a publicly accessible website maintained by the county or  
 714 municipality. The resolution shall state the need for the levy  
 715 and shall include a legal description of the boundaries of the  
 716 real property subject to the levy. If the resolution is adopted,  
 717 the local governing board shall send a copy of it by United  
 718 States mail to the property appraiser, the tax collector, and  
 719 the department by January 10 or, if the property appraiser, tax  
 720 collector, and local government agree, March 10.

721 Section 19. Paragraph (d) of subsection (2), paragraph (g)  
 722 of subsection (3), paragraph (b) of subsection (12), and  
 723 paragraph (a) of subsection (14) of section 200.065, Florida  
 724 Statutes, are amended to read:

725 200.065 Method of fixing millage.—

726 (2) No millage shall be levied until a resolution or  
 727 ordinance has been approved by the governing board of the taxing  
 728 authority which resolution or ordinance must be approved by the

729 taxing authority according to the following procedure:  
 730 (d) Within 15 days after the meeting adopting the  
 731 tentative budget, the taxing authority shall advertise in a  
 732 newspaper of general circulation in the county as provided in  
 733 subsection (3), ~~its intent to finally adopt a millage rate and~~  
 734 budget or, in the case of a county or municipality, may  
 735 advertise on its publicly accessible website its intent to  
 736 finally adopt a millage rate and budget, and shall maintain the  
 737 notice on its website until completion of the hearing. If  
 738 advertised in a newspaper, a public hearing to finalize the  
 739 budget and adopt a millage rate shall be held not less than 2  
 740 days nor more than 5 days after the day that the advertisement  
 741 is first published. During the hearing, the governing body of  
 742 the taxing authority shall amend the adopted tentative budget as  
 743 it sees fit, adopt a final budget, and adopt a resolution or  
 744 ordinance stating the millage rate to be levied. The resolution  
 745 or ordinance shall state the percent, if any, by which the  
 746 millage rate to be levied exceeds the rolled-back rate computed  
 747 pursuant to subsection (1), which shall be characterized as the  
 748 percentage increase in property taxes adopted by the governing  
 749 body. The adoption of the budget and the millage-levy resolution  
 750 or ordinance shall be by separate votes. For each taxing  
 751 authority levying millage, the name of the taxing authority, the  
 752 rolled-back rate, the percentage increase, and the millage rate  
 753 to be levied shall be publicly announced before ~~prior to~~ the  
 754 adoption of the millage-levy resolution or ordinance. ~~In no~~  
 755 ~~event may~~ The millage rate adopted pursuant to this paragraph  
 756 may not exceed the millage rate tentatively adopted pursuant to

757 paragraph (c). If the rate tentatively adopted pursuant to  
 758 paragraph (c) exceeds the proposed rate provided to the property  
 759 appraiser pursuant to paragraph (b), or as subsequently adjusted  
 760 pursuant to subsection (11), each taxpayer within the  
 761 jurisdiction of the taxing authority shall be sent notice by  
 762 first-class mail of his or her taxes under the tentatively  
 763 adopted millage rate and his or her taxes under the previously  
 764 proposed rate. The notice must be prepared by the property  
 765 appraiser, at the expense of the taxing authority, and must  
 766 generally conform to the requirements of s. 200.069. If such  
 767 additional notice is necessary, its mailing must precede the  
 768 hearing held pursuant to this paragraph by not less than 10 days  
 769 and not more than 15 days.

770 (3) The advertisement shall be no less than one-quarter  
 771 page in size of a standard size or a tabloid size newspaper, and  
 772 the headline in the advertisement shall be in a type no smaller  
 773 than 18 point. The advertisement shall not be placed in that  
 774 portion of the newspaper where legal notices and classified  
 775 advertisements appear. The advertisement shall be published in a  
 776 newspaper of general paid circulation in the county or in a  
 777 geographically limited insert of such newspaper. The geographic  
 778 boundaries in which such insert is circulated shall include the  
 779 geographic boundaries of the taxing authority. It is the  
 780 legislative intent that, whenever possible, the advertisement  
 781 appear in a newspaper that is published at least 5 days a week  
 782 unless the only newspaper in the county is published less than 5  
 783 days a week, or that the advertisement appear in a  
 784 geographically limited insert of such newspaper which insert is

785 published throughout the taxing authority's jurisdiction at  
 786 least twice each week. It is further the legislative intent that  
 787 the newspaper selected be one of general interest and readership  
 788 in the community and not one of limited subject matter, pursuant  
 789 to chapter 50.

790 (g) ~~If In the event that~~ the mailing of the notice of  
 791 proposed property taxes is delayed beyond September 3 in a  
 792 county, any multicounty taxing authority which levies ad valorem  
 793 taxes within that county shall advertise its intention to adopt  
 794 a tentative budget and millage rate on a publicly accessible  
 795 website maintained by the taxing authority or in a newspaper of  
 796 paid general circulation within that county, as provided in this  
 797 subsection, and shall hold the hearing required pursuant to  
 798 paragraph (2)(c). If advertised in the newspaper, the hearing  
 799 shall be held not less than 2 days or more than 5 days  
 800 thereafter, and not later than September 18. If advertised on  
 801 the website, the hearing shall be held not less than 2 days  
 802 after initial publication of the advertisement on the website  
 803 and not later than September 18, and shall remain on the website  
 804 until the date of the hearing. The advertisement shall be in the  
 805 following form, unless the proposed millage rate is less than or  
 806 equal to the rolled-back rate, computed pursuant to subsection  
 807 (1), in which case the advertisement shall be as provided in  
 808 paragraph (e):

809 NOTICE OF TAX INCREASE

810  
 811 The ...(name of the taxing authority)... proposes to  
 812 increase its property tax levy by ...(percentage of increase

813 over rolled-back rate)... percent.

814 All concerned citizens are invited to attend a public  
 815 hearing on the proposed tax increase to be held on ...(date and  
 816 time)... at ...(meeting place)....

817 (12) The time periods specified in this section shall be  
 818 determined by using the date of certification of value pursuant  
 819 to subsection (1) or July 1, whichever date is later, as day 1.  
 820 The time periods shall be considered directory and may be  
 821 shortened, provided:

822 (b) Any public hearing preceded by a newspaper  
 823 advertisement is held not less than 2 days or more than 5 days  
 824 following publication of such advertisement and any public  
 825 hearing preceded by advertisement on a website advertisement is  
 826 held not less than 2 days after initial publication; and

827 (14)(a) If the notice of proposed property taxes mailed to  
 828 taxpayers under this section contains an error, the property  
 829 appraiser, in lieu of mailing a corrected notice to all  
 830 taxpayers, may correct the error by mailing a short form of the  
 831 notice to those taxpayers affected by the error and its  
 832 correction. The notice shall be prepared by the property  
 833 appraiser at the expense of the taxing authority which caused  
 834 the error or at the property appraiser's expense if he or she  
 835 caused the error. The form of the notice must be approved by the  
 836 executive director of the Department of Revenue or the executive  
 837 director's designee. If the error involves only the date and  
 838 time of the public hearings required by this section, the  
 839 property appraiser, with the permission of the taxing authority  
 840 affected by the error, may correct the error by advertising the

841 corrected information on a publicly accessible website  
 842 maintained by the taxing authority or in a newspaper of general  
 843 circulation in the county as provided in subsection (3).

844 Section 20. Subsection (2) of section 255.0525, Florida  
 845 Statutes, is amended to read:

846 255.0525 Advertising for competitive bids or proposals.—

847 (2) The solicitation of competitive bids or proposals for  
 848 any county, municipality, or other political subdivision  
 849 construction project that is projected to cost more than  
 850 \$200,000 shall be publicly advertised at least once in a  
 851 newspaper of general circulation in the county where the project  
 852 is located at least 21 days before ~~prior to~~ the established bid  
 853 opening and at least 5 days before ~~prior to~~ any scheduled prebid  
 854 conference, or advertised daily during the 21-day period  
 855 immediately preceding the established bid opening date and daily  
 856 during the 5-day period immediately preceding any scheduled  
 857 prebid conference on a publicly accessible website maintained by  
 858 the entity responsible for publication. The solicitation of  
 859 competitive bids or proposals for any county, municipality, or  
 860 other political subdivision construction project that is  
 861 projected to cost more than \$500,000 shall be publicly  
 862 advertised at least once in a newspaper of general circulation  
 863 in the county where the project is located at least 30 days  
 864 before ~~prior to~~ the established bid opening and at least 5 days  
 865 before ~~prior to~~ any scheduled prebid conference, or advertised  
 866 daily during the 30-day period immediately preceding the  
 867 established bid opening date and daily during the 5-day period  
 868 immediately preceding any scheduled prebid conference on a

869 publicly accessible website. Bids or proposals shall be received  
 870 and opened at the location, date, and time established in the  
 871 bid or proposal advertisement. In cases of emergency, the  
 872 procedures required in this section may be altered by the local  
 873 governmental entity in any manner that is reasonable under the  
 874 emergency circumstances.

875 Section 21. Paragraph (e) of subsection (25) of section  
 876 380.06, Florida Statutes, is amended to read:

877 380.06 Developments of regional impact.—

878 (25) AREAWIDE DEVELOPMENT OF REGIONAL IMPACT.—

879 (e) The local government shall schedule a public hearing  
 880 within 60 days after receipt of the petition. The public hearing  
 881 shall be advertised at least 30 days before ~~prior to~~ the  
 882 hearing. In addition to the public hearing notice by the local  
 883 government, the petitioner, except when the petitioner is a  
 884 local government, shall provide actual notice to each person  
 885 owning land within the proposed areawide development plan at  
 886 least 30 days before ~~prior to~~ the hearing. If the petitioner is  
 887 a local government, or local governments pursuant to an  
 888 interlocal agreement, notice of the public hearing shall be  
 889 provided by the publication of an advertisement on a publicly  
 890 accessible website maintained by the county or municipality  
 891 responsible for publication or in a newspaper of general  
 892 circulation that meets the requirements of this paragraph. The  
 893 newspaper advertisement must be no less than one-quarter page in  
 894 a standard size or tabloid size newspaper, and the headline in  
 895 the newspaper advertisement must be in type no smaller than 18  
 896 point. The newspaper advertisement may ~~shall~~ not be published in

897 that portion of the newspaper where legal notices and classified  
 898 advertisements appear. The advertisement must be published on a  
 899 publicly accessible website maintained by the county or  
 900 municipality responsible for publication or in a newspaper of  
 901 general paid circulation in the county and of general interest  
 902 and readership in the community, not one of limited subject  
 903 matter, pursuant to chapter 50. Whenever possible, the newspaper  
 904 advertisement must appear in a newspaper that is published at  
 905 least 5 days a week, unless the only newspaper in the community  
 906 is published less than 5 days a week. The advertisement must be  
 907 in substantially the form used to advertise amendments to  
 908 comprehensive plans pursuant to s. 163.3184. The local  
 909 government shall specifically notify in writing the regional  
 910 planning agency and the state land planning agency at least 30  
 911 days before ~~prior to~~ the public hearing. At the public hearing,  
 912 all interested parties may testify and submit evidence regarding  
 913 the petitioner's qualifications, the need for and benefits of an  
 914 areawide development of regional impact, and such other issues  
 915 relevant to a full consideration of the petition. If more than  
 916 one local government has jurisdiction over the defined planning  
 917 area in an areawide development plan, the local governments  
 918 shall hold a joint public hearing. Such hearing shall address,  
 919 at a minimum, the need to resolve conflicting ordinances or  
 920 comprehensive plans, if any. The local government holding the  
 921 joint hearing shall comply with the following additional  
 922 requirements:

- 923 1. The notice of the hearing shall be published at least
- 924 60 days in advance of the hearing and shall specify where the



925 petition may be reviewed.

926 2. The notice shall be given to the state land planning  
 927 agency, to the applicable regional planning agency, and to such  
 928 other persons as may have been designated by the state land  
 929 planning agency as entitled to receive such notices.

930 3. A public hearing date shall be set by the appropriate  
 931 local government at the next scheduled meeting.

932 Section 22. Subsection (2) of section 403.7049, Florida  
 933 Statutes, is amended to read:

934 403.7049 Determination of full cost for solid waste  
 935 management; local solid waste management fees.-

936 (2)(a) Each municipality shall establish a system to  
 937 inform, no less than once a year, residential and nonresidential  
 938 users of solid waste management services within the  
 939 municipality's service area of the user's share, on an average  
 940 or individual basis, of the full cost for solid waste management  
 941 as determined pursuant to subsection (1). Counties shall provide  
 942 the information required of municipalities only to residential  
 943 and nonresidential users of solid waste management services  
 944 within the county's service area that are not served by a  
 945 municipality. Municipalities shall include costs charged to them  
 946 or persons contracting with them for disposal of solid waste in  
 947 the full cost information provided to residential and  
 948 nonresidential users of solid waste management services.

949 (b) The public disclosure system requirements of this  
 950 section shall be fulfilled by meeting one of the following:

951 1. By mailing a copy of the full cost information to each  
 952 residential and nonresidential user of solid waste management

953 service within the solid waste management service area of the  
 954 county or municipality;

955 2. By enclosing a copy of the full cost information in or  
 956 with a bill sent to each residential and nonresidential user of  
 957 solid waste management services within the service area of the  
 958 county or municipality;

959 3. By publishing a copy of the full cost information in a  
 960 newspaper of general circulation within the county. Such notice  
 961 shall be a display advertisement not less than one-quarter page  
 962 in size; or

963 4. By advertising a copy of the full cost information  
 964 daily for at least two consecutive weeks on a publicly  
 965 accessible website maintained by the municipality.

966 (c) ~~(b)~~ Counties and municipalities are encouraged to  
 967 operate their solid waste management systems through use of an  
 968 enterprise fund.

969 Section 23. Paragraph (a) of subsection (2) of section  
 970 403.973, Florida Statutes, is amended to read:

971 403.973 Expedited permitting; amendments to comprehensive  
 972 plans.—

973 (2) As used in this section, the term:

974 (a) "Duly noticed" means publication on a publicly  
 975 accessible website maintained by the municipality or county  
 976 having jurisdiction or in a newspaper of general circulation in  
 977 the municipality or county having ~~with~~ jurisdiction. If  
 978 published in a newspaper, the notice shall appear on at least 2  
 979 separate days, one of which shall be at least 7 days before the  
 980 meeting. If published on a publicly accessible website, the

981 notice shall appear daily during the 7 days immediately  
 982 preceding the meeting. The notice shall state the date, time,  
 983 and place of the meeting scheduled to discuss or enact the  
 984 memorandum of agreement, and the places within the municipality  
 985 or county where such proposed memorandum of agreement may be  
 986 inspected by the public. The newspaper notice must be one-eighth  
 987 of a page in size and must be published in a portion of the  
 988 paper other than the legal notices section. The notice shall  
 989 also advise that interested parties may appear at the meeting  
 990 and be heard with respect to the memorandum of agreement.

991 Section 24. Paragraph (b) of subsection (4) of section  
 992 420.9075, Florida Statutes, is amended to read:

993 420.9075 Local housing assistance plans; partnerships.—

994 (4) Each local housing assistance plan is governed by the  
 995 following criteria and administrative procedures:

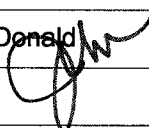
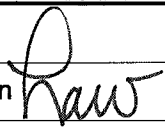
996 (b) The county or eligible municipality or its  
 997 administrative representative shall advertise the notice of  
 998 funding availability in a newspaper of general circulation and  
 999 periodicals serving ethnic and diverse neighborhoods, at least  
 1000 30 days before the beginning of the application period or daily  
 1001 during the 30 days immediately preceding the application period  
 1002 on a publicly accessible website maintained by the county or  
 1003 eligible municipality. If no funding is available due to a  
 1004 waiting list, no notice of funding availability is required.

1005 Section 25. This act shall take effect October 1, 2011.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 993 Rulemaking  
**SPONSOR(S):** Rulemaking & Regulation Subcommittee, Roberson  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1382

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Rulemaking & Regulation Subcommittee	9 Y, 5 N, As CS	Miller	Rubottom
2) Government Operations Subcommittee		McDonald 	Williamson 
3) Rules & Calendar Committee			

### SUMMARY ANALYSIS

The bill amends agency rulemaking procedures under the Administrative Procedure Act, and revises various provisions to align with legislative ratification requirements enacted in 2010. Certain rulemaking timeframes are conformed to other periods required in the statutory rulemaking process. The bill also provides for withdrawal of rules that are not effective because they were not ratified, exempts certain rulemaking from ratification requirements, and creates a summary process for statewide elected officers to direct the repeal of specific rules within the first 6 months of an elective term.

The bill also does the following:

- Requires agencies to include in each notice of rulemaking whether the proposed rule requires legislative ratification;
- Expressly includes legislative ratification in the description of factors controlling when an adopted rule takes effect;
- Exempts emergency rulemaking from the requirements to prepare a statement of estimated regulatory costs; and
- Excludes from the ratification requirement emergency rules and rules adopting federal standards, the triennial update of the Florida Building Code, and the triennial update of the Florida Fire Prevention Code.

The bill has an indeterminate, but insignificant, fiscal impact.

The bill is effective upon becoming a law.

Procedure Act (APA), provides different times in which a party may challenge a proposed rule.<sup>11</sup> If an agency is required to prepare a SERC the rule cannot be filed for adoption until 21 days after the SERC is provided to parties and made publicly available.<sup>12</sup> The 2010 revision did not alter this requirement but created new paragraph s. 120.541(1)(d), F.S., delaying adoption of a rule for 45 days after the agency makes a *revised* SERC available and, in such cases, providing 44 days for a party to challenge a proposed rule.<sup>13</sup> These revised times conflict with the various 21 day timeframes provided for different aspects of rulemaking, such as requesting a hearing and submitting materials responding to the rulemaking notice,<sup>14</sup> filing notices of substantial changes due to an objection from JAPC,<sup>15</sup> or filing a rule for adoption if no objections are received in 21 days.<sup>16</sup>

### **Notice Requirements**

The bill requires an agency's notice of proposed rulemaking to include a statement as to whether legislative ratification is required before the rule takes effect.

### **Timing Conflicts**

The bill resolves the timing conflicts created in the 2010 law by reversing the changes as follows:

- Instead of allowing 45 days, the bill requires submission of a revised SERC at least 21 days before the rule is filed for adoption; thus, conforming the time with that for adopting a rule after providing an original SERC.
- The bill reverts to 20 days the time for challenging a proposed rule after the agency provides a SERC or a revised SERC; thus, requiring the challenge to be brought during the usual waiting period of 28 days before the rule may be filed for adoption.

### **Legislative Ratification**

#### Background

The process for legislative ratification adopted in 2010 created potential conflicts within the existing rulemaking procedures of the APA. Because of the delay between filing a rule for adoption and the rule taking effect, current law allows an agency to withdraw the rule from further consideration only if the JAPC objects to the rule.<sup>17</sup> A rule in effect cannot be withdrawn but only repealed through the standard rulemaking process.<sup>18</sup>

The new requirement for legislative ratification creates the possibility that an agency may adopt a rule that is never ratified, leaving an agency with no authority to withdraw or repeal the ineffective rule. Additionally, if a challenge to the rule brought subsequent to adoption results in a final order in which the agency would prefer to correct the rule, the agency could take no action.

A rule projected to have a specific economic impact exceeding \$1 million in the aggregate over 5 years<sup>19</sup> must be ratified by the Legislature before taking effect.<sup>20</sup> A rule must be filed for adoption before it may take effect<sup>21</sup> and cannot be filed for adoption until completion of the rulemaking process.<sup>22</sup>

Another issue occurs when a rule takes effect without being submitted for legislative ratification but is later found by final adjudication or administrative order to be invalid because its actual economic effect showed that ratification was required. Because the rule met the statutory criteria mandating

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<sup>11</sup> Section 120.56(2)(a), F.S. Originally, a party had 20 days after a SERC or revised SERC was made available in which to challenge a proposed rule.

<sup>12</sup> Section 120.54(3)(e)2., F.S.

<sup>13</sup> Section 120.56(2)(a), F.S., as amended by Chapter 2010-279, s. 3, L.O.F.

<sup>14</sup> Section 120.54(3)(c)1., F.S.

<sup>15</sup> Section 120.54(d)1., F.S.

<sup>16</sup> Section 120.54(3)(e)6., F.S.

<sup>17</sup> Section 120.54(3)(d)3., F.S.

<sup>18</sup> Section 120.54(3)(d)5., F.S.

<sup>19</sup> Section 120.541(2)(a), F.S.

<sup>20</sup> Section 120.541(3), F.S.

<sup>21</sup> Section 120.54(3)(e)6., F.S.

<sup>22</sup> Section 120.54(3)(e), F.S.

subject to the full SERC and ratification requirements, the language adopted in 2010 should be conformed with the existing sections to eliminate this inconsistency.

### Effect of Bill

The bill exempts emergency rulemaking from the requirement to prepare a SERC and the requirement for legislative ratification.

### **Exemptions to Required Legislative Ratification**

#### Background

Current law requires legislative ratification of all rules exceeding the statutory economic impact threshold. Mandatory updates to the Florida Building Code and the Florida Fire Prevention Code are required to be adopted every 3 years<sup>36</sup> and are developed with significant involvement of the Legislature and its substantive committees, business and industry representatives, local and state government, and the general public. Other rules involve state adoption of federal standards for operation of programs involving significant federal oversight due to funding sources or implementation of federal law and are adopted under a procedure separate from regular rulemaking.<sup>37</sup> These types of rules are subject to economic scrutiny in the rulemaking process; but, the concern for additional legislative scrutiny imposed by ratification appears to be met by the standards imposed under the substantive statutes being implemented by rule.

#### *The Florida Building Code*

The Florida Building Code (Building Code) is the unified building code applicable statewide as authorized by statute.<sup>38</sup> The overall purpose for the Building Code is to create within a single set of documents uniform standards applicable to all aspects of construction in Florida to provide effective and reasonable protection for public health, safety, and welfare "...at the most reasonable cost to the consumer."<sup>39</sup> The Florida Building Commission ("Commission")<sup>40</sup> is responsible for adopting, updating, and general administration of the Building Code. With certain exceptions, enforcement of the Building Code is through duly-authorized state and local agencies.<sup>41</sup>

The law provides detailed sections on legislative intent<sup>42</sup>, Building Code adoption and contents,<sup>43</sup> specific processes for different types of amendments,<sup>44</sup> the triennial comprehensive update conducted by the Commission,<sup>45</sup> and the Commission's powers.<sup>46</sup> The express intent of the law is for the Commission to use the statutory rulemaking requirements and process<sup>47</sup> for adopting, amending, or updating the Building Code.<sup>48</sup>

#### 553.72 Intent. —

...

(3) It is the intent of the Legislature that the Florida Building Code be adopted, modified, updated, interpreted, and maintained by the Florida Building Commission in accordance with ss. 120.536(1) and 120.54 and enforced by authorized state and local government enforcement agencies.

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<sup>36</sup> Sections 553.73(7)(a) and 633.0215(1), F.S.

<sup>37</sup> Section 120.54(6), F.S.

<sup>38</sup> Chapter 553, part IV, F.S., the Florida Building Code.

<sup>39</sup> Section 553.72(1), F.S.

<sup>40</sup> Section 553.74, F.S.

<sup>41</sup> Section 553.80, F.S.

<sup>42</sup> Section 553.72, F.S.

<sup>43</sup> Section 553.73(1)-(3), F.S.

<sup>44</sup> Section 553.73(3) and (9), F.S.-technical amendments, subsections (4) and (5)-amendments by local authorities, subsection (8)-substantive amendments.

<sup>45</sup> Section 553.73(7), F.S.

<sup>46</sup> Sections 553.74 - 553.77, F.S.

<sup>47</sup> Sections 120.536(1) and 120.54, F.S. Chapter 120, F.S., is Florida's Administrative Procedure Act or "APA".

<sup>48</sup> Section 553.72(3), F.S.

aggregate of \$1 million over 5 years.<sup>66</sup> Where the Building Code is adopted in compliance with the Legislature's primary intent and protects public health, safety, and welfare at the least cost to the consumer,<sup>67</sup> the resulting direct or indirect regulatory costs are likely to exceed the statutory threshold requiring ratification.

The Commission currently is completing the third triennial update to the Code and has begun the rulemaking process.<sup>68</sup> DCA anticipates the rule incorporating the final version of the updated Code will be ready to file for adoption after May 6 but before June 30, 2011.<sup>69</sup> Absent the requirement of legislative ratification, the Code would become effective no later than December 31, 2011.<sup>70</sup> However, since the regulatory costs resulting from the operation of the Code will exceed the level of economic impact requiring legislative ratification, and the Code will not be adopted through rulemaking prior to the end of the regular session of the Legislature, under present law the earliest the Code may be considered for ratification would be during the 2012 regular session.

The State Fire Marshall concurrently is preparing the triennial update of the Fire Code for adoption at the same time as the Building Code update.<sup>71</sup>

#### Effect of Bill

The bill creates the following exemptions for required legislative ratification:

- Rules adopting federal standards.
- The triennial update of the Building Code.
- The triennial update of the Fire Code from required legislative ratification.

These rules are still subject to the preparation of a comprehensive SERC and economic analysis.

### **Special Rule Repeal Authorization – Initial Period of Elected Term**

#### Background

A rule in effect may be repealed only through the standard rulemaking process.<sup>72</sup> This includes public notice of the proposed action and the opportunity for members of the public who have a substantial interest in the repeal to participate or even bring a legal challenge.<sup>73</sup> Following the standard process requires a minimum of 28 days from publication of the notice of the proposed repeal to the time the actual repeal may be adopted.<sup>74</sup> With the required statutory waiting periods, the earliest a rule repeal may take effect is 48 days from publication of the notice of proposed repeal.<sup>75</sup> Depending on the amount and nature of requested public participation, the period to repeal a rule could exceed 90 days.

#### Effect of Bill

The bill creates limited authorization and a summary process for statewide elected executive officers<sup>76</sup> to repeal rules within the first 6 months of an elected term. Key points of the process are:

- A legislative finding that requiring the usual rulemaking process may unnecessarily delay the efforts of newly-elected statewide executive officers to review the programs and policies over which they have jurisdiction.
- Authorization of a specified summary procedure to repeal rules.
- Statewide elected executive officers may only use this summary process during the first 6 months of their elected terms.

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<sup>66</sup> 3/11/2011 conversation with Jim Richmond, Asst. Gen. Counsel, DCA, general counsel for Florida Building Commission.

<sup>67</sup> Section 553.72, F.S.

<sup>68</sup> Notice of Proposed Rule 9N-1.001; see note 58, above.

<sup>69</sup> See note 67, above.

<sup>70</sup> Section 553.73(7)(a), F.S.

<sup>71</sup> See note 64, above.

<sup>72</sup> Section 120.54(3)(d)5., F.S.

<sup>73</sup> Sections 120.54(3) and 120.56(2), F.S.

<sup>74</sup> Section 120.54(3)(e)2., F.S.

<sup>75</sup> Section 120.54(3)(e)6., F.S. If the repeal of a rule results in one of the significant economic consequences, it is possible such repeal would require submission for legislative ratification.

<sup>76</sup> The Governor, Chief Financial Officer, Attorney General, and Commissioner of Agriculture.



the Florida Fire Prevention Code from the requirement of legislative ratification; to exclude emergency rulemaking from the required SERC and legislative ratification.

**Section 3:** Creates s. 120.547, F.S., to authorize a summary procedure for statewide elected officials to direct the repeal of rules in agencies under their respective authority, commencing with the beginning of the official's elected term and ending on the following June 30.

**Section 4:** Amends s. 120.56, F.S., to reverse the 2010 change for a party to challenge a proposed rule after preparation of a SERC to conform to other relevant time periods in the existing law.

**Section 5:** Provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The impact on revenues in both FY 2011-2012 and FY 2012-2013 is indeterminate, but insignificant. The bill authorizes no new revenue sources and existing revenues would not be increased by these clarifications of administrative procedure.

#### 2. Expenditures:

Requiring disclosure in the rulemaking notice of whether the proposed rule may require ratification will have an indeterminate, but insignificant, impact on agency expenditures. Agencies currently must include in the rulemaking notice a summary of the SERC, if one was prepared,<sup>79</sup> and must prepare a SERC if the proposed rule will adversely affect small business or increase regulatory costs more than \$200,000 in the aggregate within 1 year of implementation.<sup>80</sup> As agencies have a duty to address the fiscal impact of a proposed rule, and already incur the expense pertaining to the preparation of a SERC, the information is available to determine whether legislative ratification will be required. The bill thus requires reporting an element the supporting data for which should exist.

Clarifying the rulemaking procedures by including ratification as a separate contingency for the rule to become effective only states current law and imposes no additional tasks or expenditures. Reverting the times for filing for adoption (from 45 to 21 days) or challenging a proposed rule (from 44 to 20 days) after the agency provides a revised SERC conforms these processes to existing law.

Clarifying the exclusion of emergency rulemaking from the SERC and ratification requirements should not impact agency expenditures as SERCs were not previously required. Exempting rules adopting federal standards, the Florida Building Code, and the Florida Fire Prevention Code from the ratification requirement should be expense neutral as those rulemaking processes do not require any expenditure.

Providing agencies a summary process to withdraw rules not ratified by the Legislature or to repeal rules found invalid for failing to be ratified will reduce agency expenditures that may be necessary to prevent such rules from interfering with proper implementation of statutes. Providing elected statewide officials with a summary process to repeal rules in the first six months of an elected term would save the cost of formal rule repeal procedures.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

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<sup>79</sup> Section 120.54(3)(a)1., F.S.

<sup>80</sup> Section 120.54(3)(b)1., F.S.

**Amendment 2:** Amended s.120.54(3)(d), F.S., authorizing agencies to withdraw or modify rules as a result of a final order in a challenge brought during the period between rule adoption and rule effectiveness, to withdraw rules submitted for ratification which are left unratified, and to summarily repeal rules found invalid because they were never submitted for legislative ratification.

**Amendment 3/As amended by Amendment 4:** This amendment was adopted after being revised by amendment-to-amendment 4, which exempted rules adopting federal standards, the triennial updates to the Florida Building Code, and the triennial updates to the Florida Fire Prevention Code from legislative ratification.

**Amendment 5:** Created the summary rule repeal process to be used by statewide elected officials within the first 6 months of an elected term. Provided for notice, opportunity for public objection to proposed repeals, and judicial review. Avoiding any question about delegation of executive authority, the amendment prevents any statewide elected official from delegating this authority.

**Amendment 6:** Changes the effective date of the bill to upon becoming a law.

The Rulemaking & Regulation Subcommittee then passed the bill as a committee substitute, incorporating the amendments previously described.

1                                   A bill to be entitled  
2           An act relating to rulemaking; amending s. 120.54, F.S.;  
3           requiring that an agency include in its notice of intended  
4           rulemaking a statement as to whether the proposed rule  
5           will require legislative ratification; clarifying that a  
6           statement of estimated regulatory costs is not required  
7           for emergency rulemaking; providing for modification or  
8           withdrawal of an adopted rule that is not ratified by the  
9           Legislature; providing for expedited repeal of rules  
10          determined to have required legislative ratification  
11          before going into effect; clarifying that certain proposed  
12          rules are effective only when ratified by the Legislature;  
13          amending s. 120.541, F.S.; reducing the time before an  
14          agency files a rule for adoption when the agency must  
15          notify the person who submitted a lower cost alternative  
16          and the Administrative Procedures Committee; excluding  
17          rules adopting federal standards, triennial updates to the  
18          Florida Building Code, or triennial updates to the Florida  
19          Fire Prevention Code from required legislative  
20          ratification; excluding emergency rulemaking from certain  
21          provisions; creating s. 120.547, F.S.; providing  
22          legislative findings and definitions; providing for  
23          summary repeal of rules by statewide elected executive  
24          officers within the first 6 months of their respective  
25          terms; specifying agencies affected by the repeal;  
26          providing procedures for notice of the repeal; providing  
27          for objection to the repeal; providing nonapplicability of  
28          other provisions of law to the summary repeal process;

29 providing requirements for judicial review of the repeal;  
 30 providing for exclusive and nondelegable authority;  
 31 amending s. 120.56, F.S.; reducing the time in which a  
 32 substantially affected person may seek an administrative  
 33 determination of the invalidity of a rule after the  
 34 statement or revised statement of estimated regulatory  
 35 costs is available; providing an effective date.  
 36

37 Be It Enacted by the Legislature of the State of Florida:  
 38

39 Section 1. Paragraphs (a), (b), (d), and (e) of subsection  
 40 (3) of section 120.54, Florida Statutes, as amended by chapter  
 41 2010-279, Laws of Florida, are amended to read:

42 120.54 Rulemaking.—

43 (3) ADOPTION PROCEDURES.—

44 (a) Notices.—

45 1. Prior to the adoption, amendment, or repeal of any rule  
 46 other than an emergency rule, an agency, upon approval of the  
 47 agency head, shall give notice of its intended action, setting  
 48 forth a short, plain explanation of the purpose and effect of  
 49 the proposed action; the full text of the proposed rule or  
 50 amendment and a summary thereof; a reference to the grant of  
 51 rulemaking authority pursuant to which the rule is adopted; and  
 52 a reference to the section or subsection of the Florida Statutes  
 53 or the Laws of Florida being implemented or interpreted. The  
 54 notice must include a summary of the agency's statement of the  
 55 estimated regulatory costs, if one has been prepared, based on  
 56 the factors set forth in s. 120.541(2); ~~7~~ and a statement that

57 any person who wishes to provide the agency with information  
 58 regarding the statement of estimated regulatory costs, or to  
 59 provide a proposal for a lower cost regulatory alternative as  
 60 provided by s. 120.541(1), must do so in writing within 21 days  
 61 after publication of the notice; and a statement as to whether  
 62 the proposed rule will require legislative ratification pursuant  
 63 to s. 120.541(3). The notice must state the procedure for  
 64 requesting a public hearing on the proposed rule. Except when  
 65 the intended action is the repeal of a rule, the notice must  
 66 include a reference both to the date on which and to the place  
 67 where the notice of rule development that is required by  
 68 subsection (2) appeared.

69 2. The notice shall be published in the Florida  
 70 Administrative Weekly not less than 28 days prior to the  
 71 intended action. The proposed rule shall be available for  
 72 inspection and copying by the public at the time of the  
 73 publication of notice.

74 3. The notice shall be mailed to all persons named in the  
 75 proposed rule and to all persons who, at least 14 days prior to  
 76 such mailing, have made requests of the agency for advance  
 77 notice of its proceedings. The agency shall also give such  
 78 notice as is prescribed by rule to those particular classes of  
 79 persons to whom the intended action is directed.

80 4. The adopting agency shall file with the committee, at  
 81 least 21 days prior to the proposed adoption date, a copy of  
 82 each rule it proposes to adopt; a copy of any material  
 83 incorporated by reference in the rule; a detailed written  
 84 statement of the facts and circumstances justifying the proposed

85 rule; a copy of any statement of estimated regulatory costs that  
 86 has been prepared pursuant to s. 120.541; a statement of the  
 87 extent to which the proposed rule relates to federal standards  
 88 or rules on the same subject; and the notice required by  
 89 subparagraph 1.

90 (b) Special matters to be considered in rule adoption.—

91 1. Statement of estimated regulatory costs.—Prior to the  
 92 adoption, amendment, or repeal of any rule ~~other than an~~  
 93 ~~emergency rule~~, an agency is encouraged to prepare a statement  
 94 of estimated regulatory costs of the proposed rule, as provided  
 95 by s. 120.541. However, an agency must prepare a statement of  
 96 estimated regulatory costs of the proposed rule, as provided by  
 97 s. 120.541, if:

98 a. The proposed rule will have an adverse impact on small  
 99 business; or

100 b. The proposed rule is likely to directly or indirectly  
 101 increase regulatory costs in excess of \$200,000 in the aggregate  
 102 in this state within 1 year after the implementation of the  
 103 rule.

104 2. Small businesses, small counties, and small cities.—

105 a. Each agency, before the adoption, amendment, or repeal  
 106 of a rule, shall consider the impact of the rule on small  
 107 businesses as defined by s. 288.703 and the impact of the rule  
 108 on small counties or small cities as defined by s. 120.52.  
 109 Whenever practicable, an agency shall tier its rules to reduce  
 110 disproportionate impacts on small businesses, small counties, or  
 111 small cities to avoid regulating small businesses, small  
 112 counties, or small cities that do not contribute significantly

113 to the problem the rule is designed to address. An agency may  
 114 define "small business" to include businesses employing more  
 115 than 200 persons, may define "small county" to include those  
 116 with populations of more than 75,000, and may define "small  
 117 city" to include those with populations of more than 10,000, if  
 118 it finds that such a definition is necessary to adapt a rule to  
 119 the needs and problems of small businesses, small counties, or  
 120 small cities. The agency shall consider each of the following  
 121 methods for reducing the impact of the proposed rule on small  
 122 businesses, small counties, and small cities, or any combination  
 123 of these entities:

124 (I) Establishing less stringent compliance or reporting  
 125 requirements in the rule.

126 (II) Establishing less stringent schedules or deadlines in  
 127 the rule for compliance or reporting requirements.

128 (III) Consolidating or simplifying the rule's compliance  
 129 or reporting requirements.

130 (IV) Establishing performance standards or best management  
 131 practices to replace design or operational standards in the  
 132 rule.

133 (V) Exempting small businesses, small counties, or small  
 134 cities from any or all requirements of the rule.

135 b.(I) If the agency determines that the proposed action  
 136 will affect small businesses as defined by the agency as  
 137 provided in sub-subparagraph a., the agency shall send written  
 138 notice of the rule to the Small Business Regulatory Advisory  
 139 Council and the Office of Tourism, Trade, and Economic  
 140 Development not less than 28 days prior to the intended action.

141 (II) Each agency shall adopt those regulatory alternatives  
 142 offered by the Small Business Regulatory Advisory Council and  
 143 provided to the agency no later than 21 days after the council's  
 144 receipt of the written notice of the rule which it finds are  
 145 feasible and consistent with the stated objectives of the  
 146 proposed rule and which would reduce the impact on small  
 147 businesses. When regulatory alternatives are offered by the  
 148 Small Business Regulatory Advisory Council, the 90-day period  
 149 for filing the rule in subparagraph (e)2. is extended for a  
 150 period of 21 days.

151 (III) If an agency does not adopt all alternatives offered  
 152 pursuant to this sub-subparagraph, it shall, prior to rule  
 153 adoption or amendment and pursuant to subparagraph (d)1., file a  
 154 detailed written statement with the committee explaining the  
 155 reasons for failure to adopt such alternatives. Within 3 working  
 156 days of the filing of such notice, the agency shall send a copy  
 157 of such notice to the Small Business Regulatory Advisory  
 158 Council. The Small Business Regulatory Advisory Council may make  
 159 a request of the President of the Senate and the Speaker of the  
 160 House of Representatives that the presiding officers direct the  
 161 Office of Program Policy Analysis and Government Accountability  
 162 to determine whether the rejected alternatives reduce the impact  
 163 on small business while meeting the stated objectives of the  
 164 proposed rule. Within 60 days after the date of the directive  
 165 from the presiding officers, the Office of Program Policy  
 166 Analysis and Government Accountability shall report to the  
 167 Administrative Procedures Committee its findings as to whether  
 168 an alternative reduces the impact on small business while



169 meeting the stated objectives of the proposed rule. The Office  
 170 of Program Policy Analysis and Government Accountability shall  
 171 consider the proposed rule, the economic impact statement, the  
 172 written statement of the agency, the proposed alternatives, and  
 173 any comment submitted during the comment period on the proposed  
 174 rule. The Office of Program Policy Analysis and Government  
 175 Accountability shall submit a report of its findings and  
 176 recommendations to the Governor, the President of the Senate,  
 177 and the Speaker of the House of Representatives. The  
 178 Administrative Procedures Committee shall report such findings  
 179 to the agency, and the agency shall respond in writing to the  
 180 Administrative Procedures Committee if the Office of Program  
 181 Policy Analysis and Government Accountability found that the  
 182 alternative reduced the impact on small business while meeting  
 183 the stated objectives of the proposed rule. If the agency will  
 184 not adopt the alternative, it must also provide a detailed  
 185 written statement to the committee as to why it will not adopt  
 186 the alternative.

187 3. This paragraph does not apply to the adoption of  
 188 emergency rules pursuant to subsection (4).

189 (d) Modification or withdrawal of proposed rules.—

190 1. After the final public hearing on the proposed rule, or  
 191 after the time for requesting a hearing has expired, if the rule  
 192 has not been changed from the rule as previously filed with the  
 193 committee, or contains only technical changes, the adopting  
 194 agency shall file a notice to that effect with the committee at  
 195 least 7 days prior to filing the rule for adoption. Any change,  
 196 other than a technical change that does not affect the substance

197 of the rule, must be supported by the record of public hearings  
 198 held on the rule, must be in response to written material  
 199 submitted to the agency within 21 days after the date of  
 200 publication of the notice of intended agency action or submitted  
 201 to the agency between the date of publication of the notice and  
 202 the end of the final public hearing, or must be in response to a  
 203 proposed objection by the committee. In addition, when any  
 204 change is made in a proposed rule, other than a technical  
 205 change, the adopting agency shall provide a copy of a notice of  
 206 change by certified mail or actual delivery to any person who  
 207 requests it in writing no later than 21 days after the notice  
 208 required in paragraph (a). The agency shall file the notice of  
 209 change with the committee, along with the reasons for the  
 210 change, and provide the notice of change to persons requesting  
 211 it, at least 21 days prior to filing the rule for adoption. The  
 212 notice of change shall be published in the Florida  
 213 Administrative Weekly at least 21 days prior to filing the rule  
 214 for adoption. This subparagraph does not apply to emergency  
 215 rules adopted pursuant to subsection (4).

216 2. After the notice required by paragraph (a) and prior to  
 217 adoption, the agency may withdraw the rule in whole or in part.

218 3. After adoption and before the rule becomes effective  
 219 ~~date~~, a rule may be modified or withdrawn only in response to  
 220 one of the following:

- 221 a. The committee objects to the rule;
- 222 b. A final order, not subject to further appeal, is  
 223 entered in a rule challenge brought pursuant to s. 120.56 after  
 224 the date of adoption but before the rule becomes effective

225 pursuant to subparagraph (e)6.;

226 c. The rule is timely submitted for legislative  
 227 ratification pursuant to s. 120.541(3) but the Legislature  
 228 adjourns sine die from at least one regular session without  
 229 ratifying the rule, in which case the rule may be withdrawn but  
 230 not modified; or

231 ~~d. an objection by the committee or may be modified to~~  
 232 ~~extend the effective date by not more than 60 days when The~~  
 233 committee notifies ~~has notified~~ the agency that an objection to  
 234 the rule is being considered, in which case the rule may be  
 235 modified to extend the effective date by not more than 60 days.

236 4. The agency shall give notice of its decision to  
 237 withdraw or modify a rule in the first available issue of the  
 238 publication in which the original notice of rulemaking was  
 239 published, shall notify those persons described in subparagraph  
 240 (a)3. in accordance with the requirements of that subparagraph,  
 241 and shall notify the Department of State if the rule is required  
 242 to be filed with the Department of State.

243 5. After a rule has become effective, it may be repealed  
 244 or amended only through the rulemaking procedures specified in  
 245 this chapter. However, a rule that was not submitted for  
 246 ratification pursuant to s. 120.541(3), but that subsequently is  
 247 determined by final order to require ratification as of the date  
 248 of adoption, may be repealed if:

249 a. The adopting agency publishes notice of the final order  
 250 finding that ratification pursuant to s. 120.541(3) was required  
 251 as of the date of adoption and that the rule is being repealed  
 252 as of the date of the final order; and

253        b. After the final order is rendered, the notice is  
 254 published in the first available Florida Administrative Weekly  
 255 and on the agency's Internet website.

256        (e) Filing for final adoption; effective date.—

257        1. If the adopting agency is required to publish its rules  
 258 in the Florida Administrative Code, the agency, upon approval of  
 259 the agency head, shall file with the Department of State three  
 260 certified copies of the rule it proposes to adopt; one copy of  
 261 any material incorporated by reference in the rule, certified by  
 262 the agency; a summary of the rule; a summary of any hearings  
 263 held on the rule; and a detailed written statement of the facts  
 264 and circumstances justifying the rule. Agencies not required to  
 265 publish their rules in the Florida Administrative Code shall  
 266 file one certified copy of the proposed rule, and the other  
 267 material required by this subparagraph, in the office of the  
 268 agency head, and such rules shall be open to the public.

269        2. A rule may not be filed for adoption less than 28 days  
 270 or more than 90 days after the notice required by paragraph (a),  
 271 until 21 days after the notice of change required by paragraph  
 272 (d), until 14 days after the final public hearing, until 21 days  
 273 after a statement of estimated regulatory costs required under  
 274 s. 120.541 has been provided to all persons who submitted a  
 275 lower cost regulatory alternative and made available to the  
 276 public, or until the administrative law judge has rendered a  
 277 decision under s. 120.56(2), whichever applies. When a required  
 278 notice of change is published prior to the expiration of the  
 279 time to file the rule for adoption, the period during which a  
 280 rule must be filed for adoption is extended to 45 days after the

281 | date of publication. If notice of a public hearing is published  
 282 | prior to the expiration of the time to file the rule for  
 283 | adoption, the period during which a rule must be filed for  
 284 | adoption is extended to 45 days after adjournment of the final  
 285 | hearing on the rule, 21 days after receipt of all material  
 286 | authorized to be submitted at the hearing, or 21 days after  
 287 | receipt of the transcript, if one is made, whichever is latest.  
 288 | The term "public hearing" includes any public meeting held by  
 289 | any agency at which the rule is considered. If a petition for an  
 290 | administrative determination under s. 120.56(2) is filed, the  
 291 | period during which a rule must be filed for adoption is  
 292 | extended to 60 days after the administrative law judge files the  
 293 | final order with the clerk or until 60 days after subsequent  
 294 | judicial review is complete.

295 |         3. At the time a rule is filed, the agency shall certify  
 296 | that the time limitations prescribed by this paragraph have been  
 297 | complied with, that all statutory rulemaking requirements have  
 298 | been met, and that there is no administrative determination  
 299 | pending on the rule.

300 |         4. At the time a rule is filed, the committee shall  
 301 | certify whether the agency has responded in writing to all  
 302 | material and timely written comments or written inquiries made  
 303 | on behalf of the committee. The department shall reject any rule  
 304 | that is not filed within the prescribed time limits; that does  
 305 | not comply with all statutory rulemaking requirements and rules  
 306 | of the department; upon which an agency has not responded in  
 307 | writing to all material and timely written inquiries or written  
 308 | comments; upon which an administrative determination is pending;

309 | or which does not include a statement of estimated regulatory  
 310 | costs, if required.

311 |         5. If a rule has not been adopted within the time limits  
 312 | imposed by this paragraph or has not been adopted in compliance  
 313 | with all statutory rulemaking requirements, the agency proposing  
 314 | the rule shall withdraw the rule and give notice of its action  
 315 | in the next available issue of the Florida Administrative  
 316 | Weekly.

317 |         6. The proposed rule shall be adopted on being filed with  
 318 | the Department of State and become effective 20 days after being  
 319 | filed, on a later date specified in the notice required by  
 320 | subparagraph (a)1., ~~or~~ on a date required by statute, or upon  
 321 | ratification by the Legislature pursuant to s. 120.541(3). Rules  
 322 | not required to be filed with the Department of State shall  
 323 | become effective when adopted by the agency head, ~~or~~ on a later  
 324 | date specified by rule or statute, or upon ratification by the  
 325 | Legislature pursuant to s. 120.541(3). If the committee notifies  
 326 | an agency that an objection to a rule is being considered, the  
 327 | agency may postpone the adoption of the rule to accommodate  
 328 | review of the rule by the committee. When an agency postpones  
 329 | adoption of a rule to accommodate review by the committee, the  
 330 | 90-day period for filing the rule is tolled until the committee  
 331 | notifies the agency that it has completed its review of the  
 332 | rule.

333 |  
 334 | For the purposes of this paragraph, the term "administrative  
 335 | determination" does not include subsequent judicial review.

336 |         Section 2. Paragraph (d) of subsection (1) and subsection

337 (4) of section 120.541, Florida Statutes, as amended by chapter  
 338 2010-279, Laws of Florida, are amended, and subsection (5) is  
 339 added to that section, to read:

340 120.541 Statement of estimated regulatory costs.—

341 (1)

342 (d) At least 21 ~~45~~ days before filing the rule for  
 343 adoption, an agency that is required to revise a statement of  
 344 estimated regulatory costs shall provide the statement to the  
 345 person who submitted the lower cost regulatory alternative and  
 346 to the committee and shall provide notice on the agency's  
 347 website that it is available to the public.

348 (3) If the adverse impact or regulatory costs of the rule  
 349 exceed any of the criteria established in paragraph (2)(a), the  
 350 rule shall be submitted to the President of the Senate and  
 351 Speaker of the House of Representatives no later than 30 days  
 352 prior to the next regular legislative session, and the rule may  
 353 not take effect until it is ratified by the Legislature.

354 (4) Subsection (3) ~~Paragraph (2)(a)~~ does not apply to the  
 355 adoption of:

356 (a) emergency rules pursuant to s. 120.54(4) or the  
 357 ~~adoption of~~ Federal standards pursuant to s. 120.54(6).

358 (b) Triennial updates to the Florida Building Code  
 359 pursuant to s. 553.73(7)(a).

360 (c) Triennial updates to the Florida Fire Prevention Code  
 361 pursuant to s. 633.0215(1).

362 (5) This section does not apply to the adoption of  
 363 emergency rules pursuant to s. 120.54(4).

364 Section 3. Section 120.547, Florida Statutes, is created

365 to read:

366 120.547 Summary procedure for rule repeal during inaugural  
 367 period.-

368 (1) LEGISLATIVE FINDINGS.-The Legislature finds that the  
 369 formal process for repealing rules as required under s.  
 370 120.54(3)(d)5. may unnecessarily delay efforts for statewide  
 371 elected executive officers to review and revise the programs and  
 372 policies within their respective individual or collective  
 373 jurisdiction at the commencement of their elective terms.  
 374 Accordingly, the Legislature finds a prudent, expedited process  
 375 providing for the summary repeal of existing rules within the  
 376 initial period of a statewide elected executive officer's term  
 377 best assists those officers in the articulation and  
 378 implementation of public policy.

379 (2) DEFINITIONS.-As used in this section, the term:

380 (a) "Inaugural period" means the time from the first date  
 381 of an elective term of the Governor, the Chief Financial  
 382 Officer, the Attorney General, or the Commissioner of  
 383 Agriculture, as provided in s. 5(a), Art. IV of the State  
 384 Constitution, through the last day of the month of the June next  
 385 following the beginning of the term.

386 (b) "Statewide elected executive officer" means the  
 387 Governor, the Chief Financial Officer, the Attorney General, or  
 388 the Commissioner of Agriculture.

389 (3) AGENCIES AFFECTED.-Exclusively during the inaugural  
 390 period, the statewide elected executive officers are authorized  
 391 to direct the repeal of rules using the summary procedure  
 392 provided in this section for the following agencies:



393        (a) Each agency under the exclusive authority of the  
 394 individual statewide elected executive officer.

395        (b) Each agency under the collective authority of two or  
 396 more statewide elected executive officers but not the entire  
 397 Cabinet.

398        (c) Each agency under the exclusive authority of the  
 399 Cabinet.

400        (4) NOTICE OF REPEAL.—The statewide elected executive  
 401 officer, the statewide elected executive officers acting  
 402 collectively, or the Cabinet shall direct the repeal of rules  
 403 pursuant to this section by each agency under their exclusive  
 404 authority as follows:

405        (a) For each rule or part of a rule to be repealed under  
 406 this section, the statewide elected executive officer, the  
 407 statewide elected executive officers acting collectively, or the  
 408 Cabinet shall make a written finding containing the following:

409        1. The number, title, and each specific subdivision of the  
 410 rule to be repealed entirely or in part.

411        2. The agency that adopted the rule.

412        3. The basis for repeal, which includes, but is not  
 413 limited to, the following:

414        a. The rule is obsolete or no longer necessary;

415        b. The substantive law that the rule implements or  
 416 interprets in compliance with s. 120.536(1) was amended or  
 417 repealed; or

418        c. The rule conflicts with programs or policies that the  
 419 statewide elected executive officer, the statewide elected  
 420 executive officers acting collectively, or the Cabinet have

421 implemented or are in the process of implementing.

422 4. The name, title, address, and e-mail address of the  
 423 person designated by the statewide elected executive officer,  
 424 the statewide elected executive officers acting collectively, or  
 425 the Cabinet solely to receive inquiries, correspondence,  
 426 petitions, or notices in response to the proposed repeal.

427 5. The date on which the rule or part of the rule is  
 428 repealed and is no longer in force or effect.

429 (b) The adopting agency shall publish notice of the  
 430 written finding directing repeal of the rule or part of the rule  
 431 on the agency's Internet website, including in such notice the  
 432 date of first publication, and shall also publish the notice and  
 433 written finding, including the Internet website on which the  
 434 notice was first published, in the Florida Administrative Weekly  
 435 that is first available after the date the written finding is  
 436 executed by the statewide elected executive officer, statewide  
 437 elected executive officers acting collectively, or Cabinet.

438 (c) Repeal of a rule or part of a rule under this section  
 439 shall be effective no earlier than 15 days after the date the  
 440 notice of repeal is published on the agency's Internet website.

441 (5) OBJECTION TO REPEAL.—A substantially affected person  
 442 may object to the repeal of a rule or part of a rule under this  
 443 section as follows:

444 (a) No later than 14 days after the date the notice of  
 445 repeal is published on the agency's Internet website, the person  
 446 must file with the individual designated in subparagraph

447 (4)(a)4. a written objection to repeal stating:

448 1. The name, address, telephone number, and e-mail address

449 of the person opposing the repeal.

450 2. The facts and law on which the person objects to the  
 451 noticed repeal.

452 (b) Failure to file an objection in the time and manner  
 453 provided in this subsection constitutes a full and complete  
 454 waiver of the objection, an affirmative assent to the proposed  
 455 repeal, and a full and complete waiver of judicial review under  
 456 s. 120.68.

457 (c) If an objection is timely filed, the repeal is not  
 458 effective until the statewide elected executive officer, the  
 459 statewide elected executive officers acting collectively, or the  
 460 Cabinet, as applicable, overrules the objection in writing and  
 461 notice of that disposition is published in the manner provided  
 462 in paragraph (4) (b).

463 (6) NONAPPLICABLE SECTIONS.—Sections 120.54, 120.541,  
 464 120.56, 120.569, 120.57, 120.573, 120.574, and 120.69 are not  
 465 applicable to the repeal of rules under this section.

466 (7) JUDICIAL REVIEW.—A substantially affected party whose  
 467 timely written objection to the proposed repeal is overruled by  
 468 the statewide elected executive officer, the statewide elected  
 469 executive officers acting collectively, or the Cabinet may seek  
 470 judicial review of that decision under s. 120.68, as modified by  
 471 the following:

472 (a) Notwithstanding any other statute, the First District  
 473 Court of Appeal has exclusive jurisdiction of any petition for  
 474 judicial review of the repeal of rules under this section.

