



---

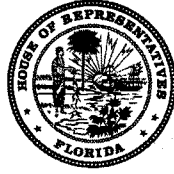
# Appropriations Committee

Thursday, March 20, 2014  
12:00 PM – 2:00 PM  
212 Knott Building

Meeting Packet

**Will Weatherford**  
Speaker

**Seth McKeel**  
Chair



# The Florida House of Representatives

## Appropriations Committee

Will Weatherford  
Speaker

Seth McKeel  
Chair

### AGENDA

Thursday, March 20, 2014

212 Knott Building

12:00 PM – 2:00 PM

- I. Call to Order/Roll Call
- II. Opening Remarks by Chair McKeel
- III. **Consideration of the following bills:**
  - CS/HB 337** Florida Teachers Classroom Supply Assistance Program by K-12 Subcommittee, Fresen
  - HB 515** Public Assistance Fraud by Smith
  - CS/HB 709** Alzheimer's Disease by Health Quality Subcommittee, Hudson
  - CS/HB 843** Cannabis by Criminal Justice Subcommittee, Gaetz, Edwards
  - HB 7081** Tax Administration by Finance & Tax Subcommittee, Caldwell
- IV. Closing Remarks and Adjournment





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 337 Florida Teachers Classroom Supply Assistance Program

**SPONSOR(S):** K-12 Subcommittee; Fresen

**TIED BILLS:** IDEN./SIM. BILLS: SB 886

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	11 Y, 0 N, As CS	Brink	Ahearn
2) Appropriations Committee		Heflin 	Leznoff 
3) Education Committee			

### SUMMARY ANALYSIS

The Florida Teachers Classroom Supply Assistance Program (Program) provides funding for teachers to purchase supplies and materials for their classrooms.

The bill requires school districts to estimate by July 1 each year the number of classroom teachers expected to be employed by the district or a charter school in the district, and thus eligible to receive funds through the Program, on September 1.

The bill establishes an earlier, optional date by which Program funds may be disbursed to classroom teachers depending on when the teachers are determined to be eligible by the school district. The district may distribute by August 1 proportionate shares of Program funds to classroom teachers determined to be eligible as of July 1. For teachers who are determined eligible after July 1, or if the district elects not to disburse funds by August 1, the proportionate shares of Program funds must be disbursed by September 30.

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

The bill has an effective date of July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