475 (b) A petition for judicial review may be brought only  
 476 against the agency that adopted the rule and not against the

477 statewide elected executive officer, the statewide elected  
 478 executive officers acting collectively, or the Cabinet.

479 (c) The record for review shall be comprised solely of the  
 480 written finding of repeal, the written objection, and the  
 481 written disposition of the objection.

482 (8) NONDELEGABLE AUTHORITY.—The authority to determine and  
 483 direct the repeal of agency rules under this section, other than  
 484 the receipt of inquiries, correspondence, petitions, or notices  
 485 in response to a proposed repeal, shall be exercised exclusively  
 486 by the statewide elected executive officer, the statewide  
 487 elected executive officers acting collectively, or the Cabinet  
 488 having exclusive authority over the subject agency and may not  
 489 be delegated to any other person.

490 Section 4. Paragraph (a) of subsection (2) of section  
 491 120.56, Florida Statutes, as amended by chapter 2010-279, Laws  
 492 of Florida, is amended to read:

493 120.56 Challenges to rules.—

494 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

495 (a) A substantially affected person may seek an  
 496 administrative determination of the invalidity of a proposed  
 497 rule by filing a petition seeking such a determination with the  
 498 division within 21 days after the date of publication of the  
 499 notice required by s. 120.54(3)(a); within 10 days after the  
 500 final public hearing is held on the proposed rule as provided by  
 501 s. 120.54(3)(e)2.; within 20 ~~44~~ days after the statement of  
 502 estimated regulatory costs or revised statement of estimated  
 503 regulatory costs, if applicable, has been prepared and made  
 504 available as provided in s. 120.541(1)(d); or within 20 days

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2011

505 after the date of publication of the notice required by s.  
 506 120.54(3)(d). The petition must state with particularity the  
 507 objections to the proposed rule and the reasons that the  
 508 proposed rule is an invalid exercise of delegated legislative  
 509 authority. The petitioner has the burden of going forward. The  
 510 agency then has the burden to prove by a preponderance of the  
 511 evidence that the proposed rule is not an invalid exercise of  
 512 delegated legislative authority as to the objections raised. A  
 513 person who is substantially affected by a change in the proposed  
 514 rule may seek a determination of the validity of such change. A  
 515 person who is not substantially affected by the proposed rule as  
 516 initially noticed, but who is substantially affected by the rule  
 517 as a result of a change, may challenge any provision of the rule  
 518 and is not limited to challenging the change to the proposed  
 519 rule.

520 Section 5. This act shall take effect upon becoming a law.

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 Subcommittee

3 Representative(s) Roberson and Dorworth offered the following:  
4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraphs (a), (b), (d), and (e) of subsection  
8 (3) of section 120.54, Florida Statutes, as amended by chapter  
9 2010-279, Laws of Florida, are amended to read:

10 120.54 Rulemaking.—

11 (3) ADOPTION PROCEDURES.—

12 (a) Notices.—

13 1. Prior to the adoption, amendment, or repeal of any rule  
14 other than an emergency rule, an agency, upon approval of the  
15 agency head, shall give notice of its intended action, setting  
16 forth a short, plain explanation of the purpose and effect of  
17 the proposed action; the full text of the proposed rule or  
18 amendment and a summary thereof; a reference to the grant of  
19 rulemaking authority pursuant to which the rule is adopted; and

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20 a reference to the section or subsection of the Florida Statutes  
21 or the Laws of Florida being implemented or interpreted. The  
22 notice must include a summary of the agency's statement of the  
23 estimated regulatory costs, if one has been prepared, based on  
24 the factors set forth in s. 120.541(2); ~~and~~ and a statement that  
25 any person who wishes to provide the agency with information  
26 regarding the statement of estimated regulatory costs, or to  
27 provide a proposal for a lower cost regulatory alternative as  
28 provided by s. 120.541(1), must do so in writing within 21 days  
29 after publication of the notice; and a statement as to whether,  
30 based on the statement of the estimated regulatory costs, the  
31 proposed rule is expected to require legislative ratification  
32 pursuant to s. 120.541(3). The notice must state the procedure  
33 for requesting a public hearing on the proposed rule. Except  
34 when the intended action is the repeal of a rule, the notice  
35 must include a reference both to the date on which and to the  
36 place where the notice of rule development that is required by  
37 subsection (2) appeared.

38 2. The notice shall be published in the Florida  
39 Administrative Weekly not less than 28 days prior to the  
40 intended action. The proposed rule shall be available for  
41 inspection and copying by the public at the time of the  
42 publication of notice.

43 3. The notice shall be mailed to all persons named in the  
44 proposed rule and to all persons who, at least 14 days prior to  
45 such mailing, have made requests of the agency for advance  
46 notice of its proceedings. The agency shall also give such

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47 notice as is prescribed by rule to those particular classes of  
48 persons to whom the intended action is directed.

49 4. The adopting agency shall file with the committee, at  
50 least 21 days prior to the proposed adoption date, a copy of  
51 each rule it proposes to adopt; a copy of any material  
52 incorporated by reference in the rule; a detailed written  
53 statement of the facts and circumstances justifying the proposed  
54 rule; a copy of any statement of estimated regulatory costs that  
55 has been prepared pursuant to s. 120.541; a statement of the  
56 extent to which the proposed rule relates to federal standards  
57 or rules on the same subject; and the notice required by  
58 subparagraph 1.

59 (b) Special matters to be considered in rule adoption.—

60 1. Statement of estimated regulatory costs.—Prior to the  
61 adoption, amendment, or repeal of any rule ~~other than an~~  
62 ~~emergency rule~~, an agency is encouraged to prepare a statement  
63 of estimated regulatory costs of the proposed rule, as provided  
64 by s. 120.541. However, an agency must prepare a statement of  
65 estimated regulatory costs of the proposed rule, as provided by  
66 s. 120.541, if:

67 a. The proposed rule will have an adverse impact on small  
68 business; or

69 b. The proposed rule is likely to directly or indirectly  
70 increase regulatory costs in excess of \$200,000 in the aggregate  
71 in this state within 1 year after the implementation of the  
72 rule.

73 2. Small businesses, small counties, and small cities.—



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74 a. Each agency, before the adoption, amendment, or repeal  
75 of a rule, shall consider the impact of the rule on small  
76 businesses as defined by s. 288.703 and the impact of the rule  
77 on small counties or small cities as defined by s. 120.52.  
78 Whenever practicable, an agency shall tier its rules to reduce  
79 disproportionate impacts on small businesses, small counties, or  
80 small cities to avoid regulating small businesses, small  
81 counties, or small cities that do not contribute significantly  
82 to the problem the rule is designed to address. An agency may  
83 define "small business" to include businesses employing more  
84 than 200 persons, may define "small county" to include those  
85 with populations of more than 75,000, and may define "small  
86 city" to include those with populations of more than 10,000, if  
87 it finds that such a definition is necessary to adapt a rule to  
88 the needs and problems of small businesses, small counties, or  
89 small cities. The agency shall consider each of the following  
90 methods for reducing the impact of the proposed rule on small  
91 businesses, small counties, and small cities, or any combination  
92 of these entities:

93 (I) Establishing less stringent compliance or reporting  
94 requirements in the rule.

95 (II) Establishing less stringent schedules or deadlines in  
96 the rule for compliance or reporting requirements.

97 (III) Consolidating or simplifying the rule's compliance  
98 or reporting requirements.

99 (IV) Establishing performance standards or best management  
100 practices to replace design or operational standards in the  
101 rule.

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102 (V) Exempting small businesses, small counties, or small  
103 cities from any or all requirements of the rule.

104 b.(I) If the agency determines that the proposed action  
105 will affect small businesses as defined by the agency as  
106 provided in sub-subparagraph a., the agency shall send written  
107 notice of the rule to the Small Business Regulatory Advisory  
108 Council and the Office of Tourism, Trade, and Economic  
109 Development not less than 28 days prior to the intended action.

110 (II) Each agency shall adopt those regulatory alternatives  
111 offered by the Small Business Regulatory Advisory Council and  
112 provided to the agency no later than 21 days after the council's  
113 receipt of the written notice of the rule which it finds are  
114 feasible and consistent with the stated objectives of the  
115 proposed rule and which would reduce the impact on small  
116 businesses. When regulatory alternatives are offered by the  
117 Small Business Regulatory Advisory Council, the 90-day period  
118 for filing the rule in subparagraph (e)2. is extended for a  
119 period of 21 days.

120 (III) If an agency does not adopt all alternatives offered  
121 pursuant to this sub-subparagraph, it shall, prior to rule  
122 adoption or amendment and pursuant to subparagraph (d)1., file a  
123 detailed written statement with the committee explaining the  
124 reasons for failure to adopt such alternatives. Within 3 working  
125 days of the filing of such notice, the agency shall send a copy  
126 of such notice to the Small Business Regulatory Advisory  
127 Council. The Small Business Regulatory Advisory Council may make  
128 a request of the President of the Senate and the Speaker of the  
129 House of Representatives that the presiding officers direct the

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130 Office of Program Policy Analysis and Government Accountability  
131 to determine whether the rejected alternatives reduce the impact  
132 on small business while meeting the stated objectives of the  
133 proposed rule. Within 60 days after the date of the directive  
134 from the presiding officers, the Office of Program Policy  
135 Analysis and Government Accountability shall report to the  
136 Administrative Procedures Committee its findings as to whether  
137 an alternative reduces the impact on small business while  
138 meeting the stated objectives of the proposed rule. The Office  
139 of Program Policy Analysis and Government Accountability shall  
140 consider the proposed rule, the economic impact statement, the  
141 written statement of the agency, the proposed alternatives, and  
142 any comment submitted during the comment period on the proposed  
143 rule. The Office of Program Policy Analysis and Government  
144 Accountability shall submit a report of its findings and  
145 recommendations to the Governor, the President of the Senate,  
146 and the Speaker of the House of Representatives. The  
147 Administrative Procedures Committee shall report such findings  
148 to the agency, and the agency shall respond in writing to the  
149 Administrative Procedures Committee if the Office of Program  
150 Policy Analysis and Government Accountability found that the  
151 alternative reduced the impact on small business while meeting  
152 the stated objectives of the proposed rule. If the agency will  
153 not adopt the alternative, it must also provide a detailed  
154 written statement to the committee as to why it will not adopt  
155 the alternative.

156 3. This paragraph does not apply to the adoption of  
157 emergency rules pursuant to subsection (4).

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158 (d) Modification or withdrawal of proposed rules.—  
159 1. After the final public hearing on the proposed rule, or  
160 after the time for requesting a hearing has expired, if the rule  
161 has not been changed from the rule as previously filed with the  
162 committee, or contains only technical changes, the adopting  
163 agency shall file a notice to that effect with the committee at  
164 least 7 days prior to filing the rule for adoption. Any change,  
165 other than a technical change that does not affect the substance  
166 of the rule, must be supported by the record of public hearings  
167 held on the rule, must be in response to written material  
168 submitted to the agency within 21 days after the date of  
169 publication of the notice of intended agency action or submitted  
170 to the agency between the date of publication of the notice and  
171 the end of the final public hearing, or must be in response to a  
172 proposed objection by the committee. In addition, when any  
173 change is made in a proposed rule, other than a technical  
174 change, the adopting agency shall provide a copy of a notice of  
175 change by certified mail or actual delivery to any person who  
176 requests it in writing no later than 21 days after the notice  
177 required in paragraph (a). The agency shall file the notice of  
178 change with the committee, along with the reasons for the  
179 change, and provide the notice of change to persons requesting  
180 it, at least 21 days prior to filing the rule for adoption. The  
181 notice of change shall be published in the Florida  
182 Administrative Weekly at least 21 days prior to filing the rule  
183 for adoption. This subparagraph does not apply to emergency  
184 rules adopted pursuant to subsection (4).

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185 2. After the notice required by paragraph (a) and prior to  
186 adoption, the agency may withdraw the rule in whole or in part.

187 3. After adoption and before the rule becomes effective  
188 date, a rule may be modified or withdrawn only in the following  
189 circumstances:

190 a. When the committee objects to the rule;

191 b. When a final order, not subject to further appeal, is  
192 entered in a rule challenge brought pursuant to s. 120.56 after  
193 the date of adoption but before the rule becomes effective  
194 pursuant to subparagraph (e)6.;

195 c. When the rule requires ratification and more than 90  
196 days have passed since the rule was filed for adoption without  
197 the Legislature ratifying the rule; or

198 d. ~~an objection by the committee or may be modified to~~  
199 ~~extend the effective date by not more than 60 days when The~~  
200 ~~committee notifies has notified the agency that an objection to~~  
201 ~~the rule is being considered, in which case the rule may be~~  
202 ~~modified to extend the effective date by not more than 60 days.~~

203 4. The agency shall give notice of its decision to  
204 withdraw or modify a rule in the first available issue of the  
205 publication in which the original notice of rulemaking was  
206 published, shall notify those persons described in subparagraph  
207 (a)3. in accordance with the requirements of that subparagraph,  
208 and shall notify the Department of State if the rule is required  
209 to be filed with the Department of State.

210 5. After a rule has become effective, it may be repealed  
211 or amended only through the rulemaking procedures specified in  
212 this chapter.

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213 (e) Filing for final adoption; effective date.-

214 1. If the adopting agency is required to publish its rules  
215 in the Florida Administrative Code, the agency, upon approval of  
216 the agency head, shall file with the Department of State three  
217 certified copies of the rule it proposes to adopt; one copy of  
218 any material incorporated by reference in the rule, certified by  
219 the agency; a summary of the rule; a summary of any hearings  
220 held on the rule; and a detailed written statement of the facts  
221 and circumstances justifying the rule. Agencies not required to  
222 publish their rules in the Florida Administrative Code shall  
223 file one certified copy of the proposed rule, and the other  
224 material required by this subparagraph, in the office of the  
225 agency head, and such rules shall be open to the public.

226 2. A rule may not be filed for adoption less than 28 days  
227 or more than 90 days after the notice required by paragraph (a),  
228 until 21 days after the notice of change required by paragraph  
229 (d), until 14 days after the final public hearing, until 21 days  
230 after a statement of estimated regulatory costs required under  
231 s. 120.541 has been provided to all persons who submitted a  
232 lower cost regulatory alternative and made available to the  
233 public, or until the administrative law judge has rendered a  
234 decision under s. 120.56(2), whichever applies. When a required  
235 notice of change is published prior to the expiration of the  
236 time to file the rule for adoption, the period during which a  
237 rule must be filed for adoption is extended to 45 days after the  
238 date of publication. If notice of a public hearing is published  
239 prior to the expiration of the time to file the rule for  
240 adoption, the period during which a rule must be filed for

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241 adoption is extended to 45 days after adjournment of the final  
242 hearing on the rule, 21 days after receipt of all material  
243 authorized to be submitted at the hearing, or 21 days after  
244 receipt of the transcript, if one is made, whichever is latest.  
245 The term "public hearing" includes any public meeting held by  
246 any agency at which the rule is considered. If a petition for an  
247 administrative determination under s. 120.56(2) is filed, the  
248 period during which a rule must be filed for adoption is  
249 extended to 60 days after the administrative law judge files the  
250 final order with the clerk or until 60 days after subsequent  
251 judicial review is complete.

252 3. At the time a rule is filed, the agency shall certify  
253 that the time limitations prescribed by this paragraph have been  
254 complied with, that all statutory rulemaking requirements have  
255 been met, and that there is no administrative determination  
256 pending on the rule.

257 4. At the time a rule is filed, the committee shall  
258 certify whether the agency has responded in writing to all  
259 material and timely written comments or written inquiries made  
260 on behalf of the committee. The department shall reject any rule  
261 that is not filed within the prescribed time limits; that does  
262 not comply with all statutory rulemaking requirements and rules  
263 of the department; upon which an agency has not responded in  
264 writing to all material and timely written inquiries or written  
265 comments; upon which an administrative determination is pending;  
266 or which does not include a statement of estimated regulatory  
267 costs, if required.

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268 5. If a rule has not been adopted within the time limits  
269 imposed by this paragraph or has not been adopted in compliance  
270 with all statutory rulemaking requirements, the agency proposing  
271 the rule shall withdraw the rule and give notice of its action  
272 in the next available issue of the Florida Administrative  
273 Weekly.

274 6. The proposed rule shall be adopted on being filed with  
275 the Department of State and become effective 20 days after being  
276 filed, on a later date specified in the notice required by  
277 subparagraph (a)1., ~~or~~ on a date required by statute, or upon  
278 ratification by the Legislature pursuant to s. 120.541(3). Rules  
279 not required to be filed with the Department of State shall  
280 become effective when adopted by the agency head, ~~or~~ on a later  
281 date specified by rule or statute, or upon ratification by the  
282 Legislature pursuant to s. 120.541(3). If the committee notifies  
283 an agency that an objection to a rule is being considered, the  
284 agency may postpone the adoption of the rule to accommodate  
285 review of the rule by the committee. When an agency postpones  
286 adoption of a rule to accommodate review by the committee, the  
287 90-day period for filing the rule is tolled until the committee  
288 notifies the agency that it has completed its review of the  
289 rule.

290  
291 For the purposes of this paragraph, the term "administrative  
292 determination" does not include subsequent judicial review.

293 Section 2. Paragraph (d) of subsection (1) and subsection  
294 (4) of section 120.541, Florida Statutes, as amended by chapter



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295 | 2010-279, Laws of Florida, are amended, and subsection (5) is  
296 | added to that section, to read:

297 | 120.541 Statement of estimated regulatory costs.—

298 | (1)

299 | (d) At least 21 ~~45~~ days before filing the rule for  
300 | adoption, an agency that is required to revise a statement of  
301 | estimated regulatory costs shall provide the statement to the  
302 | person who submitted the lower cost regulatory alternative and  
303 | to the committee and shall provide notice on the agency's  
304 | website that it is available to the public.

305 | (3) If the adverse impact or regulatory costs of the rule  
306 | exceed any of the criteria established in paragraph (2)(a), the  
307 | rule shall be submitted to the President of the Senate and  
308 | Speaker of the House of Representatives no later than 30 days  
309 | prior to the next regular legislative session, and the rule may  
310 | not take effect until it is ratified by the Legislature.

311 | (4) Subsection (3) ~~Paragraph (2)(a)~~ does not apply to the  
312 | adoption of:

313 | (a) emergency rules pursuant to s. 120.54(4) or the  
314 | ~~adoption of~~ Federal standards pursuant to s. 120.54(6).

315 | (b) Triennial updates to the Florida Building Code  
316 | pursuant to s. 553.73(7)(a).

317 | (c) Triennial updates to the Florida Fire Prevention Code  
318 | pursuant to s. 633.0215(1).

319 | (5) This section does not apply to the adoption of  
320 | emergency rules pursuant to s. 120.54(4).

321 | Section 3. Section 120.547, Florida Statutes, is created  
322 | to read:

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323 120.547 Summary procedure for rule review and repeal  
324 during inaugural period.-

325 (1) LEGISLATIVE FINDINGS.-The Legislature finds that newly  
326 elected statewide executive officers should have full authority  
327 to initiate oversight of all rulemaking of agencies under their  
328 supervision or control. The Legislature further finds that the  
329 formal process for repealing rules as required under s.

330 120.54(3)(d)5. may unnecessarily delay efforts for statewide  
331 elected executive officers to review and revise the programs and  
332 policies within their respective individual or collective  
333 jurisdiction at the commencement of their elective terms.

334 Accordingly, the Legislature finds a prudent, expedited process  
335 providing for review of rulemaking and the summary repeal of  
336 existing rules within the beginning months of a statewide  
337 executive officer's elective term may assist those officers in  
338 the articulation and implementation of public policy.

339 (2) DEFINITIONS.-As used in this section, the term:

340 (a) "Inaugural period" means the time from the first date  
341 of an elective term of the Governor, the Chief Financial  
342 Officer, the Attorney General, or the Commissioner of  
343 Agriculture, as provided in s. 5(a), Art. IV of the State  
344 Constitution, through the last day of the month of the June  
345 following the beginning of the term.

346 (b) "Statewide elected executive officer" means the  
347 Governor, the Chief Financial Officer, the Attorney General, or  
348 the Commissioner of Agriculture.

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349 (c) "Repealing authority" means a statewide elected  
350 executive officer, the Governor and cabinet, or the State Board  
351 of Administration exercising jurisdiction to repeal a rule.

352 (3) AGENCIES AND RULES AFFECTED.—Exclusively during the  
353 inaugural period, each repealing authority is authorized to  
354 direct the repeal of rules using the summary procedure provided  
355 in this section with respect to rules of any agency under the  
356 direct supervision of the repealing authority or under the  
357 supervision of an agency head appointed by and serving at the  
358 pleasure of the repealing authority.

359 (4) NOTICE OF REPEAL.—The repealing authority may direct  
360 the repeal of rules as follows:

361 (a) The repealing authority shall provide notice to the  
362 public, through an Internet website, or to the Legislature by  
363 letter to the President of the Senate, the Speaker of the House  
364 and the committee, on or before the March 1 in the inaugural  
365 period, or, for the year 2011, within 30 days of the effective  
366 date of this act, providing the Florida Administrative Code  
367 citation of each rule under review for possible repeal under  
368 this section.

369 (b) For each rule to be repealed under this section, the  
370 repealing authority shall make a written finding containing the  
371 following:

- 372 1. The number and title of the rule to be repealed.  
373 2. The agency that adopted the rule.  
374 3. The conclusion that the law implemented by the rule  
375 does not require the continued existence of the rule or of any  
376 modification thereof.

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377 4. The basis for repeal, which includes, but is not  
378 limited to, the following:

379 a. The rule is obsolete or no longer necessary;

380 b. The substantive law that the rule implements or  
381 interprets in compliance with s. 120.536(1) was amended or  
382 repealed; or

383 c. The rule conflicts with programs or policies that the  
384 repealing authority has implemented or intends to implement.

385 5. The name, title, address, and e-mail address of the  
386 person designated by the repealing authority to receive  
387 inquiries, correspondence, objections, or notices in response to  
388 the proposed repeal.

389 6. The date on which the rule is repealed and is no longer  
390 in force or effect.

391 (c) The adopting agency shall publish notice of the  
392 written finding directing repeal of the rule on the agency's  
393 Internet website, including in such notice the date of first  
394 publication, and shall also publish the notice and written  
395 finding, including the Internet website on which the notice was  
396 first published, in the Florida Administrative Weekly that is  
397 first available after the date the written finding is executed  
398 by the statewide elected executive officer, statewide elected  
399 executive officers acting collectively, or Cabinet.

400 (d) Repeal of a rule under this section may be effective  
401 no earlier than 15 days after the date the notice of repeal is  
402 published on the agency's Internet website, but may not be  
403 effective earlier than March 31 in the inaugural period.

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404 (5) OBJECTION TO REPEAL.—A substantially affected person  
405 may object to the repeal of a rule under this section.

406 (a) An objection may be made only on the basis that

407 1. The repealing authority failed to provide the  
408 notices required under this section.

409 2. The repealing authority made an erroneous  
410 conclusion of law under (4) (b)3. or

411 3. The repeal constitutes an invalid exercise of  
412 delegated legislative authority.

413 (b) No later than 14 days after the date the notice of  
414 repeal is published on the agency's Internet website, the person  
415 must file with the individual designated in subparagraph  
416 (4) (b)5. a written objection to repeal stating:

417 1. The name, address, telephone number, and e-mail address  
418 of the person opposing the repeal.

419 2. A concise statement of the facts and law on which the  
420 objection relies.

421 (c) Failure to file an objection in the time and manner  
422 provided in this subsection constitutes a full and complete  
423 waiver of the objection, an affirmative assent to the proposed  
424 repeal, and a full and complete waiver of judicial review under  
425 s. 120.68.

426 (d) If an objection is timely filed, the repeal is not  
427 effective until the repealing authority overrules the objection  
428 in writing and notice of that disposition is published in the  
429 manner provided in paragraph (4) (c).

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430 (6) NONAPPLICABLE SECTIONS.—Sections 120.54, 120.541,  
431 120.56, 120.569, 120.57, 120.573, 120.574, and 120.69 are not  
432 applicable to the repeal of rules under this section.

433 (7) JUDICIAL REVIEW.—A substantially affected party whose  
434 timely written objection to the proposed repeal is overruled by  
435 the repealing authority may seek judicial review of that  
436 decision under s. 120.68, as modified by the following:

437 (a) Notwithstanding any other statute, the First District  
438 Court of Appeal has exclusive jurisdiction of any petition for  
439 judicial review of the repeal of rules under this section.

440 (b) A petition for judicial review may be brought only  
441 against the agency that adopted the rule and not against the  
442 repealing authority.

443 (c) The record for review shall be comprised solely of the  
444 written finding of repeal, the written objection, the written  
445 disposition of the objection, and, if the objection raised the  
446 failure to provided notices required under this section, the  
447 record shall include a verified statement of the repealing  
448 authority, if an individual elected officer, or of the Governor  
449 with respect to any other repealing authority, setting forth the  
450 facts relied upon in overruling the objection.

451 (8) NONDELEGABLE AUTHORITY.—The authority to determine and  
452 direct the repeal of agency rules under this section, other than  
453 the receipt of inquiries, correspondence, petitions, or notices  
454 in response to a proposed repeal, shall be exercised exclusively  
455 by the repealing authority having supervisory or appointive  
456 authority respecting the affected agency and may not be  
457 delegated to any other person.

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458 Section 4. Paragraph (a) of subsection (2) of section  
459 120.56, Florida Statutes, as amended by chapter 2010-279, Laws  
460 of Florida, is amended to read:

461 120.56 Challenges to rules.—

462 (2) CHALLENGING PROPOSED RULES; SPECIAL PROVISIONS.—

463 (a) A substantially affected person may seek an  
464 administrative determination of the invalidity of a proposed  
465 rule by filing a petition seeking such a determination with the  
466 division within 21 days after the date of publication of the  
467 notice required by s. 120.54(3)(a); within 10 days after the  
468 final public hearing is held on the proposed rule as provided by  
469 s. 120.54(3)(e)2.; within 20 44 days after the statement of  
470 estimated regulatory costs or revised statement of estimated  
471 regulatory costs, if applicable, has been prepared and made  
472 available as provided in s. 120.541(1)(d); or within 20 days  
473 after the date of publication of the notice required by s.  
474 120.54(3)(d). The petition must state with particularity the  
475 objections to the proposed rule and the reasons that the  
476 proposed rule is an invalid exercise of delegated legislative  
477 authority. The petitioner has the burden of going forward. The  
478 agency then has the burden to prove by a preponderance of the  
479 evidence that the proposed rule is not an invalid exercise of  
480 delegated legislative authority as to the objections raised. A  
481 person who is substantially affected by a change in the proposed  
482 rule may seek a determination of the validity of such change. A  
483 person who is not substantially affected by the proposed rule as  
484 initially noticed, but who is substantially affected by the rule  
485 as a result of a change, may challenge any provision of the rule

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486 and is not limited to challenging the change to the proposed  
487 rule.

488 Section 5. This act shall take effect upon becoming a law.  
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492

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**T I T L E   A M E N D M E N T**

493

Remove the entire title and insert:

494

An act relating to rulemaking; amending s. 120.54, F.S.;

495

requiring that an agency include in its notice of intended

496

rulemaking a statement as to whether the proposed rule will

497

require legislative ratification; clarifying that a statement of

498

estimated regulatory costs is not required for emergency

499

rulemaking; providing for modification or withdrawal of an

500

adopted rule that is not ratified by the Legislature; clarifying

501

that certain proposed rules are effective only when ratified by

502

the Legislature; amending s. 120.541, F.S.; reducing the time

503

before an agency files a rule for adoption when the agency must

504

notify the person who submitted a lower cost alternative and the

505

Administrative Procedures Committee; excluding rules adopting

506

federal standards, triennial updates to the Florida Building

507

Code, or triennial updates to the Florida Fire Prevention Code

508

from required legislative ratification; excluding emergency

509

rulemaking from certain provisions; creating s. 120.547, F.S.;

510

providing legislative findings and definitions; providing for

511

summary repeal of rules by statewide elected executive officers,

512

the Governor and cabinet, and the State Board of Administration

513

within the first 6 months of an elective term; specifying



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514 agencies and rules subject to summary repeal; providing  
515 procedures for notice of the repeal; providing for objection to  
516 the repeal; providing nonapplicability of other provisions of  
517 law to the summary repeal process; providing requirements for  
518 judicial review of the repeal; providing for exclusive and  
519 nondelegable authority; amending s. 120.56, F.S.; reducing the  
520 time in which a substantially affected person may seek an  
521 administrative determination of the invalidity of a rule after  
522 the statement or revised statement of estimated regulatory costs  
523 is available; providing an effective date.



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1027 Pub. Rec./Law Enforcement & Investigatory Personnel & Firefighters

SPONSOR(S): Steube and others

TIED BILLS: IDEN./SIM. BILLS: SB 766

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Williamson	Williamson
2) State Affairs Committee			

SUMMARY ANALYSIS

Current law provides a public record exemption for active or former law enforcement personnel, including correctional and correctional probation officers; personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities; personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect; personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; and firefighters. The following information of such law enforcement and investigatory personnel and firefighters is exempt from public records requirements:

- Home addresses, telephone numbers, social security numbers, and photographs of law enforcement and investigatory personnel.
- Home addresses, telephone numbers, and photographs of firefighters.
- Home addresses, telephone numbers, social security numbers, photographs, and places of employment of the spouses and children of law enforcement and investigatory personnel.
- Home addresses, telephone numbers, photographs, and places of employment of the spouses and children of firefighters.
- Names and locations of schools and day care facilities attended by the children of law enforcement and investigatory personnel and firefighters.

The bill expands the public record exemption for law enforcement and investigatory personnel to include the names of their spouses and children. It also expands the public record exemption for firefighters to include their social security numbers, and the names and social security numbers of their spouses and children.

The bill provides for repeal of the exemptions on October 2, 2016, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

**Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill expands current public record exemptions; thus, it requires a two-thirds vote for final passage.**

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Background**

##### Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose.<sup>1</sup>

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act<sup>2</sup> provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

##### Public Record Exemptions for Identification and Location Information

Current law provides several public record exemptions for identification and location information of certain public employees and their spouses and children.<sup>3</sup> Public employees covered by these exemptions include, but are not limited to:

- Active or former law enforcement personnel, including correctional and correctional probation officers;
- Personnel of the Department of Children and Family Services whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities;
- Personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect; and
- Personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement.<sup>4</sup>

Those employees are afforded a public record exemption for their home addresses, telephone numbers, social security numbers, and photographs. Their spouses and children are afforded a public record exemption for their home addresses, telephone numbers, social security numbers, photographs, and places of employment. In addition, the name and location of the school and day care facility attend by the children are exempt from public records requirements.<sup>5</sup>

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<sup>1</sup> Section 24(c), Art. I of the State Constitution.

<sup>2</sup> Section 119.15, F.S.

<sup>3</sup> See s. 119.071(4)(d), F.S.

<sup>4</sup> Section 119.071(4)(d)1.a., F.S.

<sup>5</sup> *Id.*

The public record exemption for social security numbers is redundant of two other exemptions found in current law. Social security numbers of all current and former agency<sup>6</sup> employees are confidential and exempt from public records requirements<sup>7</sup> and any other social security number held by an agency is confidential and exempt.<sup>8</sup>

Current law also provides a public record exemption for the home addresses, telephone numbers, and photographs of firefighters. In addition, the following information regarding the spouses and children are exempt from public records requirements:

- Home addresses, telephone numbers, photographs, and places of employment; and
- Names and locations of schools and day care facilities attended by the children.<sup>9</sup>

Law enforcement and investigatory personnel and firefighters also may protect such identification and location information held by any other agency if he or she provides written notification to that custodial agency that he or she is a public employee who receives protection under s. 119.071(4)(d)1.i., F.S.

### **Effect of Bill**

The bill expands the public record exemption for law enforcement and investigatory personnel and firefighters. The bill provides that the names of the spouses and children of law enforcement and investigatory personnel are exempt<sup>10</sup> from public records requirements. In addition, it provides that the social security numbers of firefighters, and the names and social security numbers of their spouses and children, are exempt from public records requirements. However, the public record exemption for social security numbers is unnecessary because social security numbers are protected under current law.<sup>11</sup>

The bill also provides that the public record exemption for identification and location of a firefighter pertains to current and former firefighters.

The bill provides for repeal of the exemptions on October 2, 2016, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the State Constitution.<sup>12</sup>

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

Section 1 amends s. 119.071, F.S., to expand the current public record exemptions for certain law enforcement and investigatory personnel and firefighters.

Section 2 provides a public necessity statement.

Section 3 provides an effective date of July 1, 2011.

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<sup>6</sup> Section 119.011(2), F.S., defines "agency" to mean any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.

<sup>7</sup> Section 119.071(4)(a), F.S.

<sup>8</sup> Section 119.071(5)(a)5., F.S.

<sup>9</sup> Section 119.071(4)(d)1.b., F.S.

<sup>10</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985).

<sup>11</sup> Current law already provides that social security numbers of all current and former agency employees are confidential and exempt from public records requirements, and any other social security number held by an agency is confidential and exempt.

<sup>12</sup> Section 24(c), Art. I of the State Constitution.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

Vote Requirement

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill expands current public record exemptions; thus, it requires a two-thirds vote for final passage.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires a public necessity statement for a newly created or expanded public record or public meeting exemption. The bill expands current public record exemptions; thus, it includes a public necessity statement.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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1                   A bill to be entitled  
2       An act relating to public records; amending s. 119.071,  
3       F.S.; expanding a public records exemption for specified  
4       personal information of the spouses and children of active  
5       and former law enforcement and investigatory personnel;  
6       expanding a public records exemption for specified  
7       personal information of current or former firefighters and  
8       for their spouses and children; providing for future  
9       legislative review and repeal of the exemptions; providing  
10      a statement of public necessity; providing an effective  
11      date.

12

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

14

15       Section 1. Paragraph (d) of subsection (4) of section  
16   119.071, Florida Statutes, is amended to read:

17       119.071 General exemptions from inspection or copying of  
18   public records.—

19       (4) AGENCY PERSONNEL INFORMATION.—

20       (d)1.a. The home addresses, telephone numbers, social  
21   security numbers, and photographs of active or former law  
22   enforcement personnel, including correctional and correctional  
23   probation officers, personnel of the Department of Children and  
24   Family Services whose duties include the investigation of abuse,  
25   neglect, exploitation, fraud, theft, or other criminal  
26   activities, personnel of the Department of Health whose duties  
27   are to support the investigation of child abuse or neglect, and  
28   personnel of the Department of Revenue or local governments



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29 whose responsibilities include revenue collection and  
30 enforcement or child support enforcement; the names, home  
31 addresses, telephone numbers, social security numbers,  
32 photographs, and places of employment of the spouses and  
33 children of such personnel; and the names and locations of  
34 schools and day care facilities attended by the children of such  
35 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
36 the State Constitution. This sub-subparagraph is subject to the  
37 Open Government Sunset Review Act in accordance with s. 119.15  
38 and shall stand repealed on October 2, 2016, unless reviewed and  
39 saved from repeal through reenactment by the Legislature.

40 b. The home addresses, telephone numbers, social security  
41 numbers, and photographs of current or former firefighters  
42 certified in compliance with s. 633.35; the names, home  
43 addresses, telephone numbers, social security numbers,  
44 photographs, and places of employment of the spouses and  
45 children of such firefighters; and the names and locations of  
46 schools and day care facilities attended by the children of such  
47 firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I  
48 of the State Constitution. This sub-subparagraph is subject to  
49 the Open Government Sunset Review Act in accordance with s.  
50 119.15 and shall stand repealed on October 2, 2016, unless  
51 reviewed and saved from repeal through reenactment by the  
52 Legislature.

53 c. The home addresses and telephone numbers of justices of  
54 the Supreme Court, district court of appeal judges, circuit  
55 court judges, and county court judges; the home addresses,  
56 telephone numbers, and places of employment of the spouses and

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57 children of justices and judges; and the names and locations of  
58 schools and day care facilities attended by the children of  
59 justices and judges are exempt from s. 119.07(1).

60 d. The home addresses, telephone numbers, social security  
61 numbers, and photographs of current or former state attorneys,  
62 assistant state attorneys, statewide prosecutors, or assistant  
63 statewide prosecutors; the home addresses, telephone numbers,  
64 social security numbers, photographs, and places of employment  
65 of the spouses and children of current or former state  
66 attorneys, assistant state attorneys, statewide prosecutors, or  
67 assistant statewide prosecutors; and the names and locations of  
68 schools and day care facilities attended by the children of  
69 current or former state attorneys, assistant state attorneys,  
70 statewide prosecutors, or assistant statewide prosecutors are  
71 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
72 Constitution.

73 e. The home addresses and telephone numbers of general  
74 magistrates, special magistrates, judges of compensation claims,  
75 administrative law judges of the Division of Administrative  
76 Hearings, and child support enforcement hearing officers; the  
77 home addresses, telephone numbers, and places of employment of  
78 the spouses and children of general magistrates, special  
79 magistrates, judges of compensation claims, administrative law  
80 judges of the Division of Administrative Hearings, and child  
81 support enforcement hearing officers; and the names and  
82 locations of schools and day care facilities attended by the  
83 children of general magistrates, special magistrates, judges of  
84 compensation claims, administrative law judges of the Division

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85 of Administrative Hearings, and child support enforcement  
86 hearing officers are exempt from s. 119.07(1) and s. 24(a), Art.  
87 I of the State Constitution if the general magistrate, special  
88 magistrate, judge of compensation claims, administrative law  
89 judge of the Division of Administrative Hearings, or child  
90 support hearing officer provides a written statement that the  
91 general magistrate, special magistrate, judge of compensation  
92 claims, administrative law judge of the Division of  
93 Administrative Hearings, or child support hearing officer has  
94 made reasonable efforts to protect such information from being  
95 accessible through other means available to the public. This  
96 sub-subparagraph is subject to the Open Government Sunset Review  
97 Act in accordance with s. 119.15, and shall stand repealed on  
98 October 2, 2013, unless reviewed and saved from repeal through  
99 reenactment by the Legislature.

100 f. The home addresses, telephone numbers, and photographs  
101 of current or former human resource, labor relations, or  
102 employee relations directors, assistant directors, managers, or  
103 assistant managers of any local government agency or water  
104 management district whose duties include hiring and firing  
105 employees, labor contract negotiation, administration, or other  
106 personnel-related duties; the names, home addresses, telephone  
107 numbers, and places of employment of the spouses and children of  
108 such personnel; and the names and locations of schools and day  
109 care facilities attended by the children of such personnel are  
110 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
111 Constitution.

112 g. The home addresses, telephone numbers, and photographs

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113 of current or former code enforcement officers; the names, home  
114 addresses, telephone numbers, and places of employment of the  
115 spouses and children of such personnel; and the names and  
116 locations of schools and day care facilities attended by the  
117 children of such personnel are exempt from s. 119.07(1) and s.  
118 24(a), Art. I of the State Constitution.

119 h. The home addresses, telephone numbers, places of  
120 employment, and photographs of current or former guardians ad  
121 litem, as defined in s. 39.820; the names, home addresses,  
122 telephone numbers, and places of employment of the spouses and  
123 children of such persons; and the names and locations of schools  
124 and day care facilities attended by the children of such persons  
125 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
126 Constitution, if the guardian ad litem provides a written  
127 statement that the guardian ad litem has made reasonable efforts  
128 to protect such information from being accessible through other  
129 means available to the public. This sub-subparagraph is subject  
130 to the Open Government Sunset Review Act in accordance with s.  
131 119.15 and shall stand repealed on October 2, 2015, unless  
132 reviewed and saved from repeal through reenactment by the  
133 Legislature.

134 i. The home addresses, telephone numbers, and photographs  
135 of current or former juvenile probation officers, juvenile  
136 probation supervisors, detention superintendents, assistant  
137 detention superintendents, senior juvenile detention officers,  
138 juvenile detention officer supervisors, juvenile detention  
139 officers, house parents I and II, house parent supervisors,  
140 group treatment leaders, group treatment leader supervisors,

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141 rehabilitation therapists, and social services counselors of the  
142 Department of Juvenile Justice; the names, home addresses,  
143 telephone numbers, and places of employment of spouses and  
144 children of such personnel; and the names and locations of  
145 schools and day care facilities attended by the children of such  
146 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
147 the State Constitution. This sub-subparagraph is subject to the  
148 Open Government Sunset Review Act in accordance with s. 119.15  
149 and shall stand repealed on October 2, 2011, unless reviewed and  
150 saved from repeal through reenactment by the Legislature.

151 j. The home addresses, telephone numbers, and photographs  
152 of current or former public defenders, assistant public  
153 defenders, criminal conflict and civil regional counsel, and  
154 assistant criminal conflict and civil regional counsel; the home  
155 addresses, telephone numbers, and places of employment of the  
156 spouses and children of such defenders or counsel; and the names  
157 and locations of schools and day care facilities attended by the  
158 children of such defenders or counsel are exempt from s.  
159 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
160 sub-subparagraph is subject to the Open Government Sunset Review  
161 Act in accordance with s. 119.15 and shall stand repealed on  
162 October 2, 2015, unless reviewed and saved from repeal through  
163 reenactment by the Legislature.

164 2. An agency that is the custodian of the information  
165 specified in subparagraph 1. and that is not the employer of the  
166 officer, employee, justice, judge, or other person specified in  
167 subparagraph 1. shall maintain the exempt status of that  
168 information only if the officer, employee, justice, judge, other

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169 person, or employing agency of the designated employee submits a  
170 written request for maintenance of the exemption to the  
171 custodial agency.

172 Section 2. (1) The Legislature finds that it is a public  
173 necessity that specified personal information relating to active  
174 or former law enforcement personnel, including correctional and  
175 correctional probation officers, personnel of the Department of  
176 Children and Family Services whose duties include the  
177 investigation of abuse, neglect, exploitation, fraud, theft, or  
178 other criminal activities, personnel of the Department of Health  
179 whose duties are to support the investigation of child abuse or  
180 neglect, and personnel of the Department of Revenue or local  
181 governments whose responsibilities include revenue collection  
182 and enforcement or child support enforcement, as well as  
183 personal information relating to the spouses and children of  
184 such personnel, be made confidential and exempt from s.  
185 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State  
186 Constitution. In the course of their occupational duties, these  
187 employees routinely interact with individuals who have criminal  
188 records or who are currently engaged in or suspected of criminal  
189 activity. These employees also interact with the victims of  
190 crimes. By participating in law enforcement activities, these  
191 employees provide a valuable public service. However,  
192 individuals with whom the employees interact in the course of  
193 their duties may become disgruntled by the actions taken by the  
194 employees or by legal proceedings begun against them as a result  
195 of the employees' actions. This could result in the employees  
196 and their families becoming targets for acts of violence.

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197 Disclosure of the information protected by the public records  
198 exemption in this act would jeopardize the safety of these  
199 employees and their families. Therefore, it is the finding of  
200 the Legislature that it is a public necessity to make  
201 confidential and exempt from public records requirements  
202 personal information concerning active or former law enforcement  
203 personnel, including correctional and correctional probation  
204 officers, personnel of the Department of Children and Family  
205 Services whose duties include the investigation of abuse,  
206 neglect, exploitation, fraud, theft, or other criminal  
207 activities, personnel of the Department of Health whose duties  
208 are to support the investigation of child abuse or neglect, and  
209 personnel of the Department of Revenue or local governments  
210 whose responsibilities include revenue collection and  
211 enforcement or child support enforcement, as well as the names  
212 of the spouses and children of such employees.

213 (2) It is the further finding of the Legislature that it  
214 is a public necessity that specified personal information  
215 relating to current or former firefighters certified in  
216 compliance with s. 633.35, Florida Statutes, as well as personal  
217 information relating to the spouses and children of such  
218 firefighters, be made confidential and exempt from s. 119.07(1),  
219 Florida Statutes, and s. 24(a), Art. I of the State  
220 Constitution. In the course of their occupational duties,  
221 firefighters become involved in highly emotionally charged  
222 situations in which deaths or significant property damage may  
223 occur. An individual involved in such a situation may associate  
224 the firefighters with the situation if the outcome is negative,

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225 and may even blame the firefighters for such an outcome.  
226 Firefighters may also become involved in criminal arson  
227 investigations, the targets of which may become disgruntled by  
228 the firefighters' role in legal proceedings begun against them.  
229 This could result in the firefighters and their families  
230 becoming targets for acts of violence. Disclosure of the  
231 information protected by the public records exemption in this  
232 act would jeopardize the safety of these firefighters and their  
233 families. Therefore, it is the finding of the Legislature that  
234 it is a public necessity that the home addresses, telephone  
235 numbers, social security numbers, and photographs of current or  
236 former firefighters certified in compliance with s. 633.35,  
237 Florida Statutes, the names, home addresses, telephone numbers,  
238 social security numbers, photographs, and places of employment  
239 of the spouses and children of such firefighters, and the names  
240 and locations of schools and day care facilities attended by the  
241 children of such firefighters be made confidential and exempt  
242 from public records requirements.

243 Section 3. This act shall take effect July 1, 2011.




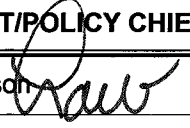


HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1245 Division of Emergency Management

SPONSOR(S): Nehr

TIED BILLS: IDEN./SIM. BILLS: SB 1602

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee		Meadows 	Williamson 
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Division of Emergency Management (Division) is administratively housed in the Department of Community Affairs. The function of the Division is to ensure that Florida is prepared to respond to emergencies, recover from those emergencies, and mitigate their impacts.

The bill provides that the Division and all associated resources, rules, and existing laws are transferred from the Department of Community Affairs to the Executive Office of the Governor, by type two transfer, effective July 1, 2011. The Division of Emergency Management is renamed as the Office of Emergency Management.

Additionally, the bill revises the membership of the advisory council for the Hurricane Loss Mitigation Program. It authorizes the Florida Building Commission to appoint a member to sit on the advisory council.

Finally, the bill requests the Division of Statutory Revision to prepare a reviser's bill, to be introduced at the next regular session, to conform the Florida Statutes to changes made by the act.

The bill provides for an effective date of October 1, 2011.

The bill appears to create a fiscal impact on state government.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Government organization

The State Constitution provides the executive structure of state government.<sup>1</sup> It provides a cap at 25 on the number of executive departments, exclusive of those specifically provided for or authorized by the State Constitution.<sup>2</sup>

Chapter 20, F.S., provides for the organizational structure of the executive branch of state government. Agencies in the executive branch are integrated into one of the departments of the executive branch to achieve maximum efficiency and effectiveness.<sup>3</sup> Structural reorganization must be a continuing process to maximize efficiency and effectiveness in response to public needs.<sup>4</sup> The departments under the executive branch must be organized under functional or program lines, and the management and coordination of state services must be improved and overlapping activities must be eliminated.<sup>5</sup>

###### Executive Branch Reorganization - Type 1 and Type 2 Transfer

The executive branch of state government may be reorganized by transferring agencies, programs, and functions to other specified departments, commissions, or offices.<sup>6</sup> Chapter 20, F.S., provides for two types of transfers for the executive branch.

A type one transfer is one in which the existing agency or department is transferred intact and becomes a unit of another agency or department. The agency that is transferred by a type one transfer exercises its powers, duties, and functions as prescribed by law, subject to the review and approval of the head of the agency or department to which the transfer is made. All statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those specifically transferred elsewhere or abolished, transfer to the receiving agency.<sup>7</sup>

In a type two transfer, an existing agency or department of an existing agency, or parts thereof, are merged into another agency. Similar to a type one transfer, all statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those specifically transferred elsewhere or abolished, transfer to the receiving agency.<sup>8</sup> Additionally, funds must be segregated in such a manner that the relation between program and revenue source, as provided by law, is retained. Finally, unless otherwise provided by law, the administrative rules of any agency or department involved that are in effect immediately before the transfer remain in effect until changed by a manner provided by law.<sup>9</sup>

###### Division of Emergency Management

Section 20.18, F.S., creates the Department of Community Affairs (DCA) and establishes the Division of Emergency Management (Division) as one of its units.<sup>10</sup> The Division is a separate budget entity and is not subject to the control, supervision, or direction of the DCA, in any manner, including personnel,

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<sup>1</sup> See Article IV of the State Constitution.

<sup>2</sup> Section 6, Art. IV of the State Constitution.

<sup>3</sup> Section 20.02(2), F.S.

<sup>4</sup> Section 20.02(3), F.S.

<sup>5</sup> Section 20.02(5) and (6), F.S.

<sup>6</sup> Section 20.06, F.S.

<sup>7</sup> Section 20.06(1), F.S.

<sup>8</sup> Section 20.06(2)(a), F.S.

<sup>9</sup> Section 20.06(2)(c), F.S.

<sup>10</sup> Section 20.18(2)(a), F.S.

purchasing, transactions involving personal property, and budgetary matters.<sup>11</sup> The Division has a service agreement with the DCA for professional, technical, and administrative support services.<sup>12</sup> The Director of the Division is appointed by and serves at the pleasure of the Governor.

The State Emergency Management Act (Act)<sup>13</sup> also establishes the powers of the Division. It tasks the Division with coordinating emergency management efforts to ensure effective preparation and use of the state workforce, state resources, and facilities of the state and nation in dealing with any emergency that may occur.<sup>14</sup> The Act assigns responsibility to the Division for maintaining a comprehensive statewide program of emergency management. The program includes:

- Preparation of a comprehensive statewide emergency management plan;
- Adopting standards and requirements for county emergency management plans;
- Ascertaining the requirements for equipment and supplies for use in an emergency;
- Coordinating federal, state, and local emergency management activities in advance of an emergency; and
- Using and employing the property, services, and resources within the state in accordance with the Act.<sup>15</sup>

The Division ensures that Florida is prepared to respond to emergencies, recover from those emergencies, and mitigate their impacts. The Division coordinates the efforts of the Federal Government with other departments and agencies of state government, with county and municipal governments and school boards, and with private agencies that have a role in emergency management.<sup>16</sup>

#### Florida Hurricane Loss Mitigation Program

In 1999, the Legislature created the Hurricane Loss Mitigation Program (HLMP).<sup>17</sup> The HLMP is under the control of the Division of Emergency Management, and is funded annually by appropriations from the Legislature. On a yearly basis, the Legislature appropriates from the investment income of the Florida Hurricane Catastrophe Fund an amount of no less than \$10 million to the HLMP.<sup>18</sup> The monies from the appropriation are utilized to strengthen structures in the state to protect against hurricane damage.

Programs under HLMP are developed in consultation with an advisory council, which consists of a representative designated by the: Chief Financial Officer, Florida Home Builders Association, Florida Insurance Council, Federation of Manufactured Home Owners, Florida Association of Counties, and Florida Manufactured Housing Association.<sup>19</sup>

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

##### Transfer of Division of Emergency Management to the Executive Office of the Governor.

Effective July 1, 2011, the bill transfers, by type two transfer, the Division of Emergency Management to the Executive Office of the Governor. It is renamed the Office of Emergency Management.

The Division's statutory powers, duties, functions, records, personnel, property, and unexpended balances of appropriations, allocations, or other funds, except those specifically transferred elsewhere or abolished, transfer to the Executive Office of the Governor. In addition, all resources, rules, and existing procedures are transferred in total to the Executive Office of the Governor.

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<sup>11</sup> Section 20.18(2)(a), F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Chapter 252, F.S.

<sup>14</sup> Section 252.36(1)(a), F.S.

<sup>15</sup> Section 252.35, F.S.

<sup>16</sup> Section 252.35(1), F.S.

<sup>17</sup> Section 215.559, F.S.

<sup>18</sup> Section 215.555(7)(c), F.S.

<sup>19</sup> Section 215.559(5), F.S.

The Office of Emergency Management (Office) is established as a separate budget entity. The Office is responsible for all professional, technical, and administrative support functions deemed necessary to carry out its responsibilities under the State Emergency Management Act. The bill provides that the Director of the Office will continue to be appointed by and serve at the pleasure of the Governor.

The name change of the Division of Emergency Management to the Office of Emergency Management creates an impact on the funding for additional positions, if those positions are needed. See Fiscal Comments section. By changing the name, the Governor's Office will be unable to claim an indirect cost rate because it is considered a central service to the state.<sup>20</sup> The Office will be unable to draw down monies for operational costs which are received from federal grants and placed in the Administrative Trust Fund, unless the name is left unchanged from the Division of Emergency Management. The grants from the federal government assist the Division with operational costs and aid for disaster recovery. By changing the name to the Office of Emergency Management the Office will have to find another funding source if additional positions are necessary. If the Division of Emergency Management remained a division instead of being incorporated into the Office of the Governor the distinction between the Governor's Office and the Division would allow for the continuation of an indirect cost plan. This bill does not provide for any funding associated with additional positions for the Office.

#### Florida Hurricane Loss Mitigation Program

The bill revises the membership for the advisory council for the Hurricane Loss Mitigation Program. It authorizes the Florida Building Commission to designate a representative on the council.

#### Division of Statutory Revision

The bill requests the Division of Statutory Revision to prepare a reviser's bill for introduction at the next regular session, to conform the Florida Statutes to changes made by the bill.

### B. SECTION DIRECTORY:

Section 1 transfers the Division to the Executive Office of the Governor and renames it the "Office of Emergency Management."

Section 2 creates s. 14.2016, F.S., to establish the Office of Emergency Management in the Executive Office of the Governor.

Section 3 amends s. 20.18, F.S., to conform provisions to changes made by the act.

Section 4 amends s. 125.01045, F.S., to conform provisions to changes made by the act.

Section 5 amends s. 215.559, F.S., to revise the membership of the council for the Hurricane Loss Mitigation Program.

Section 6 amends s. 163.3178, F.S., to conform provisions to changes made by the act.

Section 7 amends s. 166.0446, F.S., to conform provisions to changes made by the act.

Section 8 amends s. 215.5586, F.S., to conform provisions to changes made by the act.

Section 9 amends s. 252.32, F.S., to conform provisions to changes made by the act.

Section 10 amends s. 252.34, F.S., to conform provisions to changes made by the act.

Section 11 amends s. 252.35, F.S., to conform provisions to changes made by the act.

Section 12 amends s. 252.355, F.S., to conform provisions to changes made by the act.

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<sup>20</sup> See Cost Principles for State, Local, and Indian Tribal Governments, 70 Fed. Reg. 51910, at 12(August 31, 2005)(to be codified at 2 C.F.R. pt. 225).

Section 13 amends s. 252.61, F.S., to conform provisions to changes made by the act.

Section 14 amends s. 252.82, F.S., to conform provisions to changes made by the act.

Section 15 amends s. 252.936, F.S., to conform provisions to changes made by the act.

Section 16 amends s. 252.937, F.S., to conform provisions to changes made by the act.

Section 17 amends s. 252.943, F.S., to conform provisions to changes made by the act.

Section 18 amends s. 252.946, F.S., to conform provisions to changes made by the act.

Section 19 amends s. 282.34, F.S., to conform provisions to changes made by the act.

Section 20 amends s. 282.709, F.S., to conform provisions to changes made by the act.

Section 21 amends s. 311.115, F.S., to conform provisions to changes made by the act.

Section 22 amends s. 526.143, F.S., to conform provisions to changes made by the act.

Section 23 amends s. 526.144, F.S., to conform provisions to changes made by the act.

Section 24 amends s. 627.0628, F.S., to conform provisions to changes made by the act.

Section 25 amends s. 768.13, F.S., to conform provisions to changes made by the act.

Section 26 amends s. 943.03, F.S., to conform provisions to changes made by the act.

Section 27 amends s. 943.03101, F.S., to conform provisions to changes made by the act.

Section 28 amends s. 943.0312, F.S., to conform provisions to changes made by the act.

Section 29 amends s. 943.0313, F.S., to conform provisions to changes made by the act.

Section 30 amends s. 112.3135, F.S., to conform cross-references.

Section 31 amends s. 119.071, F.S., to conform cross-references.

Section 32 amends s. 163.03, F.S., to conform cross-references.

Section 33 amends s. 163.360, F.S., to conform cross-references.

Section 34 amends s. 175.021, F.S., to conform cross-references.

Section 35 amends s. 186.505, F.S., to conform cross-references.

Section 36 amends s. 216.231, F.S., to conform cross-references.

Section 37 amends s. 250.06, F.S., to conform cross-references.

Section 38 amends s. 339.135, F.S., to conform cross-references.

Section 39 amends s. 429.907, F.S., to conform cross-references.

Section 40 provides a directive to the Division of Statutory Revision.

Section 41 provides an effective date of October 1, 2011.

## 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:

The name change of the Division of Emergency Management to the Office of Emergency Management creates an impact on the funding for additional positions, if those positions are needed. By changing the name, the Governor's Office will be unable to claim an indirect cost rate because it is considered a central service to the state.<sup>21</sup> The Office will be unable to draw down monies for operational costs which are received from federal grants and placed in the Administrative Trust Fund, unless the name is left unchanged from the Division of Emergency Management.

The grants from the federal government assist the Division with operational costs and aid for disaster recovery. By changing the name to the Office of Emergency Management the Office will have to find another funding source if additional positions are necessary. If the Division of Emergency Management remained a division instead of being incorporated into the Office of the Governor the distinction between the Governor's Office and the Division would allow for the continuation of an indirect cost plan.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not affect county or municipal governments.

2. Other:

None.

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<sup>21</sup> See Cost Principles for State, Local, and Indian Tribal Governments, 70 Fed. Reg. 51910, at 12 (August 31, 2005)(to be codified at 2 C.F.R. pt. 225).

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to authorize nor require any additional grants of rulemaking authority.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not Applicable.



1 A bill to be entitled

2 An act relating to the Division of Emergency Management;  
 3 transferring the division to the Executive Office of the  
 4 Governor and renaming it the "Office of Emergency  
 5 Management"; creating s. 14.2016, F.S.; establishing the  
 6 Office of Emergency Management in the Executive Office of  
 7 the Governor; amending ss. 20.18 and 125.01045, F.S.;  
 8 conforming provisions to changes made by the act; amending  
 9 s. 215.559, F.S.; revising the membership of the Hurricane  
 10 Loss Mitigation Program's advisory group; conforming  
 11 provisions to changes made by the act; amending ss.  
 12 163.3178, 166.0446, 215.5586, 252.32, 252.34, 252.35,  
 13 252.355, 252.61, 252.82, 252.936, 252.937, 252.943,  
 14 252.946, 282.34, 282.709, 311.115, 526.143, 526.144,  
 15 627.0628, 768.13, 943.03, 943.03101, 943.0312, and  
 16 943.0313, F.S.; conforming provisions to changes made by  
 17 the act; amending ss. 112.3135, 119.071, 163.03, 163.360,  
 18 175.021, 186.505, 216.231, 250.06, 339.135, and 429.907,  
 19 F.S.; conforming cross-references; providing a directive  
 20 to the Division of Statutory Revision; providing an  
 21 effective date.

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

24  
 25 Section 1. Effective July 1, 2011, the Division of  
 26 Emergency Management of the Department of Community Affairs is  
 27 transferred by a type two transfer, as defined in s. 20.06(2),  
 28 Florida Statutes, to the Executive Office of the Governor and

29 | renamed the Office of Emergency Management.

30 | Section 2. Section 14.2016, Florida Statutes, is created  
31 | to read:

32 | 14.2016 Office of Emergency Management.—The Office of  
33 | Emergency Management is established within the Executive Office  
34 | of the Governor. The office shall be a separate budget entity,  
35 | as provided in the General Appropriations Act. The office shall  
36 | be responsible for all professional, technical, and  
37 | administrative support functions necessary to carry out its  
38 | responsibilities under part I of chapter 252. The director of  
39 | the office shall be appointed by and serve at the pleasure of  
40 | the Governor, and shall be the head of the office for all  
41 | purposes.

42 | Section 3. Subsection (2) of section 20.18, Florida  
43 | Statutes, is amended to read:

44 | 20.18 Department of Community Affairs.—There is created a  
45 | Department of Community Affairs.

46 | (2) The following units of the Department of Community  
47 | Affairs are established:

48 | ~~(a) Division of Emergency Management. The division is a~~  
49 | ~~separate budget entity and is not subject to control,~~  
50 | ~~supervision, or direction by the Department of Community Affairs~~  
51 | ~~in any manner including, but not limited to, personnel,~~  
52 | ~~purchasing, transactions involving personal property, and~~  
53 | ~~budgetary matters. The division director shall be appointed by~~  
54 | ~~the Governor, shall serve at the pleasure of the Governor, and~~  
55 | ~~shall be the agency head of the division for all purposes. The~~  
56 | ~~division shall enter into a service agreement with the~~

57 | ~~department for professional, technological, and administrative~~  
 58 | ~~support services. The division shall collaborate and coordinate~~  
 59 | ~~with the department on nonemergency response matters, including,~~  
 60 | ~~but not limited to, disaster recovery programs, grant programs,~~  
 61 | ~~mitigation programs, and emergency matters related to~~  
 62 | ~~comprehensive plans.~~

63 |        (a)~~(b)~~ Division of Housing and Community Development.

64 |        (b)~~(e)~~ Division of Community Planning.

65 |        Section 4. Subsection (1) of section 125.01045, Florida  
 66 | Statutes, is amended to read:

67 |            125.01045 Prohibition of fees for first responder  
 68 | services.—

69 |            (1) A county may not impose a fee or seek reimbursement  
 70 | for any costs or expenses that may be incurred for services  
 71 | provided by a first responder, including costs or expenses  
 72 | related to personnel, supplies, motor vehicles, or equipment in  
 73 | response to a motor vehicle accident, except for costs to  
 74 | contain or clean up hazardous materials in quantities reportable  
 75 | to the Florida State Warning Point at the Office ~~Division~~ of  
 76 | Emergency Management, and costs for transportation and treatment  
 77 | provided by ambulance services licensed pursuant to s. 401.23(4)  
 78 | and (5).

79 |        Section 5. Section 215.559, Florida Statutes, is amended  
 80 | to read:

81 |            215.559 Hurricane Loss Mitigation Program.—

82 |            ~~(1) There is created~~ A Hurricane Loss Mitigation Program  
 83 | is established in the Office of Emergency Management.

84 |            (1) The Legislature shall annually appropriate \$10 million

85 of the moneys authorized for appropriation under s.  
 86 215.555(7)(c) from the Florida Hurricane Catastrophe Fund to the  
 87 office ~~Department of Community Affairs~~ for the purposes set  
 88 forth in this section. Of that amount:

89 ~~(2)~~(a) Seven million dollars in funds ~~provided in~~  
 90 ~~subsection (1)~~ shall be used for programs to improve the wind  
 91 resistance of residences and mobile homes, including loans,  
 92 subsidies, grants, demonstration projects, and direct  
 93 assistance; educating persons concerning the Florida Building  
 94 Code cooperative programs with local governments and the Federal  
 95 Government; and other efforts to prevent or reduce losses or  
 96 reduce the cost of rebuilding after a disaster.

97 (b) Three million dollars in funds ~~provided in subsection~~  
 98 ~~(1)~~ shall be used to retrofit existing facilities used as public  
 99 hurricane shelters. Each year the office shall ~~department must~~  
 100 prioritize the use of these funds for projects included in the  
 101 annual report of the September 1, 2000, version of the Shelter  
 102 Retrofit Report prepared in accordance with s. 252.385(3), ~~and~~  
 103 ~~each annual report thereafter.~~ The office ~~department~~ must give  
 104 funding priority to projects in regional planning council  
 105 regions that have shelter deficits and to projects that maximize  
 106 the use of state funds.

107 ~~(2)(3)~~(a) Forty percent of the total appropriation in  
 108 paragraph (1)(a) ~~(2)(a)~~ shall be used to inspect and improve  
 109 tie-downs for mobile homes.

110 (b)1. ~~There is created~~ The Manufactured Housing and Mobile  
 111 Home Mitigation and Enhancement Program is established. The  
 112 program shall require the mitigation of damage to or the

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113 | enhancement of homes for the areas of concern raised by the  
 114 | Department of Highway Safety and Motor Vehicles in the 2004-2005  
 115 | Hurricane Reports on the effects of the 2004 and 2005 hurricanes  
 116 | on manufactured and mobile homes in this state. The mitigation  
 117 | or enhancement must include, but need not be limited to,  
 118 | problems associated with weakened trusses, studs, and other  
 119 | structural components caused by wood rot or termite damage;  
 120 | site-built additions; or tie-down systems and may also address  
 121 | any other issues deemed appropriate by Tallahassee Community  
 122 | College, the Federation of Manufactured Home Owners of Florida,  
 123 | Inc., the Florida Manufactured Housing Association, and the  
 124 | Department of Highway Safety and Motor Vehicles. The program  
 125 | shall include an education and outreach component to ensure that  
 126 | owners of manufactured and mobile homes are aware of the  
 127 | benefits of participation.

128 |         2. The program shall be a grant program that ensures that  
 129 | entire manufactured home communities and mobile home parks may  
 130 | be improved wherever practicable. The moneys appropriated for  
 131 | this program shall be distributed directly to Tallahassee  
 132 | Community College for the uses set forth under this subsection.

133 |         3. Upon evidence of completion of the program, the  
 134 | Citizens Property Insurance Corporation shall grant, on a pro  
 135 | rata basis, actuarially reasonable discounts, credits, or other  
 136 | rate differentials or appropriate reductions in deductibles for  
 137 | the properties of owners of manufactured homes or mobile homes  
 138 | on which fixtures or construction techniques that have been  
 139 | demonstrated to reduce the amount of loss in a windstorm have  
 140 | been installed or implemented. The discount on the premium must

141 be applied to subsequent renewal premium amounts. Premiums of  
 142 the Citizens Property Insurance Corporation must reflect the  
 143 location of the home and the fact that the home has been  
 144 installed in compliance with building codes adopted after  
 145 Hurricane Andrew. Rates resulting from the completion of the  
 146 Manufactured Housing and Mobile Home Mitigation and Enhancement  
 147 Program are not considered competitive rates for the purposes of  
 148 s. 627.351(6)(d)1. and 2.

149 4. On or before January 1 of each year, Tallahassee  
 150 Community College shall provide a report of activities under  
 151 this subsection to the Governor, the President of the Senate,  
 152 and the Speaker of the House of Representatives. The report must  
 153 set forth the number of homes that have taken advantage of the  
 154 program, the types of enhancements and improvements made to the  
 155 manufactured or mobile homes and attachments to such homes, and  
 156 whether there has been an increase in availability of insurance  
 157 products to owners of manufactured or mobile homes.

158  
 159 Tallahassee Community College shall develop the programs set  
 160 forth in this subsection in consultation with the Federation of  
 161 Manufactured Home Owners of Florida, Inc., the Florida  
 162 Manufactured Housing Association, and the Department of Highway  
 163 Safety and Motor Vehicles. The moneys appropriated for the  
 164 programs set forth in this subsection shall be distributed  
 165 directly to Tallahassee Community College to be used as set  
 166 forth in this subsection.

167 (3)~~(4)~~ Of moneys provided to the Department of Community  
 168 Affairs in paragraph (1)(a) ~~(2)(a)~~, 10 percent shall be

169 allocated to the Florida International University center  
 170 dedicated to hurricane research. The center shall develop a  
 171 preliminary work plan approved by the advisory council set forth  
 172 in subsection (4) ~~(5)~~ to eliminate the state and local barriers  
 173 to upgrading existing mobile homes and communities, research and  
 174 develop a program for the recycling of existing older mobile  
 175 homes, and support programs of research and development relating  
 176 to hurricane loss reduction devices and techniques for site-  
 177 built residences. The State University System also shall consult  
 178 with the Department of Community Affairs and assist the  
 179 department with the report required under subsection (6) ~~(7)~~.

180 (4) ~~(5)~~ Except for the programs set forth in subsection (3)  
 181 ~~(4)~~, The office ~~Department of Community Affairs~~ shall  
 182 develop the programs set forth in this section in consultation  
 183 with an advisory council consisting of a representative  
 184 designated by the Chief Financial Officer, a representative  
 185 designated by the Florida Home Builders Association, a  
 186 representative designated by the Florida Insurance Council, a  
 187 representative designated by the Federation of Manufactured Home  
 188 Owners, a representative designated by the Florida Association  
 189 of Counties, ~~and~~ a representative designated by the Florida  
 190 Manufactured Housing Association, and a representative  
 191 designated by the Florida Building Commission.

192 (5) ~~(6)~~ Moneys provided to the office ~~Department of~~  
 193 ~~Community Affairs~~ under this section are intended to supplement,  
 194 not supplant, the office's other funding sources of the  
 195 ~~Department of Community Affairs and may not supplant other~~  
 196 ~~funding sources of the Department of Community Affairs.~~

197           ~~(6)(7)~~ On January 1st of each year, the office ~~Department~~  
 198 ~~of Community Affairs~~ shall provide a full report and accounting  
 199 of activities under this section and an evaluation of such  
 200 activities to the Speaker of the House of Representatives, the  
 201 President of the Senate, and the Majority and Minority Leaders  
 202 of the House of Representatives and the Senate. Upon completion  
 203 of the report, the office ~~Department of Community Affairs~~ shall  
 204 deliver the report to the Office of Insurance Regulation. The  
 205 Office of Insurance Regulation shall review the report and ~~shall~~  
 206 make such recommendations available to the insurance industry as  
 207 the Office of Insurance Regulation deems appropriate. These  
 208 recommendations may be used by insurers for potential discounts  
 209 or rebates pursuant to s. 627.0629. The Office of Insurance  
 210 Regulation shall make such ~~the~~ recommendations within 1 year  
 211 after receiving the report.

212           ~~(7)(8)~~(a) Notwithstanding any other provision of this  
 213 section and for the 2010-2011 fiscal year only, the \$3 million  
 214 appropriation provided ~~for~~ in paragraph (1)(b) ~~(2)(b)~~ may be  
 215 used for hurricane shelters as identified in the General  
 216 Appropriations Act.

217           (b) This subsection expires June 30, 2011.

218           ~~(8)(9)~~ This section is repealed June 30, 2011.

219           Section 6. Paragraph (d) of subsection (2) of section  
 220 163.3178, Florida Statutes, is amended to read:

221           163.3178 Coastal management.—

222           (2) Each coastal management element required by s.  
 223 163.3177(6)(g) shall be based on studies, surveys, and data; be  
 224 consistent with coastal resource plans prepared and adopted



225 | pursuant to general or special law; and contain:

226 |       (d) A component which outlines principles for hazard  
 227 | mitigation and protection of human life against the effects of  
 228 | natural disaster, including population evacuation, which take  
 229 | into consideration the capability to safely evacuate the density  
 230 | of coastal population proposed in the future land use plan  
 231 | element in the event of an impending natural disaster. The  
 232 | Office ~~Division~~ of Emergency Management shall manage the update  
 233 | of the regional hurricane evacuation studies, ensure such  
 234 | studies are done in a consistent manner, and ensure that the  
 235 | methodology used for modeling storm surge is that used by the  
 236 | National Hurricane Center.

237 |       Section 7. Subsection (1) of section 166.0446, Florida  
 238 | Statutes, is amended to read:

239 |       166.0446 Prohibition of fees for first responder  
 240 | services.—

241 |       (1) A municipality may not impose a fee or seek  
 242 | reimbursement for any costs or expenses that may be incurred for  
 243 | services provided by a first responder, including costs or  
 244 | expenses related to personnel, supplies, motor vehicles, or  
 245 | equipment in response to a motor vehicle accident, except for  
 246 | costs to contain or clean up hazardous materials in quantities  
 247 | reportable to the Florida State Warning Point at the Office  
 248 | ~~Division~~ of Emergency Management, and costs for transportation  
 249 | and treatment provided by ambulance services licensed pursuant  
 250 | to s. 401.23(4) and (5).

251 |       Section 8. Paragraph (j) of subsection (4) of section  
 252 | 215.5586, Florida Statutes, is amended to read:

253           215.5586 My Safe Florida Home Program.—There is  
 254 established within the Department of Financial Services the My  
 255 Safe Florida Home Program. The department shall provide fiscal  
 256 accountability, contract management, and strategic leadership  
 257 for the program, consistent with this section. This section does  
 258 not create an entitlement for property owners or obligate the  
 259 state in any way to fund the inspection or retrofitting of  
 260 residential property in this state. Implementation of this  
 261 program is subject to annual legislative appropriations. It is  
 262 the intent of the Legislature that the My Safe Florida Home  
 263 Program provide trained and certified inspectors to perform  
 264 inspections for owners of site-built, single-family, residential  
 265 properties and grants to eligible applicants as funding allows.  
 266 The program shall develop and implement a comprehensive and  
 267 coordinated approach for hurricane damage mitigation that may  
 268 include the following:

269           (4) ADVISORY COUNCIL.—There is created an advisory council  
 270 to provide advice and assistance to the department regarding  
 271 administration of the program. The advisory council shall  
 272 consist of:

273           (j) The director of the Office ~~Florida Division~~ of  
 274 Emergency Management.

275  
 276 Members appointed under paragraphs (a)-(d) shall serve at the  
 277 pleasure of the Financial Services Commission. Members appointed  
 278 under paragraphs (e) and (f) shall serve at the pleasure of the  
 279 appointing officer. All other members shall serve as voting ex  
 280 officio members. Members of the advisory council shall serve

281 without compensation but may receive reimbursement as provided  
 282 in s. 112.061 for per diem and travel expenses incurred in the  
 283 performance of their official duties.

284 Section 9. Paragraphs (a) and (b) of subsection (1) of  
 285 section 252.32, Florida Statutes, are amended to read:

286 252.32 Policy and purpose.—

287 (1) Because of the existing and continuing possibility of  
 288 the occurrence of emergencies and disasters resulting from  
 289 natural, technological, or manmade causes; in order to ensure  
 290 that preparations of this state will be adequate to deal with,  
 291 reduce vulnerability to, and recover from such emergencies and  
 292 disasters; to provide for the common defense and to protect the  
 293 public peace, health, and safety; and to preserve the lives and  
 294 property of the people of the state, it is hereby found and  
 295 declared to be necessary:

296 (a) To create a state emergency management agency to be  
 297 known as the "Office ~~Division~~ of Emergency Management," to  
 298 authorize the creation of local organizations for emergency  
 299 management in the political subdivisions of the state, and to  
 300 authorize cooperation with the Federal Government and the  
 301 governments of other states.

302 (b) To confer upon the Governor, the Office ~~Division~~ of  
 303 Emergency Management, and the governing body of each political  
 304 subdivision of the state the emergency powers provided herein.

305 Section 10. Section 252.34, Florida Statutes, is amended  
 306 to read:

307 252.34 Definitions.—As used in this part ~~ss. 252.31-~~  
 308 ~~252.60~~, the term:

309 (1) "Disaster" means any natural, technological, or civil  
 310 emergency that causes damage of sufficient severity and  
 311 magnitude to result in a declaration of a state of emergency by  
 312 a county, the Governor, or the President of the United States.  
 313 Disasters shall be identified by the severity of resulting  
 314 damage, as follows:

315 (a) "Catastrophic disaster" means a disaster that will  
 316 require massive state and federal assistance, including  
 317 immediate military involvement.

318 (b) "Major disaster" means a disaster that will likely  
 319 exceed local capabilities and require a broad range of state and  
 320 federal assistance.

321 (c) "Minor disaster" means a disaster that is likely to be  
 322 within the response capabilities of local government and to  
 323 result in only a minimal need for state or federal assistance.

324 ~~(2) "Division" means the Division of Emergency Management~~  
 325 ~~of the Department of Community Affairs, or the successor to that~~  
 326 ~~division.~~

327 (2)~~(3)~~ "Emergency" means any occurrence, or threat  
 328 thereof, whether natural, technological, or manmade, in war or  
 329 in peace, which results or may result in substantial injury or  
 330 harm to the population or substantial damage to or loss of  
 331 property.

332 (3)~~(4)~~ "Emergency management" means the preparation for,  
 333 the mitigation of, the response to, and the recovery from  
 334 emergencies and disasters. Specific emergency management  
 335 responsibilities include, but are not limited to:

336 (a) Reduction of vulnerability of people and communities

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337 of this state to damage, injury, and loss of life and property  
 338 resulting from natural, technological, or manmade emergencies or  
 339 hostile military or paramilitary action.

340 (b) Preparation for prompt and efficient response and  
 341 recovery to protect lives and property affected by emergencies.

342 (c) Response to emergencies using all systems, plans, and  
 343 resources necessary to preserve adequately the health, safety,  
 344 and welfare of persons or property affected by the emergency.

345 (d) Recovery from emergencies by providing for the rapid  
 346 and orderly start of restoration and rehabilitation of persons  
 347 and property affected by emergencies.

348 (e) Provision of an emergency management system embodying  
 349 all aspects of preemergency preparedness and postemergency  
 350 response, recovery, and mitigation.

351 (f) Assistance in anticipation, recognition, appraisal,  
 352 prevention, and mitigation of emergencies which may be caused or  
 353 aggravated by inadequate planning for, and regulation of, public  
 354 and private facilities and land use.

355 (4)~~(5)~~ "Local emergency management agency" means an  
 356 organization created in accordance with ~~the provisions of ss.~~  
 357 252.31-252.90 to discharge the emergency management  
 358 responsibilities and functions of a political subdivision.

359 (5)~~(6)~~ "Manmade emergency" means an emergency caused by an  
 360 action against persons or society, including, but not limited  
 361 to, enemy attack, sabotage, terrorism, civil unrest, or other  
 362 action impairing the orderly administration of government.

363 (6)~~(7)~~ "Natural emergency" means an emergency caused by a  
 364 natural event, including, but not limited to, a hurricane, a

365 storm, a flood, severe wave action, a drought, or an earthquake.

366 (7) "Office" means the Office of Emergency Management  
 367 within the Executive Office of the Governor, or the successor to  
 368 that office.

369 (8) "Political subdivision" means any county or  
 370 municipality created pursuant to law.

371 (9) "Technological emergency" means an emergency caused by  
 372 a technological failure or accident, including, but not limited  
 373 to, an explosion, transportation accident, radiological  
 374 accident, or chemical or other hazardous material incident.

375 Section 11. Section 252.35, Florida Statutes, is amended  
 376 to read:

377 252.35 Emergency management powers; ~~Division of Emergency~~  
 378 ~~Management.~~—

379 (1) The office division is responsible for maintaining a  
 380 comprehensive statewide program of emergency management and for  
 381 coordinating the. ~~The division is responsible for coordination~~  
 382 ~~with~~ efforts of the Federal Government with other departments  
 383 and agencies of state government, with county and municipal  
 384 governments and school boards, and with private agencies that  
 385 have a role in emergency management.

386 (2) The office division is responsible for carrying out  
 387 the provisions of ss. 252.31-252.90. In performing its duties  
 388 ~~under ss. 252.31-252.90,~~ the office division shall:

389 (a) Prepare a state comprehensive emergency management  
 390 plan, which shall be integrated into and coordinated with the  
 391 emergency management plans and programs of the Federal  
 392 Government. The office division must adopt the plan as a rule in

393 | accordance with chapter 120. The plan shall be implemented by a  
 394 | continuous, integrated comprehensive emergency management  
 395 | program. The plan must contain provisions to ensure that the  
 396 | state is prepared for emergencies and minor, major, and  
 397 | catastrophic disasters, and the office ~~division~~ shall work  
 398 | closely with local governments and agencies and organizations  
 399 | with emergency management responsibilities in preparing and  
 400 | maintaining the plan. The state comprehensive emergency  
 401 | management plan must ~~shall~~ be operations oriented and:

402 |         1. Include an evacuation component that includes specific  
 403 | regional and interregional planning provisions and promotes  
 404 | intergovernmental coordination of evacuation activities. This  
 405 | component must, at a minimum: contain guidelines for lifting  
 406 | tolls on state highways; ensure coordination pertaining to  
 407 | evacuees crossing county lines; set forth procedures for  
 408 | directing people caught on evacuation routes to safe shelter;  
 409 | establish strategies for ensuring sufficient, reasonably priced  
 410 | fueling locations along evacuation routes; and establish  
 411 | policies and strategies for emergency medical evacuations.

412 |         2. Include a shelter component that includes specific  
 413 | regional and interregional planning provisions and promotes  
 414 | coordination of shelter activities between the public, private,  
 415 | and nonprofit sectors. This component must, at a minimum:  
 416 | contain strategies to ensure the availability of adequate public  
 417 | shelter space in each region of the state; establish strategies  
 418 | for refuge-of-last-resort programs; provide strategies to assist  
 419 | local emergency management efforts to ensure that adequate  
 420 | staffing plans exist for all shelters, including medical and

421 security personnel; provide for a postdisaster communications  
 422 system for public shelters; establish model shelter guidelines  
 423 for operations, registration, inventory, power generation  
 424 capability, information management, and staffing; and set forth  
 425 policy guidance for sheltering people with special needs.

426 3. Include a postdisaster response and recovery component  
 427 that includes specific regional and interregional planning  
 428 provisions and promotes intergovernmental coordination of  
 429 postdisaster response and recovery activities. This component  
 430 must provide for postdisaster response and recovery strategies  
 431 according to whether a disaster is minor, major, or  
 432 catastrophic. The postdisaster response and recovery component  
 433 must, at a minimum: establish the structure of the state's  
 434 postdisaster response and recovery organization; establish  
 435 procedures for activating the state's plan; set forth policies  
 436 used to guide postdisaster response and recovery activities;  
 437 describe the chain of command during the postdisaster response  
 438 and recovery period; describe initial and continuous  
 439 postdisaster response and recovery actions; identify the roles  
 440 and responsibilities of each involved agency and organization;  
 441 provide for a comprehensive communications plan; establish  
 442 procedures for monitoring mutual aid agreements; provide for  
 443 rapid impact assessment teams; ensure the availability of an  
 444 effective statewide urban search and rescue program coordinated  
 445 with the fire services; ensure the existence of a comprehensive  
 446 statewide medical care and relief plan administered by the  
 447 Department of Health; and establish systems for coordinating  
 448 volunteers and accepting and distributing donated funds and



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goods.

4. Include additional provisions addressing aspects of preparedness, response, recovery, and mitigation as determined necessary by the office ~~division~~.

5. Address the need for coordinated and expeditious deployment of state resources, including the Florida National Guard. In the case of an imminent major disaster, procedures should address predeployment of the Florida National Guard, and, in the case of an imminent catastrophic disaster, procedures should address predeployment of the Florida National Guard and the United States Armed Forces.

6. Establish a system of communications and warning to ensure that the state's population and emergency management agencies are warned of developing emergency situations and can communicate emergency response decisions.

7. Establish guidelines and schedules for annual exercises that evaluate the ability of the state and its political subdivisions to respond to minor, major, and catastrophic disasters and support local emergency management agencies. Such exercises must ~~shall~~ be coordinated with local governments and, to the extent possible, the Federal Government.

8. Assign lead and support responsibilities to state agencies and personnel for emergency support functions and other support activities.

The complete state comprehensive emergency management plan must ~~shall~~ be submitted to the President of the Senate, the Speaker of the House of Representatives, and the Governor on February 1

477 of every even-numbered year.

478 (b) Adopt standards and requirements for county emergency  
 479 management plans. The standards and requirements must ensure  
 480 that county plans are coordinated and consistent with the state  
 481 comprehensive emergency management plan. If a municipality  
 482 elects to establish an emergency management program, it must  
 483 adopt a city emergency management plan that complies with all  
 484 standards and requirements applicable to county emergency  
 485 management plans.

486 (c) Assist political subdivisions in preparing and  
 487 maintaining emergency management plans.

488 (d) Review periodically political subdivision emergency  
 489 management plans for consistency with the state comprehensive  
 490 emergency management plan and standards and requirements adopted  
 491 under this section.

492 (e) Cooperate with the President, the heads of the Armed  
 493 Forces, the various federal emergency management agencies, and  
 494 the officers and agencies of other states in matters pertaining  
 495 to emergency management in the state and the nation and  
 496 incidents thereof and, in connection therewith, take any  
 497 measures that it deems proper to carry into effect any request  
 498 of the President and the appropriate federal officers and  
 499 agencies for any emergency management action, including the  
 500 direction or control of:

501 1. Emergency management drills, tests, or exercises of  
 502 whatever nature.

503 2. Warnings and signals for tests and drills, attacks, or  
 504 other imminent emergencies or threats thereof and the mechanical

505 devices to be used in connection with such warnings and signals.

506 (f) Make recommendations to the Legislature, building code  
 507 organizations, and political subdivisions for zoning, building,  
 508 and other land use controls; safety measures for securing mobile  
 509 homes or other nonpermanent or semipermanent structures; and  
 510 other preparedness, prevention, and mitigation measures designed  
 511 to eliminate emergencies or reduce their impact.

512 (g) In accordance with the state comprehensive emergency  
 513 management plan and program for emergency management, ascertain  
 514 the requirements of the state and its political subdivisions for  
 515 equipment and supplies of all kinds in the event of an  
 516 emergency; plan for and ~~either~~ procure supplies, medicines,  
 517 materials, and equipment or enter into memoranda of agreement or  
 518 open purchase orders that will ensure their availability; and  
 519 use and employ from time to time any of the property, services,  
 520 and resources within the state in accordance with ss. 252.31-  
 521 252.90.

522 (h) Anticipate trends and promote innovations that will  
 523 enhance the emergency management system.

524 (i) Institute statewide public awareness programs. This  
 525 shall include an intensive public educational campaign on  
 526 emergency preparedness issues, including, but not limited to,  
 527 the personal responsibility of individual citizens to be self-  
 528 sufficient for up to 72 hours following a natural or manmade  
 529 disaster. The public educational campaign must ~~shall~~ include  
 530 relevant information on statewide disaster plans, evacuation  
 531 routes, fuel suppliers, and shelters. All educational materials  
 532 must be available in alternative formats and mediums to ensure

533 that they are available to persons with disabilities.

534 (j) In cooperation with ~~The Division of Emergency~~  
 535 ~~Management and~~ the Department of Education, ~~shall~~ coordinate  
 536 with the Agency for Persons with Disabilities to provide an  
 537 educational outreach program on disaster preparedness and  
 538 readiness to individuals who have limited English skills and  
 539 identify persons who are in need of assistance but are not  
 540 defined under special-needs criteria.

541 (k) Prepare and distribute to appropriate state and local  
 542 officials catalogs of federal, state, and private assistance  
 543 programs.

544 (l) Coordinate federal, state, and local emergency  
 545 management activities and take all other steps, including the  
 546 partial or full mobilization of emergency management forces and  
 547 organizations in advance of an actual emergency, to ensure the  
 548 availability of adequately trained and equipped forces of  
 549 emergency management personnel before, during, and after  
 550 emergencies and disasters.

551 (m) Establish a schedule of fees that may be charged by  
 552 local emergency management agencies for review of emergency  
 553 management plans on behalf of external agencies and  
 554 institutions. In establishing such schedule, the office ~~division~~  
 555 shall consider facility size, review complexity, and other  
 556 factors.

557 (n) Implement training programs to improve the ability of  
 558 state and local emergency management personnel to prepare and  
 559 implement emergency management plans and programs. This includes  
 560 ~~shall include~~ a continuous training program for agencies and

561 individuals that will be called on to perform key roles in state  
 562 and local postdisaster response and recovery efforts and for  
 563 local government personnel on federal and state postdisaster  
 564 response and recovery strategies and procedures.

565 (o) ~~Review~~ Periodically review emergency operating  
 566 procedures of state agencies and recommend revisions as needed  
 567 to ensure consistency with the state comprehensive emergency  
 568 management plan and program.

569 (p) Make such surveys of industries, resources, and  
 570 facilities within the state, both public and private, as are  
 571 necessary to carry out the purposes of ss. 252.31-252.90.

572 (q) Prepare, in advance if ~~whenever~~ possible, such  
 573 executive orders, proclamations, and rules for issuance by the  
 574 Governor as are necessary or appropriate for coping with  
 575 emergencies and disasters.

576 (r) Cooperate with the Federal Government and any public  
 577 or private agency or entity in achieving any purpose of ss.  
 578 252.31-252.90 and in implementing programs for mitigation,  
 579 preparation, response, and recovery.

580 (s) ~~By January 1, 2007, the Division of Emergency~~  
 581 ~~Management shall~~ Complete an inventory of portable generators  
 582 owned by the state and local governments which are capable of  
 583 operating during a major disaster. The inventory must identify,  
 584 at a minimum, the location of each generator, the number of  
 585 generators stored at each specific location, the agency to which  
 586 each generator belongs, the primary use of the generator by the  
 587 owner agency, and the names, addresses, and telephone numbers of  
 588 persons having the authority to loan the stored generators as

589 authorized by the office ~~Division of Emergency Management~~ during  
 590 a declared emergency.

591 (t) ~~The division shall~~ Maintain an inventory list of  
 592 generators owned by the state and local governments. In  
 593 addition, the office ~~division~~ may keep a list of private  
 594 entities, along with appropriate contact information, which  
 595 offer generators for sale or lease. The list of private entities  
 596 shall be available to the public for inspection in written and  
 597 electronic formats.

598 (u) Assist political subdivisions with the creation and  
 599 training of urban search and rescue teams and promote the  
 600 development and maintenance of a state urban search and rescue  
 601 program.

602 (v) Delegate, as necessary and appropriate, authority  
 603 vested in it under ss. 252.31-252.90 and provide for the  
 604 subdelegation of such authority.

605 (w) Report biennially to the President of the Senate, the  
 606 Speaker of the House of Representatives, and the Governor, no  
 607 later than February 1 of every odd-numbered year, the status of  
 608 the emergency management capabilities of the state and its  
 609 political subdivisions.

610 (x) In accordance with chapter 120, create, implement,  
 611 administer, adopt, amend, and rescind rules, programs, and plans  
 612 needed to carry out the provisions of ss. 252.31-252.90 with due  
 613 consideration for, and in cooperating with, the plans and  
 614 programs of the Federal Government. In addition, the office  
 615 ~~division~~ may adopt rules in accordance with chapter 120 to  
 616 administer and distribute federal financial predisaster and

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617 | postdisaster assistance for prevention, mitigation,  
 618 | preparedness, response, and recovery.

619 | (y) Do other things necessary, incidental, or appropriate  
 620 | for the implementation of ss. 252.31-252.90.

621 | Section 12. Subsection (2) of section 252.355, Florida  
 622 | Statutes, is amended to read:

623 | 252.355 Registry of persons with special needs; notice.—

624 | (2) The office ~~Department of Community Affairs~~ shall be  
 625 | the designated lead agency responsible for community education  
 626 | and outreach to the public, including special needs clients,  
 627 | regarding registration and special needs shelters and general  
 628 | information regarding shelter stays.

629 | Section 13. Section 252.61, Florida Statutes, is amended  
 630 | to read:

631 | 252.61 List of persons for contact relating to release of  
 632 | toxic substances into atmosphere.—The Office of Emergency  
 633 | Management ~~Department of Community Affairs~~ shall maintain a list  
 634 | of contact persons ~~after the survey pursuant to s. 403.771 is~~  
 635 | ~~completed.~~

636 | Section 14. Section 252.82, Florida Statutes, is amended  
 637 | to read:

638 | 252.82 Definitions.—As used in this part:

639 | (1) "Commission" means the State Hazardous Materials  
 640 | Emergency Response Commission created pursuant to s. 301 of  
 641 | EPCRA.

642 | (2) "Committee" means any local emergency planning  
 643 | committee established in the state pursuant to s. 301 of EPCRA.

644 | ~~(3) "Department" means the Department of Community~~

645 ~~Affairs.~~

646 (3)~~(4)~~ "Facility" means facility as defined in s. 329 of  
 647 EPCRA. Vehicles placarded according to title 49 Code of Federal  
 648 Regulations are ~~shall~~ not be considered a facility except for  
 649 purposes of s. 304 of EPCRA.

650 (4)~~(5)~~ "Hazardous material" means any hazardous chemical,  
 651 toxic chemical, or extremely hazardous substance, as defined in  
 652 s. 329 of EPCRA.

653 (5)~~(6)~~ "EPCRA" means the Emergency Planning and Community  
 654 Right-to-Know Act of 1986, title III of the Superfund Amendments  
 655 and Reauthorization Act of 1986, ~~Pub. L. No. 99-499~~, ss. 300-  
 656 329, 42 U.S.C. ss. 11001 et seq.; and federal regulations  
 657 adopted thereunder.

658 (6) "Office" means the Office of Emergency Management  
 659 within the Executive Office of the Governor.

660 (7) "Trust fund" means the Operating Trust Fund of the  
 661 office ~~Department of Community Affairs.~~

662 Section 15. Subsections (3), (8), (9), and (19) of section  
 663 252.936, Florida Statutes, are amended to read:

664 252.936 Definitions.—As used in this part, the term:

665 (3) "Audit" means a review of information at, a ~~a stationary~~  
 666 ~~source subject to s. 112(r)(7),~~ or submitted by, a stationary  
 667 source subject to s. 112(r)(7), to determine whether that  
 668 stationary source is in compliance with ~~the requirements of this~~  
 669 part and rules adopted to administer ~~implement~~ this part. Audits  
 670 must include a review of the adequacy of the stationary source's  
 671 Risk Management Plan, may consist of reviews of information  
 672 submitted to the office ~~department~~ or the United States



673 Environmental Protection Agency to determine whether the plan is  
 674 complete or whether revisions to the plan are needed, and the  
 675 reviews may be conducted at the stationary source to confirm  
 676 that information onsite is consistent with reported information.

677 ~~(8) "Department" means the Department of Community~~  
 678 ~~Affairs.~~

679 (8)(9) "Inspection" means a review of information at a  
 680 stationary source subject to s. 112(r)(7), including  
 681 documentation and operating practices and access to the source  
 682 and to any area where an accidental release could occur, to  
 683 determine whether the stationary source is in compliance with  
 684 ~~the requirements of this part or rules adopted to administer~~  
 685 ~~implement~~ this part.

686 (9) "Office" means the Office of Emergency Management in  
 687 the Executive Office of the Governor.

688 (19) "Trust fund" means the Operating Trust Fund of the  
 689 office established in the department's Division of Emergency  
 690 Management.

691 Section 16. Section 252.937, Florida Statutes, is amended  
 692 to read:

693 252.937 Department powers and duties.—

694 (1) The office ~~department~~ has the power and duty to:

695 (a)1. Seek delegation from the United States Environmental  
 696 Protection Agency to implement the Accidental Release Prevention  
 697 Program under s. 112(r)(7) of the Clean Air Act and the federal  
 698 implementing regulations for specified sources subject to s.  
 699 112(r)(7) of the Clean Air Act. Implementation for all other  
 700 sources subject to s. 112(r)(7) of the Clean Air Act shall will

701 be performed by the United States Environmental Protection  
 702 Agency; and

703 2. Ensure the timely submission of Risk Management Plans  
 704 and any subsequent revisions of Risk Management Plans.

705 (b) Adopt, modify, and repeal rules, with the advice and  
 706 consent of the commission, necessary to obtain delegation from  
 707 the United States Environmental Protection Agency and to  
 708 administer the s. 112(r)(7) Accidental Release Prevention  
 709 Program in this state for the specified stationary sources with  
 710 no expansion or addition of the regulatory program.

711 (c) Make and execute contracts and other agreements  
 712 necessary or convenient to the administration ~~implementation~~ of  
 713 this part.

714 (d) Coordinate its activities under this part with its  
 715 other emergency management responsibilities, including its  
 716 responsibilities and activities under parts I, II, and III of  
 717 this chapter and with the related activities of other state and  
 718 local agencies, keeping separate accounts for all activities  
 719 conducted under this part which are supported or partially  
 720 supported from the trust fund.

721 (e) Establish, with the advice and consent of the  
 722 commission, a technical assistance and outreach program ~~on or~~  
 723 ~~before January 31, 1999,~~ to assist owners and operators of  
 724 specified stationary sources subject to s. 112(r)(7) in  
 725 complying with the reporting and fee requirements of this part.  
 726 This program is designed to facilitate and ensure timely  
 727 submission of proper certifications or compliance schedules and  
 728 timely submission and registration of Risk Management Plans and

729 revised registrations and Risk Management Plans if ~~when~~ required  
 730 for these sources.

731 (f) Make a quarterly report to the State Emergency  
 732 Response Commission on income and expenses for the state's  
 733 Accidental Release Prevention Program under this part.

734 (2) To ensure that this program is self-supporting, the  
 735 office ~~department~~ shall provide administrative support,  
 736 including staff, facilities, materials, and services to  
 737 implement this part for specified stationary sources subject to  
 738 s. 252.939 and ~~shall~~ provide necessary funding to local  
 739 emergency planning committees and county emergency management  
 740 agencies for work performed to implement this part. Each state  
 741 agency with regulatory, inspection, or technical assistance  
 742 programs for specified stationary sources subject to this part  
 743 shall enter into a memorandum of understanding with the office  
 744 ~~department~~ which specifically outlines how each agency's staff,  
 745 facilities, materials, and services will be used ~~utilized~~ to  
 746 support implementation. ~~At a minimum, these agencies and~~  
 747 ~~programs include: the Department of Environmental Protection's~~  
 748 ~~Division of Air Resources Management and Division of Water~~  
 749 ~~Resource Management, and the Department of Labor and Employment~~  
 750 ~~Security's Division of Safety.~~ It is the Legislature's intent to  
 751 implement this part as efficiently and economically as possible,  
 752 using existing expertise and resources, if available and  
 753 appropriate.

754 (3) To prevent the duplication of investigative efforts  
 755 and resources, the office ~~department~~, on behalf of the  
 756 commission, shall coordinate with any federal agencies or agents

757 thereof, including the federal Chemical Safety and Hazard  
 758 Investigation Board, or its successor, which are performing  
 759 accidental release investigations for specified stationary  
 760 sources, and may coordinate with any agencies of the state which  
 761 are performing accidental release investigations. This  
 762 accidental release investigation coordination is not intended to  
 763 limit or take the place of any individual agency accidental  
 764 release investigation under separate authority.

765 (4) To promote efficient administration of this program  
 766 and specified stationary sources, ~~the only~~ the office ~~agency~~  
 767 ~~which~~ may seek delegation from the United States Environmental  
 768 Protection Agency for this program ~~is the Florida Department of~~  
 769 ~~Community Affairs~~. Further, the office ~~may Florida Department of~~  
 770 ~~Community Affairs shall~~ not delegate this program to any local  
 771 environmental agency.

772 Section 17. Section 252.943, Florida Statutes, is amended  
 773 to read:

774 252.943 Public records.—

775 (1) The office ~~Department of Community Affairs~~ shall  
 776 protect records, reports, or information or particular parts  
 777 thereof, other than release or emissions data, contained in a  
 778 risk management plan from public disclosure pursuant to ss.  
 779 112(r) and 114(c) of the federal Clean Air Act and authorities  
 780 cited therein, based upon a showing satisfactory to the  
 781 Administrator of the United States Environmental Protection  
 782 Agency, by any owner or operator of a stationary source subject  
 783 to the Accidental Release Prevention Program, that public  
 784 release of such records, reports, or information would divulge

785 methods or processes entitled to protection as trade secrets as  
 786 provided for in 40 C.F.R. part 2, subpart B. Such records,  
 787 reports, or information held by the office ~~department~~ are  
 788 confidential and exempt from ~~the provisions of~~ s. 119.07(1) and  
 789 s. 24(a), Art. I of the State Constitution, unless a final  
 790 determination has been made by the Administrator of the  
 791 Environmental Protection Agency that such records, reports, or  
 792 information are not entitled to trade secret protection, or  
 793 pursuant to an order of court.

794 (2) The office ~~department~~ shall protect records, reports,  
 795 or information or particular parts thereof, other than release  
 796 or emissions data, obtained from an investigation, inspection,  
 797 or audit from public disclosure pursuant to ss. 112(r) and  
 798 114(c) of the federal Clean Air Act and authorities cited  
 799 therein, based upon a showing satisfactory to the Administrator  
 800 of the United States Environmental Protection Agency, by any  
 801 owner or operator of a stationary source subject to the  
 802 Accidental Release Prevention Program, that public release of  
 803 such records, reports, or information would divulge methods or  
 804 processes entitled to protection as trade secrets as provided  
 805 for in 40 C.F.R. part 2, subpart B. Such records, reports, or  
 806 information held by the office ~~department~~ are confidential and  
 807 exempt from ~~the provisions of~~ s. 119.07(1) and s. 24(a), Art. I  
 808 of the State Constitution, unless a final determination has been  
 809 made by the Administrator of the Environmental Protection Agency  
 810 that such records, reports, or information are not entitled to  
 811 trade secret protection, or pursuant to a court ~~an order of~~  
 812 ~~court~~.

813 Section 18. Section 252.946, Florida Statutes, is amended  
 814 to read:

815 252.946 Public records.—With regard to information  
 816 submitted to the United States Environmental Protection Agency  
 817 under this part or s. 112(r)(7), the office ~~department of~~  
 818 ~~Community Affairs~~, the State Hazardous Materials Emergency  
 819 Response Commission, and any local emergency planning committee  
 820 may assist persons in electronically accessing such information  
 821 held by the United States Environmental Protection Agency in its  
 822 centralized database. If requested, the office ~~department~~, the  
 823 commission, or a committee may furnish copies of such United  
 824 States Environmental Protection Agency records.

825 Section 19. Paragraph (a) of subsection (4) of section  
 826 282.34, Florida Statutes, is amended to read:

827 282.34 Statewide e-mail service.—A state e-mail system  
 828 that includes the delivery and support of e-mail, messaging, and  
 829 calendaring capabilities is established as an enterprise  
 830 information technology service as defined in s. 282.0041. The  
 831 service shall be designed to meet the needs of all executive  
 832 branch agencies. The primary goals of the service are to  
 833 minimize the state investment required to establish, operate,  
 834 and support the statewide service; reduce the cost of current e-  
 835 mail operations and the number of duplicative e-mail systems;  
 836 and eliminate the need for each state agency to maintain its own  
 837 e-mail staff.

838 (4) All agencies must be completely migrated to the  
 839 statewide e-mail service as soon as financially and  
 840 operationally feasible, but no later than June 30, 2015.

841 (a) The following statewide e-mail service implementation  
 842 schedule is established for state agencies:

843 1. Phase 1.—The following agencies must be completely  
 844 migrated to the statewide e-mail system by June 30, 2012: the  
 845 Agency for Enterprise Information Technology; the Department of  
 846 Community Affairs, ~~including the Division of Emergency~~  
 847 ~~Management~~; the Department of Corrections; the Department of  
 848 Health; the Department of Highway Safety and Motor Vehicles; the  
 849 Department of Management Services, including the Division of  
 850 Administrative Hearings, the Division of Retirement, the  
 851 Commission on Human Relations, and the Public Employees  
 852 Relations Commission; the Southwood Shared Resource Center; and  
 853 the Department of Revenue.

854 2. Phase 2.—The following agencies must be completely  
 855 migrated to the statewide e-mail system by June 30, 2013: the  
 856 Department of Business and Professional Regulation; the  
 857 Department of Education, including the Board of Governors; the  
 858 Department of Environmental Protection; the Department of  
 859 Juvenile Justice; the Department of the Lottery; the Department  
 860 of State; the Department of Law Enforcement; the Department of  
 861 Veterans' Affairs; the Judicial Administration Commission; the  
 862 Public Service Commission; and the Statewide Guardian Ad Litem  
 863 Office.

864 3. Phase 3.—The following agencies must be completely  
 865 migrated to the statewide e-mail system by June 30, 2014: the  
 866 Agency for Health Care Administration; the Agency for Workforce  
 867 Innovation; the Department of Financial Services, including the  
 868 Office of Financial Regulation and the Office of Insurance

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869 Regulation; the Department of Agriculture and Consumer Services;  
 870 the Executive Office of the Governor, including the Office of  
 871 Emergency Management; the Department of Transportation; the Fish  
 872 and Wildlife Conservation Commission; the Agency for Persons  
 873 With Disabilities; the Northwood Shared Resource Center; and the  
 874 State Board of Administration.

875 4. Phase 4.—The following agencies must be completely  
 876 migrated to the statewide e-mail system by June 30, 2015: the  
 877 Department of Children and Family Services; the Department of  
 878 Citrus; the Department of Elderly Affairs; and the Department of  
 879 Legal Affairs.

880 Section 20. Paragraphs (a) and (d) of subsection (1) and  
 881 subsection (4) of section 282.709, Florida Statutes, are amended  
 882 to read:

883 282.709 State agency law enforcement radio system and  
 884 interoperability network.—

885 (1) The department may acquire and administer a statewide  
 886 radio communications system to serve law enforcement units of  
 887 state agencies, and to serve local law enforcement agencies  
 888 through mutual aid channels.

889 (a) The department shall, in conjunction with the  
 890 Department of Law Enforcement and the Office ~~Division~~ of  
 891 Emergency Management ~~of the Department of Community Affairs,~~  
 892 establish policies, procedures, and standards to be incorporated  
 893 into a comprehensive management plan for the use and operation  
 894 of the statewide radio communications system.

895 (d) The department shall exercise its powers and duties  
 896 under this part to plan, manage, and administer the mutual aid



897 channels in the statewide radio communication system.

898 1. In implementing such powers and duties, the department  
 899 shall consult and act in conjunction with the Department of Law  
 900 Enforcement and the Office ~~Division~~ of Emergency Management ~~of~~  
 901 ~~the Department of Community Affairs~~, and shall manage and  
 902 administer the mutual aid channels in a manner that reasonably  
 903 addresses the needs and concerns of the involved law enforcement  
 904 agencies and emergency response agencies and entities.

905 2. The department may make the mutual aid channels  
 906 available to federal agencies, state agencies, and agencies of  
 907 the political subdivisions of the state for the purpose of  
 908 public safety and domestic security.

909 (4) The department may create and administer an  
 910 interoperability network to enable interoperability between  
 911 various radio communications technologies and to serve federal  
 912 agencies, state agencies, and agencies of political subdivisions  
 913 of the state for the purpose of public safety and domestic  
 914 security.

915 (a) The department shall, in conjunction with the  
 916 Department of Law Enforcement and the Office ~~Division~~ of  
 917 Emergency Management ~~of the Department of Community Affairs~~,  
 918 exercise its powers and duties pursuant to this chapter to plan,  
 919 manage, and administer the interoperability network. The office  
 920 may:

921 1. Enter into mutual aid agreements among federal  
 922 agencies, state agencies, and political subdivisions of the  
 923 state for the use of the interoperability network.

924 2. Establish the cost of maintenance and operation of the

925 interoperability network and charge subscribing federal and  
 926 local law enforcement agencies for access and use of the  
 927 network. The department may not charge state law enforcement  
 928 agencies identified in paragraph (2)(a) to use the network.

929 3. In consultation with the Department of Law Enforcement  
 930 and the Office Division of Emergency Management ~~of the~~  
 931 ~~Department of Community Affairs~~, amend and enhance the statewide  
 932 radio communications system as necessary to implement the  
 933 interoperability network.

934 (b) The department, in consultation with the Joint Task  
 935 Force on State Agency Law Enforcement Communications, and in  
 936 conjunction with the Department of Law Enforcement and the  
 937 Office Division of Emergency Management ~~of the Department of~~  
 938 ~~Community Affairs~~, shall establish policies, procedures, and  
 939 standards to incorporate into a comprehensive management plan  
 940 for the use and operation of the interoperability network.

941 Section 21. Paragraph (1) of subsection (1) of section  
 942 311.115, Florida Statutes, is amended to read:

943 311.115 Seaport Security Standards Advisory Council.—The  
 944 Seaport Security Standards Advisory Council is created under the  
 945 Office of Drug Control. The council shall serve as an advisory  
 946 council as provided in s. 20.03(7).

947 (1) The members of the council shall be appointed by the  
 948 Governor and consist of the following:

949 (1) The Director of the Office Division of Emergency  
 950 Management, or his or her designee.

951 Section 22. Subsections (1) and (2), paragraph (b) of  
 952 subsection (3), and paragraph (b) of subsection (4) of section

953 526.143, Florida Statutes, are amended to read:

954 526.143 Alternate generated power capacity for motor fuel  
955 dispensing facilities.—

956 (1) ~~By June 1, 2007,~~ Each motor fuel terminal facility, as  
957 defined in s. 526.303(16), and each wholesaler, as defined in s.  
958 526.303(17), which sells motor fuel in this state must be  
959 capable of operating its distribution loading racks using an  
960 alternate generated power source for a minimum of 72 hours.  
961 Pending a postdisaster examination of the equipment by the  
962 operator to determine any extenuating damage that would render  
963 it unsafe to use, the facility must have such alternate  
964 generated power source available for operation within ~~no later~~  
965 ~~than~~ 36 hours after a major disaster as defined in s. 252.34.  
966 Installation of appropriate wiring, including a transfer switch,  
967 shall be performed by a certified electrical contractor. Each  
968 business that is subject to this subsection must keep a copy of  
969 the documentation of such installation on site or at its  
970 corporate headquarters. In addition, each business must keep a  
971 written statement attesting to the periodic testing and ensured  
972 operational capacity of the equipment. The required documents  
973 must be made available, upon request, to the Office ~~Division~~ of  
974 Emergency Management and the director of the county emergency  
975 management agency.

976 (2) Each newly constructed or substantially renovated  
977 motor fuel retail outlet, as defined in s. 526.303(14), for  
978 which a certificate of occupancy is issued on or after July 1,  
979 2006, shall be prewired with an appropriate transfer switch, and  
980 capable of operating all fuel pumps, dispensing equipment,

981 | lifesafety systems, and payment-acceptance equipment using an  
 982 | alternate generated power source. As used in this subsection,  
 983 | the term "substantially renovated" means a renovation that  
 984 | results in an increase of greater than 50 percent in the  
 985 | assessed value of the motor fuel retail outlet. Local building  
 986 | inspectors shall include this equipment and operations check in  
 987 | the normal inspection process before issuing a certificate of  
 988 | occupancy. Each retail outlet that is subject to this subsection  
 989 | must keep a copy of the certificate of occupancy on site or at  
 990 | its corporate headquarters. In addition, each retail outlet must  
 991 | keep a written statement attesting to the periodic testing of  
 992 | and ensured operational capability of the equipment. The  
 993 | required documents must be made available, upon request, to the  
 994 | Office ~~Division~~ of Emergency Management and the director of the  
 995 | county emergency management agency.

996 | (3)

997 | (b) Installation of appropriate wiring and transfer  
 998 | switches must be performed by a certified electrical contractor.  
 999 | Each retail outlet that is subject to this subsection must keep  
 1000 | a copy of the documentation of such installation on site or at  
 1001 | its corporate headquarters. In addition, each retail outlet must  
 1002 | keep a written statement attesting to the periodic testing of  
 1003 | and ensured operational capacity of the equipment. The required  
 1004 | documents must be made available, upon request, to the Office  
 1005 | ~~Division~~ of Emergency Management and the director of the county  
 1006 | emergency management agency.

1007 | (4)

1008 | (b) Subsections (2) and (3) do not apply to:

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- 1009 | 1. An automobile dealer;
- 1010 | 2. A person who operates a fleet of motor vehicles;
- 1011 | 3. A person who sells motor fuel exclusively to a fleet of
- 1012 | motor vehicles; or
- 1013 | 4. A motor fuel retail outlet that has a written agreement
- 1014 | with a public hospital, in a form approved by the Office
- 1015 | ~~Division~~ of Emergency Management, wherein the public hospital
- 1016 | agrees to provide the motor fuel retail outlet with an
- 1017 | alternative means of power generation onsite so that the
- 1018 | outlet's fuel pumps may be operated in the event of a power
- 1019 | outage.

1020 | Section 23. Paragraph (a) of subsection (1) and paragraph

1021 | (b) of subsection (4) of section 526.144, Florida Statutes, are

1022 | amended to read:

1023 | 526.144 Florida Disaster Motor Fuel Supplier Program.—

1024 | (1)(a) There is created the Florida Disaster Motor Fuel

1025 | Supplier Program within the Office of Emergency Management

1026 | ~~Department of Community Affairs.~~

1027 | (4)

1028 | (b) Notwithstanding any other law or other ordinance and

1029 | for the purpose of ensuring an appropriate emergency management

1030 | response following major disasters in this state, the regulation

1031 | of all other retail establishments participating in such

1032 | response is ~~shall be~~ as follows:

1033 | 1. Regulation of retail establishments that meet the

1034 | standards created by the Office ~~Division~~ of Emergency Management

1035 | in the report required in s. 8, chapter 2006-71, Laws of

1036 | Florida, by July 1, 2007, is preempted to the state and until

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1037 such standards are adopted, the regulation of these retail  
 1038 establishments is preempted to the state;

1039 2. The division shall provide written certification of  
 1040 such preemption to retail establishments that qualify and ~~shall~~  
 1041 provide such information to local governments upon request; and

1042 3. Regulation of retail establishments that do not meet  
 1043 the operational standards is subject to local government laws or  
 1044 ordinances.

1045 Section 24. Paragraph (b) of subsection (2) of section  
 1046 627.0628, Florida Statutes, is amended to read:

1047 627.0628 Florida Commission on Hurricane Loss Projection  
 1048 Methodology; public records exemption; public meetings  
 1049 exemption.—

1050 (2) COMMISSION CREATED.—

1051 (b) The commission shall consist of the following 11  
 1052 members:

1053 1. The insurance consumer advocate.

1054 2. The senior employee of the State Board of  
 1055 Administration responsible for operations of the Florida  
 1056 Hurricane Catastrophe Fund.

1057 3. The Executive Director of the Citizens Property  
 1058 Insurance Corporation.

1059 4. The Director of the Office Division of Emergency  
 1060 Management ~~of the Department of Community Affairs.~~

1061 5. The actuary member of the Florida Hurricane Catastrophe  
 1062 Fund Advisory Council.

1063 6. An employee of the office who is an actuary responsible  
 1064 for property insurance rate filings and who is appointed by the

1065 | director of the office.

1066 |         7. Five members appointed by the Chief Financial Officer,  
1067 | as follows:

1068 |         a. An actuary who is employed full time by a property and  
1069 | casualty insurer which was responsible for at least 1 percent of  
1070 | the aggregate statewide direct written premium for homeowner's  
1071 | insurance in the calendar year preceding the member's  
1072 | appointment to the commission.

1073 |         b. An expert in insurance finance who is a full-time  
1074 | member of the faculty of the State University System and who has  
1075 | a background in actuarial science.

1076 |         c. An expert in statistics who is a full-time member of  
1077 | the faculty of the State University System and who has a  
1078 | background in insurance.

1079 |         d. An expert in computer system design who is a full-time  
1080 | member of the faculty of the State University System.

1081 |         e. An expert in meteorology who is a full-time member of  
1082 | the faculty of the State University System and who specializes  
1083 | in hurricanes.

1084 |         Section 25. Paragraph (d) of subsection (2) of section  
1085 | 768.13, Florida Statutes, is amended to read:

1086 |         768.13 Good Samaritan Act; immunity from civil liability.—  
1087 |         (2)

1088 |         (d) Any person whose acts or omissions are not otherwise  
1089 | covered by this section and who participates in emergency  
1090 | response activities under the direction of or in connection with  
1091 | a community emergency response team, local emergency management  
1092 | agencies, the Office ~~Division~~ of Emergency Management ~~of the~~

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1093 ~~Department of Community Affairs,~~ or the Federal Emergency  
 1094 Management Agency is not liable for any civil damages as a  
 1095 result of care, treatment, or services provided gratuitously in  
 1096 such capacity and resulting from any act or failure to act in  
 1097 such capacity in providing or arranging further care, treatment,  
 1098 or services, if such person acts as a reasonably prudent person  
 1099 would have acted under the same or similar circumstances.

1100 Section 26. Subsection (14) of section 943.03, Florida  
 1101 Statutes, is amended to read:

1102 943.03 Department of Law Enforcement.—

1103 (14) The department, with respect to counter-terrorism  
 1104 efforts, responses to acts of terrorism within or affecting this  
 1105 state, and other matters related to the domestic security of  
 1106 Florida as it relates to terrorism, shall coordinate and direct  
 1107 the law enforcement, initial emergency, and other initial  
 1108 responses. The department shall work closely with the Office  
 1109 ~~Division~~ of Emergency Management, other federal, state, and  
 1110 local law enforcement agencies, fire and rescue agencies, first-  
 1111 responder agencies, and others involved in preparation against  
 1112 acts of terrorism in or affecting this state and in the response  
 1113 to such acts. The executive director of the department, or  
 1114 another member of the department designated by the director,  
 1115 shall serve as Chief of Domestic Security for the purpose of  
 1116 directing and coordinating such efforts. The department and  
 1117 Chief of Domestic Security shall use the regional domestic  
 1118 security task forces as established in this chapter to assist in  
 1119 such efforts.

1120 Section 27. Section 943.03101, Florida Statutes, is



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1121 amended to read:

1122 943.03101 Counter-terrorism coordination.—The Legislature  
 1123 finds that with respect to counter-terrorism efforts and initial  
 1124 responses to acts of terrorism within or affecting this state,  
 1125 specialized efforts of emergency management which ~~that~~ are  
 1126 unique to such situations are required and that these efforts  
 1127 intrinsically involve very close coordination of federal, state,  
 1128 and local law enforcement agencies with the efforts of all  
 1129 others involved in emergency-response efforts. In order to best  
 1130 provide this specialized effort ~~with respect to counter-~~  
 1131 ~~terrorism efforts and responses~~, the Legislature has determined  
 1132 that such efforts should be coordinated by and through the  
 1133 Department of Law Enforcement, working closely with the Office  
 1134 ~~Division~~ of Emergency Management and others involved in  
 1135 preparation against acts of terrorism in or affecting this  
 1136 state, and in the initial response to such acts, in accordance  
 1137 with the state comprehensive emergency management plan prepared  
 1138 pursuant to s. 252.35(2)(a).

1139 Section 28. Paragraph (d) of subsection (1) and subsection  
 1140 (3) of section 943.0312, Florida Statutes, are amended to read:

1141 943.0312 Regional domestic security task forces.—The  
 1142 Legislature finds that there is a need to develop and implement  
 1143 a statewide strategy to address prevention, preparation,  
 1144 protection, response, and recovery efforts by federal, state,  
 1145 and local law enforcement agencies, emergency management  
 1146 agencies, fire and rescue departments, first-responder personnel  
 1147 and others in dealing with potential or actual terrorist acts  
 1148 within or affecting this state.

1149 (1) To assist the department and the Chief of Domestic  
 1150 Security in performing their roles and duties in this regard,  
 1151 the department shall establish a regional domestic security task  
 1152 force in each of the department's operational regions. The task  
 1153 forces shall serve in an advisory capacity to the department and  
 1154 the Chief of Domestic Security and shall provide support to the  
 1155 department in its performance of functions pertaining to  
 1156 domestic security.

1157 (d) The co-chairs of each task force may appoint  
 1158 subcommittees and subcommittee chairs as necessary in order to  
 1159 address issues related to the various disciplines represented on  
 1160 the task force, except that subcommittee chairs for emergency  
 1161 management shall be appointed with the approval of the director  
 1162 of the Office ~~Division~~ of Emergency Management. A subcommittee  
 1163 chair shall serve at the pleasure of the co-chairs.

1164 (3) The Chief of Domestic Security, in conjunction with  
 1165 the Office ~~Division~~ of Emergency Management, the regional  
 1166 domestic security task forces, and the various state entities  
 1167 responsible for establishing training standards applicable to  
 1168 state law enforcement officers and fire, emergency, and first-  
 1169 responder personnel shall identify appropriate equipment and  
 1170 training needs, curricula, and materials related to the  
 1171 effective response to suspected or actual acts of terrorism or  
 1172 incidents involving real or hoax weapons of mass destruction as  
 1173 defined in s. 790.166. Recommendations for funding for purchases  
 1174 of equipment, delivery of training, implementation of, or  
 1175 revision to basic or continued training required for state  
 1176 licensure or certification, or other related responses shall be

1177 made by the Chief of Domestic Security to the Domestic Security  
 1178 Oversight Council, the Executive Office of the Governor, the  
 1179 President of the Senate, and the Speaker of the House of  
 1180 Representatives as necessary to ensure that the needs of this  
 1181 state with regard to the preparing, equipping, training, and  
 1182 exercising of response personnel are identified and addressed.  
 1183 In making such recommendations, the Chief of Domestic Security  
 1184 and the Office ~~Division~~ of Emergency Management shall identify  
 1185 all funding sources that may be available to fund such efforts.

1186 Section 29. Paragraph (a) of subsection (1), paragraph (b)  
 1187 of subsection (2), and paragraph (b) of subsection (4) of  
 1188 section 943.0313, Florida Statutes, are amended to read:

1189 943.0313 Domestic Security Oversight Council.—The  
 1190 Legislature finds that there exists a need to provide executive  
 1191 direction and leadership with respect to terrorism prevention,  
 1192 preparation, protection, response, and recovery efforts by state  
 1193 and local agencies in this state. In recognition of this need,  
 1194 the Domestic Security Oversight Council is hereby created. The  
 1195 council shall serve as an advisory council pursuant to s.  
 1196 20.03(7) to provide guidance to the state's regional domestic  
 1197 security task forces and other domestic security working groups  
 1198 and to make recommendations to the Governor and the Legislature  
 1199 regarding the expenditure of funds and allocation of resources  
 1200 related to counter-terrorism and domestic security efforts.

1201 (1) MEMBERSHIP.—

1202 (a) The Domestic Security Oversight Council shall consist  
 1203 of the following voting members:

1204 1. The executive director of the Department of Law

- 1205 Enforcement.
- 1206       2. The director of the Office Division of Emergency
- 1207 Management ~~within the Department of Community Affairs.~~
- 1208       3. The Attorney General.
- 1209       4. The Commissioner of Agriculture.
- 1210       5. The State Surgeon General.
- 1211       6. The Commissioner of Education.
- 1212       7. The State Fire Marshal.
- 1213       8. The adjutant general of the Florida National Guard.
- 1214       9. The state chief information officer.
- 1215       10. Each sheriff or chief of police who serves as a co-
- 1216 chair of a regional domestic security task force pursuant to s.
- 1217 943.0312(1) (b).
- 1218       11. Each of the department's special agents in charge who
- 1219 serve as a co-chair of a regional domestic security task force.
- 1220       12. Two representatives of the Florida Fire Chiefs
- 1221 Association.
- 1222       13. One representative of the Florida Police Chiefs
- 1223 Association.
- 1224       14. One representative of the Florida Prosecuting
- 1225 Attorneys Association.
- 1226       15. The chair of the Statewide Domestic Security
- 1227 Intelligence Committee.
- 1228       16. One representative of the Florida Hospital
- 1229 Association.
- 1230       17. One representative of the Emergency Medical Services
- 1231 Advisory Council.
- 1232       18. One representative of the Florida Emergency

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1233 Preparedness Association.

1234 19. One representative of the Florida Seaport  
1235 Transportation and Economic Development Council.

1236 (2) ORGANIZATION.—

1237 (b) The executive director of the Department of Law  
1238 Enforcement shall serve as chair of the council, and the  
1239 director of the Office Division of Emergency Management ~~within~~  
1240 ~~the Department of Community Affairs~~ shall serve as vice chair of  
1241 the council. In the absence of the chair, the vice chair shall  
1242 serve as chair. In the absence of the vice chair, the chair may  
1243 name any member of the council to perform the duties of the  
1244 chair if such substitution does not extend beyond a defined  
1245 meeting, duty, or period of time.

1246 (4) EXECUTIVE COMMITTEE.—

1247 (b) The executive director of the Department of Law  
1248 Enforcement shall serve as the chair of the executive committee,  
1249 and the director of the Office Division of Emergency Management  
1250 ~~within the Department of Community Affairs~~ shall serve as the  
1251 vice chair of the executive committee.

1252 Section 30. Subsection (3) of section 112.3135, Florida  
1253 Statutes, is amended to read:

1254 112.3135 Restriction on employment of relatives.—

1255 (3) An agency may prescribe regulations authorizing the  
1256 temporary employment, in the event of an emergency as defined in  
1257 s. 252.34~~(3)~~, of individuals whose employment would be otherwise  
1258 prohibited by this section.

1259 Section 31. Paragraph (d) of subsection (2) of section  
1260 119.071, Florida Statutes, is amended to read:

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1261 119.071 General exemptions from inspection or copying of  
 1262 public records.—

1263 (2) AGENCY INVESTIGATIONS.—

1264 (d) Any information revealing surveillance techniques or  
 1265 procedures or personnel is exempt from s. 119.07(1) and s.  
 1266 24(a), Art. I of the State Constitution. Any comprehensive  
 1267 inventory of state and local law enforcement resources compiled  
 1268 pursuant to part I, chapter 23, and any comprehensive policies  
 1269 or plans compiled by a criminal justice agency pertaining to the  
 1270 mobilization, deployment, or tactical operations involved in  
 1271 responding to an emergency ~~emergencies~~, as defined in s.  
 1272 252.34~~(3)~~, are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 1273 the State Constitution and unavailable for inspection, except by  
 1274 personnel authorized by a state or local law enforcement agency,  
 1275 the office of the Governor, the Department of Legal Affairs, the  
 1276 Department of Law Enforcement, or the Department of Community  
 1277 Affairs as having an official need for access to the inventory  
 1278 or comprehensive policies or plans.

1279 Section 32. Paragraph (c) of subsection (1) of section  
 1280 163.03, Florida Statutes, is amended to read:

1281 163.03 Secretary of Community Affairs; powers and duties;  
 1282 function of Department of Community Affairs with respect to  
 1283 federal grant-in-aid programs.—

1284 (1) The Secretary of Community Affairs shall:

1285 (c) Under the direction of the Governor, administer  
 1286 programs to apply rapidly all available aid to communities  
 1287 stricken by an emergency as defined in s. 252.34~~(3)~~ and, for  
 1288 this purpose, provide liaison with federal agencies and other

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1289 public and private agencies.

1290 Section 33. Subsection (10) of section 163.360, Florida  
 1291 Statutes, is amended to read:

1292 163.360 Community redevelopment plans.—

1293 (10) Notwithstanding any other provisions of this part, if  
 1294 ~~when~~ the governing body certifies that an area is in need of  
 1295 redevelopment or rehabilitation as a result of an emergency as  
 1296 defined in ~~under~~ s. 252.34(3), with respect to which the  
 1297 Governor has certified the need for emergency assistance under  
 1298 federal law, that area may be certified as a "blighted area,"  
 1299 and the governing body may approve a community redevelopment  
 1300 plan and community redevelopment with respect to such area  
 1301 without regard to the provisions of this section requiring a  
 1302 general plan for the county or municipality and a public hearing  
 1303 on the community redevelopment.

1304 Section 34. Subsection (1) of section 175.021, Florida  
 1305 Statutes, is amended to read:

1306 175.021 Legislative declaration.—

1307 (1) It is hereby declared by the Legislature that  
 1308 firefighters, ~~as hereinafter defined,~~ perform state and  
 1309 municipal functions; that it is their duty to extinguish fires,  
 1310 to protect life, and to protect property at their own risk and  
 1311 peril; that it is their duty to prevent conflagration and to  
 1312 continuously instruct school personnel, public officials, and  
 1313 private citizens in the prevention of fires and firesafety; that  
 1314 they protect both life and property from local emergencies as  
 1315 defined in s. 252.34(3); and that their activities are vital to  
 1316 the public safety. It is further declared that firefighters

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1317 employed by special fire control districts serve under the same  
 1318 circumstances and perform the same duties as firefighters  
 1319 employed by municipalities and should therefore be entitled to  
 1320 the benefits available under this chapter. Therefore, the  
 1321 Legislature declares that it is a proper and legitimate state  
 1322 purpose to provide a uniform retirement system for the benefit  
 1323 of firefighters ~~as hereinafter defined~~ and intends, in  
 1324 implementing the provisions of s. 14, Art. X of the State  
 1325 Constitution as they relate to municipal and special district  
 1326 firefighters' pension trust fund systems and plans, that such  
 1327 retirement systems or plans be managed, administered, operated,  
 1328 and funded in such manner as to maximize the protection of the  
 1329 firefighters' pension trust funds. Pursuant to s. 18, Art. VII  
 1330 of the State Constitution, the Legislature hereby determines and  
 1331 declares that ~~the provisions of~~ this act fulfill an important  
 1332 state interest.

1333 Section 35. Subsection (11) of section 186.505, Florida  
 1334 Statutes, is amended to read:

1335 186.505 Regional planning councils; powers and duties.—Any  
 1336 regional planning council created hereunder shall have the  
 1337 following powers:

1338 (11) To cooperate, in the exercise of its planning  
 1339 functions, with federal and state agencies in planning for  
 1340 emergency management as defined in ~~under~~ s. 252.34(4).

1341 Section 36. Subsection (1) of section 216.231, Florida  
 1342 Statutes, is amended to read:

1343 216.231 Release of certain classified appropriations.—

1344 (1) (a) Any appropriation to the Executive Office of the



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1345 Governor which is classified as an "emergency," as defined in s.  
 1346 252.34(3), may be released only with the approval of the  
 1347 Governor. The state agency, or the judicial branch, desiring the  
 1348 use of the emergency appropriation shall submit to the Executive  
 1349 Office of the Governor application ~~therefor~~ in writing setting  
 1350 forth the facts from which the alleged need arises. The  
 1351 Executive Office of the Governor shall, at a public hearing,  
 1352 review such application promptly and approve or disapprove the  
 1353 applications as the circumstances may warrant. All actions of  
 1354 the Executive Office of the Governor shall be reported to the  
 1355 legislative appropriations committees, and the committees may  
 1356 advise the Executive Office of the Governor relative to the  
 1357 release of such funds.

1358 (b) The release of appropriated funds classified as  
 1359 "emergency" shall be approved only if ~~when~~ an act or  
 1360 circumstance caused by an act of God, civil disturbance, natural  
 1361 disaster, or other circumstance of an emergency nature  
 1362 threatens, endangers, or damages the property, safety, health,  
 1363 or welfare of the state or its residents ~~citizens~~, which  
 1364 condition has not been provided for in appropriation acts of the  
 1365 Legislature. Funds allocated for this purpose may be used to pay  
 1366 overtime pay to personnel of agencies called upon to perform  
 1367 extra duty because of any civil disturbance or other emergency  
 1368 as defined in s. 252.34(3) and to provide the required state  
 1369 match for federal grants under the federal Disaster Relief Act.

1370 Section 37. Subsections (3) and (4) of section 250.06,  
 1371 Florida Statutes, are amended to read:

1372 250.06 Commander in chief.—

1373 (3) The Governor may, in order to preserve the public  
 1374 peace, execute the laws of the state, suppress insurrection,  
 1375 repel invasion, respond to an emergency as defined in s.  
 1376 252.34~~(3)~~ or imminent danger thereof, or, in case of the calling  
 1377 of all or any portion of the militia of this state ~~Florida~~ into  
 1378 the services of the United States, may increase the Florida  
 1379 National Guard and organize it in accordance with rules and  
 1380 regulations governing the Armed Forces of the United States.  
 1381 Such organization and increase may be pursuant to or in advance  
 1382 of any call made by the President of the United States. If the  
 1383 Florida National Guard is activated into service of the United  
 1384 States, another organization may not be designated as the  
 1385 Florida National Guard.

1386 (4) The Governor may, in order to preserve the public  
 1387 peace, execute the laws of the state, enhance domestic security,  
 1388 respond to terrorist threats or attacks, respond to an emergency  
 1389 as defined in s. 252.34~~(3)~~ or imminent danger thereof, or  
 1390 respond to any need for emergency aid to civil authorities as  
 1391 specified in s. 250.28, order into state active duty all or any  
 1392 part of the militia which he or she deems proper.

1393 Section 38. Paragraph (g) of subsection (7) of section  
 1394 339.135, Florida Statutes, is amended to read:

1395 339.135 Work program; legislative budget request;  
 1396 definitions; preparation, adoption, execution, and amendment.—

1397 (7) AMENDMENT OF THE ADOPTED WORK PROGRAM.—

1398 (g) Notwithstanding ~~the requirements in~~ paragraphs (d) and  
 1399 (g) and ss. 216.177(2) and 216.351, the secretary may request  
 1400 the Executive Office of the Governor to amend the adopted work

1401 program when an emergency exists, as defined in s. 252.34~~(3)~~,  
 1402 and the emergency relates to the repair or rehabilitation of any  
 1403 state transportation facility. The Executive Office of the  
 1404 Governor may approve the amendment to the adopted work program  
 1405 and amend that portion of the department's approved budget if a  
 1406 ~~in the event that the~~ delay incident to the notification  
 1407 requirements in paragraph (d) would be detrimental to the  
 1408 interests of the state. However, the department shall  
 1409 immediately notify the parties specified in paragraph (d) and  
 1410 ~~shall~~ provide such parties written justification for the  
 1411 emergency action within 7 days after ~~of the~~ approval by the  
 1412 Executive Office of the Governor of the amendment to the adopted  
 1413 work program and the department's budget. ~~In no event may~~ The  
 1414 adopted work program may not be amended under ~~the provisions of~~  
 1415 this subsection without ~~the~~ certification by the comptroller of  
 1416 the department that there are sufficient funds available  
 1417 pursuant to the 36-month cash forecast and applicable statutes.

1418 Section 39. Paragraph (b) of subsection (2) of section  
 1419 429.907, Florida Statutes, is amended to read:

1420 429.907 License requirement; fee; exemption; display.-

1421 (2)

1422 (b) If ~~In the event~~ a licensed center becomes wholly or  
 1423 substantially unusable due to a disaster ~~as defined in s.~~  
 1424 ~~252.34(1)~~ or due to an emergency as those terms are defined in  
 1425 s. 252.34~~(3)~~:

1426 1. The licensee may continue to operate under its current  
 1427 license in ~~a premise or~~ premises separate from that authorized  
 1428 under the license if the licensee has:

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1429 a. Specified the location of the ~~premise or~~ premises in  
 1430 its comprehensive emergency management plan submitted to and  
 1431 approved by the applicable county emergency management  
 1432 authority; and

1433 b. Notified the agency and the county emergency management  
 1434 authority within 24 hours of operating in the separate ~~premise~~  
 1435 ~~or~~ premises.

1436 2. The licensee shall operate the separate ~~premise or~~  
 1437 premises only while the licensed center's original location is  
 1438 substantially unusable and for up to ~~no longer than~~ 180 days.  
 1439 The agency may extend use of the alternate ~~premise or~~ premises  
 1440 beyond the initial 180 days. The agency may also review the  
 1441 operation of the disaster ~~premise or~~ premises quarterly.

1442 Section 40. The Division of Statutory Revision is  
 1443 requested to prepare a reviser's bill for introduction at the  
 1444 next regular session of the Legislature to conform the Florida  
 1445 Statutes to changes made by this act.

1446 Section 41. This act shall take effect October 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1245 (2011)

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 Subcommittee

3 Representative(s) Nehr offered the following:  
4

5 **Amendment**

6 Remove lines 32-41 and insert:

7 14.2016 Office of Emergency Management.—The Office of  
8 Emergency Management is established within the Executive Office  
9 of the Governor. The office shall be a separate budget entity,  
10 as provided in the General Appropriations Act, and shall prepare  
11 and submit a budget request in accordance with chapter 216. The  
12 office shall be responsible for all professional, technical, and  
13 administrative support functions necessary to carry out its  
14 responsibilities under part I of chapter 252. The director of  
15 the office shall be appointed by and serve at the pleasure of  
16 the Governor, and shall be the head of the office for all  
17 purposes. The office shall administer programs to apply rapidly  
18 all available aid to communities stricken by an emergency as  
19 defined in s. 252.34 and, for this purpose, shall provide

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1245 (2011)

Amendment No.

20 | liaison with federal agencies and other public and private  
21 | agencies.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1245 (2011)

Amendment No. #2

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	___	

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1 Committee/Subcommittee hearing bill: Government Operations  
2 Subcommittee

3 Representative(s) Nehr offered the following:  
4

5 **Amendment**

6 Remove line 217 and insert:

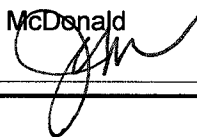

7 (b) This subsection expires June 30, 2021 ~~2011~~.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCS for HB 1355 Elections  
**SPONSOR(S):** Government Operations Subcommittee  
**TIED BILLS:** IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Government Operations Subcommittee		McDonald 	Williamson 

**SUMMARY ANALYSIS**

This bill is an omnibus elections bill that contains numerous changes to the Florida Elections Code. In part, the bill does the following:

- Clarifies that state law preempts any county or local provisions as to those matters that are addressed in Chapters 97-105, F.S., of the Florida Election Code, except as otherwise specifically provided by law.
- Revises requirements for third-party voter registration organizations.
- Prohibits any person, political committee, committee of continuous existence, or other group or organization from soliciting any voter who is in line to vote at any polling place or early voting site.
- Requires committees of continuous existence (CCEs) and political committees (PCs) who participate in local elections to file campaign finance reports on the same schedule as local candidates, in addition to filing that information on required periodic reports with the Division of Elections.
- Makes report requirements for CCEs and PCs more uniform.
- Requires revised timeframes and specifies the format for supervisors of elections and the Department of State to submit information on state voter history and precinct data.
- Requires the Department of State to maintain a sortable and downloadable databases with specified information.
- Creates provisions governing Minor Political Parties.
- Deletes obsolete provisions in the Florida Elections Code.
- Provides for issuance of a new voter registration card to indicate precinct number.
- Revises requirements for registration of third-party voter organizations.
- Revises absentee voter procedures to provide a timeframe for absentee ballots to be sent to non-uniformed and overseas voters.
- Increases the penalty for CCEs, PCs, and electioneering communications organizations that repeatedly late-file reports.
- Revises polling place procedures.
- Provides for polls and surveys to determine viability of a potential candidate and for a potential candidate "testing the waters" to determine whether to become a candidate.
- Revises absentee ballot procedures to allow an absentee ballot request to be good for 2 years, and to provide additional information to absentee voters to encourage making needed changes in voter information.
- Revises political advertisement requirements, including adding requirements for a write-in candidate and political advertisement paid for by in-kind contributions.
- Eliminates the duty of the Department of State to provide funds from the Election Campaign Financing Trust Fund when a nonparticipating candidate exceeds the expenditure limit.

Unless otherwise specifically provided, the bill takes effect July 1, 2011.

The fiscal impact is indeterminate. See "Fiscal Comments."

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Responsibilities of Secretary of State as Chief Election Officer**

The Secretary of State is the chief election officer of the state and is statutorily given a variety of responsibilities. Those responsibilities include such things as obtaining and maintaining uniformity in the interpretation and implementation of the election laws, providing uniform standards for the proper and equitable implementation of the registration laws; providing technical assistance to the supervisors of elections on voter education, election personnel training services, and voting systems; and creating and administering a statewide voter registration system as required by the Help America Vote Act of 2002.<sup>1</sup>

The bill requires the Secretary of State to provide direction and opinions to the supervisors of elections on matters relating to their official duties with respect to the Florida Election Code<sup>2</sup> or rules adopted by the Department of State.

##### **Voter Registration**

Currently, if a voter registration applicant fails to provide any of the required information on the voter registration application form, the supervisor of election must notify the applicant of the failure, by mail, within 5 business days after the information is available on the voter registration system.<sup>3</sup> Additionally, the applicant has an opportunity to complete the application form to vote in the next election up until the book closing time for the election. The supervisor of election must notify the voter registration applicant of the application disposition.<sup>4</sup> The notice sent to the voter must inform the voter if the application has been approved, is incomplete, has been denied, or is a duplicate. Certain information is sent to the applicant based upon the status of the application.

The bill requires the supervisor of elections to notify an applicant of the disposition of the voter registration application within 5 business days after voter registration information is entered into the statewide voter registration system. The bill clarifies the notice of disposition and imposes timeframes for noticing applicants. It also clarifies what information must be sent to the applicant. Disposition of a duplicate registration is to be processed as if it were an update to registration and a new voter registration card must be sent to the applicant.

Additionally, the bill gives a voter who has moved to another county, the option to submit an address change update by telephone, e-mail, fax, or other signed writing, instead of just a voter registration application form, provided that the change is provided directly to the supervisor of elections' in the county to which he or she has moved. Otherwise the change must be submitted on a voter registration application.<sup>5</sup> This change will facilitate address changes.

##### **Voter Information Cards**

Currently, every supervisor of elections must furnish a voter information card to every registered voter in the supervisor's county. The card must include date of registration, full name of elector, party affiliation, date of birth, legal residence address, precinct number, supervisor's name and contact information, and other information deemed necessary by the supervisor. Replacement cards are provided free of charge.

New cards are automatically issued when a voter's name, address, or party affiliation changes. Sixty-one counties include the polling place address on the voter information card.

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<sup>1</sup> See s. 97.012, F.S., for a complete listing of responsibilities.

<sup>2</sup> The Florida Election Code encompasses Chapters 97-106, F.S.

<sup>3</sup> Section 97.052, F.S.,

<sup>4</sup> Section 97.073, F.S.

<sup>5</sup> See s. 97.1031(1) and (2), F.S.

The bill requires the voter information card to include the address of the polling place. If an elector's address of legal residence or polling place address changes, the supervisor of elections must send the elector a new voter information card. For any elector who registers to vote or who is issued a new voter information card, after September 1, 2011, the supervisor of elections must include the polling place address on the voter information card.

### **Third-Party Voter Registration**

Before engaging in any voter registration activities, a third-party voter registration organization must name a registered agent in the state and submit certain required information to the Division of Elections (Division).<sup>6</sup> On or before the 15th day of each calendar quarter, the organization must submit a report providing the date and location of any organized voter registration drives conducted in the prior calendar quarter. Penalties and fines are provided for specified acts of omission or commission.

The bill requires third-party voter registration organizations to register with the Division of Elections and provide certain information in an electronic format. The bill provides that a third-party registration organization that collects voter registration applications serves as a fiduciary to the applicant, ensuring that any voter registration application entrusted to the organization or the agent shall be submitted as required in the section.

Applications collected by these organizations must be turned into the Division or supervisor of elections within 48 hours after the applicant completes the form or the next business day, if the office is closed for that 48-hour period. The date on which the applicant signed the voter registration application is presumed to be the date on which the organization or agent collected the application. The bill allows for "Force Majeure" to be an affirmative defense to the requirement for the timeframe for turning in forms.

All voter registration applications used by such organization must contain information identifying that organization. The bill also does the following:

- Retains the civil fines currently in law.
- Removes the provision that fines be reduced by three-fourths if the third-party group complied with the registered agent and group information filings.
- Requires the Secretary of State to refer any complaint to the Attorney General. The Attorney General may institute a civil action for a violation or to prevent a violation. Action for relief may include a permanent or temporary injunction or any other appropriate order.
- Provides for enhanced rulemaking authority.

### **Petition Signature Verification**

The bill clarifies that the supervisors of elections check more than merely the signatures on petition forms to ensure that the signer is a registered voter and that the data on a petition applies to the voter whose signature appears on the form. The bill further clarifies that the rulemaking authority of the Department of State extends to all petitions, not just for the random sample method of verifying petitions. The change also incorporates Florida Supreme Court law that holds that the random sampling method of petition verification may not be used for constitutional amendment petitions. Finally, new language is added to state an undue burden oath is no longer valid if persons are subsequently paid to solicit signatures on a petition and if monetary contributions are received, those contributions first must be used to reimburse the supervisor of elections for any signature verification fees not paid due to the filing of a prior undue burden oath.

These changes are primarily clarifying and a codification of existing practice and case law. The signature update provision is a service to the voter to permit an address change when the voter affirmatively indicates on the petition that the voter's address has changed. The bill precludes persons from filing an undue burden oath indicating that they have insufficient resources to pay the 10 cents per signature verification fee, then collecting contributions or paying for petition circulators and never paying any signature verification fees.

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<sup>6</sup> See s. 97.0575, F.S.

## **Voter Registration List Maintenance**

For the purpose of maintaining accurate voter registration records, supervisors of elections must conduct a general registration list maintenance program, which must be uniform, nondiscriminatory, and must comply with several federal voting acts, including the Help America Vote Act of 2002. At least every odd numbered year, a supervisor must incorporate certain specified procedures in his or her biennial registration list maintenance program.

Currently, supervisors of elections have the authority to remove deceased, registered voters from the statewide voter registration system when supervisors receive a copy of a death certificate issued by a governmental agency authorized to issue such certificate. However, the supervisor must notify the registered voter of the action by mail within 7 days after receipt of the death certificate, giving the voter an opportunity to establish that the death certificate is for another person with the same or a similar name.

The bill authorizes the automatic removal of registered voters who have been identified as deceased against a match with the nationwide Social Security death index. It also allows a supervisor of elections to automatically remove a deceased registered voter if the supervisor receives a copy of a death certificate. These changes will help to identify and remove registered voters who have died outside the state. The information is currently available in data received from the Department of Health.<sup>7</sup>

The bill updates the statutes to reflect that the Florida Parole Commission is now responsible for providing clemency data, and to ensure that other agencies such as, the Department of Corrections, provides data in the manner prescribed by the Department of State in order to better identify convicted felons and other ineligible persons who are registered to vote in the voter registration system.

## **Voting History and Statewide Voter Registration System Information and Precinct-Level Information**

Currently the format of the voter history and precinct-level data is governed by Department rule. The timeframe for information sent to the Department of State by the supervisors of election for both types of information is established in law. In turn, the requirement for the Department of State to forward information to the Legislature is provided in law.

Effective July 1, 2012, the bill places in law the format requirements required for the voter history and precinct-level data reports. Additionally, it changes the timeframes for information to be sent by the supervisors to the Department. The days are tied to reporting information after certification by the election canvassing commission of specified elections. The changes also add a reconciliation comparing the two data sets to ensure the integrity of the data. The changes will speed up how fast the data is reported and standardize all the dates the data is due to the Department rather than having multiple due dates. The bill also places a \$50 fine for each day a report is late or is not complete. The fine is levied against the supervisor of elections and must be paid from his or her personal funds. Fines are remitted to the Department of State, which transmits the fines for deposit in the General Revenue Fund.

The bill requires the Department of State to make certain information available on a searchable, sortable, and downloadable database via its website. Requirements for the database are delineated in the bill.

Current law requires that a supervisor of elections notify the Secretary of State in writing within 30 days after any precinct reorganization. Requirements are provided in law for what areas such precincts shall be bounded by. Effective July 1, 2012, the bill requires the supervisor of elections to report decennial census information for the county, requires the Department of State to maintain a searchable database; reduces the timeframe to 10 days for reporting a precinct reorganization. The bill also requires that the cost of the searchable database be financed proportionally by each county based on the number of registered voters in each county by a time certain.

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<sup>7</sup> See s. 98.075, F.S.

### **Candidate Oaths; Disclosures; Information Required**

A printed copy of the oath or affirmation must be provided to the candidate by the officer before whom the candidate seeks to qualify.<sup>8</sup> The oath requires the candidate to affirm that he or she has taken the oath required in ss. 876.05-876.10, F.S., which, in essence, has the candidate swearing to a public employee oath that is not applicable to a candidate. The language for the nonpartisan oath in chapter 105, F.S., contains the same requirements. The oath in s. 876.05, F.S., relating to public employees, is specifically required for all candidates for public office, excluding federal office.

The bill provides that the qualifying officer is no longer required to provide a printed copy of the candidate's oath to every candidate, but makes the oath available for downloading. Making the oath form available for downloading avoids unnecessary expense since the qualifying officer does not know beforehand which oath the person needs--party, no party, or write-in. The requirement for swearing to language similar to the public employees' oath is deleted. In addition, the candidate swears to uphold the Constitutions of the United States and the State of Florida. The bill clarifies that candidates for the office of President and Vice President of the United States are not required to take the candidate's oath required by chapter 99, F.S., as presidential candidates are governed by chapter 103, F.S.

Currently, financial disclosures are not required to be notarized pursuant to s. 117.05, F.S. Information regarding the appointment of a campaign treasurer and designation of campaign depository is not explicit in law as to what is to be included in such information.

The bill requires financial disclosures to be notarized pursuant to s. 117.05, F.S. It also delineates information that must be provided regarding the campaign treasurer and designation of campaign depository.

The bill specifies that the qualifying check be made payable to the person or entity prescribed by the filing officer. It also provides that if the candidate's check is returned by the bank for any reason, the filing officer must immediately notify the candidate. The candidate has until the end of qualifying to pay with a cashier's check. Current law provides the candidate with 48 hours from the time notification is received, excluding Saturdays, Sundays, and legal holidays.

The bill requires campaign finance office account reports and termination reports, for individual who file with the Division of Elections, to be filed electronically for consistency with other campaign finance filings, and to enhance public access.

The bill eliminates a requirement for candidates using debit cards as bank checks to submit a list of authorized users.

The bill clarifies that the \$50 limit on contributions by cash and cashier's checks are in the aggregate, per election.

### **Vacancy in Nomination**

The bill amends current law to place responsibility with the applicable qualifying officer to notify the chair of the applicable party's executive committee when a vacancy in nomination exists, rather than the Secretary of State. The bill also provides a process and timeframes for filling a vacancy in nomination. The bill specifies when a person is not qualified for consideration to fill a vacancy. Finally, the bill states a vacancy in nomination is not created until an order of a court becomes final.

### **Resign to Run**

The bill prohibits any person not complying with the resign to run laws from qualifying as a candidate for election. Such person cannot be on the ballot. Additionally, the bill provides that presidential and vice-presidential candidates do not have to meet certain requirements.

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<sup>8</sup> See s. 99.021, F.S.

## **Filing Officers**

The bill specifies that a qualifying officer performs a ministerial function and has no duty to look beyond the four corners of the qualifying papers. The bill also states that the decision of the filing officer concerning whether a candidate is qualified is exempt from the provisions of chapter 120, F.S.

## **Initiative Petitions**

Under s. 100.371, F.S., each signature is dated when made and is valid for a period of 4 years following the date. The sponsor must submit dated forms to the appropriate supervisor of elections for verification. The supervisor must verify the signature within 30 days of receipt of the petition forms and the payment of the fee required by s. 99.097, F.S. The supervisor can verify that a signature is valid only if it meets certain requirements. Signature forms must be retained for 1 year or until notified by the Division of Elections. An elector's signature on a petition form may be revoked within 150 days of the date on which he or she signed the petition form by submitting a signed petition-revocation form.

The bill changes the validity of the signature from 4 years to 2 years. Additionally, the bill revises the initiative petition section to eliminate the revocation process.<sup>9</sup> The bill provides direction to supervisors of elections when an initiative petition is misfiled in the wrong county. Finally, changes provide that, for a petition to be valid, the voter must be a registered voter in the state both at the time the petition is signed and at the time it is verified. This represents a codification of current practice.

## **Ballots; Voting Methods; Voting Equipment**

### Provisional Ballot

Current law permits an elector who moves from one precinct, in which the elector is registered, to vote in the precinct to which he or she has moved his or her legal residence, provided that the elector completes an affirmation. The same is available to an elector who changes his or her name. Instead of an affirmation, the elector may fill out a voter registration form indicating the respective change. The information is presented at the precinct and, upon verification of the person being a registered voter, the person votes a regular ballot. If eligibility to vote cannot be determined, the person is entitled to vote a provisional ballot. Upon receipt of an affirmation regarding address or name change, the supervisor of elections is required as soon as practicable to make the changes in the statewide voter registration system.<sup>10</sup>

The bill amends s. 101.045, F.S., to provide that an elector is not permitted to vote in any election precinct or district other than the one in which the person has his or her legal residence and in which the person is registered. It provides that, if an elector's eligibility to vote cannot be determined, he or she is entitled to vote a provisional ballot, subject to the requirements of s. 101.048, F.S. The bill removes the ability for someone to change his or her name or address at the precinct and vote a regular ballot.

### Appearance of Ballot; Ballot-on-Demand Technology<sup>11</sup>

The bill revises the appearance of the ballot to clarify the order of offices on the ballots and eliminate header requirements that currently precede office titles. The bill also expands the use of ballot-on-demand technology to all counties without having to obtain pre-authorization beforehand from the Secretary of State.

### Absentee Ballots<sup>12</sup>

The bill provides the following:

- An absentee ballot request is good for 2 years;

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<sup>9</sup> The Florida Supreme Court ruled the initiative petition revocation process unconstitutional, so its removal conforms to the court's decision.

<sup>10</sup> National Voters Registration Act of 1993 (42 U.S.C. 1973gg-6(e)) provides direction for address changes at the polls. The federal law provides procedures for voters who go to the polls with address issues to still be able to vote a regular ballot under certain circumstances. One method that is permitted is an oral or written affirmation of change of address.

<sup>11</sup> See s. 101.151, FS.

<sup>12</sup> See ss. 101.62, 101.65, and 101.6923, F.S.

- Information required to be provided to the Division of Elections must be forwarded by 8 a.m. each day, instead of noon during week days;
- Requires the supervisor of elections to begin mailing absentee ballots to non-uniformed and overseas voters between the 30th and 35th day of an election; and
- Expands the absentee ballot instructions to put voters on notice that an absentee ballot will not count if the signature on record does not match the signature on the ballot certificate, and notifies the absentee voter of the end date for when they can update their signature on record in order for their ballot to count.

### Voting Equipment

The bill clarifies that the testing of voting equipment must be done in accordance with state-adopted voting system standards rather than generic electronic industry standards. According to the Department of State, this change corrects the misperception or misunderstanding that electronic industry standards even exist. The standards to follow are the ones set by the state.<sup>13</sup> Additionally, the bill revises the number or percentage of touch screen systems that must be tested in the logic and accuracy test. According to the Department of State, this change reflects the state's switch from primarily touch screen voting systems to optical scan, and the current statutory limitation that the touch screen machines are to be made available and used solely by persons with disabilities.

### **Poll Watchers**

A political party, political committee, and a candidate who requests to have poll watchers, must designate in writing such watchers for each polling room prior to noon of the second Tuesday preceding the election. Designations for early voting must be in writing and received by the supervisor at least two weeks before early voting begins. Supervisors have one week in which to approve such designations. The supervisor must furnish a list of such designees and the polling room or early voting area for which they were approved to the election board. Each party, committee, and candidate, may have one watcher for each polling room or early voting area at any one time during the election.<sup>14</sup>

The bill requires the Division of Elections to promulgate a form to designate poll watchers. It also provides a noon deadline 14 days before early voting begins for designation of poll watchers. This aligns the noon timeframe of early voting with the noon timeframe of election day. Poll watcher designations must be signed by the chairman of the county political executive committee, the chairman of a political committee, or the candidate. All poll watchers are at-large poll watchers. Additionally, the supervisor of elections must provide poll watcher identification badges and the poll watchers must wear the badges when present at the polls.

### **Definitions in Chapter 106, F.S.**

The bill clarifies the definition of "candidate" to ensure that expenditures made by state or county party executive committees for potential candidate polls are not contributions or expenditures for the purposes of determining whether a person is a "candidate." The bill also amends the definitions of "contribution" and "expenditure" to exclude funds received under the testing of the waters provisions.

### **Political Advertising**

Political advertisements that are circulated prior to an election and paid for by the candidate must prominently state certain information such as: the name of the candidate, the party affiliation, and the office sought.<sup>15</sup> Any other political advertisement is required to be marked as a paid political advertisement, and provide information such as who paid for the advertisement, sponsorship, who approved of the advertisement, name, party affiliation, and office sought by a candidate. Current law does not address statements that must be featured on the advertisements of write-in candidates nor on advertisements made by in-kind contributions of political parties.

<sup>13</sup> Explanation of proposed changes to the Florida Election Code, Department of State, March, 2011. Information on file with the Government Operations Subcommittee.

<sup>14</sup> s. 101.131, F.S.

<sup>15</sup> Pursuant to s. 99.0955, F.S.

If a candidate is running for partisan office, any political advertisement must feature the name of the political party for which the candidate is seeking nomination or is the nominee. If a candidate is running for a partisan office but is running with no party affiliation, any political advertisements must state that the candidate is running with no party affiliation. "Approved by" disclaimers are not required for certain campaign messages.

The bill does the following:

- Requires that a write-in candidate use a specified disclaimer for political advertisements;
- Removes the requirement for statement of sponsorship of the advertisement, but retains the requirement for identification of who paid for the advertisement;
- Provides a specified disclaimer for political advertisements made as in-kind contributions by a political party; and
- Prohibits any political advertisement of a candidate running for nonpartisan office from indicating the candidate's party affiliation.

### **Canvassing**

The bill changes the deadline for filing an elections contest to accommodate the change to the audit procedures in s. 101.591, F.S. The audit must be completed by the 21st day following the election. The other changes clarify that the county canvassing board is not an indispensable party unless it was the board that canvassed the local election and that the Elections Canvassing Commission is an indispensable party in all judicial elections, except elections for county court judges.

### **Polls and Surveys Relating to Candidacies**

Current law provides that a candidate, political committee, committee of continuous existence, electioneering communication organization, or state or county executive committee of a political party may authorize or conduct a political poll, survey, index, or measurement of any kind relating to candidacy for public office provided that complete jurisdiction over the poll is maintained by the person or entity.<sup>16</sup>

The bill is amended to provide that a state or county executive committee of a political party or an affiliated party committee may authorize and conduct political polls for determining viability of a potential candidate. The results of the poll may be shared with the potential candidate under certain circumstances. The bill provides that expenditures incurred by the committees do not constitute contributions to such potential candidates.

A new section of law is created to allow for the receipt of and spending of funds solely for the purpose an individual determining whether to run for office. The fund limitation is \$10,000. Reports must be maintained by the individual. Permissible activities for the use of funds are provided. These funds are not considered contributions and expenditures unless the person becomes a candidate.

### **Reports by Political Parties, Committees of Continuous Existence; Restrictions on Contributions and Expenditures**

The bill does the following:

- Provides that a political committee, committee of continuous existence (CCE), or electioneering communications organizations filing of the appointment of a registered agent and registered office be with the same filing officer that the entity registered with originally;
- Requires CCE's participating in local elections to file certain campaign finance reports at a specified time; requiring CCEs include certain information in a certain format to conform to functionality of the Division of Elections electronic filing system, clarifying reports due dates, clarifying procedure for imposition of fines against CCEs; establishes fines for repeated late filings;
- Requires political committees to file reports in a certain manner; provides notification of what is needed to complete reports; conforming requirements for certain reports and methods of reporting to that used for CCEs; and

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<sup>16</sup> See s. 106.17, F.S.



- Removes obsolete language relating to ECOs and adds ECO to certain penalty provisions for consistency.

### **Minor Political Parties**

Currently, substantive provisions of law regarding organizing a “minor political party” are contained in the definition of a minor political party. No provisions are contained in chapter 103, F.S., relating to political party structure. According to the Division of Elections, due to the lax requirements for a group to become a political party, there has been at least one incidence of a person forming and being the chair of more than one minor political party to which the person is not even a registered member.<sup>17</sup>

The bill removes substantive provisions from the definition<sup>18</sup> and places the provisions in chapter 103, F.S. The bill provides mechanisms to preclude the incident previously discussed. It also provides when a minor political party status may be canceled. The bill provides for retroactive application.

### **Florida Elections Commission**

The Florida Elections Commission enforces the campaign finance laws. In addition, the Commission investigates alleged violations upon receipt of a legally sufficient, sworn complaint. The Commission is created as a separate budget entity within the Department of Legal Affairs, Office of the Attorney General.

The bill reverses the current default procedure whereby alleged election law violations are transferred to DOAH unless the party charged with the offense elects to have a hearing before the Commission; it mandates that the alleged violator affirmatively request a hearing at DOAH within 30 days after the Commission's probable cause determination, or the Commission will hear the case

### **Soliciting**

Current law provides that each election board possesses full authority to maintain order at the polls, and to enforce obedience to its lawful commands during an election and canvass of the votes.<sup>19</sup> The sheriff must deputize a deputy sheriff for each polling place and each early voting site who must be present during the time the polls or early voting site are open and until the election is completed.<sup>20</sup>

Current law prohibits any person from entering a polling room or polling place where the polling place also is a polling room, or any early voting area, during voting hours, except for certain persons.<sup>21</sup> In addition, no person, political committee, committee of continuous existence, or other group or organization may solicit voters inside the polling place or polling room or within 100 feet of the entrance to such place or room.<sup>22</sup> The supervisor must designate the no-solicitation zone and mark the boundaries prior to the opening of the polling place or early voting site.<sup>23</sup>

The bill prohibits any person, political committee, committee of continuous existence, or other group or organization from soliciting any voter who is in line to vote at any polling place or early voting site. It amends the definition of “solicit” or “solicitation” to include offering voting or legal advice regarding voting or ballots. It is further expanded to include whether such solicitation is in person or by means of audio or visual equipment.

### **Other Provisions**

The bill amends several other provisions of law which do the following:

- Provides that the photo ID required at the polls is solely for the purpose of verifying the identity of the person present to vote.

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<sup>17</sup> Information obtained from meetings with staff of the Division of Elections, Department of State, March, 2011.

<sup>18</sup> Section 97.021(18), F.S.

<sup>19</sup> Section 102.031(1), F.S.

<sup>20</sup> Section 102.031(2), F.S.

<sup>21</sup> Section 102.031(3)(a), F.S.

<sup>22</sup> The length of 100 feet around the entrance to a polling place has been upheld by the United States Supreme Court in *Burson v. Freeman*, 504 U.S. 191, 211, 112 S.Ct. 1846, 1858 (1992).

<sup>23</sup> Section 102.031(4)(a), F.S.

- Allows certain funds to flow directly to the Florida Elections Commission versus having to flow through the Department of State.
- Eliminates the state mandate for a municipal election to have a 14-day candidate qualifying period when it moves its election to coincide with a state or county election.
- Removes the need for a Presidential Candidate Selection Committee and provides a specified time for a list of candidates to be prepared.
- Deletes provisions relating to removal of certain county executive members.
- Clarifies when it is an offense for an inspector or other election official to deny a person to observe ballot accounting at polls.

**B. SECTION DIRECTORY:**

Section 1 amends s. 97.012, F.S., relating to the Secretary of State as chief election officer.

Section 2 amends s. 97.021, F.S., relating to definitions.

Section 3 amends s. 97.025, F.S., relating to the Election Code; copies thereof.

Section 4 amends s. 97.0575, F.S., relating to third-party voter registrations.

Section 5 amends s. 97.071, F.S., relating voter information cards.

Section 6 amends s. 97.073, F.S., relating to disposition of voter registration applications; cancellation notice.

Section 7 amends s. 97.1031, F.S., relating to notice of change of residence, change of name, or change of party affiliation.

Section 8 amends s. 98.075, F.S., relating to registration records maintenance activities; ineligibility determinations.

Section 9 amends s. 98.093, F.S., relating to duty of officials to furnish information relating to deceased persons, persons adjudicated mentally incapacitated, and person convicted of a felony.

Section 10 amends s. 98.0981, F.S., relating to reports; voting history; statewide voter registration system information; precinct-level election results; book closing statistics.

Section 11 amends s. 99.012, F.S., relating to restrictions on individuals qualifying for public office.

Section 12 amends s. 99.021, F.S., relating to form of candidate oath.

Section 13 amends s. 99.061, F.S., relating to method of qualifying for nomination or election to federal, state, county, or district office.

Section 14 amends s. 99.063, F.S., relating to candidates for Governor and Lieutenant Governor.

Section 15 amends s. 99.093, F.S., relating to municipal candidates; election assessment.

Section 16 amends s. 99.097, F.S., relating to verification of signatures on petitions.

Section 17 amends s. 100.111, F.S., relating to filling vacancy.

Section 18 amends s. 100.371, F.S., relating to initiatives; procedure for placement on ballot.

Section 19 amends s. 101.001, F.S., relating to precincts and polling places; boundaries.

Section 20 amends s. 101.043, F.S., relating to identification required at polls.

Section 21 amends s. 101.045, F.S., relating to electors must be registered in precinct.

Section 22 amends s. 101.131, F.S., relating to watchers at polls.

Section 23 amends s. 101.151, F.S., relating to specifications for ballots.

Section 24 amends s. 101.5605, F.S., relating to examination and approval of equipment.

Section 25 amends s. 101.5606, F.S., relating to requirements for approval of systems.

Section 26 amends s. 101.5612, F.S., relating to testing of tabulating equipment.

Section 27 amends s. 101.5614, F.S., relating to canvass of returns.

Section 28 amends s. 101.62, F.S., relating to request for absentee ballots.

Section 29 amends s. 101.65, F.S., relating to instructions to absent electors.

Section 30 amends s. 101.6923, F.S., relating to special absentee ballot instructions for certain first-time voters.

Section 31 amends s. 101.75, F.S., relating to municipal elections; change of dates for cause.

Section 32 amends s. 102.031, F.S., relating to maintenance of good order at polls; authorities; persons allowed in polling rooms and early voting areas; unlawful solicitation of voters.

Section 33 amends s. 102.168, F.S., relating to contest of election.

Section 34 creates s. 103.095, F.S., relating to minor political parties.

Section 35 amends s. 103.101, F.S., relating to presidential preference primary.

Section 36 amends s. 103.141, F.S., relating to removal of county executive committee member for violation of oath.

Section 37 amends s. 104.29, F.S., relating to inspectors refusing to allow watchers while ballots are counted.

Section 38 amends s. 106.011, F.S., relating to definitions.

Section 39 creates s. 106.012, F.S., relating to testing the waters.

Section 40 amends s. 106.021, F.S., relating to campaign treasurers; deputies; primary and secondary depositories.

Section 41 amends s. 106.022, F.S., relating to appointment of a registered agent; duties.

Section 42 amends s. 106.023, F.S., relating to statement of candidate.

Section 43 amends s. 106.025, F.S., relating to campaign fund raisers.

Section 44 amends s. 106.04, F.S., relating to committees of continuous existence.

Section 45 amends s. 106.07, F.S., relating to reports; certification and filing.

Section 46 amends s.106.0703, F.S., relating to electioneering communications organizations; reporting requirements; certification and filing; penalties.

Section 47 amends s. 106.0705, F.S., relating to electronic filing of campaign treasurer's reports.

Section 48 amends s. 106.071, F.S., relating to independent expenditures; electioneering communications; reports; disclaimers.

Section 49 amends s. 106.08, F.S., relating to contributions; limitations on.

Section 50 amends s. 106.09, F.S., relating to cash contributions and contribution by cashier's checks.

Section 51 amends s. 106.141, F.S., relating to disposition of surplus funds by candidates.

Section 52 amends s. 106.143, F.S., relating to political advertisements circulated prior to election; requirements.

Section 53 amends s. 106.15, F.S., relating to certain acts prohibited.

Section 54 amending s. 106.17, F.S., relating to polls and surveys relating to candidacies.

Section 55 amends s. 106.18, F.S., relating to when a candidate's name to be omitted from ballot.

Section 56 amends s. 106.19, F.S., relating to violations by candidates, person connected with campaigns, and political committees.

Section 57 amends s. 106.25, F.S., relating to reports of alleged violations to Florida Elections Commission; disposition of findings.

Section 58 amends s. 106.265, F.S., relating to civil penalties.

Section 59 amends s. 106.355, F.S., relating to nonparticipating candidate exceeding limits.

Section 60 amends s. 11.045, F.S., relating to lobbying before the Legislature; registration and reporting; exemptions; penalties.

Section 61 amends s. 112.312, F.S., relating to definitions.

Section 62 amends s. 876.05, F.S., relating to public employees; oath.

Section 63 repeals s. 876.07, F.S., relating to a candidate taking a public employee oath.

Section 64 provides an effective date of July 1, 2011, unless otherwise specifically provided in the bill.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:  
Indeterminate.
2. Expenditures:  
Indeterminate.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:  
Indeterminate.
2. Expenditures:  
Indeterminate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The legislation has an indeterminate fiscal impact on state government. The Department of State has stated there would be no fiscal impact due to the voter history and information and precinct databases and reports required of the Department. There will be some cost savings related to certain pamphlets and oaths being offered on line versus being printed. The exact amount of savings is not known.

The legislation has an indeterminate fiscal impact on local governments. Costs to local governments regarding maintaining certain databases related to third party voter registration organizations, changes in timeframes for required information on voter history and precincts, as well as other areas, and the timeframe for mailing absentee ballots to non-uniformed and overseas voters is not known. The change in ballot styling requirement might provide cost-savings to those counties with multi-style ballot precincts who would only have to produce ballots as needed. Additionally, changes in section 16 of the bill could potentially provide a cost savings to the supervisors of elections if they are reimbursed by the Chief Financial Officer from General Revenue for certain verification fees.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

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

B. RULE-MAKING AUTHORITY:

The Department of State is required to adopt rules to do the following:

- Prescribe the manner in which political parties, including minor political parties, may have their filings with the Department of State cancelled. Rules must provide for notice and the contents of such notice; adequate opportunity to respond; and opportunity to appeal to the Florida Elections Commission.
- Ensure the integrity of the registration process for third-party voter registration, including requirements for such organizations to account for all state and federal registration forms used by their agent.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

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1                                   A bill to be entitled  
 2           An act relating to elections; amending s. 97.012, F.S.;  
 3           expanding the list of responsibilities of the Secretary of  
 4           State when acting in his or her capacity as chief election  
 5           officer; amending s. 97.021, F.S.; revising the definition  
 6           of minor political party; amending s. 97.025, F.S.;  
 7           revising methods of publication and distribution of the  
 8           Florida Election Code pamphlet to each candidate  
 9           qualifying with the Department of State; amending s.  
 10          97.0575, F.S.; requiring that third-party voter  
 11          registration organizations register with the division;  
 12          requiring such organizations provide the division with  
 13          certain information; requiring that the Division of  
 14          Elections of the Department of State or a supervisor of  
 15          elections make voter registration forms available to  
 16          third-party voter registration organizations; requiring  
 17          that such forms contain certain information; requiring  
 18          that the division and supervisors of elections maintain a  
 19          database of certain information; requiring that such  
 20          information be provided in electronic format; requiring  
 21          that such information be updated and made public daily at  
 22          a certain time; providing that a third-party voter  
 23          registration organization that collects voter registration  
 24          applications serves as a fiduciary to the applicant;  
 25          specifying duties of such an organization; specifying an  
 26          affirmative defense to certain violations of state law;  
 27          providing penalties for violations of certain provisions  
 28          of state law; providing circumstances under which a third-

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29 party voter registration organization is subject to  
 30 specified civil penalties; providing for the referral of  
 31 violations to the Attorney General; authorizing the  
 32 Attorney General to initiate a civil action; providing  
 33 that an action for relief may include a permanent or  
 34 temporary injunction, a restraining order, or any other  
 35 appropriate order; requiring that the division adopt rules  
 36 for specified purposes; amending s. 97.071, F.S.;  
 37 requiring that voter information cards contain the address  
 38 of the polling place of the registered voter; requiring a  
 39 supervisor of elections to issue a new voter information  
 40 card to a voter upon a change in a voter's address of  
 41 legal residence or a change in a voter's polling place  
 42 address; providing instructions for implementation by the  
 43 supervisors of elections; amending s. 97.073, F.S.;  
 44 imposing a 5-day timeframe for applicants to be notified  
 45 regarding disposition of their voter registration  
 46 applications; amending s. 97.1031, F.S.; providing a voter  
 47 with various option for providing address updates;  
 48 amending s. 98.075, F.S.; authorizing removal of  
 49 registered voters who have been identified as deceased;  
 50 amending 98.093, F.S.; updating the section to reflect the  
 51 need for and specific manner in which data is obtained  
 52 from the Department of Correction regarding convicted  
 53 felons who are registered voters in the voter registration  
 54 system; amending s. 98.0981, F.S.; providing timeframes  
 55 and formats for voting history information to be sent by  
 56 the supervisors of elections to the department; providing



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57 | for imposition of fines on a supervisor of elections for  
 58 | failure to comply in a timely manner; providing for  
 59 | deposit of fines in the General Revenue Fund; providing  
 60 | timeframes and formats for voting history information to  
 61 | be sent by the department to the President of the Senate,  
 62 | Speaker of the House of Representatives, and their  
 63 | respective Minority Leaders; requiring submission of  
 64 | precinct-level information in a certain format by a time  
 65 | certain; providing for imposition of a fine on a  
 66 | supervisor of elections for failure to comply and for  
 67 | depositing of the fine into the General Revenue Fund;  
 68 | amending s. 99.012, F.S.; providing that a person not  
 69 | complying with section is not qualified as a candidate and  
 70 | name shall not appear on ballot; amending s. 99.021, F.S.;  
 71 | revising the candidate oath requirement for person seeking  
 72 | to qualify for nomination for a political party; removing  
 73 | requirement for qualifying officer to give printed copy of  
 74 | candidate oath; providing availability through  
 75 | downloading; removing requirement for taking public  
 76 | employee oath; correcting references for other oaths;  
 77 | amending s. 99.061, F.S.; revising timeframe for candidate  
 78 | to pay qualifying fee under certain circumstances;  
 79 | requiring checks to be payable as prescribed by filing  
 80 | officer; requiring notarized signature on certain oaths;  
 81 | removing requirement for public employee oath; requiring  
 82 | filing of an original financial disclosure; clarifying  
 83 | time for qualifying papers to be received; providing that  
 84 | qualifying officer performs ministerial duty only;

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85 exempting qualifying officer decision from Administrative  
 86 Procedures Act; amending s. 99.063, F.S.; removing  
 87 candidate requirement to swear to public employee loyalty  
 88 oath; amending s. 99.093, F.S.,; remitting assessments  
 89 directly to the Florida Elections Commissions rather than  
 90 passing through the department; amending s. 99.097, F.S.;  
 91 clarifying that supervisor of elections checks more than  
 92 signatures on petition forms; clarifying rulemaking  
 93 authority of the department relating to petitions;  
 94 prohibiting random sampling method of petition  
 95 verification for constitutional amendments petitions;  
 96 providing for invalidity of undue burden oaths under  
 97 specified circumstances; providing for certain funds to be  
 98 used to reimburse a supervisor of elections for signature  
 99 verification fees not paid due to invalidity of certain  
 100 undue burden oaths; amending s. 100.111, F.S.; providing  
 101 notification requirements and procedures for filling a  
 102 vacancy in nomination for certain offices; deleting the  
 103 definition of the term "district political party executive  
 104 committee"; providing that a vacancy in nomination is not  
 105 created if a nominee did not properly qualify or does not  
 106 meet the necessary qualifications to hold the office  
 107 sought; amending s. 100.371, F.S.; providing that  
 108 signatures on an initiative petition are valid for 2 years  
 109 instead of 4 years; requiring that petition signer must be  
 110 a registered voter at time of signing and verification;  
 111 requiring the supervisor of elections to notify petition  
 112 sponsor of misfiled petition under certain circumstances;

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113 | amending s. 101.001, F.S.; requiring the supervisors of  
 114 | elections to provide the department with a precinct  
 115 | database including specified information; requiring the  
 116 | department to maintain a searchable database containing  
 117 | certain precinct and census block information; requiring  
 118 | supervisors of elections to notify the department of  
 119 | precinct changes within a specified time; deleting a  
 120 | waiver; amending s. 101.043, F.S.; providing that photo  
 121 | identification used at polls cannot be used for address  
 122 | verification; amending s. 101.045, F.S.; retaining  
 123 | language prohibiting a person to vote in a precinct or  
 124 | district other than the one in which the person is  
 125 | registered and has legal residence; retaining language  
 126 | regarding elector's voting provisional ballot if  
 127 | eligibility cannot be determined; removing language  
 128 | permitting person temporarily residing out of county with  
 129 | no permanent residence in county to vote through the  
 130 | supervisor of elections office for all but municipal  
 131 | races; removing language permitting an elector to present  
 132 | an affirmation or application for change of residence or  
 133 | name at the precinct; amending s. 101.131, F.S.; revising  
 134 | procedures for the designation of poll watchers; requiring  
 135 | that the Division of Elections prescribe a form for the  
 136 | designation of poll watchers; providing conditions under  
 137 | which poll watchers are authorized to enter polling areas  
 138 | and watch polls; requiring that a supervisor of elections  
 139 | provide identification to poll watchers by a specified  
 140 | period before early voting begins; requiring that poll

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141 watchers display such identification while in a polling  
 142 place; amending s. 101.151, F.S.; providing changes in  
 143 appearance ballot; reducing length and appearance of  
 144 ballot and redundancy; expanding use of ballot on demand  
 145 technology; amending s. 101.5605, F.S.; clarifying that  
 146 testing of voting equipment be done in accordance with  
 147 state-adopted voting system standards;; amending s.  
 148 101.5606, F.S.; removing references to obsolete forms of  
 149 voting; amending s. 101.5612, F.S.; revising the number or  
 150 percentage of touchscreen systems that must be tested;  
 151 amending s. 101.5614, F.S.; conforming law to current  
 152 technological practices in canvassing of certain returns;  
 153 amending s. 101.62, F.S.; extending absentee ballot  
 154 request for 2 regularly scheduled general elections;  
 155 providing timeframe for absentee ballots to be sent to in-  
 156 state voters voting an absentee ballot; clarifying  
 157 provisions relating to military and overseas voters;  
 158 requiring the supervisors of elections to update absentee  
 159 ballot information and make available by a time certain;  
 160 amending s. 101.65, F.S.; expanding absentee ballot  
 161 instructions to notify a voter that signatures on ballot  
 162 and on record must match; informing of when signatures  
 163 must be updated; amending s. 101.6923, F.S.; expanding  
 164 special absentee ballot instructions for certain first-  
 165 time voters to notify voters that signatures on ballot  
 166 and on record must match; informing of when signatures  
 167 must be updated; amending s. 101.75, F.S.; eliminating  
 168 state mandate for a municipal election to have a 14-day

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169 candidate qualifying period when it moves its election to  
 170 coincide with state or county election; s. 102.031, F.S.;  
 171 prohibiting solicitation of voters standing in line to  
 172 enter any polling place or early voting site; expanding  
 173 the definitions of the terms "solicit" or "solicitation";  
 174 amending s. 102.168, F.S.; clarifying when canvassing  
 175 boards are an indispensable party to an election contest;  
 176 clarifying evidence a circuit court may consider in  
 177 certain election contests; providing a standard of review;  
 178 amending s. 103.095, F.S.; establishing the process and  
 179 requirements for becoming a minor political party;  
 180 providing for cancellation of minor political party status  
 181 under certain circumstances; providing for appeal;  
 182 providing for retroactive effectiveness; amending s.  
 183 103.101, F.S.; eliminating the Presidential Candidate  
 184 Selection Committee for the Presidential Preference  
 185 Primary Election; providing for lists of candidates to be  
 186 provided by political parties to the Secretary of State;  
 187 providing for candidate notification of placement of the  
 188 ballot; amending s. 103.141, F.S.; deleting language  
 189 providing for the removal of certain county executive  
 190 committee members pursuant to a separate provision of law;  
 191 amending s. 104.29, F.S.; clarifying when it is an offense  
 192 for an inspector or other election official to deny a  
 193 person to observe ballot accounting at the polls; amending  
 194 s. 106.011, F.S.; revising the definitions of "candidate",  
 195 "contribution" and "expenditure", excluding funds received  
 196 or spent for certain potential candidate polls; revising

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197 the definition of "independent expenditure" clarifying the  
 198 qualifying period for the candidate; creating s. 106.012,  
 199 F.S.; providing that funds spent or received are not  
 200 contributions or expenditures if solely for determining  
 201 candidate viability; providing examples of permissible  
 202 activities; providing for retention of records; providing  
 203 funds become contributions and expenditures upon candidacy  
 204 of person; requiring reporting of funds regardless of date  
 205 received or spent; providing examples of ineligible  
 206 activities for fund use; delineating activities indicating  
 207 intention to become a candidate; limiting amount of funds  
 208 that may be received; amending s. 106.021, F.S.; deleting  
 209 a requirement for certain information to be included in  
 210 campaign reports for reimbursement; amending s. 106.022,  
 211 F.S.; requiring a political committee, committee of  
 212 continuous existence, or electioneering communications  
 213 organization to file a statement of appointment with the  
 214 filing officer rather than with the Division of Elections;  
 215 authorizing an entity to change its appointment of  
 216 registered agent or registered office by filing a written  
 217 statement with the filing officer; requiring a registered  
 218 agent who resigns to execute a written statement of  
 219 resignation and file it with the filing officer; amending  
 220 s. 106.023, F.S.; revising the form of the statement of  
 221 candidate to require a candidate to acknowledge that he or  
 222 she has been provided access to and understands the  
 223 requirements of ch. 106, F.S.; amending s. 106.025, F.S.;

224 revising the information required on tickets for a

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225 campaign fundraiser; amending s. 106.04, F.S.; requiring a  
 226 committee of continuous existence that makes a  
 227 contribution or expenditure in connection with certain  
 228 county or municipal elections to file specified reports;  
 229 subjecting a committee of continuous existence that fails  
 230 to file a report or to timely file a report with the  
 231 Division of Elections or a county or municipal filing  
 232 officer to a fine; requiring a committee of continuous  
 233 existence to include transaction information from credit  
 234 card purchases in a report filed with the Division of  
 235 Elections; requiring a committee of continuous existence  
 236 to report changes in information previously reported to  
 237 the Division of Elections within 10 days after the change;  
 238 requiring the Division of Elections to revoke the  
 239 certification of a committee of continuous existence that  
 240 fails to file or report certain information; requiring the  
 241 division to adopt rules to prescribe the manner in which  
 242 the certification is revoked; increasing the amount of a  
 243 fine to be levied on a committee of continuous existence  
 244 that fails to timely file certain reports; providing for  
 245 the deposit of the proceeds of the fines; including the  
 246 registered agent of a committee of continuous existence as  
 247 a person whom the filing officer may notify that a report  
 248 has not been filed; providing criteria for deeming  
 249 delivery complete of a notice of fine; requiring a  
 250 committee of continuous existence that appeals a fine to  
 251 file a copy of the appeal with the filing officer;  
 252 defining the term "repeated late filing"; requiring the

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253 | Elections Commission to treat the late filings addressed  
 254 | in a single notice of repeated late filings as a single  
 255 | violation; amending s. 106.07, F.S.; correcting a cross  
 256 | reference; creating an exception for reports due in the  
 257 | third calendar quarter immediately preceding a general  
 258 | election from a requirement that the campaign treasurer  
 259 | report contributions received and expenditures made on the  
 260 | 10th day following the end of each calendar quarter;  
 261 | revising reporting requirements for a statewide candidate  
 262 | who receives funding under the Florida Election Campaign  
 263 | Financing Act and candidates in a race with a candidate  
 264 | who has requested funding under that act; deleting a  
 265 | requirement for a committee of continuous existence to  
 266 | file a campaign treasurer's report relating to  
 267 | contributions or expenditures to influence the results of  
 268 | a special election; revising the methods by which a  
 269 | campaign treasurer may be notified of the determination  
 270 | that a report is incomplete to include certified mail and  
 271 | other methods using a common carrier that provides proof  
 272 | of delivery of the notice; extending the time the campaign  
 273 | treasurer has to file an addendum to the report after  
 274 | receipt of notice of why the report is incomplete;  
 275 | providing criteria for deeming delivery complete of a  
 276 | notice of incomplete report; deleting a provision allowing  
 277 | for notification by telephone of an incomplete report;  
 278 | requiring political committees that make a contribution or  
 279 | expenditure in connection with certain county or municipal  
 280 | elections to file campaign finance reports with the county



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281 or municipal filing officer and to include its  
 282 contributions and expenditures in a report to the Division  
 283 of Elections; revising the information that must be  
 284 included in a report to include transaction information  
 285 for credit card purchases; deleting a requirement for a  
 286 campaign depository to return checks drawn on the account  
 287 to the campaign treasurer; deleting a provision providing  
 288 that the failure to file a copy of a report is not subject  
 289 to a separate fine; specifying the amount of a fine for  
 290 the failure to timely file reports after a special primary  
 291 election or special election; specifying that the  
 292 registered agent of a political committee is a person whom  
 293 a filing officer may notify of the amount of the fine for  
 294 filing a late report; providing criteria for deeming  
 295 delivery complete of a notice of late report and resulting  
 296 fine; defining the term "repeated late filing"; requiring  
 297 the Elections Commission to treat the late filings  
 298 addressed in a single notice of repeated late filings as a  
 299 single violation; amending s. 106.0703, F.S.; correcting a  
 300 cross reference; deleting a requirement for a  
 301 electioneering communications organization to provide  
 302 certain information to the Department of State on  
 303 activities occurring since the last general election;  
 304 defining the term "repeated late filing"; requiring the  
 305 Elections Commission to treat the late filings addressed  
 306 in a single notice of repeated late filings as a single  
 307 violation; amending s. 106.0705, F.S.; requiring certain  
 308 individuals to electronically file certain reports with

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309 | the Division of Elections; conforming a cross-reference to  
 310 | changes made by the act; deleting an obsolete provision;  
 311 | amending s. 106.071, F.S.; conforming provisions relating  
 312 | to expenditures in the aggregate; clarifying the  
 313 | independent expenditure disclaimer for paid political  
 314 | advertisement by an individual; amending s. 106.08, F.S.;  
 315 | deleting a requirement for the Department of State to  
 316 | notify candidates as to whether an independent or minor  
 317 | party candidate has obtained the required number of  
 318 | petition signatures; deleting a requirement for certain  
 319 | unopposed candidates to return contributions; specifying  
 320 | the entities with which a political party's state  
 321 | executive committee and county executive committees must  
 322 | file a written acceptance of an in-kind contribution;  
 323 | amending s. 106.09, F.S.; specifying that the limitations  
 324 | on contributions by cash or cashier's check apply to the  
 325 | aggregate amount of contributions to a candidate or  
 326 | committee per election; amending s. 106.11, F.S.; revising  
 327 | the statement that must be contained on checks from a  
 328 | campaign account; deleting requirements relating to the  
 329 | use of debit cards; authorizing a campaign for a candidate  
 330 | to reimburse the candidate's loan to the campaign when the  
 331 | campaign account has sufficient funds; amending s.  
 332 | 106.141, F.S.; removing certain limitations on expenditure  
 333 | of surplus funds; requiring candidates receiving public  
 334 | financing to return all surplus funds to the General  
 335 | Revenue Fund after paying certain monetary obligations and  
 336 | expenses; amending s. 106.143, F.S.; revising disclosure

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337 requirements for certain political advertisements;  
 338 specifying disclosure requirements for political  
 339 advertisements paid for by in-kind contributions;  
 340 authorizes political advertisements paid by a political  
 341 party to use names and abbreviations as registered in ch.  
 342 103 in the disclaimer; specifying disclosure statements  
 343 that must be included in political advertisements paid for  
 344 by a write-in candidate; prohibiting the inclusion of a  
 345 person's political affiliation in advertisements for a  
 346 nonpartisan office; clarifying the type of political  
 347 advertisements that must be approved in advance by a  
 348 candidate; deleting a duplicative exemption from the  
 349 requirement to obtain a candidate's approval for messages  
 350 designed to be worn; amending s. 106.15, F.S.; ;creating  
 351 s. 106.17; authorizing state and county executive  
 352 committees to conduct political polls to determine  
 353 viability of potential candidates; allowing sharing of  
 354 results; provides that such expenditures are not  
 355 contributions for potential candidates; amending s.  
 356 106.18, F.S.; deleting a provision providing that a  
 357 candidate will not be prevented from receiving a  
 358 certificate of election for failing to file a report;  
 359 amending s. 106.19, F.S.; providing that a candidate's  
 360 failure to comply with ch. 106, F.S., has no effect on  
 361 whether the candidate has qualified for office; amending  
 362 s. 106.25, F.S.; allowing a respondent who is alleged by  
 363 the Elections Commission to have violated the election  
 364 code or campaign financing laws to elect as a matter of

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365 right a formal hearing before the Division of  
 366 Administrative Hearings; authorizing an administrative law  
 367 judge to assess civil penalties upon the finding of a  
 368 violation; amending s. 106.265, F.S.; authorizing an  
 369 administrative law judge to assess civil penalties upon a  
 370 finding of a violation of the election code or campaign  
 371 financing laws; providing for civil penalties to be  
 372 assessed against an electioneering communications  
 373 organization; removing reference to the expired Election  
 374 Campaign Financing Trust Fund; directing that moneys from  
 375 penalties and fines be deposited into the General Revenue  
 376 Fund; amending s. 106.29, F.S.; requiring state and county  
 377 executive committees that make contributions or  
 378 expenditures to influence the results of a special  
 379 election or special primary election to file campaign  
 380 treasurer's reports; amending campaign finance reporting  
 381 dates, to conform; deleting a requirement that each state  
 382 executive committee file the original and one copy of its  
 383 reports with the Division of Elections; deleting a  
 384 provision prohibiting the assessment of a separate fine  
 385 for failing to file a copy of a report, to conform;  
 386 revising the due date for filing a report; providing  
 387 criteria for deeming delivery complete of a notice of  
 388 fine; defining the term "repeated late filing"; requiring  
 389 the Elections Commission to treat the late filings  
 390 addressed in a single notice of repeated late filings as a  
 391 single violation; amending s. 106.35, F.S.; deleting a  
 392 requirement that the Division of Election adopt rules

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393 relating to the format and filing of certain printed  
 394 campaign treasurer's reports; amending s. 106.355, F.S.;  
 395 eliminating the duty of the department to provide funds  
 396 from the Election Campaign Financing Trust Fund when  
 397 certain expenditure limits are exceeded; amending s.  
 398 876.05, F.S.; removing the requirement for a candidate to  
 399 file the public employee's oath; repealing s. 103.161,  
 400 F.S., relating to the removal or suspension of officers of  
 401 state executive committee or county executive committee;  
 402 amending s. 11.045, F.S.; excluding funds received or  
 403 spent under s. 106.012, F.S., from definition of  
 404 "expenditure"; amending s. 112.312, F.S.; excluding funds  
 405 received or spent under s. 106.012, F.S., from the  
 406 definition of "gift"; amending s. 876.05, F.S.; deleting  
 407 requirement for candidates to take a public employee oath;  
 408 repealing s. 876.07, F.S.; relating to a candidate taking  
 409 a public employee oath to conform; providing an effective  
 410 date.

411  
 412 Be It Enacted by the Legislature of the State of Florida:

413  
 414 Section 1. Subsection (16) is added to section 97.012,  
 415 Florida Statutes, to read:

416 97.012 Secretary of State as chief election officer.—The  
 417 Secretary of State is the chief election officer of the state,  
 418 and it is his or her responsibility to:

419 (16) Provide direction and opinions to the supervisors of  
 420 elections on the performance of their official duties with

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421 respect to the Florida Election Code or rules adopted by the  
 422 Department of State.

423 Section 2. Subsection (18) of section 97.021, Florida  
 424 Statutes, is amended to read:

425 97.021 Definitions.—For the purposes of this code, except  
 426 where the context clearly indicates otherwise, the term:

427 (18) "Minor political party" is any group as specified in  
 428 s. 103.095 ~~defined in this subsection~~ which on January 1  
 429 preceding a primary election does not have registered as members  
 430 5 percent of the total registered electors of the state. ~~Any~~  
 431 ~~group of citizens organized for the general purposes of electing~~  
 432 ~~to office qualified persons and determining public issues under~~  
 433 ~~the democratic processes of the United States may become a minor~~  
 434 ~~political party of this state by filing with the department a~~  
 435 ~~certificate showing the name of the organization, the names of~~  
 436 ~~its current officers, including the members of its executive~~  
 437 ~~committee, and a copy of its constitution or bylaws. It shall be~~  
 438 ~~the duty of the minor political party to notify the department~~  
 439 ~~of any changes in the filing certificate within 5 days of such~~  
 440 ~~changes.~~

441 Section 3. Section 97.025, Florida Statutes, is amended to  
 442 read:

443 97.025 Election Code; copies thereof.—A pamphlet of a  
 444 reprint of the Election Code, adequately indexed, shall be  
 445 prepared by the Department of State. The pamphlet shall be made  
 446 available ~~It shall have a sufficient number of these pamphlets~~  
 447 ~~printed so that one may be given, upon request, to each~~  
 448 ~~candidate who qualifies with the department. The pamphlet shall~~

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449 be made available ~~A sufficient number may be sent~~ to each  
 450 supervisor, prior to the first day of qualifying, so that ~~for~~  
 451 ~~distribution, upon request, to~~ each candidate who qualifies with  
 452 the supervisor and ~~to~~ each clerk of elections has access to the  
 453 pamphlet. The cost of making ~~printing~~ the pamphlets available  
 454 shall be paid out of funds appropriated for conducting  
 455 elections.

456 Section 4. Section 97.0575, Florida Statutes, is amended  
 457 to read:

458 97.0575 Third-party voter registrations.—

459 (1) Prior to engaging in any voter registration  
 460 activities, a third-party voter registration organization shall  
 461 register and provide to the division, in an electronic format,  
 462 the following information:

463 (a) The names of the officers of the organization and the  
 464 name and permanent address of the organization;

465 (b) The name and address of the organization's registered  
 466 agent in the state;

467 (c) The names, permanent addresses, temporary addresses,  
 468 if any, and dates of birth of each registration agent  
 469 registering persons to vote in this state on behalf of the  
 470 organization; and

471 (c) A sworn statement from each registration agent  
 472 employed by or volunteering for the organization stating that  
 473 the agent will obey all state laws and rules regarding the  
 474 registration of voters. Such statement must be on a form  
 475 containing notice of applicable criminal penalties for false  
 476 registration.

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477        (2) The division or the supervisor of elections shall make  
 478 voter registration forms available to third-party voter  
 479 registration organizations. All such forms must contain  
 480 information identifying the organization to which the forms are  
 481 provided. The division and each supervisor of elections shall  
 482 maintain a database of all third-party registration  
 483 organizations and the voter registration forms assigned to the  
 484 third-party registration organizations. Such information must be  
 485 provided in electronic format as provided by division rule. By  
 486 noon of each day, such information must also be updated, made  
 487 publicly available, and, with respect to records in the each  
 488 supervisor's database, contemporaneously provided to the  
 489 division.

490        (3) (a) A third-party voter registration organization that  
 491 collects voter registration applications serves as a fiduciary  
 492 to the applicant, ensuring that any voter registration  
 493 application entrusted to the organization, irrespective of party  
 494 affiliation, race, ethnicity, or gender, shall be promptly  
 495 delivered to the division or the supervisor of elections within  
 496 48 hours after the applicant completes it or the next business  
 497 day if the appropriate office is closed for that 48-hour period.  
 498 If a voter registration application collected by any third party  
 499 voter registration organization is not promptly delivered to the  
 500 division or supervisor of elections, the third party voter  
 501 registration organization shall be liable for the following  
 502 finer:

503        (a) A fine in the amount of \$50 for each application  
 504 received by the division or the supervisor of elections more



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505 than 10 days after the applicant delivered the completed voter  
 506 registration application to the third-party voter registration  
 507 organization or any person, entity, or agent acting on its  
 508 behalf. A fine in the amount of \$250 for each application  
 509 received if the third-party registration organization or person,  
 510 entity, or agency acting on its behalf acted willfully.

511 (b) A fine in the amount of \$100 for each application  
 512 collected by a third-party voter registration organization or  
 513 any person, entity, or agent acting on its behalf, prior to book  
 514 closing for any given election for federal or state office and  
 515 received by the division or the supervisor of elections after  
 516 the book closing deadline for such election. A fine in the  
 517 amount of \$500 for each application received if the third-party  
 518 registration organization or person, entity, or agency acting on  
 519 its behalf acted willfully.

520 (c) A fine in the amount of \$500 for each application  
 521 collected by a third-party voter registration organization or  
 522 any person, entity, or agent acting on its behalf, which is not  
 523 submitted to the division or supervisor of elections. A fine in  
 524 the amount of \$1,000 for any application not submitted if the  
 525 third-party registration organization or person, entity, or  
 526 agency acting on its behalf acted willfully.

527  
 528 The aggregate fine pursuant to this subsection which may be  
 529 assessed against a third-party voter registration organization,  
 530 including affiliate organizations, for violations committed in a  
 531 calendar year shall be \$1,000. The fines provided in this  
 532 subsection shall be reduced by three-fourths in cases in which

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533 | the third-party voter registration organization has complied  
 534 | with subsection (1). ~~The secretary shall waive the fines~~  
 535 | ~~described in this subsection upon a showing that the failure to~~  
 536 | ~~deliver the voter registration application promptly is based~~  
 537 | ~~upon force majeure or impossibility of performance.~~

538 |       (b) A showing by the organization that the failure to  
 539 | deliver the voter registration application within the required  
 540 | timeframe is based upon force majeure or impossibility of  
 541 | performance shall be an affirmative defense to a violation of  
 542 | this subsection. The secretary may waive the fines described in  
 543 | this subsection upon a showing that the failure to deliver the  
 544 | voter registration application promptly is based upon force  
 545 | majeure or impossibility of performance.

546 |       (5) If the Secretary of State reasonably believes that a  
 547 | person has committed a violation of any provision of this  
 548 | section, the secretary shall refer the matter to the Attorney  
 549 | General for enforcement. The Attorney General may institute a  
 550 | civil action for a violation of the provisions of this section  
 551 | or to prevent a violation of the provisions of this section. An  
 552 | action for relief may include a permanent or temporary  
 553 | injunction, a restraining order, or any other appropriate order.

554 |       ~~(1) Prior to engaging in any voter registration~~  
 555 | ~~activities, a third-party voter registration organization shall~~  
 556 | ~~name a registered agent in the state and submit to the division,~~  
 557 | ~~in a form adopted by the division, the name of the registered~~  
 558 | ~~agent and the name of those individuals responsible for the day-~~  
 559 | ~~to-day operation of the third-party voter registration~~  
 560 | ~~organization, including, if applicable, the names of the~~

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561 ~~entity's board of directors, president, vice president, managing~~  
 562 ~~partner, or such other individuals engaged in similar duties or~~  
 563 ~~functions. On or before the 15th day after the end of each~~  
 564 ~~calendar quarter, each third-party voter registration~~  
 565 ~~organization shall submit to the division a report providing the~~  
 566 ~~date and location of any organized voter registration drives~~  
 567 ~~conducted by the organization in the prior calendar quarter.~~

568 ~~(2) The failure to submit the information required by~~  
 569 ~~subsection (1) does not subject the third-party voter~~  
 570 ~~registration organization to any civil or criminal penalties for~~  
 571 ~~such failure, and the failure to submit such information is not~~  
 572 ~~a basis for denying such third-party voter registration~~  
 573 ~~organization with copies of voter registration application~~  
 574 ~~forms.~~

575 ~~(3) A third-party voter registration organization that~~  
 576 ~~collects voter registration applications serves as a fiduciary~~  
 577 ~~to the applicant, ensuring that any voter registration~~  
 578 ~~application entrusted to the third-party voter registration~~  
 579 ~~organization, irrespective of party affiliation, race,~~  
 580 ~~ethnicity, or gender shall be promptly delivered to the division~~  
 581 ~~or the supervisor of elections. If a voter registration~~  
 582 ~~application collected by any third-party voter registration~~  
 583 ~~organization is not promptly delivered to the division or~~  
 584 ~~supervisor of elections, the third-party voter registration~~  
 585 ~~organization shall be liable for the following fines:~~

586 ~~(a) A fine in the amount of \$50 for each application~~  
 587 ~~received by the division or the supervisor of elections more~~  
 588 ~~than 10 days after the applicant delivered the completed voter~~

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589 ~~registration application to the third-party voter registration~~  
 590 ~~organization or any person, entity, or agent acting on its~~  
 591 ~~behalf. A fine in the amount of \$250 for each application~~  
 592 ~~received if the third-party registration organization or person,~~  
 593 ~~entity, or agency acting on its behalf acted willfully.~~

594 ~~(b) A fine in the amount of \$100 for each application~~  
 595 ~~collected by a third-party voter registration organization or~~  
 596 ~~any person, entity, or agent acting on its behalf, prior to book~~  
 597 ~~closing for any given election for federal or state office and~~  
 598 ~~received by the division or the supervisor of elections after~~  
 599 ~~the book closing deadline for such election. A fine in the~~  
 600 ~~amount of \$500 for each application received if the third-party~~  
 601 ~~registration organization or person, entity, or agency acting on~~  
 602 ~~its behalf acted willfully.~~

603 ~~(c) A fine in the amount of \$500 for each application~~  
 604 ~~collected by a third-party voter registration organization or~~  
 605 ~~any person, entity, or agent acting on its behalf, which is not~~  
 606 ~~submitted to the division or supervisor of elections. A fine in~~  
 607 ~~the amount of \$1,000 for any application not submitted if the~~  
 608 ~~third-party registration organization or person, entity, or~~  
 609 ~~agency acting on its behalf acted willfully.~~

610  
 611 ~~The aggregate fine pursuant to this subsection which may be~~  
 612 ~~assessed against a third-party voter registration organization,~~  
 613 ~~including affiliate organizations, for violations committed in a~~  
 614 ~~calendar year shall be \$1,000. The fines provided in this~~  
 615 ~~subsection shall be reduced by three-fourths in cases in which~~  
 616 ~~the third-party voter registration organization has complied~~

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617 ~~with subsection (1). The secretary shall waive the fines~~  
 618 ~~described in this subsection upon a showing that the failure to~~  
 619 ~~deliver the voter registration application promptly is based~~  
 620 ~~upon force majeure or impossibility of performance.~~

621 (6)~~(4)~~(a) The division shall adopt by rule a form to  
 622 elicit specific information concerning the facts and  
 623 circumstances from a person who claims to have been registered  
 624 to vote by a third-party voter registration organization but who  
 625 does not appear as an active voter on the voter registration  
 626 rolls. The division shall also adopt rules to ensure the  
 627 integrity of the registration process, including rules requiring  
 628 that third-party voter registration organizations account for  
 629 all state and federal registration forms used by their  
 630 registration agents.

631 ~~(b) The division may investigate any violation of this~~  
 632 ~~section. Civil fines shall be assessed by the division and~~  
 633 ~~enforced through any appropriate legal proceedings.~~

634 ~~(5) The date on which an applicant signs a voter~~  
 635 ~~registration application is presumed to be the date on which the~~  
 636 ~~third-party voter registration organization received or~~  
 637 ~~collected the voter registration application.~~

638 (7)~~(6)~~ The civil fines provided in this section are in  
 639 addition to any applicable criminal penalties.

640 ~~(7) Fines collected pursuant to this section shall be~~  
 641 ~~annually appropriated by the Legislature to the department for~~  
 642 ~~enforcement of this section and for voter education.~~

643 ~~(8) The division may adopt rules to administer this~~  
 644 ~~section.~~

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645 Section 5. Effective September 1, 2011, section 97.071,  
646 Florida Statutes, is amended to read:

647 97.071 Voter information card.—

648 (1) A voter information card shall be furnished by the  
649 supervisor to all registered voters residing in the supervisor's  
650 county. The card must contain:

651 (a) Voter's registration number.

652 (b) Date of registration.

653 (c) Full name.

654 (d) Party affiliation.

655 (e) Date of birth.

656 (f) Address of legal residence.

657 (g) Precinct number.

658 (h) Polling place address.

659 (i)~~(h)~~ Name of supervisor and contact information of  
660 supervisor.

661 (j)~~(i)~~ Other information deemed necessary by the  
662 supervisor.

663 (2) A voter may receive a replacement voter information  
664 card by providing a signed, written request for a replacement  
665 card to a voter registration official. Upon verification of  
666 registration, the supervisor shall issue the voter a duplicate  
667 card without charge.

668 (3) In the case of a change of name, address of legal  
669 residence, polling place address, or party affiliation, the  
670 supervisor shall issue the voter a new voter information card.

671 (4) The supervisor must meet the requirements of this  
672 section for any elector who registers to vote or who is issued a

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673 new voter information card pursuant to subsection (2) or (3) on  
 674 or after September 1, 2011.

675 Section 6. Subsection (1) of section 97.073, Florida  
 676 Statutes, is amended to read:

677 97.073 Disposition of voter registration applications;  
 678 cancellation notice.—

679 (1) The supervisor must notify each applicant of the  
 680 disposition of the applicant's voter registration application  
 681 within 5 business days after voter registration information is  
 682 entered into the statewide voter registration system as follows:

683 (a) If an application is approved, the supervisor shall  
 684 mail a voter information card. A voter information card sent to  
 685 an applicant constitutes a notice of registration.

686 (b) If an application is incomplete for failure to provide  
 687 any of the information required by s. 97.053(5), the supervisor  
 688 shall mail notice requesting the missing information.

689 (c) If an application is a duplicate of a current  
 690 registration record, the supervisor shall process the  
 691 application as if it were an update, including a signature  
 692 update, to the record and send a new voter information card.

693 (d) If an application is denied, the supervisor shall  
 694 ~~mail. The notice must inform the applicant that the application~~  
 695 ~~has been approved, is incomplete, has been denied, or is a~~  
 696 ~~duplicate of a current registration. A voter information card~~  
 697 ~~sent to an applicant constitutes notice of approval of~~  
 698 ~~registration. If the application is incomplete, the supervisor~~  
 699 ~~must request that the applicant supply the missing information~~  
 700 ~~using a voter registration application signed by the applicant.~~

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701 a notice of denial that must inform the applicant of the reason  
 702 the application was denied.

703 Section 7. Subsections (1), (2) and (3) of section  
 704 97.1031, Florida Statutes, are amended to read:

705 97.1031 Notice of change of residence, change of name, or  
 706 change of party affiliation.

707 (1) (a) When an elector changes his or her residence  
 708 address, the elector must notify the supervisor of elections.  
 709 Except as provided in paragraph (b), an address change must be  
 710 submitted using a voter registration application.

711 (b) If the address change is within the state and notice  
 712 is provided to the supervisor of elections of the county where  
 713 the elector has moved, the elector may do so by:

714 1. Contacting the supervisor of elections by telephone or  
 715 electronic means; or

716 2. Submitting the change on a voter registration  
 717 application or other signed written notice.

718 ~~moves from the address named on that person's voter registration~~  
 719 ~~record to another address within the same county, the elector~~  
 720 ~~must provide notification of such move to the supervisor of~~  
 721 ~~elections of that county. The elector may provide the supervisor~~  
 722 ~~a signed, written notice or may notify the supervisor by~~  
 723 ~~telephone or electronic means. However, notification of such~~  
 724 ~~move other than by signed, written notice must include the~~  
 725 ~~elector's date of birth. An elector may also provide~~  
 726 ~~notification to other voter registration officials as provided~~  
 727 ~~in subsection (2). A voter information card reflecting the new~~  
 728 ~~information shall be issued to the elector as provided in~~



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729 ~~subsection (3).~~  
 730 (2) When an elector ~~moves from the address named on that~~  
 731 ~~person's voter registration record to another address in a~~  
 732 ~~different county but within the state, the elector~~ seeks to  
 733 change party affiliation, or the elector changes his or her name  
 734 ~~of an elector is changed~~ by marriage or other legal process, the  
 735 elector shall notify his or her supervisor of elections or other  
 736 ~~provide notice of such change to a voter registration official~~  
 737 by using a voter registration application signed by the elector.  
 738 ~~A voter information card reflecting the new information shall be~~  
 739 ~~issued to the elector as provided in subsection (3).~~

740 Section 8. Subsections (3) and (6) of section 98.075,  
 741 Florida Statutes, are amended to read:

742 98.075 Registration records maintenance activities;  
 743 ineligibility determinations.—

744 (3) DECEASED PERSONS.—

745 (a)1. The department shall identify those registered voters  
 746 who are deceased by comparing information ~~on the lists of~~  
 747 ~~deceased persons~~ received from either:

748 a. The Department of Health as provided in s. 98.093; ~~or-~~

749 b. The United States Social Security Administration,  
 750 including, but not limited to, any master death file or index  
 751 that the administration compiles.

752 2. Within 7 days after ~~Upon~~ receipt of such information  
 753 through the statewide voter registration system, the supervisor  
 754 shall remove the name of the registered voter.

755 (b) The supervisor shall remove the name of a deceased  
 756 registered voter from the statewide voter registration system

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757 | upon receipt of a copy of a death certificate issued by a  
 758 | governmental agency authorized to issue death certificates.

759 | (6) OTHER BASES FOR INELIGIBILITY.—If the department or  
 760 | supervisor receives information ~~other than~~ from ~~the~~ sources  
 761 | other than those identified in subsections (2)-(5) that a  
 762 | registered voter is ineligible because he or she is deceased,  
 763 | adjudicated a convicted felon without having had his or her  
 764 | civil rights restored, adjudicated mentally incapacitated  
 765 | without having had his or her voting rights restored, does not  
 766 | meet the age requirement pursuant to s. 97.041, is not a United  
 767 | States citizen, is a fictitious person, or has listed a  
 768 | residence that is not his or her legal residence, the supervisor  
 769 | shall adhere to the procedures set forth in subsection (7) prior  
 770 | to the removal of a registered voter's name from the statewide  
 771 | voter registration system.

772 | Section 9. Subsection (1) and paragraphs (e) and (f) of  
 773 | subsection (2) of section 98.093, Florida Statutes, are amended  
 774 | to read:

775 | 98.093 Duty of officials to furnish information relating  
 776 | to lists of deceased persons, persons adjudicated mentally  
 777 | incapacitated, and persons convicted of a felony.—

778 | (1) In order to identify ineligible registered voters and  
 779 | to maintain ~~ensure the maintenance of~~ accurate and current voter  
 780 | registration records in the statewide voter registration system  
 781 | pursuant to procedures in ss. 98.065 or 98.075, it is necessary  
 782 | for the department and supervisors of elections to receive or  
 783 | access certain information from state and federal officials and  
 784 | entities in the format prescribed. ~~The department and~~

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785 ~~supervisors of elections shall use the information provided from~~  
 786 ~~the sources in subsection (2) to maintain the voter registration~~  
 787 ~~records.~~

788 (2) To the maximum extent feasible, state and local  
 789 government agencies shall facilitate provision of information  
 790 and access to data to the department, including, but not limited  
 791 to, databases that contain reliable criminal records and records  
 792 of deceased persons. State and local government agencies that  
 793 provide such data shall do so without charge if the direct cost  
 794 incurred by those agencies is not significant.

795 (e) The Florida Parole Commission ~~Board of Executive~~  
 796 ~~Clemency~~ shall furnish at least bi-monthly ~~monthly~~ to the  
 797 department data including a list of those persons granted  
 798 clemency in the preceding month or any updates to prior records  
 799 which have occurred in the preceding month. The data list shall  
 800 contain the commission's Board of Executive Clemency case  
 801 number, name, address, date of birth, race, gender ~~sex~~, Florida  
 802 driver's license number, Florida identification card number or  
 803 the last four digits of the social security number, if  
 804 available, and references to record identifiers assigned by the  
 805 Department of Corrections and the Department of Law Enforcement,  
 806 a unique identifier of each clemency case, and the effective  
 807 date of clemency of each person.

808 (f) The Department of Corrections shall make available, in  
 809 the format prescribed, ~~furnish monthly~~ to the department and its  
 810 designees real-time electronic access to make an identification  
 811 match of a convicted felon who is incarcerated or on probation  
 812 based on the first and last name, date of birth, and either the

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813 Florida driver's license number, Florida identification card  
 814 number or last four digits of the social security number, if  
 815 available. The program must allow for return data to include,  
 816 but not be limited to, first and last ~~a list of those persons~~  
 817 ~~transferred to the Department of Corrections in the preceding~~  
 818 ~~month or any updates to prior records which have occurred in the~~  
 819 ~~preceding month. The list shall contain the name, address, date~~  
 820 ~~of birth, the Florida driver's license number or last four~~  
 821 ~~digits of the race, sex, social security number, the Department~~  
 822 ~~of Corrections record identification number, and the status of~~  
 823 ~~the convicted felon as whether incarcerated, on probation with~~  
 824 ~~clemency, or on probation without clemency associated Department~~  
 825 ~~of Law Enforcement felony conviction record number of each~~  
 826 ~~person.~~

827 Section 10. Effective July 1, 2012, subsections (1) and  
 828 (2) of section 98.0981, Florida Statutes, are amended to read:

829 98.0981 Reports; voting history; statewide voter  
 830 registration system information; precinct-level election  
 831 results; book closing statistics.—

832 (1) VOTING HISTORY AND STATEWIDE VOTER REGISTRATION SYSTEM  
 833 INFORMATION.—

834 (a) Within 30 ~~45~~ days after certification by the election  
 835 canvassing commission of a ~~after~~ presidential preference  
 836 primary, special election, a primary election, or a general  
 837 election, supervisors of elections shall transmit to the  
 838 department, in a uniform electronic format specified in  
 839 paragraph (d) by the department, completely updated voting  
 840 history information for each qualified voter who voted.

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841 (b) After receipt of the information in paragraph (a), the  
 842 department shall prepare a report in electronic format which  
 843 contains the following information, separately compiled for the  
 844 primary and general election for all voters qualified to vote in  
 845 either election:

846 1. The unique identifier assigned to each qualified voter  
 847 within the statewide voter registration system;

848 2. All information provided by each qualified voter on his  
 849 or her voter registration application pursuant to s. 97.052(2),  
 850 except that which is confidential or exempt from public records  
 851 requirements;

852 3. Each qualified voter's date of registration;

853 4. Each qualified voter's current state representative  
 854 district, state senatorial district, and congressional district,  
 855 assigned by the supervisor of elections;

856 5. Each qualified voter's current precinct; and

857 6. Voting history as transmitted under paragraph (a) to  
 858 include whether the qualified voter voted at a precinct  
 859 location, voted during the early voting period, voted by  
 860 absentee ballot, attempted to vote by absentee ballot that was  
 861 not counted, attempted to vote by provisional ballot that was  
 862 not counted, or did not vote.

863 (c) Within 15 ~~60~~ days after certification by the elections  
 864 canvassing commission of a presidential preference primary,  
 865 special election, a primary election or a general election, the  
 866 department shall send to the President of the Senate, the  
 867 Speaker of the House of Representatives, the Senate Minority  
 868 Leader, and the House Minority Leader a report in electronic

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869 | format that includes all information set forth in paragraph (b).

870 |       (d) File specifications are as follows:

871 |       1. The file shall contain records designated by the  
 872 | categories below for all qualified voters who, regardless of the  
 873 | voter's county of residence or active or inactive registration  
 874 | status at book close for the corresponding election that the  
 875 | file is being created for:

876 |       a. Voted a regular ballot at a precinct location.

877 |       b. Voted at a precinct location using a provisional ballot  
 878 | that was subsequently counted.

879 |       c. Voted a regular ballot during the early voting period.

880 |       d. Voted during the early voting period using a  
 881 | provisional ballot that was subsequently counted.

882 |       e. Voted by absentee ballot.

883 |       f. Attempted to vote by absentee ballot but the ballot was  
 884 | not counted.

885 |       g. Attempted to vote by provisional ballot but the ballot  
 886 | was not counted in that election.

887 |       2. Each file shall be created or converted into a tab-  
 888 | delimited format.

889 |       3. File names shall adhere to the following convention:

890 |       a. Three character county identifier as established by the  
 891 | department followed by underscore.

892 |       b. Followed by four character file type identifier of  
 893 | 'VH03' followed by an underscore.

894 |       c. Followed by FVRS election ID followed by an underscore.

895 |       d. Followed by Date Created followed by an underscore.

896 |       e. Date format is YYYYMMDD.

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897 f. Followed by Time Created - HHMMSS.  
 898 g. followed by '.txt'.  
 899 4. Each record shall contain the following columns: Record  
 900 Identifier, FVRS Voter ID Number, FVRS Election ID Number, Vote  
 901 Date, Vote History Code, Precinct, Congressional District, House  
 902 District, Senate District, County Commission District, and  
 903 School Board District.  
 904 (e) Each supervisor of elections shall reconcile within 25  
 905 days after a presidential preference primary, special election,  
 906 a primary election, or a general election to compare the  
 907 aggregate total of ballots cast in each precinct as reported in  
 908 the precinct-level election results to the aggregate total  
 909 number of voters with voter history for the election for each  
 910 district.  
 911 (f) Each supervisor of elections shall submit the results  
 912 of the data reconciliation as described in paragraph (e) to the  
 913 department in an electronic format and give a written  
 914 explanation for any precincts where the reconciliation as  
 915 described in paragraph (e) results in a discrepancy between the  
 916 voter history and election results.  
 917 (g) A supervisor of elections shall be required to pay \$50  
 918 a day for each day the required reports are late or not  
 919 complete. Fines must be paid from a supervisor of elections  
 920 personal funds. Fines shall be remitted to the department which  
 921 shall transmit the remitted fines for deposit into the General  
 922 Revenue Fund.  
 923 (2) (a) PRECINCT-LEVEL ELECTION RESULTS.—Within 25 ~~45~~ days  
 924 after the date of a presidential preference primary election, a

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925 | special election, a primary election, or a general election, the  
 926 | supervisors of elections shall collect and submit to the  
 927 | department precinct-level election results for the election in a  
 928 | uniform electronic format specified by paragraph (c) the  
 929 | ~~department~~. The precinct-level election results shall be  
 930 | compiled separately for the primary or special primary election  
 931 | that preceded the general or special general election,  
 932 | respectively. The results shall specifically include for each  
 933 | precinct the ~~aggregate~~ total of all ballots cast, with subtotals  
 934 | for each candidate and ballot type, for each candidate or  
 935 | nominee to fill a national, state, county, or district office or  
 936 | proposed constitutional amendment. "All ballots cast" means  
 937 | ballots cast by voters who cast a ballot whether at a precinct  
 938 | location, by absentee ballot including overseas absentee  
 939 | ballots, during the early voting period, or by provisional  
 940 | ballot.

941 |       (b) The department shall make such information available  
 942 | on a searchable, sortable and downloadable database via its web  
 943 | site that also includes the file layout and codes. The database  
 944 | shall be searchable and sortable by county, precinct, and  
 945 | candidate. The database shall be downloadable in a tab-delimited  
 946 | format. The database shall be available for download county-by-  
 947 | county and also as a statewide file. Such report shall also be  
 948 | made available upon request.

949 |       (c) The files containing the precinct-level election  
 950 | results shall be created in accordance with the applicable file  
 951 | specification:

952 |       1. The precinct level results file shall be created or



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953 converted into a tab-delimited text file.

954 2. The row immediately before the first data record shall  
 955 contain the column names of the data elements that make up the  
 956 data records. There shall be one header record followed by  
 957 multiple data records.

958 3. The data records shall include the following columns:  
 959 County Name, Election Number, Election Date, Unique Precinct  
 960 Identifier, Precinct Polling Location, Total Registered Voters,  
 961 Total Registered Republicans, Total Registered Democrats, Total  
 962 Registered All Other Parties, Contest Name,  
 963 Candidate/Retention/Issue Name, Candidate Ethnicity, Division of  
 964 Elections Unique Candidate Identifying Number, Candidate Party,  
 965 District, Undervote Total, Overvote Total, Write-in Total, and  
 966 Vote Total.

967 (d) A supervisor of elections shall be required to pay \$50  
 968 a day for each day the required reports are late or not  
 969 complete. Fines must be paid from a supervisor of elections  
 970 personal funds. Fines shall be remitted to the department which  
 971 shall transmit the remitted fines for deposit into the General  
 972 Revenue Fund.

973 Section 11. Subsections (5) and (7) of section 99.012,  
 974 Florida Statutes, are amended to read:

975 99.012 Restrictions on individuals qualifying for public  
 976 office.—

977 (5) Any person not complying with this section shall not  
 978 be qualified as a candidate for election and shall not appear on  
 979 the ballot. ~~The name of any person who does not comply with this~~  
 980 ~~section may be removed from every ballot on which it appears~~

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981 ~~when ordered by a circuit court upon the petition of an elector~~  
 982 ~~or the Department of State.~~

983 (7) Nothing contained in subsection (3) relates to persons  
 984 holding any federal office or seeking the office of President or  
 985 Vice President.

986 Section 12. Paragraphs (a) and (b) of subsection (1) of  
 987 section 99.021, Florida Statutes, are amended and subsection (3)  
 988 is added to said section to read:

989 99.021 Form of candidate oath.-

990 (1)(a)1. Each candidate, whether a party candidate, a  
 991 candidate with no party affiliation, or a write-in candidate, in  
 992 order to qualify for nomination or election to any office other  
 993 than a judicial office as defined in chapter 105 or a federal  
 994 office, shall take and subscribe to an oath or affirmation in  
 995 writing. A ~~printed~~ copy of the oath or affirmation shall be made  
 996 available furnished to the candidate by the officer before whom  
 997 such candidate seeks to qualify and shall be substantially in  
 998 the following form:

999 State of Florida

1000 County of....

1001 Before me, an officer authorized to administer oaths,  
 1002 personally appeared ... (please print name as you wish it to  
 1003 appear on the ballot) ..., to me well known, who, being sworn,  
 1004 says that he or she is a candidate for the office of ....; that  
 1005 he or she is a qualified elector of .... County, Florida; that  
 1006 he or she is qualified under the Constitution and the laws of  
 1007 Florida to hold the office to which he or she desires to be

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1008 | nominated or elected; ~~that he or she has taken the oath required~~  
 1009 | ~~by ss. 876.05-876.10, Florida Statutes;~~ that he or she has  
 1010 | qualified for no other public office in the state, the term of  
 1011 | which office or any part thereof runs concurrent with that of  
 1012 | the office he or she seeks; and that he or she has resigned from  
 1013 | any office from which he or she is required to resign pursuant  
 1014 | to s. 99.012, Florida Statutes; and that he or she will support  
 1015 | the Constitution of the United States and the Constitution of  
 1016 | the State of Florida.

1017 | ...(Signature of candidate)...  
 1018 | ...(Address)...

1019 | Sworn to and subscribed before me this .... day of ....,  
 1020 | ...(year)..., at .... County, Florida.  
 1021 | ...(Signature and title of officer administering oath)...

1022 | 2. Each candidate for federal office, whether a party  
 1023 | candidate, a candidate with no party affiliation, or a write-in  
 1024 | candidate, in order to qualify for nomination or election to  
 1025 | office shall take and subscribe to an oath or affirmation in  
 1026 | writing. A ~~printed~~ copy of the oath or affirmation shall be made  
 1027 | available ~~furnished~~ to the candidate by the officer before whom  
 1028 | such candidate seeks to qualify and shall be substantially in  
 1029 | the following form:

1030 | State of Florida  
 1031 | County of ....

1032 | Before me, an officer authorized to administer oaths,  
 1033 | personally appeared ...(please print name as you wish it to

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1034 appear on the ballot)..., to me well known, who, being sworn,  
 1035 says that he or she is a candidate for the office of ....; that  
 1036 he or she is qualified under the Constitution and laws of the  
 1037 United States to hold the office to which he or she desires to  
 1038 be nominated or elected; ~~and~~ that he or she has qualified for no  
 1039 other public office in the state, the term of which office or  
 1040 any part thereof runs concurrent with that of the office he or  
 1041 she seeks; and that he or she will support the Constitution of  
 1042 the United States.

1043 ... (Signature of candidate) ...  
 1044 ... (Address) ...

1045 Sworn to and subscribed before me this .... day of ....,  
 1046 ... (year)...., at .... County, Florida.  
 1047 ... (Signature and title of officer administering oath) ...

1048 (b) In addition, any person seeking to qualify for  
 1049 nomination as a candidate of any political party shall, at the  
 1050 time of subscribing to the oath or affirmation, state in  
 1051 writing:

- 1052 1. The party of which the person is a member.
- 1053 2. That the person ~~is not a registered member of any other~~  
 1054 ~~political party and~~ has not been a registered member of  
 1055 ~~candidate for nomination for~~ any other political party in the  
 1056 calendar year leading up to the general election ~~for a period of~~  
 1057 ~~6 months preceding the general election~~ for which the person  
 1058 seeks to qualify.

- 1059 3. That the person has paid the assessment levied against  
 1060 him or her, if any, as a candidate for said office by the

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1061 executive committee of the party of which he or she is a member.

1062 (3) The requirements set forth in this section do not  
 1063 apply to persons who seek to qualify for election pursuant to  
 1064 the provisions of ss. 103.021 and 103.101.

1065 Section 13. Subsections (5) and (7) of section 99.061,  
 1066 Florida Statutes, are amended, and subsection (11) is added to  
 1067 that section, to read:

1068 99.061 Method of qualifying for nomination or election to  
 1069 federal, state, county, or district office.-

1070 (5) At the time of qualifying for office, each candidate  
 1071 for a constitutional office shall file a full and public  
 1072 disclosure of financial interests pursuant to s. 8, Art. II of  
 1073 the State Constitution, duly notarized pursuant to s. 117.05,  
 1074 and a candidate for any other office, including local elective  
 1075 office, shall file a statement of financial interests pursuant  
 1076 to s. 112.3145.

1077 (7) (a) In order for a candidate to be qualified, the  
 1078 following items must be received by the filing officer by the  
 1079 end of the qualifying period:

1080 1. A properly executed check drawn upon the candidate's  
 1081 campaign account payable to the person or entity as prescribed  
 1082 by the filing officer in an amount not less than the fee  
 1083 required by s. 99.092, unless the candidate obtained the  
 1084 required number of signatures on petitions ~~or, in lieu thereof,~~  
 1085 ~~as applicable, the copy of the notice of obtaining ballot~~  
 1086 ~~position~~ pursuant to s. 99.095. The filing fee for a special  
 1087 district candidate is not required to be drawn upon the  
 1088 candidate's campaign account. If a candidate's check is returned

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1089 by the bank for any reason, the filing officer shall immediately  
 1090 notify the candidate and the candidate shall have until the end  
 1091 of qualifying ~~notwithstanding, have 48 hours from the time such~~  
 1092 ~~notification is received, excluding Saturdays, Sundays, and~~  
 1093 ~~legal holidays,~~ to pay the fee with a cashier's check purchased  
 1094 from funds of the campaign account. Failure to pay the fee as  
 1095 provided in this subparagraph shall disqualify the candidate.

1096 2. The candidate's oath required by s. 99.021, which must  
 1097 contain the name of the candidate as it is to appear on the  
 1098 ballot; the office sought, including the district or group  
 1099 number if applicable; and the signature of the candidate, duly  
 1100 notarized pursuant to s. 117.05 ~~acknowledged.~~

1101 ~~3. The loyalty oath required by s. 876.05, signed by the~~  
 1102 ~~candidate and duly acknowledged.~~

1103 ~~3.4.~~ If the office sought is partisan, the written  
 1104 statement of political party affiliation required by s.  
 1105 99.021(1)(b).

1106 ~~4.5.~~ The completed form for the appointment of campaign  
 1107 treasurer and designation of campaign depository, as required by  
 1108 s. 106.021.

1109 ~~5.6.~~ The full and public disclosure or statement of  
 1110 financial interests required by subsection (5). A public officer  
 1111 who has filed the full and public disclosure or statement of  
 1112 financial interests with the Commission on Ethics or the  
 1113 supervisor of elections prior to qualifying for office may file  
 1114 a copy of that disclosure at the time of qualifying.

1115 (b) If the filing officer receives qualifying papers  
 1116 during the qualifying period prescribed in this section that do

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1117 | not include all items as required by paragraph (a) prior to the  
 1118 | last day of qualifying, the filing officer shall make a  
 1119 | reasonable effort to notify the candidate of the missing or  
 1120 | incomplete items and shall inform the candidate that all  
 1121 | required items must be received by the close of qualifying. A  
 1122 | candidate's name as it is to appear on the ballot may not be  
 1123 | changed after the end of qualifying.

1124 |       (c) The filing officer performs a ministerial function in  
 1125 | reviewing qualifying papers. In determining whether a candidate  
 1126 | is qualified, the filing officer shall review the qualifying  
 1127 | papers to determine whether all items required by paragraph (a)  
 1128 | have been properly filed and whether each item is complete on  
 1129 | its face, including whether items requiring notarizations are  
 1130 | properly notarized as required by s. 117.05. The filing officer  
 1131 | may not determine whether the contents of the qualifying papers  
 1132 | are accurate.

1133 |       (11) The decision of the filing officer concerning whether  
 1134 | a candidate is qualified is exempt from the provisions of  
 1135 | chapter 120.

1136 |       Section 14. Subsection (2) of section 99.063, Florida  
 1137 | Statutes, is amended to read:

1138 |       99.063 Candidates for Governor and Lieutenant Governor.—

1139 |       (2) No later than 5 p.m. of the 9th day following the  
 1140 | primary election, each designated candidate for Lieutenant  
 1141 | Governor shall file with the Department of State:

1142 |       (a) The candidate's oath required by s. 99.021, which must  
 1143 | contain the name of the candidate as it is to appear on the  
 1144 | ballot; the office sought; and the signature of the candidate,

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1145 | duly acknowledged.

1146 |       ~~(b) The loyalty oath required by s. 876.05, signed by the~~  
 1147 | ~~candidate and duly acknowledged.~~

1148 |       (b)~~(e)~~ If the office sought is partisan, the written  
 1149 | statement of political party affiliation required by s.  
 1150 | 99.021(1) (b).

1151 |       (c)~~(d)~~ The full and public disclosure of financial  
 1152 | interests pursuant to s. 8, Art. II of the State Constitution. A  
 1153 | public officer who has filed the full and public disclosure with  
 1154 | the Commission on Ethics prior to qualifying for office may file  
 1155 | a copy of that disclosure at the time of qualifying.

1156 |       Section 15. Subsection (1) of section 99.093, Florida  
 1157 | Statutes, is amended to read:

1158 |       99.093 Municipal candidates; election assessment.—

1159 |       (1) Each person seeking to qualify for nomination or  
 1160 | election to a municipal office shall pay, at the time of  
 1161 | qualifying for office, an election assessment. The election  
 1162 | assessment shall be an amount equal to 1 percent of the annual  
 1163 | salary of the office sought. Within 30 days after the close of  
 1164 | qualifying, the qualifying officer shall forward all assessments  
 1165 | collected pursuant to this section to the Florida Elections  
 1166 | Commission ~~Department of State~~ for transfer to the Elections  
 1167 | Commission Trust Fund within the Department of Legal Affairs.

1168 |       Section 16. Subsections (1), (3), and (5) of section  
 1169 | 99.097, Florida Statutes, are amended, and subsection (6) is  
 1170 | added to that section, to read:

1171 |       99.097 Verification of signatures on petitions.—

1172 |       (1) (a) As determined by each supervisor, based upon local



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1173 conditions, the checking of names on petitions may be based on  
 1174 the most inexpensive and administratively feasible of either of  
 1175 the following methods of verification:

1176 1.(a) A ~~name-by-name, signature-by-signature~~ check of each  
 1177 petition the number of authorized signatures on the petitions;  
 1178 or

1179 2.(b) A check of a random sample, as provided by the  
 1180 Department of State, of ~~names and signatures on~~ the petitions.  
 1181 The sample must be such that a determination can be made as to  
 1182 whether or not the required number of signatures has ~~have~~ been  
 1183 obtained with a reliability of at least 99.5 percent.

1184 (b) Rules and guidelines for ~~this method of~~ petition  
 1185 verification shall be adopted ~~promulgated~~ by the Department of  
 1186 State. Rules and guidelines for a random sample method of  
 1187 verification, ~~which~~ may include a requirement that petitions  
 1188 bear an additional number of names and signatures, not to exceed  
 1189 15 percent of the names and signatures otherwise required. If  
 1190 the petitions do not meet such criteria or if the petitions are  
 1191 prescribed by s. 100.371, then the use of the random sample  
 1192 method of verification ~~method described in this paragraph~~ shall  
 1193 not be available to supervisors.

1194 (3) (a) If all other requirements for the petition are met,  
 1195 a signature on a petition shall be verified and counted as valid  
 1196 for a registered voter if after comparing the signature on the  
 1197 petition and the signature of the registered voter in the voter  
 1198 registration system, the supervisor is able to determine that  
 1199 the petition signer is the same as the registered voter, even if  
 1200 the name on the petition is not in substantially the same form

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1201 as in the voter registration system. ~~A name on a petition, which~~  
 1202 ~~name is not in substantially the same form as a name on the~~  
 1203 ~~voter registration books, shall be counted as a valid signature~~  
 1204 ~~if, after comparing the signature on the petition with the~~  
 1205 ~~signature of the alleged signer as shown on the registration~~  
 1206 ~~books, the supervisor determines that the person signing the~~  
 1207 ~~petition and the person who registered to vote are one and the~~  
 1208 ~~same.~~

1209 (b) In any situation in which this code requires the form  
 1210 of the petition to be prescribed by the division, no signature  
 1211 shall be counted toward the number of signatures required unless  
 1212 it is on a petition form prescribed by the division.

1213 (c) ~~(b)~~ If a voter signs a petition and lists an address  
 1214 other than the legal residence where the voter is registered,  
 1215 the supervisor shall treat the signature as if the voter had  
 1216 listed the address where the voter is registered.

1217 (5) The results of a verification pursuant to subparagraph  
 1218 (1) (a) 2. ~~paragraph (1) (b)~~ may be contested in the circuit court  
 1219 by the candidate; an announced opponent; a representative of a  
 1220 designated political committee; or a person, party, or other  
 1221 organization submitting the petition. The contestant shall file  
 1222 a complaint, together with the fees prescribed in chapter 28,  
 1223 with the clerk of the circuit court in the county in which the  
 1224 petition is certified or in Leon County if the petition covers  
 1225 more than one county within 10 days after midnight of the date  
 1226 the petition is certified; and the complaint shall set forth the  
 1227 grounds on which the contestant intends to establish his or her  
 1228 right to require a complete check of the petition names ~~and~~

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1229 | signatures pursuant to subparagraph (1)(a)1. ~~paragraph (1)(a).~~  
 1230 | In the event the court orders a complete check of the petition  
 1231 | and the result is not changed as to the success or lack of  
 1232 | success of the petitioner in obtaining the requisite number of  
 1233 | valid signatures, then such candidate, unless the candidate has  
 1234 | filed the oath stating that he or she is unable to pay such  
 1235 | charges; announced opponent; representative of a designated  
 1236 | political committee; or party, person, or organization  
 1237 | submitting the petition, unless such person or organization has  
 1238 | filed the oath stating inability to pay such charges, shall pay  
 1239 | to the supervisor of elections of each affected county for the  
 1240 | complete check an amount calculated at the rate of 10 cents for  
 1241 | each additional signature checked or the actual cost of checking  
 1242 | such additional signatures, whichever is less.

1243 | (6) (a) If any person is paid to solicit signatures on a  
 1244 | petition, an undue burden oath may not subsequently be filed in  
 1245 | lieu of paying the fee to have signatures verified for that  
 1246 | petition.

1247 | (b) If an undue burden oath has been filed and payment is  
 1248 | subsequently made to any person to solicit signatures on a  
 1249 | petition, then the undue burden oath is no longer valid and a  
 1250 | fee for all signatures previously submitted to the supervisor of  
 1251 | elections and for any that are submitted thereafter shall be  
 1252 | paid by the candidate, person, or organization that submitted  
 1253 | the undue burden oath. If contributions as defined in s. 106.011  
 1254 | are received, any monetary contributions shall first be used to  
 1255 | reimburse the supervisor of elections for any signature  
 1256 | verification fees not paid because of an undue burden oath being

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1257 | filed.  
 1258 |       Section 17. Subsection (2) of section 100.111, Florida  
 1259 | Statutes, is repealed, present subsection (3) is renumbered as  
 1260 | subsection (2), present subsection (4) is amended and renumbered  
 1261 | as subsection (3), and a new subsection (4) is added to that  
 1262 | section to read:  
 1263 |       100.111 Filling vacancy.—  
 1264 |       ~~(2)(a) If, in any state or county office required to be~~  
 1265 | ~~filled by election, a vacancy occurs during an election year by~~  
 1266 | ~~reason of the incumbent having qualified as a candidate for~~  
 1267 | ~~federal office pursuant to s. 99.061, no special election is~~  
 1268 | ~~required. Any person seeking nomination or election to the~~  
 1269 | ~~office so vacated shall qualify within the time prescribed by s.~~  
 1270 | ~~99.061 for qualifying for state or county offices to be filled~~  
 1271 | ~~by election.~~  
 1272 |       ~~(b) If such a vacancy occurs in an election year other~~  
 1273 | ~~than the one immediately preceding expiration of the present~~  
 1274 | ~~term, the Secretary of State shall notify the supervisor of~~  
 1275 | ~~elections in each county served by the office that a vacancy has~~  
 1276 | ~~been created. Such notice shall be provided to the supervisor of~~  
 1277 | ~~elections not later than the close of the first day set for~~  
 1278 | ~~qualifying for state or county office. The supervisor shall~~  
 1279 | ~~provide public notice of the vacancy in any manner the Secretary~~  
 1280 | ~~of State deems appropriate.~~  
 1281 |       (2)~~(3)~~ Whenever there is a vacancy for which a special  
 1282 | election is required pursuant to s. 100.101, the Governor, after  
 1283 | consultation with the Secretary of State, shall fix the dates of  
 1284 | a special primary election and a special election. Nominees of

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1285 political parties shall be chosen under the primary laws of this  
 1286 state in the special primary election to become candidates in  
 1287 the special election. Prior to setting the special election  
 1288 dates, the Governor shall consider any upcoming elections in the  
 1289 jurisdiction where the special election will be held. The dates  
 1290 fixed by the Governor shall be specific days certain and shall  
 1291 not be established by the happening of a condition or stated in  
 1292 the alternative. The dates fixed shall provide a minimum of 2  
 1293 weeks between each election. In the event a vacancy occurs in  
 1294 the office of state senator or member of the House of  
 1295 Representatives when the Legislature is in regular legislative  
 1296 session, the minimum times prescribed by this subsection may be  
 1297 waived upon concurrence of the Governor, the Speaker of the  
 1298 House of Representatives, and the President of the Senate. If a  
 1299 vacancy occurs in the office of state senator and no session of  
 1300 the Legislature is scheduled to be held prior to the next  
 1301 general election, the Governor may fix the dates for the special  
 1302 primary election and for the special election to coincide with  
 1303 the dates of the primary election and general election. If a  
 1304 vacancy in office occurs in any district in the state Senate or  
 1305 House of Representatives or in any congressional district, and  
 1306 no session of the Legislature, or session of Congress if the  
 1307 vacancy is in a congressional district, is scheduled to be held  
 1308 during the unexpired portion of the term, the Governor is not  
 1309 required to call a special election to fill such vacancy.

1310 (a) The dates for candidates to qualify in such special  
 1311 election or special primary election shall be fixed by the  
 1312 Department of State, and candidates shall qualify not later than

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1313 noon of the last day so fixed. The dates fixed for qualifying  
 1314 shall allow a minimum of 14 days between the last day of  
 1315 qualifying and the special primary election.

1316 (b) The filing of campaign expense statements by  
 1317 candidates in such special elections or special primaries and by  
 1318 committees making contributions or expenditures to influence the  
 1319 results of such special primaries or special elections shall be  
 1320 not later than such dates as shall be fixed by the Department of  
 1321 State, and in fixing such dates the Department of State shall  
 1322 take into consideration and be governed by the practical time  
 1323 limitations.

1324 (c) The dates for a candidate to qualify by the petition  
 1325 process pursuant to s. 99.095 in such special primary or special  
 1326 election shall be fixed by the Department of State. In fixing  
 1327 such dates the Department of State shall take into consideration  
 1328 and be governed by the practical time limitations. Any candidate  
 1329 seeking to qualify by the petition process in a special primary  
 1330 election shall obtain 25 percent of the signatures required by  
 1331 s. 99.095.

1332 (d) The qualifying fees and party assessments of such  
 1333 candidates as may qualify shall be the same as collected for the  
 1334 same office at the last previous primary for that office. The  
 1335 party assessment shall be paid to the appropriate executive  
 1336 committee of the political party to which the candidate belongs.

1337 (e) Each county canvassing board shall make as speedy a  
 1338 return of the result of such special primary elections and  
 1339 special elections as time will permit, and the Elections  
 1340 Canvassing Commission likewise shall make as speedy a canvass

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1341 and declaration of the nominees as time will permit.

1342 (3)-(4)(a) In the event that death, resignation,  
 1343 withdrawal, removal, or any other cause or event should cause a  
 1344 party to have a vacancy in nomination which leaves no candidate  
 1345 for an office from such party, the filing officer before whom  
 1346 the candidate qualified ~~Department of State~~ shall notify the  
 1347 chair of the ~~appropriate state, district, or county~~ political  
 1348 party executive committee of such party; and,

1349 1. If the vacancy in nomination for statewide office, the  
 1350 state party chair shall, within 5 days, the chair shall call a  
 1351 meeting of his or her executive board ~~committee~~ to consider  
 1352 designation of a nominee to fill the vacancy.

1353 2. If the vacancy in nomination is for a legislative or  
 1354 multicounty office, the state party chair shall notify the  
 1355 appropriate county chair or chairs and, within 5 days, the  
 1356 appropriate county chair or chairs shall call a meeting of the  
 1357 members of the executive committee in the affected county or  
 1358 counties to consider designation of a nominee to fill the  
 1359 vacancy.

1360 3. If the vacancy in nomination is for a county office,  
 1361 the state party chair shall notify the appropriate county chair  
 1362 and, within 5 days, the appropriate county chair shall call a  
 1363 meeting of his or her executive committee to consider  
 1364 designation of a nominee to fill the vacancy.

1365  
 1366 The name of any person so designated shall be submitted to the  
 1367 filing officer before whom the candidate qualified ~~Department of~~  
 1368 ~~State~~ within 7 days after notice to the chair in order that the

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1369 person designated may have his or her name on the ballot of the  
 1370 ensuing general election. If the name of the new nominee is  
 1371 submitted after the certification of results of the preceding  
 1372 primary election, however, the ballots shall not be changed and  
 1373 the former party nominee's name will appear on the ballot. Any  
 1374 ballots cast for the former party nominee will be counted for  
 1375 the person designated by the political party to replace the  
 1376 former party nominee. If there is no opposition to the party  
 1377 nominee, the person designated by the political party to replace  
 1378 the former party nominee will be elected to office at the  
 1379 general election. ~~For purposes of this paragraph, the term~~  
 1380 ~~"district political party executive committee" means the members~~  
 1381 ~~of the state executive committee of a political party from those~~  
 1382 ~~counties comprising the area involving a district office.~~

1383 (b) When, under the circumstances set forth in the  
 1384 preceding paragraph, vacancies in nomination are required to be  
 1385 filled by committee nominations, such vacancies shall be filled  
 1386 by party rule. In any instance in which a nominee is selected by  
 1387 a committee to fill a vacancy in nomination, such nominee shall  
 1388 pay the same filing fee and take the same oath as the nominee  
 1389 would have taken had he or she regularly qualified for election  
 1390 to such office.

1391 (c) Any person who, at the close of qualifying as  
 1392 prescribed in ss. 99.061 and 105.031, was qualified for  
 1393 nomination or election to or retention in a public office to be  
 1394 filled at the ensuing general election or who attempted to  
 1395 qualify and failed to qualify is prohibited from qualifying as a  
 1396 candidate to fill a vacancy in nomination for any other office



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1397 to be filled at that general election, even if such person has  
 1398 withdrawn or been eliminated as a candidate for the original  
 1399 office sought. However, this paragraph does not apply to a  
 1400 candidate for the office of Lieutenant Governor who applies to  
 1401 fill a vacancy in nomination for the office of Governor on the  
 1402 same ticket or to a person who has withdrawn or been eliminated  
 1403 as a candidate and who is subsequently designated as a candidate  
 1404 for Lieutenant Governor under s. 99.063.

1405 (5) A vacancy in nomination is not created if an order of  
 1406 a court that has become final determines that a nominee did not  
 1407 properly qualify or does not meet the necessary qualifications  
 1408 to hold the office for which he or she sought to qualify.

1409 (6)~~(5)~~ In the event of unforeseeable circumstances not  
 1410 contemplated in these general election laws concerning the  
 1411 calling and holding of special primary elections and special  
 1412 elections resulting from court order or other unpredictable  
 1413 circumstances, the Department of State shall have the authority  
 1414 to provide for the conduct of orderly elections.

1415 Section 18. Subsections (1), (3), (6), and (7) of section  
 1416 100.371, Florida Statutes, are amended to read:

1417 100.371 Initiatives; procedure for placement on ballot.—

1418 (1) Constitutional amendments proposed by initiative shall  
 1419 be placed on the ballot for the general election, provided the  
 1420 initiative petition has been filed with the Secretary of State  
 1421 no later than February 1 of the year the general election is  
 1422 held. A petition shall be deemed to be filed with the Secretary  
 1423 of State upon the date the secretary determines that valid and  
 1424 verified petition forms have been signed by the constitutionally

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1425 required number and distribution of electors under this code,  
 1426 ~~subject to the right of revocation established in this section.~~  
 1427 (3) An initiative petition form circulated for signature  
 1428 may not be bundled with or attached to any other petition. Each  
 1429 signature shall be dated when made and shall be valid for a  
 1430 period of 2 4 years following such date, provided all other  
 1431 requirements of law are met. The sponsor shall submit signed and  
 1432 dated forms to the ~~appropriate~~ supervisor of elections for  
 1433 verification as to the number of registered electors whose valid  
 1434 signatures appear thereon. If the signer is a registered voter  
 1435 of another county, the supervisor shall notify the petition  
 1436 sponsor of the misfiled petition. The supervisor shall promptly  
 1437 verify the signatures within 30 days after ~~of~~ receipt of the  
 1438 petition forms and payment of the fee required by s. 99.097. The  
 1439 supervisor shall promptly record, in the manner prescribed by  
 1440 the Secretary of State, the date each form is received by the  
 1441 supervisor, and the date the signature on the form is verified  
 1442 as valid. The supervisor may verify that the signature on a form  
 1443 is valid only if:  
 1444 (a) The form contains the original signature of the  
 1445 purported elector.  
 1446 (b) The purported elector has accurately recorded on the  
 1447 form the date on which he or she signed the form.  
 1448 (c) The form ~~accurately~~ sets forth the purported elector's  
 1449 name, ~~street~~ address, city, county, and voter registration  
 1450 number or date of birth.  
 1451 (d) The purported elector is, at the time he or she signs  
 1452 the form and at the time the form is verified, a duly qualified

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1453 and registered elector ~~authorized to vote in the state county in~~  
 1454 ~~which his or her signature is submitted.~~

1455  
 1456 The supervisor shall retain the signature forms for at least 1  
 1457 year following the election in which the issue appeared on the  
 1458 ballot or until the Division of Elections notifies the  
 1459 supervisors of elections that the committee that ~~which~~  
 1460 circulated the petition is no longer seeking to obtain ballot  
 1461 position.

1462 ~~(6)(a) An elector's signature on a petition form may be~~  
 1463 ~~revoked within 150 days of the date on which he or she signed~~  
 1464 ~~the petition form by submitting to the appropriate supervisor of~~  
 1465 ~~elections a signed petition-revocation form.~~

1466 ~~(b) The petition-revocation form and the manner in which~~  
 1467 ~~signatures are obtained, submitted, and verified shall be~~  
 1468 ~~subject to the same relevant requirements and timeframes as the~~  
 1469 ~~corresponding petition form and processes under this code and~~  
 1470 ~~shall be approved by the Secretary of State before any signature~~  
 1471 ~~on a petition-revocation form is obtained.~~

1472 ~~(c) In those circumstances in which a petition-revocation~~  
 1473 ~~form for a corresponding initiative petition has not been~~  
 1474 ~~submitted and approved, an elector may complete and submit a~~  
 1475 ~~standard petition-revocation form directly to the supervisor of~~  
 1476 ~~elections. All other requirements and processes apply for the~~  
 1477 ~~submission and verification of the signatures as for initiative~~  
 1478 ~~petitions.~~

1479 ~~(d) Supervisors of elections shall provide petition-~~  
 1480 ~~revocation forms to the public at all main and branch offices.~~

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1481 ~~(e) The petition revocation form shall be filed with the~~  
 1482 ~~supervisor of elections by February 1 preceding the next general~~  
 1483 ~~election or, if the initiative amendment is not certified for~~  
 1484 ~~ballot position in that election, by February 1 preceding the~~  
 1485 ~~next successive general election. The supervisor of elections~~  
 1486 ~~shall promptly verify the signature on the petition revocation~~  
 1487 ~~form and process such revocation upon payment, in advance, of a~~  
 1488 ~~fee of 10 cents or the actual cost of verifying such signature,~~  
 1489 ~~whichever is less. The supervisor shall promptly record each~~  
 1490 ~~valid and verified signature on a petition revocation form in~~  
 1491 ~~the manner prescribed by the Secretary of State.~~

1492 ~~(f) The division shall adopt by rule the petition-~~  
 1493 ~~revocation forms to be used under this subsection.~~

1494 (6) ~~(7)~~ The Department of State may adopt rules in  
 1495 accordance with s. 120.54 to carry out the provisions of  
 1496 subsections (1)-(6).

1497 Section 19. Effective July 1, 2012, subsections (3) and  
 1498 (4) of section 101.001, Florida Statutes, are amended to read:

1499 101.001 Precincts and polling places; boundaries.—

1500 (3) (a) Each supervisor of elections shall maintain a  
 1501 suitable map drawn to a scale no smaller than 3 miles to the  
 1502 inch and clearly delineating all major observable features such  
 1503 as roads, streams, and railway lines and showing the current  
 1504 geographical boundaries of each precinct, representative  
 1505 district, and senatorial district, and other type of district in  
 1506 the county subject to the elections process in this code.

1507 (b) The supervisor shall provide to the department a  
 1508 database of all precincts in the county associated with the most

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1509 recent decennial census within each precinct.

1510 (c) The department shall maintain a searchable database  
 1511 that contains the precincts and the corresponding most recent  
 1512 decennial census blocks within the precincts for each county  
 1513 including a historical file that allows the census blocks to be  
 1514 traced through the prior decade.

1515 (d) The department shall charge the office of the  
 1516 supervisor of elections of each county the cost of processing  
 1517 the data received from the county and inserting it into the  
 1518 searchable database format. The cost of the searchable database  
 1519 will be financed proportionally by each county supervisor based  
 1520 on the number of registered voters in each county on January 1  
 1521 of each year.

1522 (e)-~~(b)~~ The supervisor of elections shall notify the  
 1523 Secretary of State in writing within 10 ~~30~~ days after any  
 1524 reorganization of precincts and shall furnish a copy of the map  
 1525 showing the current geographical boundaries and designation of  
 1526 each new precinct. However, if precincts are composed of whole  
 1527 census blocks, the supervisor may furnish, in lieu of a copy of  
 1528 the map, a list, in an electronic format prescribed by the  
 1529 Department of State, associating each census block in the county  
 1530 with its precinct.

1531 (f)-~~(e)~~ Any precinct established or altered under the  
 1532 provisions of this section shall consist of areas bounded on all  
 1533 sides only by census block boundaries from the most recent  
 1534 United States Census. If the census block boundaries split or  
 1535 conflict with another political boundary listed below, that  
 1536 boundary may be used:

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1537 ~~1. Census block boundaries from the most recent United~~  
 1538 ~~States Census;~~

1539 ~~1.2.~~ Governmental unit boundaries reported in the most  
 1540 recent Boundary and Annexation Survey published by the United  
 1541 States Census Bureau;

1542 ~~2.3.~~ Visible features that are readily distinguishable  
 1543 upon the ground, such as streets, railroads, tracks, streams,  
 1544 and lakes, and that are indicated upon current census maps,  
 1545 official Department of Transportation maps, official municipal  
 1546 maps, official county maps, or a combination of such maps;

1547 ~~3.4.~~ Boundaries of public parks, public school grounds, or  
 1548 churches; or

1549 ~~4.5.~~ Boundaries of counties, incorporated municipalities,  
 1550 or other political subdivisions that meet criteria established  
 1551 by the United States Census Bureau for block boundaries.

1552 ~~(d) Until July 1, 2012, a supervisor may apply for and~~  
 1553 ~~obtain from the Secretary of State a waiver of the requirement~~  
 1554 ~~in paragraph (c).~~

1555 (4) (a) Within 10 days after there is any change in the  
 1556 division, number, or boundaries of the precincts, or the  
 1557 location of the polling places, the supervisor of elections  
 1558 shall make in writing an accurate description of any new or  
 1559 altered precincts, setting forth the boundary lines and shall  
 1560 identify the location of each new or altered polling place. A  
 1561 copy of the document describing such changes shall be posted at  
 1562 the supervisor's office.

1563 (b) Any changes to the county precinct database shall be  
 1564 provided to the department within 10 days of a change.

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1565 (c) A precinct database shall include all precincts for  
 1566 which precinct level election results and voting history results  
 1567 are reported

1568 Section 20. Subsection (1) of section 101.043, Florida  
 1569 Statutes, is amended to read:

1570 101.043 Identification required at polls.—

1571 (1) The precinct register, as prescribed in s. 98.461,  
 1572 shall be used at the polls for the purpose of identifying the  
 1573 elector at the polls prior to allowing him or her to vote. The  
 1574 clerk or inspector shall require each elector, upon entering the  
 1575 polling place, to present one of the following current and valid  
 1576 picture identifications:

- 1577 (a) Florida driver's license.
- 1578 (b) Florida identification card issued by the Department  
 1579 of Highway Safety and Motor Vehicles.
- 1580 (c) United States passport.
- 1581 (d) Debit or credit card.
- 1582 (e) Military identification.
- 1583 (f) Student identification.
- 1584 (g) Retirement center identification.
- 1585 (h) Neighborhood association identification.
- 1586 (i) Public assistance identification.

1587  
 1588 If the picture identification does not contain the signature of  
 1589 the voter, an additional identification that provides the  
 1590 elector's ~~voter's~~ signature shall be required. The address  
 1591 appearing on the identification presented by the elector is not  
 1592 to be used as the basis to confirm an elector's legal residence

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1593 | or otherwise challenge an elector's legal residence. The elector  
 1594 | shall sign his or her name in the space provided on the precinct  
 1595 | register or on an electronic device provided for recording the  
 1596 | elector's ~~voter's~~ signature. The clerk or inspector shall  
 1597 | compare the signature with that on the identification provided  
 1598 | by the elector and enter his or her initials in the space  
 1599 | provided on the precinct register or on an electronic device  
 1600 | provided for that purpose and allow the elector to vote if the  
 1601 | clerk or inspector is satisfied as to the identity of the  
 1602 | elector.

1603 |       Section 21. Section 101.045, Florida Statutes, is amended  
 1604 | to read:

1605 |       (Substantial rewording of section. See  
 1606 | s. 101.045, F.S., for present text.)

1607 |       101.045 Electors must be registered in precinct.—

1608 |       (1) A person is not permitted to vote in any election  
 1609 | precinct or district other than the one in which the person has  
 1610 | his or her legal residence and in which the person is  
 1611 | registered. However, a person temporarily residing outside the  
 1612 | county shall be registered in the precinct in which the main  
 1613 | office of the supervisor, as designated by the supervisor, is  
 1614 | located when the person has no permanent address in the county  
 1615 | and it is the person's intention to remain a resident of Florida  
 1616 | and of the county in which he or she is registered to vote. Such  
 1617 | persons who are registered in the precinct in which the main  
 1618 | office of the supervisor, as designated by the supervisor, is  
 1619 | located and who are residing outside the county with no  
 1620 | permanent address in the county may not be registered electors



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1621 of a municipality and therefore shall not be permitted to vote  
 1622 in any municipal election.

1623 (2) If the elector's eligibility to vote cannot be  
 1624 determined, he or she shall be entitled to vote a provisional  
 1625 ballot, subject to the requirements and procedures in s.  
 1626 101.048.

1627 Section 22. Subsection (2) of section 101.131, Florida  
 1628 Statutes, is amended, and subsections (4) and (5) are added to  
 1629 that section, to read:

1630 101.131 Watchers at polls.—

1631 (2) Each party, each political committee, and each  
 1632 candidate requesting to have poll watchers shall designate, in  
 1633 writing to the supervisors of elections, on a form prescribed by  
 1634 the division, before ~~prior to~~ noon of the second Tuesday  
 1635 preceding the election poll watchers for each polling room on  
 1636 election day. Designations of poll watchers for early voting  
 1637 areas shall be submitted in writing to the supervisor of  
 1638 elections, on a form prescribed by the division, before noon at  
 1639 least 14 days before early voting begins. The poll watchers for  
 1640 each polling rooms ~~room~~ shall be approved by the supervisor of  
 1641 elections on or before the Tuesday before the election. Poll  
 1642 watchers for early voting areas shall be approved by the  
 1643 supervisor of elections no later than 7 days before early voting  
 1644 begins. The supervisor shall furnish to each election board a  
 1645 list of the poll watchers designated and approved for such  
 1646 polling rooms ~~room~~ or early voting areas ~~area~~. Designation of  
 1647 poll watchers shall be made by the chair of the county executive  
 1648 committee of a political party, the chair of a political

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1649 committee, or the candidate requesting to have poll watchers.

1650 (4) All poll watchers shall be allowed to enter and watch  
 1651 polls in all polling rooms and early voting areas within the  
 1652 county in which they have been designated if the number of poll  
 1653 watchers at any particular polling place does not exceed the  
 1654 number provided in this section.

1655 (5) The supervisor of elections shall provide to each  
 1656 designated poll watcher, no later than 7 days before early  
 1657 voting begins, a poll watcher identification badge that  
 1658 identifies the poll watcher by name. Each poll watcher shall  
 1659 wear his or her identification badge while in the polling room  
 1660 or early voting area.

1661 Section 23. Subsections (1), (2), and (3) of section  
 1662 101.151, Florida Statutes, are amended to read:

1663 101.151 Specifications for ballots.-

1664 (1)(a) Marksense ballots shall be printed on paper of such  
 1665 thickness that the printing cannot be distinguished from the  
 1666 back and shall meet the specifications of the voting system that  
 1667 will be used to tabulate the ballots.

1668 (b) Early voting sites may employ a ballot-on-demand  
 1669 production system to print individual marksense ballots,  
 1670 including provisional ballots, for eligible electors pursuant to  
 1671 s. 101.657. Ballot-on-demand technology may be used to produce  
 1672 marksense absentee and election-day ballots. ~~Not later than 30~~  
 1673 ~~days before an election, the Secretary of State may also~~  
 1674 ~~authorize in writing the use of ballot-on-demand technology for~~  
 1675 ~~the production of election-day ballots.~~

1676 (2)(a) The ballot shall have the following office titles

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1677 | ~~headings under which shall appear the names of the offices and~~  
 1678 | ~~the names of the candidates for the respective offices in the~~  
 1679 | ~~following order:~~

1680 |       1. The office titles of heading "President and Vice  
 1681 | President of the United States" and thereunder the names of the  
 1682 | candidates for President and Vice President of the United States  
 1683 | nominated by the political party that received the highest vote  
 1684 | for Governor in the last general election of the Governor in  
 1685 | this state. Then shall appear the names of other candidates for  
 1686 | President and Vice President of the United States who have been  
 1687 | properly nominated.

1688 |       2. The office titles ~~Then shall follow the heading~~  
 1689 | ~~"Congressional" and thereunder the offices of United States~~  
 1690 | ~~Senator and Representative in Congress.~~

1691 |       3. The office titles ~~then the heading "State" and~~  
 1692 | ~~thereunder the offices of Governor and Lieutenant Governor,~~  
 1693 | ~~Attorney General, Chief Financial Officer, Commissioner of~~  
 1694 | ~~Agriculture, State Attorney, with the applicable judicial~~  
 1695 | ~~circuit printed beneath the office, and Public Defender, with~~  
 1696 | ~~the applicable judicial circuit printed beneath the office.~~  
 1697 | ~~together with the names of the candidates for each office and~~  
 1698 | ~~the title of the office which they seek; then the heading~~  
 1699 | ~~"Legislative" and thereunder~~

1700 |       4. The office titles ~~offices of State Senator and State~~  
 1701 | ~~Representative~~ with the applicable district for the office  
 1702 | printed beneath.; ~~then the heading "County" and thereunder~~

1703 |       5. The office titles of County Clerk of the Circuit Court,  
 1704 | or Clerk of the Circuit Court and Comptroller (whichever is

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1705 applicable and when authorized by law), Clerk of the County  
 1706 Court (when authorized by law), County Sheriff, County Property  
 1707 Appraiser, County Tax Collector, District Superintendent of  
 1708 Schools, and County Supervisor of Elections.

1709 6. The office titles ~~Thereafter follows:~~ members of the  
 1710 Board of County Commissioners with the applicable district  
 1711 printed beneath each office, and such other county and district  
 1712 offices as are involved in the election, in the order fixed by  
 1713 the Department of State, followed, in the year of their  
 1714 election, by "Party Offices," and thereunder the offices of  
 1715 state and county party executive committee members.

1716 (b) In a general election, in addition to the names  
 1717 printed on the ballot, a blank space shall be provided under  
 1718 each ~~heading for an~~ office for which a write-in candidate has  
 1719 qualified. With respect to write-in candidates, if two or more  
 1720 candidates are seeking election to one office, only one blank  
 1721 space shall be provided.

1722 (c) ~~(b)~~ When more than one candidate is nominated for  
 1723 office, the candidates for such office shall qualify and run in  
 1724 a group or district, and the group or district number shall be  
 1725 printed beneath the name of the office. Each nominee of a  
 1726 political party chosen in a primary shall appear on the general  
 1727 election ballot in the same numbered group or district as on the  
 1728 primary election ballot.

1729 (d) ~~(e)~~ If in any election all the offices as set forth in  
 1730 paragraph (a) are not involved, those offices not to be filled  
 1731 shall be omitted and the remaining offices shall be arranged on  
 1732 the ballot in the order named.

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1733 (3) (a) The names of the candidates of the party that  
 1734 received the highest number of votes for Governor in the last  
 1735 election in which a Governor was elected shall be placed first  
 1736 ~~under the heading~~ for each office on the general election  
 1737 ballot, together with an appropriate abbreviation of the party  
 1738 name; the names of the candidates of the party that received the  
 1739 second highest vote for Governor shall be placed second ~~under~~  
 1740 ~~the heading~~ for each office, together with an appropriate  
 1741 abbreviation of the party name.

1742 (b) Minor political party candidates ~~and candidates with~~  
 1743 ~~no party affiliation~~ shall have their names appear on the  
 1744 general election ballot following the names of recognized  
 1745 political parties, in the same order as they were qualified  
 1746 followed by the names of candidates with no party affiliation,  
 1747 in the order as they were qualified ~~certified~~.

1748 Section 24. Paragraph (a) of subsection (2) of section  
 1749 101.5605, Florida Statutes, is amended to read:

1750 101.5605 Examination and approval of equipment.—

1751 (2) (a) Any person owning or interested in an electronic or  
 1752 electromechanical voting system may submit it to the Department  
 1753 of State for examination. The vote counting segment shall be  
 1754 certified after a satisfactory evaluation testing has been  
 1755 performed according to section 101.015(1) ~~electronic industry~~  
 1756 ~~standards~~. This testing shall include, but is not limited to,  
 1757 testing of all software required for the voting system's  
 1758 operation; the ballot reader; the rote processor, especially in  
 1759 its logic and memory components; the digital printer; the fail-  
 1760 safe operations; the counting center environmental requirements;

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1761 and the equipment reliability estimate. For the purpose of  
 1762 assisting in examining the system, the department shall employ  
 1763 or contract for services of at least one individual who is  
 1764 expert in one or more fields of data processing, mechanical  
 1765 engineering, and public administration and shall require from  
 1766 the individual a written report of his or her examination.

1767 Section 25. Subsection (11) of section 101.5606, Florida  
 1768 Statutes, is amended to read:

1769 101.5606 Requirements for approval of systems.—No  
 1770 electronic or electromechanical voting system shall be approved  
 1771 by the Department of State unless it is so constructed that:

1772 (11) It is capable of automatically producing precinct  
 1773 totals in printed, ~~marked, or punched form, or a combination~~  
 1774 ~~thereof.~~

1775 Section 26. Paragraph (a) of subsection (4) of section  
 1776 101.5612, Florida Statutes, is amended to read:

1777 101.5612 Testing of tabulating equipment.—

1778 (4)(a)1. For electronic or electromechanical voting  
 1779 systems configured to include electronic or electromechanical  
 1780 tabulation devices which are distributed to the precincts, all  
 1781 or a sample of the devices to be used in the election shall be  
 1782 publicly tested. If a sample is to be tested, the sample shall  
 1783 consist of a random selection of at least 5 percent or 10 of the  
 1784 devices for an optical scan system ~~or 2 percent of the devices~~  
 1785 ~~for a touchscreen system or 10 of the devices for either system,~~  
 1786 ~~as applicable, whichever is greater. For touchscreen systems~~  
 1787 used for voters with disabilities, a sample of at least 2  
 1788 percent of the devices must be tested. The test shall be

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1789 | conducted by processing a group of ballots, causing the device  
 1790 | to output results for the ballots processed, and comparing the  
 1791 | output of results to the results expected for the ballots  
 1792 | processed. The group of ballots shall be produced so as to  
 1793 | record a predetermined number of valid votes for each candidate  
 1794 | and on each measure and to include for each office one or more  
 1795 | ballots which have activated voting positions in excess of the  
 1796 | number allowed by law in order to test the ability of the  
 1797 | tabulating device to reject such votes.

1798 |         2. If any tested tabulating device is found to have an  
 1799 | error in tabulation, it shall be deemed unsatisfactory. For each  
 1800 | device deemed unsatisfactory, the canvassing board shall take  
 1801 | steps to determine the cause of the error, shall attempt to  
 1802 | identify and test other devices that could reasonably be  
 1803 | expected to have the same error, and shall test a number of  
 1804 | additional devices sufficient to determine that all devices are  
 1805 | satisfactory. Upon deeming any device unsatisfactory, the  
 1806 | canvassing board may require all devices to be tested or may  
 1807 | declare that all devices are unsatisfactory.

1808 |         3. If the operation or output of any tested tabulation  
 1809 | device, such as spelling or the order of candidates on a report,  
 1810 | is in error, such problem shall be reported to the canvassing  
 1811 | board. The canvassing board shall then determine if the reported  
 1812 | problem warrants its deeming the device unsatisfactory.

1813 |         Section 27. Subsection (4) of section 101.5614, Florida  
 1814 | Statutes, is amended to read:

1815 |             101.5614 Canvass of returns.—

1816 |             (4) ~~If ballot cards are used, and separate write-in~~

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1817 ~~ballots or envelopes for casting write-in votes are used, write-~~  
 1818 ~~in ballots or the envelopes on which write-in ballots have been~~  
 1819 ~~cast shall be serially numbered, starting with the number one,~~  
 1820 ~~and the same number shall be placed on the ballot card of the~~  
 1821 ~~voter. This process may be completed at either the precinct by~~  
 1822 ~~the election board or at the central counting location.~~ For each  
 1823 ballot or ballot image ~~and ballot envelope~~ on which write-in  
 1824 votes have been cast, the canvassing board shall compare the  
 1825 write-in votes with the votes cast on the ballot card; if the  
 1826 total number of votes for any office exceeds the number allowed  
 1827 by law, ~~a notation to that effect, specifying the office~~  
 1828 ~~involved, shall be entered on the back of the ballot card or in~~  
 1829 ~~a margin if voting areas are printed on both sides of the ballot~~  
 1830 ~~card.~~ such votes shall not be counted. All valid votes shall be  
 1831 tallied by the canvassing board.

1832 Section 28. Paragraphs (a) and (b) of subsection (1), and  
 1833 subsections (3) and (4) of section 101.62, Florida Statutes, are  
 1834 amended to read:

1835 101.62 Request for absentee ballots.—

1836 (1)(a) The supervisor shall accept a request for an  
 1837 absentee ballot from an elector in person or in writing. One  
 1838 request shall be deemed sufficient to receive an absentee ballot  
 1839 for all elections through the next two regularly scheduled  
 1840 general elections ~~election~~, unless the elector or the elector's  
 1841 designee indicates at the time the request is made the elections  
 1842 for which the elector desires to receive an absentee ballot.  
 1843 Such request may be considered canceled when any first-class  
 1844 mail sent by the supervisor to the elector is returned as



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1845 undeliverable.

1846 (b) The supervisor may accept a written or telephonic

1847 request for an absentee ballot from the elector, or, if directly

1848 instructed by the elector, a member of the elector's immediate

1849 family, or the elector's legal guardian. For purposes of this

1850 section, the term "immediate family" has the same meaning as

1851 specified in paragraph (4) (c) ~~(4) (b)~~. The person making the

1852 request must disclose:

- 1853 1. The name of the elector for whom the ballot is
- 1854 requested.
- 1855 2. The elector's address.
- 1856 3. The elector's date of birth.
- 1857 4. The requester's name.
- 1858 5. The requester's address.
- 1859 6. The requester's driver's license number, if available.
- 1860 7. The requester's relationship to the elector.
- 1861 8. The requester's signature (written requests only).

1862 (3) For each request for an absentee ballot received, the

1863 supervisor shall record the date the request was made, the date

1864 the absentee ballot was delivered to the voter or the voter's

1865 designee or the date the absentee ballot was delivered to the

1866 post office or other carrier, the date the ballot was received

1867 by the supervisor, and such other information he or she may deem

1868 necessary. This information shall be provided in electronic

1869 format as provided by rule adopted by the division. The

1870 information shall be updated and made available no later than 8

1871 a.m. noon of each day, including weekends, beginning 60 days

1872 before the primary until 15 days after the general election and

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1873 shall be contemporaneously provided to the division. This  
 1874 information shall be confidential and exempt from the provisions  
 1875 of s. 119.07(1) and shall be made available to or reproduced  
 1876 only for the voter requesting the ballot, a canvassing board, an  
 1877 election official, a political party or official thereof, a  
 1878 candidate who has filed qualification papers and is opposed in  
 1879 an upcoming election, and registered political committees or  
 1880 registered committees of continuous existence, for political  
 1881 purposes only.

1882 (4) (a) No later than 45 days before each presidential  
 1883 preference primary election, special election, primary election,  
 1884 and general election, the supervisor of elections shall send an  
 1885 absentee ballot as provided in subparagraph (c)2. ~~(b)2.~~ to each  
 1886 absent uniformed services voter and to each overseas voter who  
 1887 has requested an absentee ballot.

1888 (b) The supervisor shall begin mailing absentee ballots  
 1889 between the 35th and 30th day before presidential preference  
 1890 primary election, special election, primary election, and  
 1891 general election to each absent qualified voter, other than  
 1892 those listed in paragraph (a), who has requested such a ballot.  
 1893 Except as otherwise provided in subsection (2) and after the  
 1894 period described in this paragraph, the supervisor shall mail  
 1895 absentee ballots within 48 hours after receiving a request for  
 1896 such a ballot.

1897 (c) ~~(b)~~ The supervisor shall provide an absentee ballot to  
 1898 each elector by whom a request for that ballot has been made by  
 1899 one of the following means:

1900 1. By nonforwardable, return-if-undeliverable mail to the

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1901 | elector's current mailing address on file with the supervisor,  
 1902 | unless the elector specifies in the request that:  
 1903 |       a. The elector is absent from the county and does not plan  
 1904 | to return before the day of the election;  
 1905 |       b. The elector is temporarily unable to occupy the  
 1906 | residence because of hurricane, tornado, flood, fire, or other  
 1907 | emergency or natural disaster; or  
 1908 |       c. The elector is in a hospital, assisted living facility,  
 1909 | nursing home, short-term medical or rehabilitation facility, or  
 1910 | correctional facility,  
 1911 |  
 1912 | in which case the supervisor shall mail the ballot by  
 1913 | nonforwardable, return-if-undeliverable mail to any other  
 1914 | address the elector specifies in the request.  
 1915 |       2. By forwardable mail, e-mail, or facsimile machine  
 1916 | transmission to absent uniformed services voters and overseas  
 1917 | voters. The absent uniformed services voter or overseas voter  
 1918 | may designate in the absentee ballot request the preferred  
 1919 | method of transmission. If the voter does not designate the  
 1920 | method of transmission, the absentee ballot shall be mailed.  
 1921 |       3. By personal delivery before 7 p.m. on election day to  
 1922 | the elector, upon presentation of the identification required in  
 1923 | s. 101.043.  
 1924 |       4. By delivery to a designee on election day or up to 5  
 1925 | days prior to the day of an election. Any elector may designate  
 1926 | in writing a person to pick up the ballot for the elector;  
 1927 | however, the person designated may not pick up more than two  
 1928 | absentee ballots per election, other than the designee's own

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1929 ballot, except that additional ballots may be picked up for  
 1930 members of the designee's immediate family. For purposes of this  
 1931 section, "immediate family" means the designee's spouse or the  
 1932 parent, child, grandparent, or sibling of the designee or of the  
 1933 designee's spouse. The designee shall provide to the supervisor  
 1934 the written authorization by the elector and a picture  
 1935 identification of the designee and must complete an affidavit.  
 1936 The designee shall state in the affidavit that the designee is  
 1937 authorized by the elector to pick up that ballot and shall  
 1938 indicate if the elector is a member of the designee's immediate  
 1939 family and, if so, the relationship. The department shall  
 1940 prescribe the form of the affidavit. If the supervisor is  
 1941 satisfied that the designee is authorized to pick up the ballot  
 1942 and that the signature of the elector on the written  
 1943 authorization matches the signature of the elector on file, the  
 1944 supervisor shall give the ballot to that designee for delivery  
 1945 to the elector.

1946 Section 29. Section 101.65, Florida Statutes, is amended  
 1947 to read:

1948 101.65 Instructions to absent electors.—The supervisor  
 1949 shall enclose with each absentee ballot separate printed  
 1950 instructions in substantially the following form:

1951 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING BALLOT.

1952 1. VERY IMPORTANT. In order to ensure that your absentee  
 1953 ballot will be counted, it should be completed and returned as  
 1954 soon as possible so that it can reach the supervisor of  
 1955 elections of the county in which your precinct is located no

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- 1956 later than 7 p.m. on the day of the election.
- 1957 2. Mark your ballot in secret as instructed on the ballot.
- 1958 You must mark your own ballot unless you are unable to do so
- 1959 because of blindness, disability, or inability to read or write.
- 1960 3. Mark only the number of candidates or issue choices for
- 1961 a race as indicated on the ballot. If you are allowed to "Vote
- 1962 for One" candidate and you vote for more than one candidate,
- 1963 your vote in that race will not be counted.
- 1964 4. Place your marked ballot in the enclosed secrecy
- 1965 envelope.
- 1966 5. Insert the secrecy envelope into the enclosed mailing
- 1967 envelope which is addressed to the supervisor.
- 1968 6. Seal the mailing envelope and completely fill out the
- 1969 Voter's Certificate on the back of the mailing envelope.
- 1970 7. VERY IMPORTANT. In order for your absentee ballot to be
- 1971 counted, you must sign your name on the line above (Voter's
- 1972 Signature). An absentee ballot will be considered illegal and
- 1973 not be counted if the signature on the Voter's Certificate does
- 1974 not match the signature on record. The signature on file at the
- 1975 start of the canvass of the absentee ballots is the signature
- 1976 that will be used to verify your signature on the Voter's
- 1977 Certificate. If you need to update your signature for this
- 1978 election, send your signature update on a voter registration
- 1979 application to your supervisor of elections so that it is
- 1980 received no later than the start of the canvassing of absentee
- 1981 ballots, which occurs no earlier than the Wednesday before
- 1982 election day.
- 1983 8. VERY IMPORTANT. If you are an overseas voter, you must

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1984 include the date you signed the Voter's Certificate on the line  
 1985 above (Date) or your ballot may not be counted.

1986 9. Mail, deliver, or have delivered the completed mailing  
 1987 envelope. Be sure there is sufficient postage if mailed.

1988 10. FELONY NOTICE. It is a felony under Florida law to  
 1989 accept any gift, payment, or gratuity in exchange for your vote  
 1990 for a candidate. It is also a felony under Florida law to vote  
 1991 in an election using a false identity or false address, or under  
 1992 any other circumstances making your ballot false or fraudulent.

1993 Section 30. Subsection (2) of section 101.6923, Florida  
 1994 Statutes, is amended to read:

1995 101.6923 Special absentee ballot instructions for certain  
 1996 first-time voters.-

1997 (2) A voter covered by this section shall be provided with  
 1998 printed instructions with his or her absentee ballot in  
 1999 substantially the following form:

2000 READ THESE INSTRUCTIONS CAREFULLY BEFORE MARKING YOUR BALLOT.  
 2001 FAILURE TO FOLLOW THESE INSTRUCTIONS MAY CAUSE YOUR BALLOT NOT  
 2002 TO COUNT.

2003 1. In order to ensure that your absentee ballot will be  
 2004 counted, it should be completed and returned as soon as possible  
 2005 so that it can reach the supervisor of elections of the county  
 2006 in which your precinct is located no later than 7 p.m. on the  
 2007 date of the election.

2008 2. Mark your ballot in secret as instructed on the ballot.  
 2009 You must mark your own ballot unless you are unable to do so  
 2010 because of blindness, disability, or inability to read or write.

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2011 3. Mark only the number of candidates or issue choices for  
 2012 a race as indicated on the ballot. If you are allowed to "Vote  
 2013 for One" candidate and you vote for more than one, your vote in  
 2014 that race will not be counted.

2015 4. Place your marked ballot in the enclosed secrecy  
 2016 envelope and seal the envelope.

2017 5. Insert the secrecy envelope into the enclosed envelope  
 2018 bearing the Voter's Certificate. Seal the envelope and  
 2019 completely fill out the Voter's Certificate on the back of the  
 2020 envelope.

2021 a. You must sign your name on the line above (Voter's  
 2022 Signature).

2023 b. If you are an overseas voter, you must include the date  
 2024 you signed the Voter's Certificate on the line above (Date) or  
 2025 your ballot may not be counted.

2026 c. An absentee ballot will be considered illegal and will  
 2027 not be counted if the signature on the Voter's Certificate does  
 2028 not match the signature on record. The signature on file at the  
 2029 start of the canvass of the absentee ballots is the signature  
 2030 that will be used to verify your signature on the Voter's  
 2031 Certificate. If you need to update your signature for this  
 2032 election, send your signature update on a voter registration  
 2033 application to your supervisor of elections so that it is  
 2034 received no later than the start of canvassing of absentee  
 2035 ballots, which occurs no earlier than the Wednesday before  
 2036 election day.

2037 6. Unless you meet one of the exemptions in Item 7., you  
 2038 must make a copy of one of the following forms of

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2039 identification:

2040       a. Identification which must include your name and

2041 photograph: United States passport; debit or credit card;

2042 military identification; student identification; retirement

2043 center identification; neighborhood association identification;

2044 or public assistance identification; or

2045       b. Identification which shows your name and current

2046 residence address: current utility bill, bank statement,

2047 government check, paycheck, or government document (excluding

2048 voter identification card).

2049       7. The identification requirements of Item 6. do not apply

2050 if you meet one of the following requirements:

2051       a. You are 65 years of age or older.

2052       b. You have a temporary or permanent physical disability.

2053       c. You are a member of a uniformed service on active duty

2054 who, by reason of such active duty, will be absent from the

2055 county on election day.

2056       d. You are a member of the Merchant Marine who, by reason

2057 of service in the Merchant Marine, will be absent from the

2058 county on election day.

2059       e. You are the spouse or dependent of a member referred to

2060 in paragraph c. or paragraph d. who, by reason of the active

2061 duty or service of the member, will be absent from the county on

2062 election day.

2063       f. You are currently residing outside the United States.

2064       8. Place the envelope bearing the Voter's Certificate into

2065 the mailing envelope addressed to the supervisor. Insert a copy

2066 of your identification in the mailing envelope. DO NOT PUT YOUR



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2067 IDENTIFICATION INSIDE THE SECRECY ENVELOPE WITH THE BALLOT OR  
 2068 INSIDE THE ENVELOPE WHICH BEARS THE VOTER'S CERTIFICATE OR YOUR  
 2069 BALLOT WILL NOT COUNT.

2070 9. Mail, deliver, or have delivered the completed mailing  
 2071 envelope. Be sure there is sufficient postage if mailed.

2072 10. FELONY NOTICE. It is a felony under Florida law to  
 2073 accept any gift, payment, or gratuity in exchange for your vote  
 2074 for a candidate. It is also a felony under Florida law to vote  
 2075 in an election using a false identity or false address, or under  
 2076 any other circumstances making your ballot false or fraudulent.

2077 Section 31. Subsection (3) of section 101.75, Florida  
 2078 Statutes, is amended to read:

2079 101.75 Municipal elections; change of dates for cause.—

2080 (3) Notwithstanding any provision of local law or  
 2081 municipal charter, the governing body of a municipality may, by  
 2082 ordinance, move the date of any municipal election to a date  
 2083 concurrent with any statewide or countywide election. The dates  
 2084 for qualifying for the election moved by the passage of such  
 2085 ordinance shall be specifically provided for in the ordinance  
 2086 ~~and shall run for no less than 14 days.~~ The term of office for  
 2087 any elected municipal official shall commence as provided by the  
 2088 relevant municipal charter or ordinance.

2089 Section 32. Subsection (4) of section 102.031, Florida  
 2090 Statutes, is amended to read:

2091 102.031 Maintenance of good order at polls; authorities;  
 2092 persons allowed in polling rooms and early voting areas;  
 2093 unlawful solicitation of voters.—

2094 (4) (a) A ~~No~~ person, political committee, committee of

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2095 continuous existence, or other group or organization may not  
 2096 solicit voters inside the polling place or within 100 feet of:

- 2097 1. The entrance to any polling place; ~~or~~
- 2098 2. The entrance to any polling room, where the polling  
 2099 place is also a polling room; ~~or~~
- 2100 3. The entrance to any early voting site; or
- 2101 4. The line in which voters are standing to enter any  
 2102 polling place or early voting site.

2103  
 2104 Before the opening of the polling place or early voting site,  
 2105 the clerk or supervisor shall designate the no-solicitation zone  
 2106 and mark the boundaries.

2107 (b) For the purpose of this subsection, whether in person  
 2108 or by means of audio or visual equipment, the terms "solicit" or  
 2109 "solicitation" shall include, but not be limited to, seeking or  
 2110 attempting to seek any vote, fact, opinion, or contribution;  
 2111 distributing or attempting to distribute any political or  
 2112 campaign material, leaflet, or handout; conducting a poll except  
 2113 as specified in this paragraph; seeking or attempting to seek a  
 2114 signature on any petition; offering voting or legal advice  
 2115 regarding voting or ballots; and selling or attempting to sell  
 2116 any item. The terms "solicit" or "solicitation" shall not be  
 2117 construed to prohibit exit polling.

2118 Section 33. Subsection (4) of section 102.168, Florida  
 2119 Statutes, is amended, and subsection (8) is added to that  
 2120 section to read:

2121 102.168 Contest of election.—

2122 (4) The ~~county~~ canvassing board responsible for canvassing

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2123 | the election is an indispensable ~~and proper~~ party defendant in  
 2124 | county and local elections. ~~+~~ The Elections Canvassing Commission  
 2125 | is an indispensable ~~and proper~~ party defendant in federal,  
 2126 | state, and multicounty elections and in elections for justice of  
 2127 | the Supreme Court, judge of a district court of appeal, and  
 2128 | judge of a circuit court. ~~aces;~~ and The successful candidate is  
 2129 | an indispensable party to any action brought to contest the  
 2130 | election or nomination of a candidate.

2131 |       (8) In any contest which requires a review of a canvassing  
 2132 | board's decision whether an absentee ballot is illegal as  
 2133 | provided under the provisions of s. 101.68 based upon the  
 2134 | signature of the elector on the voter's certificate not being  
 2135 | the signature of the elector in the registration records, the  
 2136 | circuit court may not look or consider any evidence beyond the  
 2137 | elector's signature on the voter's certificate and in the  
 2138 | registration records. The court's review of such issue shall be  
 2139 | to determine only if the canvassing board abused its discretion  
 2140 | in making its decision.

2141 |       Section 34. Section 103.095, Florida Statutes, is created  
 2142 | to read:

2143 |       103.095 Minor political parties.--

2144 |       (1) Any group of citizens organized for the general  
 2145 | purposes of electing to office qualified persons and determining  
 2146 | public issues under the democratic processes of the United  
 2147 | States may become a minor political party of this state by  
 2148 | filing with the department a certificate showing the name of the  
 2149 | organization, the names and addresses of its current officers,  
 2150 | including the members of its executive committee, accompanied by

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2151 a completed uniform statewide voter registration application as  
 2152 specified in s. 97.052 for each of its current officers and  
 2153 members of its executive committee that reflect their  
 2154 affiliation with the proposed minor political party, and a copy  
 2155 of its constitution, bylaws, and rules and regulations.

2156 (2) The members of the executive committee shall include a  
 2157 chair, vice chair, secretary, and treasurer, all of whom shall  
 2158 be members of the minor political party and no member may hold  
 2159 more than one office, except that one person may hold the  
 2160 offices of secretary and treasurer.

2161 (3) Upon approval of the minor political party's filing,  
 2162 the department shall process the voter registration applications  
 2163 submitted by the minor political party's officers and members of  
 2164 its executive committee. It shall be the duty of the minor  
 2165 political party to notify the department of any changes in the  
 2166 filing certificate within 5 days of such changes.

2167 (4) The Division of Elections shall adopt rules to  
 2168 prescribe the manner in which political parties, to include  
 2169 minor political parties, may have their filings with the  
 2170 Department of State canceled. Such rules shall, at a minimum,  
 2171 provide for:

2172 (a) Notice which shall contain the facts and conduct which  
 2173 warrant the intended action, including, but not limited to, the  
 2174 failure to notify the department of replacement officers, and  
 2175 the failure to file campaign finance reports and limited  
 2176 activity.

2177 (b) Adequate opportunity to respond.

2178 (c) Appeal of the decision to the Florida Elections

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2179 Commission. Such appeals are exempt from the confidentiality  
 2180 provisions of s. 106.25.

2181 (5) The requirements of this section are retroactive for  
 2182 any minor political party registered with the department on the  
 2183 effective date of this section and must be complied with within  
 2184 180 days of the department providing notice to the minor  
 2185 political party of the requirements contained in this section.  
 2186 Failure of the minor political party to comply with the  
 2187 requirements within 180 days of the notice shall automatically  
 2188 result in the cancellation of the minor political party's  
 2189 registration.

2190 Section 35. Subsections (1) and (2) of section 103.101,  
 2191 Florida Statutes, are amended to read:

2192 103.101 Presidential preference primary.—

2193 (1) Each political party other than a minor political  
 2194 party shall, on the last Tuesday in January in each year the  
 2195 number of which is a multiple of 4, elect one person to be the  
 2196 candidate for nomination of such party for President of the  
 2197 United States or select delegates to the national nominating  
 2198 convention, ~~as provided by party rule.~~

2199 ~~(2)(a) There shall be a Presidential Candidate Selection~~  
 2200 ~~Committee composed of the Secretary of State, who shall be a~~  
 2201 ~~nonvoting chair; the Speaker of the House of Representatives;~~  
 2202 ~~the President of the Senate; the minority leader of each house~~  
 2203 ~~of the Legislature; and the chair of each political party~~  
 2204 ~~required to have a presidential preference primary under this~~  
 2205 ~~section.~~

2206 ~~(b)~~ By October 31 of the year preceding the presidential

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2207 preference primary, each political party shall submit to the  
 2208 Secretary of State a list of its presidential candidates to be  
 2209 placed on the presidential preference primary ballot or  
 2210 candidates entitled to have delegates appear on the presidential  
 2211 preference primary ballot. The Secretary of State shall prepare  
 2212 and publish a list of the names of the presidential candidates  
 2213 submitted not later than on the first Tuesday after the first  
 2214 Monday in November of the year preceding the presidential  
 2215 preference primary. ~~The Secretary of State shall submit such~~  
 2216 ~~list of names of presidential candidates to the selection~~  
 2217 ~~committee on the first Tuesday after the first Monday in~~  
 2218 ~~November of the year preceding the presidential preference~~  
 2219 ~~primary. Each person designated as a presidential candidate~~  
 2220 ~~shall have his or her name appear, or have his or her delegates'~~  
 2221 ~~names appear, on the presidential preference primary ballot~~  
 2222 ~~unless all committee members of the same political party as the~~  
 2223 ~~candidate agree to delete such candidate's name from the ballot.~~  
 2224       ~~(c) The selection committee shall meet in Tallahassee on~~  
 2225 ~~the first Tuesday after the first Monday in November of the year~~  
 2226 ~~preceding the presidential preference primary. The selection~~  
 2227 ~~committee shall publicly announce and submit to the Department~~  
 2228 ~~of State no later than 5 p.m. on the following day the names of~~  
 2229 ~~presidential candidates who shall have their names appear, or~~  
 2230 ~~who are entitled to have their delegates' names appear, on the~~  
 2231 ~~presidential preference primary ballot. The Department of State~~  
 2232 ~~shall immediately notify each presidential candidate listed~~  
 2233 ~~designated by the Secretary of State ~~committee.~~ Such~~  
 2234 notification shall be in writing, by registered mail, with

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2235 return receipt requested.

2236 Section 36. Section 103.141, Florida Statutes, is amended  
2237 to read:

2238 103.141 Removal of county executive committee member for  
2239 violation of oath.—

2240 ~~(1) If~~ Where the county executive committee by at least a  
2241 two-thirds majority vote of the members of the committee,  
2242 attending a meeting held after due notice has been given and at  
2243 which meeting a quorum is present, determines an incumbent  
2244 county executive committee member is ~~to be~~ guilty of an offense  
2245 involving a violation of the member's oath of office, the said  
2246 ~~member so violating his or her oath~~ shall be removed from office  
2247 and the office shall be deemed vacant. ~~Provided,~~ However, if the  
2248 county committee wrongfully removes a county committee member  
2249 and the committee member ~~so~~ wrongfully removed files suit in the  
2250 circuit court alleging his or her removal was wrongful and wins  
2251 the said suit, the committee member shall be restored to office  
2252 and the county committee shall pay the costs incurred by the  
2253 wrongfully removed committee member in bringing the suit,  
2254 including reasonable attorney's fees.

2255 ~~(2) Any officer, county committeeman, county~~  
2256 ~~committeewoman, precinct committeeman, precinct committeewoman,~~  
2257 ~~or member of a county executive committee may be removed from~~  
2258 ~~office pursuant to s. 103.161.~~

2259 Section 37. Section 104.29, Florida Statutes, is amended  
2260 to read:

2261 104.29 Inspectors refusing to allow watchers while ballots  
2262 are counted.—The inspectors or other election officials at the

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2263 polling place shall, after the polls close ~~at all times while~~  
 2264 ~~the ballots are being counted,~~ allow as many as three persons  
 2265 near to them to see whether the ballots are being reconciled  
 2266 correctly. ~~read and called and the votes correctly tallied, and~~  
 2267 Any official who denies this privilege or interferes therewith  
 2268 commits ~~is guilty of~~ a misdemeanor of the first degree,  
 2269 punishable as provided in s. 775.082 or s. 775.083.

2270 Section 38. Subsection (3), paragraph (a) of subsection  
 2271 (4), paragraph (b) of subsection (5), and paragraph (c) of  
 2272 subsection (16) of section 106.011, Florida Statutes, are  
 2273 amended to read:

2274 106.011 Definitions.—As used in this chapter, the  
 2275 following terms have the following meanings unless the context  
 2276 clearly indicates otherwise:

2277 (3) "Contribution" means:

2278 (a) A gift, subscription, conveyance, deposit, loan,  
 2279 payment, or distribution of money or anything of value,  
 2280 including contributions in kind having an attributable monetary  
 2281 value in any form, made for the purpose of influencing the  
 2282 results of an election or making an electioneering  
 2283 communication.

2284 (b) A transfer of funds between political committees,  
 2285 between committees of continuous existence, between  
 2286 electioneering communications organizations, or between any  
 2287 combination of these groups.

2288 (c) The payment, by any person other than a candidate or  
 2289 political committee, of compensation for the personal services  
 2290 of another person which are rendered to a candidate or political



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2291 | committee without charge to the candidate or committee for such  
 2292 | services.

2293 |         (d) The transfer of funds by a campaign treasurer or  
 2294 | deputy campaign treasurer between a primary depository and a  
 2295 | separate interest-bearing account or certificate of deposit, and  
 2296 | the term includes any interest earned on such account or  
 2297 | certificate.

2298 |  
 2299 | Notwithstanding the foregoing meanings of "contribution," the  
 2300 | word shall not be construed to include services, including, but  
 2301 | not limited to, legal and accounting services, provided without  
 2302 | compensation by individuals volunteering a portion or all of  
 2303 | their time on behalf of a candidate or political committee,  
 2304 | funds received under s. 106.012, or. ~~This definition shall not~~  
 2305 | ~~be construed to include~~ editorial endorsements.

2306 |         (4) (a) "Expenditure" means a purchase, payment,  
 2307 | distribution, loan, advance, transfer of funds by a campaign  
 2308 | treasurer or deputy campaign treasurer between a primary  
 2309 | depository and a separate interest-bearing account or  
 2310 | certificate of deposit, or gift of money or anything of value  
 2311 | made for the purpose of influencing the results of an election  
 2312 | or making an electioneering communication. However,  
 2313 | "expenditure" does not include funds spent under s. 106.012 or a  
 2314 | purchase, payment, distribution, loan, advance, or gift of money  
 2315 | or anything of value made for the purpose of influencing the  
 2316 | results of an election when made by an organization, in  
 2317 | existence prior to the time during which a candidate qualifies  
 2318 | or an issue is placed on the ballot for that election, for the

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2319 | purpose of printing or distributing such organization's  
 2320 | newsletter, containing a statement by such organization in  
 2321 | support of or opposition to a candidate or issue, which  
 2322 | newsletter is distributed only to members of such organization.

2323 | (5)

2324 | (b) An expenditure for the purpose of expressly advocating  
 2325 | the election or defeat of a candidate which is made by the  
 2326 | national, state, or county executive committee of a political  
 2327 | party, including any subordinate committee of a national, state,  
 2328 | or county committee of a political party, or by any political  
 2329 | committee or committee of continuous existence, or any other  
 2330 | person, shall not be considered an independent expenditure if  
 2331 | the committee or person:

2332 | 1. Communicates with the candidate, the candidate's  
 2333 | campaign, or an agent of the candidate acting on behalf of the  
 2334 | candidate, including any pollster, media consultant, advertising  
 2335 | agency, vendor, advisor, or staff member, concerning the  
 2336 | preparation of, use of, or payment for, the specific expenditure  
 2337 | or advertising campaign at issue; or

2338 | 2. Makes a payment in cooperation, consultation, or  
 2339 | concert with, at the request or suggestion of, or pursuant to  
 2340 | any general or particular understanding with the candidate, the  
 2341 | candidate's campaign, a political committee supporting the  
 2342 | candidate, or an agent of the candidate relating to the specific  
 2343 | expenditure or advertising campaign at issue; or

2344 | 3. Makes a payment for the dissemination, distribution, or  
 2345 | republication, in whole or in part, of any broadcast or any  
 2346 | written, graphic, or other form of campaign material prepared by

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2347 | the candidate, the candidate's campaign, or an agent of the  
 2348 | candidate, including any pollster, media consultant, advertising  
 2349 | agency, vendor, advisor, or staff member; or

2350 |         4. Makes a payment based on information about the  
 2351 | candidate's plans, projects, or needs communicated to a member  
 2352 | of the committee or person by the candidate or an agent of the  
 2353 | candidate, provided the committee or person uses the information  
 2354 | in any way, in whole or in part, either directly or indirectly,  
 2355 | to design, prepare, or pay for the specific expenditure or  
 2356 | advertising campaign at issue; or

2357 |         5. After the last day of the qualifying period prescribed  
 2358 | for the candidate ~~for statewide or legislative office~~, consults  
 2359 | about the candidate's plans, projects, or needs in connection  
 2360 | with the candidate's pursuit of election to office and the  
 2361 | information is used in any way to plan, create, design, or  
 2362 | prepare an independent expenditure or advertising campaign,  
 2363 | with:

2364 |             a. Any officer, director, employee, or agent of a  
 2365 | national, state, or county executive committee of a political  
 2366 | party that has made or intends to make expenditures in  
 2367 | connection with or contributions to the candidate; or

2368 |             b. Any person whose professional services have been  
 2369 | retained by a national, state, or county executive committee of  
 2370 | a political party that has made or intends to make expenditures  
 2371 | in connection with or contributions to the candidate; or

2372 |         6. After the last day of the qualifying period prescribed  
 2373 | for the candidate ~~for statewide or legislative office~~, retains  
 2374 | the professional services of any person also providing those

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2375 services to the candidate in connection with the candidate's  
 2376 pursuit of election to office; or

2377 7. Arranges, coordinates, or directs the expenditure, in  
 2378 any way, with the candidate or an agent of the candidate.

2379 (16) "Candidate" means any person to whom any one or more  
 2380 of the following apply:

2381 (c) Any person who receives contributions or makes  
 2382 expenditures, or consents for any other person to receive  
 2383 contributions or make expenditures, with a view to bring about  
 2384 his or her nomination or election to, or retention in, public  
 2385 office. Expenditures related to potential candidate polls as  
 2386 provided in s. 106.17 are not contributions or expenditures for  
 2387 purposes of this subsection.

2388 Section 39. Section 106.012, Florida Statutes, is created  
 2389 to read:

2390 106.012 Testing the waters.--

2391 (1) Funds received and spent solely for the purpose of  
 2392 determining whether an individual should become a candidate are  
 2393 not contributions and expenditures. Examples of activities  
 2394 permissible under this exemption include, but are not limited  
 2395 to, conducting a poll, telephone calls, and travel. Only funds  
 2396 permissible under this chapter may be used for such activities.  
 2397 The individual shall retain records of all such funds received  
 2398 and spent. If the individual subsequently becomes a candidate,  
 2399 the funds received are contributions and the funds spent are  
 2400 expenditures subject to the reporting requirements of this  
 2401 chapter. Such contributions and expenditures must be reported  
 2402 with the initial report required by s. 106.07, regardless of the

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2403 | date the funds were received or spent.

2404 |       (2) This exemption does not apply to funds received or

2405 | spent for activities indicating that an individual has decided

2406 | to become a candidate for a particular office or for activities

2407 | relevant to conducting a campaign. Examples of activities that

2408 | indicate that an individual has decided to become a candidate

2409 | include, but are not limited to:

2410 |       (a) The individual uses general political advertising to

2411 | publicize his or her intention to campaign for office.

2412 |       (b) The individual raises funds in excess of what could

2413 | reasonably be expected to be used for exploratory activities or

2414 | undertakes activities designed to amass campaign funds that

2415 | would be spent after he or she becomes a candidate.

2416 |       (c) The individual makes or authorizes written or oral

2417 | statements that refer to him or her as a candidate for office.

2418 |       (d) The individual conducts activities in close proximity

2419 | to the election or over a protracted period of time.

2420 |       (e) The individual conducts activities in close proximity

2421 | to the election or over a protracted period of time.

2422 |       (e) The individual takes action to qualify for office

2423 | under s. 99.061.

2424 |       (3) Individuals are limited to receiving up to \$10,000 for

2425 | determining whether to become a candidate for office under this

2426 | section. An individual may only determine whether to become a

2427 | candidate for a single office.

2428 |       Section 40. Paragraph (b) of subsection (3) of section

2429 | 106.021, Florida Statutes, is amended to read:

2430 |       106.021 Campaign treasurers; deputies; primary and

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2431 secondary depositories.—

2432 (3) No contribution or expenditure, including

2433 contributions or expenditures of a candidate or of the

2434 candidate's family, shall be directly or indirectly made or

2435 received in furtherance of the candidacy of any person for

2436 nomination or election to political office in the state or on

2437 behalf of any political committee except through the duly

2438 appointed campaign treasurer of the candidate or political

2439 committee, subject to the following exceptions:

2440 (b) Reimbursements to a candidate or any other individual

2441 for expenses incurred in connection with the campaign or

2442 activities of the political committee by a check drawn upon the

2443 campaign account and reported pursuant to s. 106.07(4). The

2444 ~~After July 1, 2004, the full name and address~~ of each person to

2445 whom the candidate or other individual made payment for which

2446 reimbursement was made by check drawn upon the campaign account

2447 shall be reported pursuant to s. 106.07(4), together with the

2448 purpose of such payment;

2449 Section 41. Section 106.022, Florida Statutes, is amended

2450 to read:

2451 106.022 Appointment of a registered agent; duties.—

2452 (1) Each political committee, committee of continuous

2453 existence, or electioneering communications organization shall

2454 have and continuously maintain in this state a registered office

2455 and a registered agent and must file with the filing officer

2456 ~~division~~ a statement of appointment for the registered office

2457 and registered agent. The statement of appointment must:

2458 (a) Provide the name of the registered agent and the

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2459 street address and phone number for the registered office;  
 2460 (b) Identify the entity for whom the registered agent  
 2461 serves;  
 2462 (c) Designate the address the registered agent wishes to  
 2463 use to receive mail;  
 2464 (d) Include the entity's undertaking to inform the filing  
 2465 officer ~~division~~ of any change in such designated address;  
 2466 (e) Provide for the registered agent's acceptance of the  
 2467 appointment, which must confirm that the registered agent is  
 2468 familiar with and accepts the obligations of the position as set  
 2469 forth in this section; and  
 2470 (f) Contain the signature of the registered agent and the  
 2471 entity engaging the registered agent.  
 2472 (2) An entity may change its appointment of registered  
 2473 agent and registered office under this section by executing a  
 2474 written statement of change and filing it with the filing  
 2475 officer. ~~The statement must satisfy that identifies the former~~  
 2476 ~~registered agent and registered address and also satisfies all~~  
 2477 ~~of the requirements of subsection (1).~~  
 2478 (3) A registered agent may resign his or her appointment  
 2479 as registered agent by executing a written statement of  
 2480 resignation and filing it with the filing officer ~~division~~. An  
 2481 entity without a registered agent may not make expenditures or  
 2482 accept contributions until it files a written statement of  
 2483 change as required in subsection (2).  
 2484 Section 42. Subsection (1) of section 106.023, Florida  
 2485 Statutes, is amended to read:  
 2486 106.023 Statement of candidate.—

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2487 (1) Each candidate must file a statement with the  
 2488 qualifying officer within 10 days after filing the appointment  
 2489 of campaign treasurer and designation of campaign depository,  
 2490 stating that the candidate has read and understands the  
 2491 requirements of this chapter. Such statement shall be provided  
 2492 by the filing officer and shall be in substantially the  
 2493 following form:

2494 STATEMENT OF CANDIDATE

2495 I, ....., candidate for the office of ....., have been  
 2496 provided access to ~~received~~, read, and understand the  
 2497 requirements of Chapter 106, Florida Statutes.

2498 ... (Signature of candidate) ... (Date) ...

2499 Willful failure to file this form is a violation of ss.  
 2500 106.19(1)(c) and 106.25(3), F.S.

2501 Section 43. Paragraph (c) of subsection (1) of section  
 2502 106.025, Florida Statutes, is amended to read:

2503 106.025 Campaign fund raisers.-

2504 (1)

2505 (c) Any tickets or advertising for such a campaign fund  
 2506 raiser shall contain the following statement: "The purchase of a  
 2507 ticket for, or a contribution to, the campaign fund raiser is a  
 2508 contribution to the campaign of ...(name of the candidate for  
 2509 whose benefit the campaign fund raiser is held)...." However,  
 2510 this paragraph shall not apply to any campaign message or  
 2511 political advertisement that satisfies the requirements of s.  
 2512 106.143(8). Such tickets or advertising shall also comply with



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2513 other provisions of this chapter relating to political  
 2514 advertising.

2515 Section 44. Subsection (4) of section 106.04, Florida  
 2516 Statutes, is amended, present subsections (7) and (8) of that  
 2517 section are amended and renumbered as subsections (8) and (9),  
 2518 respectively, and a new subsection (7) is added to that section,  
 2519 to read:

2520 106.04 Committees of continuous existence.—

2521 (4) (a) Each committee of continuous existence shall file  
 2522 an annual report with the Division of Elections during the month  
 2523 of January. Such annual reports shall contain the same  
 2524 information and shall be accompanied by the same materials as  
 2525 original applications filed pursuant to subsection (2). However,  
 2526 the charter or bylaws need not be filed if the annual report is  
 2527 accompanied by a sworn statement by the chair that no changes  
 2528 have been made to such charter or bylaws since the last filing.

2529 (b) 1. Each committee of continuous existence shall file  
 2530 regular reports with the Division of Elections at the same times  
 2531 and subject to the same filing conditions as are established by  
 2532 s. 106.07(1) and (2) for candidates' reports.

2533 2. A committee of continuous existence that makes a  
 2534 contribution or an expenditure in connection with a county or  
 2535 municipal election that is not being held at the same time as a  
 2536 state or federal election must file campaign finance reports  
 2537 with the county or municipal filing officer on the same dates as  
 2538 county or municipal candidates or committees for that election.  
 2539 The committee of continuous existence must also include the  
 2540 contribution or expenditure in the next report filed with the

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2541 Division of Elections pursuant to this section following the  
 2542 county or municipal election.

2543 ~~3.2.~~ Any committee of continuous existence failing to so  
 2544 file a report with the Division of Elections or applicable  
 2545 filing officer pursuant to this paragraph on the designated due  
 2546 date shall be subject to a fine for late filing as provided by  
 2547 this section.

2548 (c) All committees of continuous existence shall file  
 2549 their reports with the Division of Elections. Reports shall be  
 2550 filed in accordance with s. 106.0705 and shall contain the  
 2551 following information:

2552 1. The full name, address, and occupation of each person  
 2553 who has made one or more contributions, including contributions  
 2554 that represent the payment of membership dues, to the committee  
 2555 during the reporting period, together with the amounts and dates  
 2556 of such contributions. For corporations, the report must provide  
 2557 as clear a description as practicable of the principal type of  
 2558 business conducted by the corporation. However, if the  
 2559 contribution is \$100 or less, the occupation of the contributor  
 2560 or principal type of business need not be listed. However, for  
 2561 any contributions that represent the payment of dues by members  
 2562 in a fixed amount aggregating no more than \$250 per calendar  
 2563 year, pursuant to the schedule on file with the Division of  
 2564 Elections, only the aggregate amount of such contributions need  
 2565 be listed, together with the number of members paying such dues  
 2566 and the amount of the membership dues.

2567 2. The name and address of each political committee or  
 2568 committee of continuous existence from which the reporting

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2569 | committee received, or the name and address of each political  
 2570 | committee, committee of continuous existence, or political party  
 2571 | to which it made, any transfer of funds, together with the  
 2572 | amounts and dates of all transfers.

2573 |         3. Any other receipt of funds not listed pursuant to  
 2574 | subparagraph 1. or subparagraph 2., including the sources and  
 2575 | amounts of all such funds.

2576 |         4. The name and address of, and office sought by, each  
 2577 | candidate to whom the committee has made a contribution during  
 2578 | the reporting period, together with the amount and date of each  
 2579 | contribution.

2580 |         5. The full name and address of each person to whom  
 2581 | expenditures have been made by or on behalf of the committee  
 2582 | within the reporting period; the amount, date, and purpose of  
 2583 | each such expenditure; and the name and address, and office  
 2584 | sought by, each candidate on whose behalf such expenditure was  
 2585 | made.

2586 |         6. The full name and address of each person to whom an  
 2587 | expenditure for personal services, salary, or reimbursement for  
 2588 | authorized expenses has been made, including the full name and  
 2589 | address of each entity to whom the person made payment for which  
 2590 | reimbursement was made by check drawn upon the committee  
 2591 | account, together with the amount and purpose of such payment.

2592 |         7. Transaction information from each credit card purchase  
 2593 | ~~statement that will be included in the next report following~~  
 2594 | ~~receipt thereof by the committee.~~ Receipts for each credit card  
 2595 | purchase shall be retained by the treasurer with the records for  
 2596 | the committee account.

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2597 8. The total sum of expenditures made by the committee  
 2598 during the reporting period.

2599 (d) The treasurer of each committee shall certify as to  
 2600 the correctness of each report and shall bear the responsibility  
 2601 for its accuracy and veracity. Any treasurer who willfully  
 2602 certifies to the correctness of a report while knowing that such  
 2603 report is incorrect, false, or incomplete commits a misdemeanor  
 2604 of the first degree, punishable as provided in s. 775.082 or s.  
 2605 775.083.

2606 (7) Any change in information previously submitted to the  
 2607 division shall be reported within 10 days following the change.

2608 (8)~~(7)~~ If a committee of continuous existence ceases to  
 2609 meet the criteria prescribed by subsection (1) or fails to file  
 2610 a report or information required pursuant to this chapter, the  
 2611 Division of Elections shall revoke its certification ~~until such~~  
 2612 ~~time as the criteria are again met.~~ The Division of Elections  
 2613 shall adopt promulgate rules to prescribe the manner in which  
 2614 the such certification of a committee of continuous existence  
 2615 shall be revoked. Such rules shall, at a minimum, provide for:

2616 (a) Notice, which must ~~shall~~ contain the facts and conduct  
 2617 that warrant the intended action.

2618 (b) Adequate opportunity to respond.

2619 (c) Appeal of the decision to the Florida Elections  
 2620 Commission. Such appeals are ~~shall be~~ exempt from the  
 2621 confidentiality provisions of s. 106.25.

2622 (9)~~(8)~~(a) Any committee of continuous existence failing to  
 2623 file a report on the designated due date is ~~shall be~~ subject to  
 2624 a fine. The fine shall be \$50 per day for the first 3 days late

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2625 and, thereafter, \$500 per day for each late day, not to exceed  
 2626 25 percent of the total receipts or expenditures, whichever is  
 2627 greater, for the period covered by the late report. However, for  
 2628 the reports immediately preceding each primary and general  
 2629 election, including a special primary election and a special  
 2630 general election, the fine shall be \$500 per day for each late  
 2631 day, not to exceed 25 percent of the total receipts or  
 2632 expenditures, whichever is greater, for the period covered by  
 2633 the late report. The fine shall be assessed by the filing  
 2634 officer, and the moneys collected shall be deposited into:  
 2635       1. The ~~In~~ General Revenue Fund, in the case of fines  
 2636 collected by the Division of Elections.  
 2637       2. The general revenue fund of the political subdivision,  
 2638 in the case of fines collected by a county or municipal filing  
 2639 officer. ~~No separate fine shall be assessed for failure to file~~  
 2640 ~~a copy of any report required by this section.~~  
 2641       (b) Upon determining that a report is late, the filing  
 2642 officer shall immediately notify the treasurer of the committee  
 2643 or the committee's registered agent as to the failure to file a  
 2644 report by the designated due date and that a fine is being  
 2645 assessed for each late day. Upon receipt of the report, the  
 2646 filing officer shall determine the amount of fine which is due  
 2647 and shall notify the treasurer of the committee. Notice is  
 2648 deemed complete upon proof of delivery of written notice to the  
 2649 mailing or street address on record with the filing officer. The  
 2650 filing officer shall determine the amount of the fine due based  
 2651 upon the earliest of the following:  
 2652       1. When the report is actually received by such officer.

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- 2653 2. When the report is postmarked.  
 2654 3. When the certificate of mailing is dated.  
 2655 4. When the receipt from an established courier company is  
 2656 dated.

2657  
 2658 Such fine shall be paid to the filing officer within 20 days  
 2659 after receipt of the notice of payment due, unless appeal is  
 2660 made to the Florida Elections Commission pursuant to paragraph  
 2661 (c). An officer or member of a committee is ~~shall~~ not be  
 2662 personally liable for such fine.

2663 (c) Any treasurer of a committee may appeal or dispute the  
 2664 fine, based upon unusual circumstances surrounding the failure  
 2665 to file on the designated due date, and may request and is ~~shall~~  
 2666 ~~be~~ entitled to a hearing before the Florida Elections  
 2667 Commission, which may ~~shall~~ have the authority to waive the fine  
 2668 in whole or in part. Any such request must ~~shall~~ be made within  
 2669 20 days after receipt of the notice of payment due. ~~In such~~  
 2670 ~~case, the treasurer of~~ The committee shall file a copy of the  
 2671 appeal with, ~~within the 20-day period, notify the filing officer~~  
 2672 ~~in writing of his or her intention to bring the matter before~~  
 2673 the commission.

2674 (d) The filing officer shall notify the Florida Elections  
 2675 Commission of the repeated late filing by a committee of  
 2676 continuous existence, the failure of a committee of continuous  
 2677 existence to file a report after notice, or the failure to pay  
 2678 the fine imposed. "Repeated late filing" as used in this section  
 2679 is defined as at least three late filings occurring within any  
 2680 two-year period. The commission shall treat notification of each

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2681 repeated late filing as a separate violation of this section.

2682 Section 45. Subsections (1) through (6), and (8) of  
 2683 section 106.07, Florida Statutes, are amended to read:

2684 106.07 Reports; certification and filing.—

2685 (1) Each campaign treasurer designated by a candidate or  
 2686 political committee pursuant to s. 106.021 shall file regular  
 2687 reports of all contributions received, and all expenditures  
 2688 made, by or on behalf of such candidate or political committee.

2689 Except for the third calendar quarter immediately preceding a  
 2690 general election, reports shall be filed on the 10th day  
 2691 following the end of each calendar quarter from the time the  
 2692 campaign treasurer is appointed, except that, if the 10th day  
 2693 following the end of a calendar quarter occurs on a Saturday,  
 2694 Sunday, or legal holiday, the report shall be filed on the next  
 2695 following day which is not a Saturday, Sunday, or legal holiday.  
 2696 Quarterly reports shall include all contributions received and  
 2697 expenditures made during the calendar quarter which have not  
 2698 otherwise been reported pursuant to this section.

2699 (a) Except as provided in paragraph (b), ~~following the~~  
 2700 ~~last day of qualifying for office,~~ the reports shall also be  
 2701 filed on the 32nd, 18th, and 4th days immediately preceding the  
 2702 primary and on the 46th, 32nd, 18th, and 4th days immediately  
 2703 preceding the election, for a candidate who is opposed in  
 2704 seeking nomination or election to any office, for a political  
 2705 committee, or for a committee of continuous existence.

2706 (b) ~~Following the last day of qualifying for office,~~ Any  
 2707 statewide candidate who has requested to receive contributions  
 2708 pursuant to ~~from~~ the Florida Election Campaign Financing Act

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2709 ~~Trust Fund~~ or any statewide candidate in a race with a candidate  
 2710 who has requested to receive contributions pursuant to ~~from~~ the  
 2711 act ~~trust fund~~ shall also file reports on the 4th, 11th, 18th,  
 2712 25th, and 32nd days prior to the primary election, and on the  
 2713 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to  
 2714 the general election.

2715 (c) Following the last day of qualifying for office, any  
 2716 unopposed candidate need only file a report within 90 days after  
 2717 the date such candidate became unopposed. Such report shall  
 2718 contain all previously unreported contributions and expenditures  
 2719 as required by this section and shall reflect disposition of  
 2720 funds as required by s. 106.141.

2721 (d)1. When a special election is called to fill a vacancy  
 2722 in office, all political committees ~~and committees of continuous~~  
 2723 ~~existence~~ making contributions or expenditures to influence the  
 2724 results of such special election or the preceding special  
 2725 primary election shall file campaign treasurers' reports with  
 2726 the filing officer on the dates set by the Department of State  
 2727 pursuant to s. 100.111.

2728 2. When an election is called for an issue to appear on  
 2729 the ballot at a time when no candidates are scheduled to appear  
 2730 on the ballot, all political committees making contributions or  
 2731 expenditures in support of or in opposition to such issue shall  
 2732 file reports on the 18th and 4th days prior to such election.

2733 (e) The filing officer shall provide each candidate with a  
 2734 schedule designating the beginning and end of reporting periods  
 2735 as well as the corresponding designated due dates.

2736 (2) (a)1. All reports required of a candidate by this



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2737 section shall be filed with the officer before whom the  
 2738 candidate is required by law to qualify. All candidates who file  
 2739 with the Department of State shall file their reports pursuant  
 2740 to s. 106.0705. Except as provided in s. 106.0705, reports shall  
 2741 be filed not later than 5 p.m. of the day designated; however,  
 2742 any report postmarked by the United States Postal Service no  
 2743 later than midnight of the day designated shall be deemed to  
 2744 have been filed in a timely manner. Any report received by the  
 2745 filing officer within 5 days after the designated due date that  
 2746 was delivered by the United States Postal Service shall be  
 2747 deemed timely filed unless it has a postmark that indicates that  
 2748 the report was mailed after the designated due date. A  
 2749 certificate of mailing obtained from and dated by the United  
 2750 States Postal Service at the time of mailing, or a receipt from  
 2751 an established courier company, which bears a date on or before  
 2752 the date on which the report is due, shall be proof of mailing  
 2753 in a timely manner. Reports shall contain information of all  
 2754 previously unreported contributions received and expenditures  
 2755 made as of the preceding Friday, except that the report filed on  
 2756 the Friday immediately preceding the election shall contain  
 2757 information of all previously unreported contributions received  
 2758 and expenditures made as of the day preceding that designated  
 2759 due date. All such reports shall be open to public inspection.

2760 2. This subsection does not prohibit the governing body of  
 2761 a political subdivision, by ordinance or resolution, from  
 2762 imposing upon its own officers and candidates electronic filing  
 2763 requirements not in conflict with s. 106.0705. Expenditure of  
 2764 public funds for such purpose is deemed to be for a valid public

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2765 purpose.  
 2766 (b)1. Any report that ~~which~~ is deemed to be incomplete by  
 2767 the officer with whom the candidate qualifies shall be accepted  
 2768 on a conditional basis. ~~and~~ The campaign treasurer shall be  
 2769 notified by certified registered mail or by another method using  
 2770 a common carrier that provides a proof of delivery of the notice  
 2771 as to why the report is incomplete and within 7 ~~be given 3~~ days  
 2772 after ~~from~~ receipt of such notice must ~~to~~ file an addendum to  
 2773 the report providing all information necessary to complete the  
 2774 report in compliance with this section. Failure to file a  
 2775 complete report after such notice constitutes a violation of  
 2776 this chapter.

2777 2. Notice is deemed complete upon proof of delivery of a  
 2778 written notice to the mailing or street address of the campaign  
 2779 treasurer or registered agent of record with the filing officer.  
 2780 ~~In lieu of the notice by registered mail as required in~~  
 2781 ~~subparagraph 1., the qualifying officer may notify the campaign~~  
 2782 ~~treasurer by telephone that the report is incomplete and request~~  
 2783 ~~the information necessary to complete the report. If, however,~~  
 2784 ~~such information is not received by the qualifying officer~~  
 2785 ~~within 3 days after the telephone request therefor, notice shall~~  
 2786 ~~be sent by registered mail as provided in subparagraph 1.~~

2787 (3) (a) Reports required of a political committee shall be  
 2788 filed with the agency or officer before whom such committee  
 2789 registers pursuant to s. 106.03(3) and shall be subject to the  
 2790 same filing conditions as established for candidates' reports.  
 2791 Incomplete reports by political committees shall be treated in  
 2792 the manner provided for incomplete reports by candidates in

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2793 subsection (2).  
 2794 (b) In addition to the reports required by paragraph (a),  
 2795 a political committee that is registered with the Department of  
 2796 State and that makes a contribution or expenditure in connection  
 2797 with a county or municipal election that is not being held at  
 2798 the same time as a state or federal election must file campaign  
 2799 finance reports with the county or municipal filing officer on  
 2800 the same dates as county or municipal candidates or committees  
 2801 for that election. The political committee must also include  
 2802 such contribution or expenditure in the next report filed with  
 2803 the Division of Elections pursuant to this section following the  
 2804 county or municipal election.

2805 (4)(a) Each report required by this section must ~~shall~~  
 2806 contain:

2807 1. The full name, address, and occupation, if any of each  
 2808 person who has made one or more contributions to or for such  
 2809 committee or candidate within the reporting period, together  
 2810 with the amount and date of such contributions. For  
 2811 corporations, the report must provide as clear a description as  
 2812 practicable of the principal type of business conducted by the  
 2813 corporation. However, if the contribution is \$100 or less or is  
 2814 from a relative, as defined in s. 112.312, provided that the  
 2815 relationship is reported, the occupation of the contributor or  
 2816 the principal type of business need not be listed.

2817 2. The name and address of each political committee from  
 2818 which the reporting committee or the candidate received, or to  
 2819 which the reporting committee or candidate made, any transfer of  
 2820 funds, together with the amounts and dates of all transfers.

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2821 |           3. Each loan for campaign purposes to or from any person  
 2822 | or political committee within the reporting period, together  
 2823 | with the full names, addresses, and occupations, and principal  
 2824 | places of business, if any, of the lender and endorsers, if any,  
 2825 | and the date and amount of such loans.

2826 |           4. A statement of each contribution, rebate, refund, or  
 2827 | other receipt not otherwise listed under subparagraphs 1.  
 2828 | through 3.

2829 |           5. The total sums of all loans, in-kind contributions, and  
 2830 | other receipts by or for such committee or candidate during the  
 2831 | reporting period. The reporting forms shall be designed to  
 2832 | elicit separate totals for in-kind contributions, loans, and  
 2833 | other receipts.

2834 |           6. The full name and address of each person to whom  
 2835 | expenditures have been made by or on behalf of the committee or  
 2836 | candidate within the reporting period; the amount, date, and  
 2837 | purpose of each such expenditure; and the name and address of,  
 2838 | and office sought by, each candidate on whose behalf such  
 2839 | expenditure was made. However, expenditures made from the petty  
 2840 | cash fund provided by s. 106.12 need not be reported  
 2841 | individually.

2842 |           7. The full name and address of each person to whom an  
 2843 | expenditure for personal services, salary, or reimbursement for  
 2844 | authorized expenses as provided in s. 106.021(3) has been made  
 2845 | and which is not otherwise reported, including the amount, date,  
 2846 | and purpose of such expenditure. However, expenditures made from  
 2847 | the petty cash fund provided for in s. 106.12 need not be  
 2848 | reported individually. Receipts for reimbursement for authorized

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2849 expenses shall be retained by the treasurer with the records for  
 2850 the campaign account.

2851 8. The total amount withdrawn and the total amount spent  
 2852 for petty cash purposes pursuant to this chapter during the  
 2853 reporting period.

2854 9. The total sum of expenditures made by such committee or  
 2855 candidate during the reporting period.

2856 10. The amount and nature of debts and obligations owed by  
 2857 or to the committee or candidate, which relate to the conduct of  
 2858 any political campaign.

2859 11. Transaction information for each credit card purchase.  
 2860 ~~A copy of each credit card statement which shall be included in~~  
 2861 ~~the next report following receipt thereof by the candidate or~~  
 2862 ~~political committee. Receipts for each credit card purchase~~  
 2863 ~~shall be retained by the treasurer with the records for the~~  
 2864 ~~campaign account.~~

2865 12. The amount and nature of any separate interest-bearing  
 2866 accounts or certificates of deposit and identification of the  
 2867 financial institution in which such accounts or certificates of  
 2868 deposit are located.

2869 13. The primary purposes of an expenditure made indirectly  
 2870 through a campaign treasurer pursuant to s. 106.021(3) for goods  
 2871 and services such as communications media placement or  
 2872 procurement services, campaign signs, insurance, and other  
 2873 expenditures that include multiple components as part of the  
 2874 expenditure. The primary purpose of an expenditure shall be that  
 2875 purpose, including integral and directly related components,  
 2876 that comprises 80 percent of such expenditure.

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2877 (b) The filing officer shall make available to any  
 2878 candidate or committee a reporting form which the candidate or  
 2879 committee may use to indicate contributions received by the  
 2880 candidate or committee but returned to the contributor before  
 2881 deposit.

2882 (6) ~~The campaign depository shall return all checks drawn~~  
 2883 ~~on the account to the campaign treasurer who shall retain the~~  
 2884 ~~records pursuant to s. 106.06.~~ The records maintained by the  
 2885 campaign depository with respect to any campaign account  
 2886 regulated by this chapter are ~~such account shall be~~ subject to  
 2887 inspection by an agent of the Division of Elections or the  
 2888 Florida Elections Commission at any time during normal banking  
 2889 hours, and such depository shall furnish certified copies of any  
 2890 of such records to the Division of Elections or Florida  
 2891 Elections Commission upon request.

2892 (8)(a) Any candidate or political committee failing to  
 2893 file a report on the designated due date is ~~shall be~~ subject to  
 2894 a fine as provided in paragraph (b) for each late day, and, in  
 2895 the case of a candidate, such fine shall be paid only from  
 2896 personal funds of the candidate. The fine shall be assessed by  
 2897 the filing officer and the moneys collected shall be deposited:

2898 1. In the General Revenue Fund, in the case of a candidate  
 2899 for state office or a political committee that registers with  
 2900 the Division of Elections; or

2901 2. In the general revenue fund of the political  
 2902 subdivision, in the case of a candidate for an office of a  
 2903 political subdivision or a political committee that registers  
 2904 with an officer of a political subdivision.

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2905  
 2906 ~~No separate fine shall be assessed for failure to file a copy of~~  
 2907 ~~any report required by this section.~~

2908 (b) Upon determining that a report is late, the filing  
 2909 officer shall immediately notify the candidate or chair of the  
 2910 political committee as to the failure to file a report by the  
 2911 designated due date and that a fine is being assessed for each  
 2912 late day. The fine shall be \$50 per day for the first 3 days  
 2913 late and, thereafter, \$500 per day for each late day, not to  
 2914 exceed 25 percent of the total receipts or expenditures,  
 2915 whichever is greater, for the period covered by the late report.  
 2916 However, for the reports immediately preceding each special  
 2917 primary election, special election, primary election, and  
 2918 general election, the fine shall be \$500 per day for each late  
 2919 day, not to exceed 25 percent of the total receipts or  
 2920 expenditures, whichever is greater, for the period covered by  
 2921 the late report. For reports required under s. 106.141(7), the  
 2922 fine is \$50 per day for each late day, not to exceed 25 percent  
 2923 of the total receipts or expenditures, whichever is greater, for  
 2924 the period covered by the late report. Upon receipt of the  
 2925 report, the filing officer shall determine the amount of the  
 2926 fine which is due and shall notify the candidate or chair or  
 2927 registered agent of the political committee. The filing officer  
 2928 shall determine the amount of the fine due based upon the  
 2929 earliest of the following:

- 2930 1. When the report is actually received by such officer.
- 2931 2. When the report is postmarked.
- 2932 3. When the certificate of mailing is dated.

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2933 4. When the receipt from an established courier company is  
 2934 dated.

2935 5. When the electronic receipt issued pursuant to s.  
 2936 106.0705 or other electronic filing system authorized in this  
 2937 section is dated.

2938  
 2939 Such fine shall be paid to the filing officer within 20 days  
 2940 after receipt of the notice of payment due, unless appeal is  
 2941 made to the Florida Elections Commission pursuant to paragraph  
 2942 (c). Notice is deemed complete upon proof of delivery of written  
 2943 notice to the mailing or street address of record with the  
 2944 filing officer. In the case of a candidate, such fine shall not  
 2945 be an allowable campaign expenditure and shall be paid only from  
 2946 personal funds of the candidate. An officer or member of a  
 2947 political committee shall not be personally liable for such  
 2948 fine.

2949 (c) Any candidate or chair of a political committee may  
 2950 appeal or dispute the fine, based upon, but not limited to,  
 2951 unusual circumstances surrounding the failure to file on the  
 2952 designated due date, and may request and shall be entitled to a  
 2953 hearing before the Florida Elections Commission, which shall  
 2954 have the authority to waive the fine in whole or in part. The  
 2955 Florida Elections Commission must consider the mitigating and  
 2956 aggravating circumstances contained in s. 106.265(1) when  
 2957 determining the amount of a fine, if any, to be waived. Any such  
 2958 request shall be made within 20 days after receipt of the notice  
 2959 of payment due. In such case, the candidate or chair of the  
 2960 political committee shall, within the 20-day period, notify the



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2961 filing officer in writing of his or her intention to bring the  
 2962 matter before the commission.

2963 (d) The appropriate filing officer shall notify the  
 2964 Florida Elections Commission of the repeated late filing by a  
 2965 candidate or political committee, the failure of a candidate or  
 2966 political committee to file a report after notice, or the  
 2967 failure to pay the fine imposed. The commission shall  
 2968 investigate only those alleged late filing violations  
 2969 specifically identified by the filing officer and as set forth  
 2970 in the notification. Any other alleged violations must be  
 2971 separately stated and reported by the division to the commission  
 2972 under s. 106.25(2). As used in this paragraph, the term  
 2973 "repeated late filing" means at least three late filings  
 2974 occurring within any 2-year period. The commission shall treat  
 2975 notification of each repeated late filing as a separate  
 2976 violation of this section.

2977 Section 46. Paragraphs (c) and (d) of subsection (7) and  
 2978 subsection (8) of section 106.0703, Florida Statutes, are  
 2979 amended to read:

2980 106.0703 Electioneering communications organizations;  
 2981 reporting requirements; certification and filing; penalties.—

2982 (7)

2983 (c) The treasurer of an electioneering communications  
 2984 organization may appeal or dispute the fine, based upon, but not  
 2985 limited to, unusual circumstances surrounding the failure to  
 2986 file on the designated due date, and may request and shall be  
 2987 entitled to a hearing before the Florida Elections Commission,  
 2988 which shall have the authority to waive the fine in whole or in

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2989 part. The Florida Elections Commission must consider the  
 2990 mitigating and aggravating circumstances contained in s.  
 2991 106.265(1) when determining the amount of a fine, if any, to be  
 2992 waived. Any such request shall be made within 20 days after  
 2993 receipt of the notice of payment due. In such case, the  
 2994 treasurer of the electioneering communications organization  
 2995 shall, within the 20-day period, notify the filing officer in  
 2996 writing of his or her intention to bring the matter before the  
 2997 commission.

2998 (d) The appropriate filing officer shall notify the  
 2999 Florida Elections Commission of the repeated late filing by an  
 3000 electioneering communications organization, the failure of an  
 3001 electioneering communications organization to file a report  
 3002 after notice, or the failure to pay the fine imposed. The  
 3003 commission shall investigate only those alleged late filing  
 3004 violations specifically identified by the filing officer and as  
 3005 set forth in the notification. Any other alleged violations must  
 3006 be stated separately and reported by the division to the  
 3007 commission under s. 106.25(2). As used in this paragraph, the  
 3008 term "repeated late filing" means at least three late filings  
 3009 occurring within any 2-year period. The commission shall treat  
 3010 notification of each repeated late filing as a separate  
 3011 violation of this section.

3012 (8) An electioneering communications organization shall,  
 3013 within 2 days after receiving its initial password or secure  
 3014 sign-on from the Department of State allowing confidential  
 3015 access to the department's electronic campaign finance filing  
 3016 system, electronically file ~~the~~ periodic reports ~~that would have~~

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3017 | ~~been required pursuant to this section for reportable activities~~  
 3018 | ~~that occurred since the date of the last general election.~~

3019 | Section 47. Paragraphs (a) and (c) of subsection (2) and  
 3020 | subsections (3) and (7) of section 106.0705, Florida Statutes,  
 3021 | are amended to read:

3022 | 106.0705 Electronic filing of campaign treasurer's  
 3023 | reports.-

3024 | (2)(a) Each individual ~~candidate~~ who is required to file  
 3025 | reports with the division pursuant to s. 106.07 or s. 106.141  
 3026 | ~~with the division~~ must file such reports ~~with the division~~ by  
 3027 | means of the division's electronic filing system.

3028 | (c) Each person or organization that is required to file  
 3029 | reports with the division under s. 106.071 must file such  
 3030 | reports ~~with the division~~ by means of the division's electronic  
 3031 | filing system.

3032 | (3) Reports filed pursuant to this section shall be  
 3033 | completed and filed through the electronic filing system not  
 3034 | later than midnight of the day designated. Reports not filed by  
 3035 | midnight of the day designated are late filed and are subject to  
 3036 | the penalties under s. 106.04(9) ~~s. 106.04(8)~~, s. 106.07(8), s.  
 3037 | 106.0703(7), or s. 106.29(3), as applicable.

3038 | ~~(7) Notwithstanding anything in law to the contrary, any~~  
 3039 | ~~report required to have been filed under this section for the~~  
 3040 | ~~period ended March 31, 2005, shall be deemed to have been timely~~  
 3041 | ~~filed if the report is filed under this section on or before~~  
 3042 | ~~June 1, 2005.~~

3043 | Section 48. Subsections (1) and (2) of section 106.071,  
 3044 | Florida Statutes, are amended to read:

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3045 | 106.071 Independent expenditures; electioneering  
 3046 | communications; reports; disclaimers.-

3047 | (1) Each person who makes an independent expenditure with  
 3048 | respect to any candidate or issue, and each individual who makes  
 3049 | an expenditure for an electioneering communication which is not  
 3050 | otherwise reported pursuant to this chapter, which expenditure,  
 3051 | in the aggregate in a calendar year, is in the amount of \$5,000  
 3052 | or more, shall file periodic reports of such expenditures in the  
 3053 | same manner, at the same time, subject to the same penalties,  
 3054 | and with the same officer as a political committee supporting or  
 3055 | opposing such candidate or issue. The report shall contain the  
 3056 | full name and address of the person making the expenditure; the  
 3057 | full name and address of each person to whom and for whom each  
 3058 | such expenditure has been made; the amount, date, and purpose of  
 3059 | each such expenditure; a description of the services or goods  
 3060 | obtained by each such expenditure; the issue to which the  
 3061 | expenditure relates; and the name and address of, and office  
 3062 | sought by, each candidate on whose behalf such expenditure was  
 3063 | made.

3064 | (2) A ~~Any~~ political advertisement paid for by an  
 3065 | independent expenditure, other than such expenditure by an  
 3066 | individual in an aggregate amount of \$500, shall prominently  
 3067 | state "Paid political advertisement paid for by ... (Name and  
 3068 | address of person paying for advertisement)... independently of  
 3069 | any ... (candidate or committee)...." However, an independent  
 3070 | expenditure made by an individual must state "Paid political  
 3071 | advertisement independent of any (candidate or committee)."

3072 | Section 49. Paragraph (c) of subsection (3) and paragraph

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3073 (b) of subsection (6) of section 106.08, Florida Statutes, are  
 3074 amended to read:

3075 106.08 Contributions; limitations on.-  
 3076 (3)

3077 ~~(c) With respect to any campaign for an office in which an~~  
 3078 ~~independent or minor party candidate has filed as required in s.~~  
 3079 ~~99.0955 or s. 99.096, but whose qualification is pending a~~  
 3080 ~~determination by the Department of State or supervisor of~~  
 3081 ~~elections as to whether or not the required number of petition~~  
 3082 ~~signatures was obtained:~~

3083 1. ~~The department or supervisor shall, no later than 3~~  
 3084 ~~days after that determination has been made, notify in writing~~  
 3085 ~~all other candidates for that office of that determination.~~

3086 2. ~~Any contribution received by a candidate or the~~  
 3087 ~~campaign treasurer or deputy campaign treasurer of a candidate~~  
 3088 ~~after the candidate has been notified in writing by the~~  
 3089 ~~department or supervisor that he or she has become unopposed as~~  
 3090 ~~a result of an independent or minor party candidate failing to~~  
 3091 ~~obtain the required number of petition signatures shall be~~  
 3092 ~~returned to the person, political committee, or committee of~~  
 3093 ~~continuous existence contributing it and shall not be used or~~  
 3094 ~~expended by or on behalf of the candidate.~~

3095 (6)

3096 (b)1. A political party may not accept any in-kind  
 3097 contribution that fails to provide a direct benefit to the  
 3098 political party. A "direct benefit" includes, but is not limited  
 3099 to, fundraising or furthering the objectives of the political  
 3100 party.

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3101           2.a. An in-kind contribution to a state political party  
 3102 may be accepted only by the chairperson of the state political  
 3103 party or by the chairperson's designee or designees whose names  
 3104 are on file with the division in a form acceptable to the  
 3105 division prior to the date of the written notice required in  
 3106 sub-subparagraph b. An in-kind contribution to a county  
 3107 political party may be accepted only by the chairperson of the  
 3108 county political party or by the county chairperson's designee  
 3109 or designees whose names are on file with the supervisor of  
 3110 elections of the respective county prior to the date of the  
 3111 written notice required in sub-subparagraph b.

3112           b. A person making an in-kind contribution to a state  
 3113 political party or county political party must provide prior  
 3114 written notice of the contribution to a person described in sub-  
 3115 subparagraph a. The prior written notice must be signed and  
 3116 dated and may be provided by an electronic or facsimile message.  
 3117 However, prior written notice is not required for an in-kind  
 3118 contribution that consists of food and beverage in an aggregate  
 3119 amount not exceeding \$1,500 which is consumed at a single  
 3120 sitting or event if such in-kind contribution is accepted in  
 3121 advance by a person specified in sub-subparagraph a.

3122           c. A person described in sub-subparagraph a. may accept an  
 3123 in-kind contribution requiring prior written notice only in a  
 3124 writing that is ~~signed and~~ dated before the in-kind contribution  
 3125 is made. Failure to obtain the required written acceptance of an  
 3126 in-kind contribution to a state or county political party  
 3127 constitutes a refusal of the contribution.

3128           d. A copy of each prior written acceptance required under

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3129 sub-subparagraph c. must be filed ~~with the division~~ at the time  
 3130 the regular reports of contributions and expenditures required  
 3131 under s. 106.29 are filed by the state executive committee and  
 3132 county executive committee. A state executive committee must  
 3133 file with the division. A county executive committee must file  
 3134 with the county's supervisor of elections.

3135 e. An in-kind contribution may not be given to a state or  
 3136 county political party unless the in-kind contribution is made  
 3137 as provided in this subparagraph.

3138 Section 50. Section 106.09, Florida Statutes, is amended  
 3139 to read:

3140 106.09 Cash contributions and contribution by cashier's  
 3141 checks.—

3142 (1) (a) A person may not make an aggregate ~~or accept~~ a cash  
 3143 contribution or contribution by means of a cashier's check to  
 3144 the same candidate or committee in excess of \$50 per election.

3145 (b) A person may not accept an aggregate cash contribution  
 3146 or contribution by means of a cashier's check from the same  
 3147 contributor in excess of \$50 per election.

3148 (2) (a) Any person who makes or accepts a contribution in  
 3149 ~~excess of \$50 in violation of subsection (1) this section~~  
 3150 commits a misdemeanor of the first degree, punishable as  
 3151 provided in s. 775.082 or s. 775.083.

3152 (b) Any person who knowingly and willfully makes or  
 3153 accepts a contribution in excess of \$5,000 in violation of  
 3154 subsection (1) this section commits a felony of the third  
 3155 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 3156 775.084.

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3157 Section 51. Subsection (4) of section 106.141, Florida  
 3158 Statutes, is amended to read:  
 3159 106.141 Disposition of surplus funds by candidates.—  
 3160 (4) (a) Except as provided in paragraph (b), any candidate  
 3161 required to dispose of funds pursuant to this section shall, at  
 3162 the option of the candidate, dispose of such funds by any of the  
 3163 following means, or any combination thereof:  
 3164 1. Return pro rata to each contributor the funds that have  
 3165 not been spent or obligated.  
 3166 2. Donate the funds that have not been spent or obligated  
 3167 to a charitable organization or organizations that meet the  
 3168 qualifications of s. 501(c)(3) of the Internal Revenue Code.  
 3169 3. Give ~~not more than \$10,000 of~~ the funds that have not  
 3170 been spent or obligated to the political party of which such  
 3171 candidate is a member, ~~except that a candidate for the Florida~~  
 3172 ~~Senate may give not more than \$30,000 of such funds to the~~  
 3173 ~~political party of which the candidate is a member.~~  
 3174 4. Give the funds that have not been spent or obligated:  
 3175 a. In the case of a candidate for state office, to the  
 3176 state, to be deposited in either the Election Campaign Financing  
 3177 Trust Fund or the General Revenue Fund, as designated by the  
 3178 candidate; or  
 3179 b. In the case of a candidate for an office of a political  
 3180 subdivision, to such political subdivision, to be deposited in  
 3181 the general fund thereof.  
 3182 (b) Any candidate required to dispose of funds pursuant to  
 3183 this section who has received contributions pursuant to the  
 3184 Florida Election Campaign Financing Act ~~from the Election~~



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3185 ~~Campaign Financing Trust Fund~~ shall, after all monetary  
 3186 commitments pursuant to s. 106.11(5)(b) and (c) have been met,  
 3187 return all surplus campaign funds to the General Revenue Fund  
 3188 ~~Election Campaign Financing Trust Fund.~~

3189 Section 52. Section 106.143, Florida Statutes, is amended  
 3190 to read:

3191 106.143 Political advertisements circulated prior to  
 3192 election; requirements.—

3193 (1)(a) Any political advertisement that is paid for by a  
 3194 candidate and that is published, displayed, or circulated  
 3195 before, or on the day of, any election must prominently state:

3196 1. "Political advertisement paid for and approved by  
 3197 ...(name of candidate)..., ...(party affiliation)..., for  
 3198 ...(office sought)..."; or

3199 2. "Paid by ...(name of candidate)..., ...(party  
 3200 affiliation)..., for ...(office sought)..."

3201 (b) However, any political advertisement that is paid for  
 3202 by a write-in candidate and that is published, displayed, or  
 3203 circulated before, or on the day of, any election must  
 3204 prominently state:

3205 1. "Political advertisement paid for and approved by (name  
 3206 of candidate), write-in candidate, for (office sought)"; or

3207 2. "Paid by (name of candidate), write-in candidate, for  
 3208 (office sought)."

3209 ~~(c)~~ Any other political advertisement published,  
 3210 displayed, or circulated before, or on the day of, any election  
 3211 must prominently:

3212 1. Be marked "paid political advertisement" or with the

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3213 abbreviation "pd. pol. adv."  
 3214 2. State the name and address of the persons paying for  
 3215 sponsoring the advertisement.  
 3216 3.a.(I) State whether the advertisement and the cost of  
 3217 production is paid for or provided in kind by or at the expense  
 3218 of the entity publishing, displaying, broadcasting, or  
 3219 circulating the political advertisement; ~~or~~  
 3220 ~~(II) State who provided or paid for the advertisement and~~  
 3221 ~~cost of production, if different from the source of sponsorship.~~  
 3222 ~~b. This subparagraph does not apply if the source of the~~  
 3223 ~~sponsorship is patently clear from the content or format of the~~  
 3224 ~~political advertisement.~~  
 3225 (d)(e) Any political advertisement made pursuant to s.  
 3226 106.021(3) (d) must be marked "paid political advertisement" or  
 3227 with the abbreviation "pd. pol. adv." and must prominently state  
 3228 the name and address of the political party paying for the  
 3229 advertisement, if applicable, the names of the persons approving  
 3230 the advertisement, and the **names, party affiliations, and**  
 3231 offices sought by the persons in the advertisement. , "Paid for  
 3232 and sponsored by ... (name of person paying for political  
 3233 advertisement).... Approved by ... (names of persons, party  
 3234 affiliation, and offices sought in the political  
 3235 advertisement)...."  
 3236 (2) Political advertisements made as in-kind contributions  
 3237 from a political party must prominently state: "Paid political  
 3238 advertisement paid for in-kind by (name of political party).  
 3239 Approved by (name of person, party affiliation, and office  
 3240 sought in the political advertisement)."

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3241        ~~(3)-(2)~~ Any political advertisement of a candidate running  
 3242 for partisan office shall express the name of the political  
 3243 party of which the candidate is seeking nomination or is the  
 3244 nominee. If the candidate for partisan office is running as a  
 3245 candidate with no party affiliation, any political advertisement  
 3246 of the candidate must state that the candidate has no party  
 3247 affiliation. Any political advertisement of a candidate running  
 3248 for nonpartisan office may not state the candidate's political  
 3249 party affiliation. A candidate for nonpartisan office is  
 3250 prohibited from campaigning based on party affiliation.

3251        ~~(4)-(3)~~ It is unlawful for any candidate or person on  
 3252 behalf of a candidate to represent that any person or  
 3253 organization supports such candidate, unless the person or  
 3254 organization so represented has given specific approval in  
 3255 writing to the candidate to make such representation. However,  
 3256 this subsection does not apply to:

3257            (a) Editorial endorsement by any newspaper, radio or  
 3258 television station, or other recognized news medium.

3259            (b) Publication by a party committee advocating the  
 3260 candidacy of its nominees.

3261        ~~(5)-(4)~~(a) Any political advertisement not paid by a  
 3262 candidate, including those paid for by a political party, other  
 3263 than an independent expenditure, offered ~~by or~~ on behalf of a  
 3264 candidate must be approved in advance by the candidate. Such  
 3265 political advertisement must expressly state that the content of  
 3266 the advertisement was approved by the candidate and must state  
 3267 who paid for the advertisement. The candidate shall provide a  
 3268 written statement of authorization to the newspaper, radio

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3269 station, television station, or other medium for each such  
 3270 advertisement submitted for publication, display, broadcast, or  
 3271 other distribution.

3272 (b) Any person who makes an independent expenditure for a  
 3273 political advertisement shall provide a written statement that  
 3274 no candidate has approved the advertisement to the newspaper,  
 3275 radio station, television station, or other medium for each such  
 3276 advertisement submitted for publication, display, broadcast, or  
 3277 other distribution. The advertisement must also contain a  
 3278 statement that no candidate has approved the advertisement.

3279 ~~(c) This subsection does not apply to campaign messages~~  
 3280 ~~used by a candidate and his or her supporters if those messages~~  
 3281 ~~are designed to be worn by a person.~~

3282 (6)~~(5)~~ No political advertisement of a candidate who is  
 3283 not an incumbent of the office for which the candidate is  
 3284 running shall use the word "re-elect." Additionally, such  
 3285 advertisement must include the word "for" between the  
 3286 candidate's name and the office for which the candidate is  
 3287 running, in order that incumbency is not implied. This  
 3288 subsection does not apply to bumper stickers or items designed  
 3289 to be worn by a person.

3290 (7)~~(6)~~ This section does not apply to novelty items having  
 3291 a retail value of \$10 or less which support, but do not oppose,  
 3292 a candidate or issue.

3293 (8)~~(7)~~ Any political advertisement which is published,  
 3294 displayed, or produced in a language other than English may  
 3295 provide the information required by this section in the language  
 3296 used in the advertisement.

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3297        (9)~~(8)~~ This section does not apply to any campaign message  
 3298 or political advertisement used by a candidate and the  
 3299 candidate's supporters or by a political committee if the  
 3300 message or advertisement is:

3301            (a) Designed to be worn by a person.

3302            (b) Placed as a paid link on an Internet website, provided  
 3303 the message or advertisement is no more than 200 characters in  
 3304 length and the link directs the user to another Internet website  
 3305 that complies with subsection (1).

3306            (c) Placed as a graphic or picture link where compliance  
 3307 with the requirements of this section is not reasonably  
 3308 practical due to the size of the graphic or picture link and the  
 3309 link directs the user to another Internet website that complies  
 3310 with subsection (1).

3311            (d) Placed at no cost on an Internet website for which  
 3312 there is no cost to post content for public users.

3313            (e) Placed or distributed on an unpaid profile or account  
 3314 which is available to the public without charge or on a social  
 3315 networking Internet website, as long as the source of the  
 3316 message or advertisement is patently clear from the content or  
 3317 format of the message or advertisement. A candidate or political  
 3318 committee may prominently display a statement indicating that  
 3319 the website or account is an official website or account of the  
 3320 candidate or political committee and is approved by the  
 3321 candidate or political committee. A website or account may not  
 3322 be marked as official without prior approval by the candidate or  
 3323 political committee.

3324            (f) Distributed as a text message or other message via

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3325 Short Message Service, provided the message is no more than 200  
 3326 characters in length or requires the recipient to sign up or opt  
 3327 in to receive it.

3328 (g) Connected with or included in any software application  
 3329 or accompanying function, provided that the user signs up, opts  
 3330 in, downloads, or otherwise accesses the application from or  
 3331 through a website that complies with subsection (1).

3332 (h) Sent by a third-party user from or through a campaign  
 3333 or committee's website, provided the website complies with  
 3334 subsection (1).

3335 (i) Contained in or distributed through any other  
 3336 technology-related item, service, or device for which compliance  
 3337 with subsection (1) is not reasonably practical due to the size  
 3338 or nature of such item, service, or device as available, or the  
 3339 means of displaying the message or advertisement makes  
 3340 compliance with subsection (1) impracticable.

3341 (10) ~~(9)~~ Any person who willfully violates any provision of  
 3342 this section is subject to the civil penalties prescribed in s.  
 3343 106.265.

3344 Section 53. Subsection (4) of section 106.15, Florida  
 3345 Statutes, is amended to read:

3346 106.15 Certain acts prohibited.—

3347 (4) (a) No person shall make and no person shall solicit or  
 3348 knowingly accept any political contribution in a government-  
 3349 occupied room or building space ~~building owned by a governmental~~  
 3350 ~~entity.~~

3351 (b) For purposes of this subsection, "accept" means to  
 3352 receive a contribution by personal hand delivery from a

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3353 contributor or the contributor's agent. For purposes of this  
 3354 subsection, "government-occupied room or building space" means  
 3355 the building, or in the case of a partial occupancy, that  
 3356 portion of a building, owned or leased and being used by a  
 3357 government entity; however, in the case of a partial occupancy  
 3358 where other tenants or owners simultaneously occupy a different  
 3359 portion of the building, the term shall exclude common areas not  
 3360 under the exclusive control of the governmental entity,  
 3361 including but not limited to break rooms, hallways, elevators,  
 3362 stairwells, and conference rooms.

3363 (c) This subsection shall not apply when a government-  
 3364 occupied room or building space ~~government-owned building~~ or any  
 3365 portion thereof is rented for the specific purpose of holding a  
 3366 campaign fund raiser.

3367 Section 54. Section 106.17, Florida Statutes, is amended  
 3368 to read:

3369 106.17 Polls and surveys relating to candidacies.—Any  
 3370 candidate, political committee, committee of continuous  
 3371 existence, electioneering communication organization, or state  
 3372 or county executive committee of a political party may authorize  
 3373 or conduct a political poll, survey, index, or measurement of  
 3374 any kind relating to candidacy for public office so long as the  
 3375 candidate, political committee, committee of continuous  
 3376 existence, electioneering communication organization, or  
 3377 political party maintains complete jurisdiction over the poll in  
 3378 all its aspects. State and county executive committees of a  
 3379 political party or an affiliated party committee may authorize  
 3380 and conduct political polls for the purpose of determining the

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3381 viability of potential candidates. Such poll results may be  
 3382 shared with potential candidates and expenditures incurred by  
 3383 state and county executive committees for potential candidate  
 3384 polls are not contributions to the potential candidates.

3385 Section 55. Subsection (3) of section 106.18, Florida  
 3386 Statutes, is amended to read:

3387 106.18 When a candidate's name to be omitted from ballot.-

3388 (3) No certificate of election shall be granted to any  
 3389 candidate until all preelection reports required by s. 106.07  
 3390 have been filed in accordance with the provisions of such  
 3391 section. ~~However, no candidate shall be prevented from receiving~~  
 3392 ~~a certificate of election for failure to file any copy of a~~  
 3393 ~~report required by this chapter.~~

3394 Section 56. Subsection (4) is added to section 106.19,  
 3395 Florida Statutes, to read:

3396 106.19 Violations by candidates, persons connected with  
 3397 campaigns, and political committees.-

3398 (4) Except as otherwise expressly stated, the failure by a  
 3399 candidate to comply with the requirements of this chapter has no  
 3400 effect upon whether the candidate has qualified for the office  
 3401 the candidate is seeking.

3402 Section 57. Subsection (5) of section 106.25, Florida  
 3403 Statutes, is amended to read:

3404 106.25 Reports of alleged violations to Florida Elections  
 3405 Commission; disposition of findings.-

3406 (5) ~~Unless~~ A person alleged by the Elections Commission to  
 3407 have committed a violation of this chapter or chapter 104 may  
 3408 elect, as a matter of right elects, within 30 days after the



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3409 | date of the filing of the commission's allegations, to have a  
 3410 | formal administrative hearing conducted by an administrative law  
 3411 | judge in the Division of Administrative Hearings. The  
 3412 | administrative law judge in such proceedings shall enter a final  
 3413 | order, which may include the imposition of civil penalties, and  
 3414 | the formal or informal hearing conducted before the commission,  
 3415 | or elects to resolve the complaint by consent order, such person  
 3416 | shall be entitled to a formal administrative hearing conducted  
 3417 | by an administrative law judge in the Division of Administrative  
 3418 | Hearings. The administrative law judge in such proceedings shall  
 3419 | enter a final order is subject to appeal as provided in s.  
 3420 | 120.68.

3421 | Section 58. Section 106.265, Florida Statutes, is amended  
 3422 | to read:

3423 | 106.265 Civil penalties.—

3424 | (1) The commission, or in cases referred to the Division  
 3425 | of Administrative Hearings pursuant to s. 106.25(5), the  
 3426 | administrative law judge, is authorized upon the finding of a  
 3427 | violation of this chapter or chapter 104 to impose civil  
 3428 | penalties in the form of fines not to exceed \$1,000 per count  
 3429 | or, if applicable, to impose a civil penalty as provided in s.  
 3430 | 106.19.

3431 | (2) In determining the amount of such civil penalties, the  
 3432 | commission or the administrative law judge shall consider, among  
 3433 | other mitigating and aggravating circumstances:

- 3434 | (a) The gravity of the act or omission;
- 3435 | (b) Any previous history of similar acts or omissions;
- 3436 | (c) The appropriateness of such penalty to the financial

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3437 resources of the person, political committee, committee of  
 3438 continuous existence, electioneering communications  
 3439 organization, or political party; and

3440 (d) Whether the person, political committee, committee of  
 3441 continuous existence, electioneering communications  
 3442 organization, or political party has shown good faith in  
 3443 attempting to comply with the provisions of this chapter or  
 3444 chapter 104.

3445 (3)~~(2)~~ If any person, political committee, committee of  
 3446 continuous existence, electioneering communications  
 3447 organization, or political party fails or refuses to pay to the  
 3448 commission any civil penalties assessed pursuant to the  
 3449 provisions of this section, the commission shall be responsible  
 3450 for collecting the civil penalties resulting from such action.

3451 (4)~~(3)~~ Any civil penalty collected pursuant to the  
 3452 provisions of this section shall be deposited into the General  
 3453 Revenue Fund ~~Election Campaign Financing Trust Fund~~.

3454 (5)~~(4)~~ ~~Notwithstanding any other provisions of this~~  
 3455 ~~chapter,~~ any fine assessed pursuant to the provisions of this  
 3456 chapter shall, ~~which fine is designated to be deposited or which~~  
 3457 ~~would otherwise be deposited into the General Revenue Fund of~~  
 3458 ~~the state, shall be deposited into the Election Campaign~~  
 3459 ~~Financing Trust Fund~~.

3460 (6)~~(5)~~ In any case in which the commission determines that  
 3461 a person has filed a complaint against another person with a  
 3462 malicious intent to injure the reputation of the person  
 3463 complained against by filing the complaint with knowledge that  
 3464 the complaint contains one or more false allegations or with

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3465 reckless disregard for whether the complaint contains false  
 3466 allegations of fact material to a violation of this chapter or  
 3467 chapter 104, the complainant shall be liable for costs and  
 3468 reasonable attorney's fees incurred in the defense of the person  
 3469 complained against, including the costs and reasonable  
 3470 attorney's fees incurred in proving entitlement to and the  
 3471 amount of costs and fees. If the complainant fails to pay such  
 3472 costs and fees voluntarily within 30 days following such finding  
 3473 by the commission, the commission shall forward such information  
 3474 to the Department of Legal Affairs, which shall bring a civil  
 3475 action in a court of competent jurisdiction to recover the  
 3476 amount of such costs and fees awarded by the commission.

3477 Section 59. Section 106.355, Florida Statutes, is amended  
 3478 to read:

3479 106.355 Nonparticipating candidate exceeding limits.-  
 3480 Whenever a candidate for the office of Governor or member of the  
 3481 Cabinet who has elected not to participate in election campaign  
 3482 financing under the provisions of ss. 106.30-106.36 exceeds the  
 3483 applicable expenditure limit provided in s. 106.34, all opposing  
 3484 candidates participating in such election campaign financing  
 3485 are, notwithstanding the provisions of s. 106.33 or any other  
 3486 provision requiring adherence to such limit, released from such  
 3487 expenditure limit to the extent the nonparticipating candidate  
 3488 exceeded the limit, are still eligible for matching  
 3489 contributions up to such limit, and shall not be required to  
 3490 reimburse any matching funds provided pursuant thereto. ~~In~~  
 3491 ~~addition, the Department of State shall, within 7 days after a~~  
 3492 ~~request by a participating candidate, provide such candidate~~

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3493 | ~~with funds from the Election Campaign Financing Trust Fund equal~~  
 3494 | ~~to the amount by which the nonparticipating candidate exceeded~~  
 3495 | ~~the expenditure limit, not to exceed twice the amount of the~~  
 3496 | ~~maximum expenditure limits specified in s. 106.34(1)(a) and (b),~~  
 3497 | ~~which funds shall not be considered matching funds.~~

3498 | Section 60. Paragraph (d) of subsection (1) of section  
 3499 | 11.045, Florida Statutes, is amended to read:

3500 | 11.045 Lobbying before the Legislature; registration and  
 3501 | reporting; exemptions; penalties.—

3502 | (1) As used in this section, unless the context otherwise  
 3503 | requires:

3504 | (d) "Expenditure" means a payment, distribution, loan,  
 3505 | advance, reimbursement, deposit, or anything of value made by a  
 3506 | lobbyist or principal for the purpose of lobbying. The term  
 3507 | "expenditure" does not include contributions or expenditures  
 3508 | reported pursuant to chapter 106 or federal election law, funds  
 3509 | received or spent under section 106.012, campaign-related  
 3510 | personal services provided without compensation by individuals  
 3511 | volunteering their time, any other contribution or expenditure  
 3512 | made by or to a political party, or any other contribution or  
 3513 | expenditure made by an organization that is exempt from taxation  
 3514 | under 26 U.S.C. s. 527 or s. 501(c)(4).

3515 | Section 61. Paragraph (b) of subsection (12) of section  
 3516 | 112.312, Florida Statutes, are amended to read:

3517 | 112.312 Definitions.—As used in this part and for purposes  
 3518 | of the provisions of s. 8, Art. II of the State Constitution,  
 3519 | unless the context otherwise requires:

3520 | (12)

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- 3521 (b) "Gift" does not include:
- 3522 1. Salary, benefits, services, fees, commissions, gifts,
- 3523 or expenses associated primarily with the donee's employment,
- 3524 business, or service as an officer or director of a corporation
- 3525 or organization.
- 3526 2. Contributions or expenditures reported pursuant to
- 3527 chapter 106, funds received or spent under section 106.012,
- 3528 campaign-related personal services provided without compensation
- 3529 by individuals volunteering their time, or any other
- 3530 contribution or expenditure by a political party.
- 3531 3. An honorarium or an expense related to an honorarium
- 3532 event paid to a person or the person's spouse.
- 3533 4. An award, plaque, certificate, or similar personalized
- 3534 item given in recognition of the donee's public, civic,
- 3535 charitable, or professional service.
- 3536 5. An honorary membership in a service or fraternal
- 3537 organization presented merely as a courtesy by such
- 3538 organization.
- 3539 6. The use of a public facility or public property, made
- 3540 available by a governmental agency, for a public purpose.
- 3541 7. Transportation provided to a public officer or employee
- 3542 by an agency in relation to officially approved governmental
- 3543 business.
- 3544 8. Gifts provided directly or indirectly by a state,
- 3545 regional, or national organization which promotes the exchange
- 3546 of ideas between, or the professional development of,
- 3547 governmental officials or employees, and whose membership is
- 3548 primarily composed of elected or appointed public officials or

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3549 | staff, to members of that organization or officials or staff of  
 3550 | a governmental agency that is a member of that organization.

3551 |       Section 62. Subsection (1) of section 876.05, Florida  
 3552 | Statutes, is amended to read:

3553 |           876.05 Public employees; oath.—

3554 |       (1) All persons who now or hereafter are employed by or  
 3555 | who now or hereafter are on the payroll of the state, or any of  
 3556 | its departments and agencies, subdivisions, counties, cities,  
 3557 | school boards and districts of the free public school system of  
 3558 | the state or counties, or institutions of higher learning, ~~and~~  
 3559 | ~~all candidates for public office,~~ except candidates for federal  
 3560 | office, are required to take an oath before any person duly  
 3561 | authorized to take acknowledgments of instruments for public  
 3562 | record in the state in the following form:

3563 |       I, ....., a citizen of the State of Florida and of the  
 3564 | United States of America, and being employed by or an officer of  
 3565 | .... and a recipient of public funds as such employee or  
 3566 | officer, do hereby solemnly swear or affirm that I will support  
 3567 | the Constitution of the United States and of the State of  
 3568 | Florida.

3569 |       Section 63. Section 876.07, Florida Statutes, is repealed.

3570 |       Section 64. Unless otherwise specifically provided, this  
 3571 | act shall take effect July 1, 2011.

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 Subcommittee

3 Representative(s) A. Williams offered the following:

**Amendment (with title amendment)**

6 Between lines 1992 and 1993, insert:

7 Section 30. Paragraph (a) of subsection (1) of section  
8 101.657, Florida Statutes, is amended to read:

9 101.657 Early voting.—

10 (1) (a) As a convenience to the voter, the supervisor of  
11 elections shall allow an elector to vote early in the main or  
12 branch office of the supervisor. The supervisor shall mark,  
13 code, indicate on, or otherwise track the voter's precinct for  
14 each early voted ballot. In order for a branch office to be used  
15 for early voting, it shall be a permanent facility of the  
16 supervisor and shall have been designated and used as such for  
17 at least 1 year prior to the election. The supervisor may also  
18 designate any city hall, public library facility, courthouse,  
19 place of worship, civic center, convention center, community

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. PCS for HB 1355 (2011)

Amendment No.

20 center, county government center, conference center, community  
21 college facility, university or college, fairgrounds, or any  
22 other location designated by the supervisor as meeting the  
23 requirements of this section ~~or permanent public library~~  
24 ~~facility~~ as early voting sites. Early voting ; ~~however, if so~~  
25 ~~designated,~~ the sites must be geographically located so as to  
26 provide all voters in the county an equal opportunity to cast a  
27 ballot, insofar as is practicable. Each county shall operate the  
28 same total number of early voting sites that it used for the  
29 2008 general election, or one early voting site plus one  
30 additional early voting site for every complete set of 65,000  
31 registered voters in the county as of July 1 of each general  
32 election year, whichever is greater. The results or tabulation  
33 of votes cast during early voting may not be made before the  
34 close of the polls on election day. Results shall be reported by  
35 precinct.

36  
37  
38

39 -----

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

41 Remove line 163 and insert:  
42 must be updated; amending s. 101.657, F.S.; revising early  
43 voting locations; amending s. 101.6923, F.S.; expanding



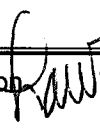
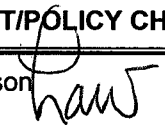


HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB GVOPS 11-13 OGSR SBA Alternative Investments

**SPONSOR(S):** Government Operations Subcommittee

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

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

**SUMMARY ANALYSIS**

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

Current law provides a public record exemption for proprietary confidential business information held by the State Board of Administration (SBA) regarding alternative investments. The exemption expires 10 years after the termination of the alternative investment. It applies to proprietary confidential business information held by the SBA before, on, or after October 1, 2006.

Under current law, a request to inspect or copy a record that contains proprietary confidential business information must be granted if the proprietor of the information fails, within a reasonable period of time after the request is received by the SBA, to verify through a written declaration that a particular record contains certain information. Any person may petition a court of competent jurisdiction in Leon County, Florida, for an order for the public release of those portions of any record made confidential and exempt.

The bill reenacts the public record exemption, which will repeal on October 2, 2011, if this bill does not become law. The bill revises the definition of what does not constitute proprietary confidential business information. In addition, it requires the SBA to maintain a list and a description of the records covered by any verified, written declaration made by a proprietor.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### Open Government Sunset Review Act

The Open Government Sunset Review Act<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.<sup>2</sup> If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created<sup>3</sup> then a public necessity statement and a two-thirds vote for passage are not required.

###### State Board of Administration

The State Board of Administration (SBA or board) is established by Article IV, s. 4(e) of the State Constitution, and is composed of the Governor as Chair, the Chief Financial Officer as Treasurer, and the Attorney General as Secretary. The board members are commonly referred to as "Trustees." While the Florida Retirement System Pension Trust Fund represents about 80 percent of the assets under SBA management, the board also manages 37 different funds, including the Florida Hurricane Catastrophe Fund, the Lawton Chiles Endowment Fund and the Local Government Surplus Funds Trust Fund.<sup>4</sup>

Current law sets forth the powers and duties of the SBA in relation to the investment of trust funds.<sup>5</sup> Among the powers granted to the SBA is the authority to make purchases, sales, exchanges, and reinvestments for trust funds.<sup>6</sup> The SBA is charged to ensure that the investments are handled in the best interests of the state, but also to have an appropriately diversified portfolio that maximizes financial returns consistent with the risks incumbent in each investment.

###### Alternative Investments and Alternative Investment Vehicles

The SBA's ability to invest moneys available for investments is subject to limitations imposed by a "legal list" of the types of investments and the amount that may be invested in each investment type.<sup>7</sup>

---

<sup>1</sup> Section 119.15, F.S.

<sup>2</sup> Section 24(c), Art. I of the State Constitution.

<sup>3</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential or exempt records.

<sup>4</sup> State Board of Administration Investment Overview, January 12, 2011, at 3.

<sup>5</sup> Section 215.44, F.S.

<sup>6</sup> Section 215.44(2)(a), F.S.

<sup>7</sup> Section 215.47, F.S., provides the "legal list" of types of investments summarized as follows:

Under current law, the board is authorized to invest no more than 10 percent, in the aggregate, of any fund in alternative investments through participation in alternative investment vehicles.<sup>8</sup> An alternative investment is an investment by the SBA in a private equity fund, venture fund, hedge fund, or distress fund or a direct investment in a portfolio company<sup>9</sup> through an investment manager.<sup>10</sup> An alternative investment vehicle is the limited partnership, limited liability company, or similar legal structure or investment manager through which the board invests in a portfolio company.<sup>11</sup>

#### Public Record Exemption under Review

In 2006, the Legislature created a public record exemption for proprietary confidential business information held by the State Board of Administration.<sup>12</sup> Proprietary confidential business information regarding alternative investments is confidential and exempt<sup>13</sup> from public records requirements for 10 years after the termination of the alternative investment.<sup>14</sup> The exemption applies to proprietary confidential business information held by the SBA before, on, or after October 1, 2006.

#### *Operation of the Exemption*

Current law provides that a request to inspect or copy a record that contains proprietary confidential business information must be granted if the proprietor of the information fails, within a reasonable period of time after the request is received by the SBA, to verify the following information through a written declaration:<sup>15</sup>

- That the requested record contains proprietary confidential business information and the specific location of such information within the record;
- If the proprietary confidential business information is a trade secret, a verification that it is a trade secret as defined in the Uniform Trade Secrets Act;
- That the proprietary confidential business information is intended to be and is treated by the proprietor as private, is the subject of efforts of the proprietor to maintain its privacy, and is not readily ascertainable or publicly available from any other source; and
- That the disclosure of the proprietary confidential business information to the public would harm the business operations of the proprietor.<sup>16</sup>

- 
- No more than 80 percent of assets can be invested in domestic common stocks.
  - No more than 75 percent of assets can be invested in internally managed common stocks.
  - No more than 3 percent of equity assets can be invested in the equity securities of any one corporation, except when the securities of that corporation are included in any broad equity index or with approval of the Board; and in such case, no more than 10 percent of equity assets can be invested in the equity securities of any one corporation.
  - No more than 80 percent of assets should be placed in corporate fixed income securities.
  - No more than 25 percent of assets should be invested in notes secured by FHA- insured or VA-guaranteed first mortgages on Florida real property, or foreign government general obligations with a 25-year default free history.
  - No more than 20 percent of assets should be invested in foreign corporate or commercial securities or obligations.
  - No more than 5 percent of any fund should be invested in private equity through participation in limited partnerships and limited liability companies.
  - No more than 25 percent of assets can be invested in foreign securities.

<sup>8</sup> Section 215.47(15), F.S.

<sup>9</sup> Section 215.44(8)(c)1.c., F.S., defines "portfolio company" to mean corporation or other issuer, any of whose securities are owned by an alternative investment vehicle or the State Board of Administration and any subsidiary of such corporation or other issuer.

<sup>10</sup> Section 215.44(8)(c)1.a., F.S.

<sup>11</sup> Section 215.44(8)(c)1.b., F.S.

<sup>12</sup> Chapter 2006-163, L.O.F.; codified as s. 215.44(8)(c), F.S.

<sup>13</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See Attorney General Opinion 85-62*, August 1, 1985).

<sup>14</sup> Section 215.44(8)(c)2., F.S.

<sup>15</sup> *See* s. 92.525, F.S., for requirements specific to a verified written declaration.

<sup>16</sup> Section 215.44(8)(c)3., F.S.

### *Petition for Public Release*

Any person may petition a court of competent jurisdiction in Leon County, Florida, for an order for the public release of those portions of any record made confidential and exempt under this public record exemption. The petition must be served, along with any other initial pleadings, on the SBA and on the proprietor of the information sought to be released, if the proprietor can be determined through diligent inquiry. The court must make three findings in any order for the release of the record:

- That the record or portion thereof is not a trade secret as defined in the Uniform Trade Secrets Act;
- That a compelling public interest is served by the release of the record or portions thereof which exceed the public necessity for maintaining the confidentiality of such record; and
- That the release of the record will not cause damage to or adversely affect the interests of the proprietor of the released information, other private persons or business entities, the SBA, or any trust fund, the assets of which are invested by the board.<sup>17</sup>

### *Definitions*

“Proprietary confidential business information” means information that has been designated by the proprietor<sup>18</sup> when provided to the SBA as information that is owned or controlled by a proprietor; that is intended to be and is treated by the proprietor as private, the disclosure of which would harm the business operations of the proprietor and has not been intentionally disclosed by the proprietor unless pursuant to a private agreement that provides that the information will not be released to the public except as required by law or legal process, or pursuant to law or an order of a court or administrative body; and that concerns:

- Trade secrets as defined in the Uniform Trade Secrets Act.<sup>19</sup>
- Information provided to the board regarding a prospective investment in a private equity fund, venture fund, hedge fund, distress fund, or portfolio company which is proprietary to the provider of the information.
- Financial statements and auditor reports of an alternative investment vehicle.
- Meeting materials of an alternative investment vehicle relating to financial, operating, or marketing information of the alternative investment vehicle.
- Information regarding the portfolio positions in which the alternative investment vehicles invest.
- Capital call and distribution notices to investors of an alternative investment vehicle.
- Alternative investment agreements and related records.
- Information concerning investors, other than the SBA, in an alternative investment vehicle.<sup>20</sup>

“Proprietary confidential business information” does not include the:

- Name, address, and vintage year of an alternative investment vehicle and the identity of the principals involved in the management of the alternative investment vehicle.
- Dollar amount of the commitment made by the SBA to each alternative investment vehicle since inception.
- Dollar amount and date of cash contributions made by the SBA to each alternative investment vehicle since inception.
- Dollar amount, on a fiscal-year-end basis, of cash distributions received by the SBA from each alternative investment vehicle.
- Dollar amount, on a fiscal-year-end basis, of cash distributions received by the SBA plus the remaining value of alternative-vehicle assets that are attributable to the board's investment in each alternative investment vehicle.
- Net internal rate of return of each alternative investment vehicle since inception.
- Investment multiple of each alternative investment vehicle since inception.

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<sup>17</sup> Section 215.44(8)(c)4., F.S.

<sup>18</sup> Section 215.44(8)(c)1.e., F.S., defines “proprietor” to mean an alternative investment vehicle, a portfolio company in which the alternative investment vehicle is invested, or an outside consultant, including the respective authorized officers, employees, agents, or successors in interest, which controls or owns information provided to the SBA.

<sup>19</sup> Chapter 688, F.S.

<sup>20</sup> Section 215.44(8)(c)1.f., F.S.

- Dollar amount of the total management fees and costs paid on an annual fiscal-year-end basis by the SBA to each alternative investment vehicle.
- The dollar amount of cash profit received by the SBA from each alternative investment vehicle on a fiscal-year-end basis.<sup>21</sup>

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2011, unless reenacted by the Legislature.<sup>22</sup>

### **Effect of Bill**

The bill removes the repeal date, thereby reenacting the public record exemption for proprietary confidential business information held by the SBA regarding alternative investments. The bill revises the definition of what does not constitute proprietary confidential business information to include:

A description of any compensation, fees, or expenses, including the amount or value, paid or agreed to be paid by a proprietor to any person to solicit the board to make an alternative investment through an alternative investment vehicle. This does not apply to an executive officer, general partner, managing member, or other employee of the proprietor, who is paid by the proprietor to solicit the SBA to make such investments.

In addition, the bill requires the SBA to maintain a list and a description of the records covered by any verified, written declaration made by a proprietor.

Finally, the bill transfers the public record exemptions for the SBA from s. 215.44(8), F.S., to a newly created s. 215.440, F.S.

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

Section 1 transfers subsection (8) of s. 215.44, F.S., renumbers it as s. 215.440, F.S., and reenacts the public record exemption for the SBA relating to proprietary confidential business information regarding alternative investments.

Section 2 amends s. 215.47, F.S., to conform cross-references.

Section 3 provides an effective date of October 1, 2011.

## **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.

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<sup>21</sup> Section 215.44(8)(c)1.g., F.S.

<sup>22</sup> Section 215.44(8)(c)5., F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

Not applicable.

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1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; transferring, renumbering, and amending  
 4           s. 215.44(8), F.S., which provides exemptions from public  
 5           records requirements for the State Board of  
 6           Administration; creating s. 215.440, F.S.; specifying  
 7           information that does not constitute proprietary  
 8           confidential business information held by the State Board  
 9           of Administration; requiring the State Board of  
 10          Administration to maintain a written list of records  
 11          covered under a verified, written declaration; conforming  
 12          cross-references; making editorial changes; removing the  
 13          scheduled repeal of the exemption; amending s. 215.47,  
 14          F.S.; conforming cross-references; providing an effective  
 15          date.

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

19           Section 1. Subsection (8) of section 215.44, Florida  
 20 Statutes, is transferred and renumbered as section 215.440,  
 21 Florida Statutes, and is amended to read:

22           215.440 Board of Administration; public record  
 23 exemptions.-

24           ~~(1)(8)(a)~~ In order to effectively and efficiently  
 25 administer the real estate investment program of the State Board  
 26 of Administration, the Legislature finds a public necessity in  
 27 protecting specified records of the board. Accordingly, records  
 28 and information relating to acquiring, hypothecating, or



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29 disposing of real property or related personal property or  
 30 mortgage interests in same, as well as interest in collective  
 31 real estate investment funds, publicly traded securities, or  
 32 private placement investments, are confidential and exempt from  
 33 s. 119.07(1) in order to protect proprietary information  
 34 requisite to the board's ability to transact arms length  
 35 negotiations necessary to successfully compete in the real  
 36 estate investment market. All reports and documents relating to  
 37 value, offers, counteroffers, or negotiations are confidential  
 38 and exempt from s. 119.07(1) until closing is complete and all  
 39 funds have been disbursed. Reports and documents relating to  
 40 tenants, leases, contracts, rent rolls, and negotiations in  
 41 progress are confidential and exempt from the provisions of s.  
 42 119.07(1) until the executive director determines that releasing  
 43 such information would not be detrimental to the interests of  
 44 the board and would not cause a conflict with the fiduciary  
 45 responsibilities of the State Board of Administration.

46 (2) ~~(b)~~ In order to effectively and efficiently administer  
 47 the investment programs of the board, the Legislature finds a  
 48 public necessity in protecting records other than those  
 49 described in subsection (1) paragraph ~~(a)~~. Accordingly, records  
 50 and other information relating to investments made by the board  
 51 pursuant to its constitutional and statutory investment duties  
 52 and responsibilities are confidential and exempt from s.  
 53 119.07(1) until 30 days after completion of an investment  
 54 transaction. However, if in the opinion of the executive  
 55 director of the board it would be detrimental to the financial  
 56 interests of the board or would cause a conflict with the

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57 fiduciary responsibilities of the board, information concerning  
 58 service provider fees may be maintained as confidential and  
 59 exempt from s. 119.07(1) until 6 months after negotiations  
 60 relating to such fees have been terminated. This exemption  
 61 prevents the use of confidential internal investment decisions  
 62 of the State Board of Administration for improper personal gain.

63 (3)(a)(e)~~1~~. As used in this paragraph, the term:

64 1.a. "Alternative investment" means an investment by the  
 65 State Board of Administration in a private equity fund, venture  
 66 fund, hedge fund, or distress fund or a direct investment in a  
 67 portfolio company through an investment manager.

68 2.b. "Alternative investment vehicle" means the limited  
 69 partnership, limited liability company, or similar legal  
 70 structure or investment manager through which the State Board of  
 71 Administration invests in a portfolio company.

72 3.e. "Portfolio company" means a corporation or other  
 73 issuer, any of whose securities are owned by an alternative  
 74 investment vehicle or the State Board of Administration and any  
 75 subsidiary of such corporation or other issuer.

76 4.d. "Portfolio positions" means individual investments in  
 77 portfolio companies which are made by the alternative investment  
 78 vehicles, including information or specific investment terms  
 79 associated with any portfolio company investment.

80 5.e. "Proprietor" means an alternative investment vehicle,  
 81 a portfolio company in which the alternative investment vehicle  
 82 is invested, or an outside consultant, including the respective  
 83 authorized officers, employees, agents, or successors in  
 84 interest, which controls or owns information provided to the

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85 State Board of Administration.

86 6.f. "Proprietary confidential business information" means  
 87 information that has been designated by the proprietor when  
 88 provided to the State Board of Administration as information  
 89 that is owned or controlled by a proprietor; that is intended to  
 90 be and is treated by the proprietor as private, the disclosure  
 91 of which would harm the business operations of the proprietor  
 92 and has not been intentionally disclosed by the proprietor  
 93 unless pursuant to a private agreement that provides that the  
 94 information will not be released to the public except as  
 95 required by law or legal process, or pursuant to law or an order  
 96 of a court or administrative body; and that concerns:

97 a.(I) Trade secrets as defined in s. 688.002.

98 b.(II) Information provided to the State Board of  
 99 Administration regarding a prospective investment in a private  
 100 equity fund, venture fund, hedge fund, distress fund, or  
 101 portfolio company which is proprietary to the provider of the  
 102 information.

103 c.(III) Financial statements and auditor reports of an  
 104 alternative investment vehicle.

105 d.(IV) Meeting materials of an alternative investment  
 106 vehicle relating to financial, operating, or marketing  
 107 information of the alternative investment vehicle.

108 e.(V) Information regarding the portfolio positions in  
 109 which the alternative investment vehicles invest.

110 f.(VI) Capital call and distribution notices to investors  
 111 of an alternative investment vehicle.

112 g.(VII) Alternative investment agreements and related

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113 records.

114 h.~~(VIII)~~ Information concerning investors, other than the

115 State Board of Administration, in an alternative investment

116 vehicle.

117 7.g.~~7.g.~~ "Proprietary confidential business information" does

118 not include:

119 a.~~(I)~~ The name, address, and vintage year of an

120 alternative investment vehicle and the identity of the

121 principals involved in the management of the alternative

122 investment vehicle.

123 b.~~(II)~~ The dollar amount of the commitment made by the

124 State Board of Administration to each alternative investment

125 vehicle since inception.

126 c.~~(III)~~ The dollar amount and date of cash contributions

127 made by the State Board of Administration to each alternative

128 investment vehicle since inception.

129 d.~~(IV)~~ The dollar amount, on a fiscal-year-end basis, of

130 cash distributions received by the State Board of Administration

131 from each alternative investment vehicle.

132 e.~~(V)~~ The dollar amount, on a fiscal-year-end basis, of

133 cash distributions received by the State Board of Administration

134 plus the remaining value of alternative-vehicle assets that are

135 attributable to the State Board of Administration's investment

136 in each alternative investment vehicle.

137 f.~~(VI)~~ The net internal rate of return of each alternative

138 investment vehicle since inception.

139 g.~~(VII)~~ The investment multiple of each alternative

140 investment vehicle since inception.

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141 h.~~(VIII)~~ The dollar amount of the total management fees  
 142 and costs paid on an annual fiscal-year-end basis by the State  
 143 Board of Administration to each alternative investment vehicle.

144 i.~~(IX)~~ The dollar amount of cash profit received by the  
 145 State Board of Administration from each alternative investment  
 146 vehicle on a fiscal-year-end basis.

147 j. A description of any compensation, fees, or expenses,  
 148 including the amount or value, paid or agreed to be paid by a  
 149 proprietor to any person to solicit the board to make an  
 150 alternative investment or investment through an alternative  
 151 investment vehicle. This does not apply to an executive officer,  
 152 general partner, managing member, or other employee of the  
 153 proprietor, who is paid by the proprietor to solicit the board  
 154 to make such investments.

155 (b)2. Proprietary confidential business information held  
 156 by the State Board of Administration regarding alternative  
 157 investments is confidential and exempt from s. 119.07(1) and s.  
 158 24(a), Art. I of the State Constitution for 10 years after the  
 159 termination of the alternative investment. This exemption  
 160 applies to proprietary confidential business information held by  
 161 the State Board of Administration before, on, or after October  
 162 1, 2006.

163 (c)1.3. Notwithstanding the provisions of paragraph (b)  
 164 subparagraph 2., a request to inspect or copy a record under s.  
 165 119.07(1) that ~~which~~ contains proprietary confidential business  
 166 information shall be granted if the proprietor of the  
 167 information fails, within a reasonable period of time after the  
 168 request is received by the State Board of Administration, to

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169 | verify the following to the State Board of Administration  
 170 | through a written declaration in the manner provided by s.  
 171 | 92.525:  
 172 |       a. That the requested record contains proprietary  
 173 | confidential business information and the specific location of  
 174 | such information within the record;  
 175 |       b. If the proprietary confidential business information is  
 176 | a trade secret, a verification that it is a trade secret as  
 177 | defined in s. 688.002;  
 178 |       c. That the proprietary confidential business information  
 179 | is intended to be and is treated by the proprietor as private,  
 180 | is the subject of efforts of the proprietor to maintain its  
 181 | privacy, and is not readily ascertainable or publicly available  
 182 | from any other source; and  
 183 |       d. That the disclosure of the proprietary confidential  
 184 | business information to the public would harm the business  
 185 | operations of the proprietor.  
 186 |       2. The State Board of Administration shall maintain a list  
 187 | and a description of the records covered by any verified,  
 188 | written declaration made under this paragraph.  
 189 |       (d)4- Any person may petition a court of competent  
 190 | jurisdiction for an order for the public release of those  
 191 | portions of any record made confidential and exempt by paragraph  
 192 | (b) subparagraph-2. Any action under this subparagraph must be  
 193 | brought in Leon County, Florida, and the petition or other  
 194 | initial pleading shall be served on the State Board of  
 195 | Administration and, if determinable upon diligent inquiry, on  
 196 | the proprietor of the information sought to be released. In any

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197 | order for the public release of a record under this  
 198 | subparagraph, the court shall make a finding that the record or  
 199 | portion thereof is not a trade secret as defined in s. 688.002,  
 200 | that a compelling public interest is served by the release of  
 201 | the record or portions thereof which exceed the public necessity  
 202 | for maintaining the confidentiality of such record, and that the  
 203 | release of the record will not cause damage to or adversely  
 204 | affect the interests of the proprietor of the released  
 205 | information, other private persons or business entities, the  
 206 | State Board of Administration, or any trust fund, the assets of  
 207 | which are invested by the State Board of Administration.

208 | ~~5. This paragraph is subject to the Open Government Sunset~~  
 209 | ~~Review Act in accordance with s. 119.15 and shall stand repealed~~  
 210 | ~~on October 2, 2011, unless reviewed and saved from repeal~~  
 211 | ~~through reenactment by the Legislature.~~

212 | Section 2. Subsection (15) of section 215.47, Florida  
 213 | Statutes, is amended to read:

214 | 215.47 Investments; authorized securities; loan of  
 215 | securities.—Subject to the limitations and conditions of the  
 216 | State Constitution or of the trust agreement relating to a trust  
 217 | fund, moneys available for investments under ss. 215.44–215.53  
 218 | may be invested as follows:

219 | (15) With no more, in the aggregate, than 10 percent of  
 220 | any fund in alternative investments, as defined in s.  
 221 | 215.440(3)(a)1. ~~215.44(8)(c)1.a.~~, through participation in the  
 222 | vehicles defined in s. 215.440(3)(a)2. ~~215.44(8)(c)1.b.~~, or in  
 223 | securities or investments that are not publicly traded and are  
 224 | not otherwise authorized by this section.

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Section 3. This act shall take effect October 1, 2011.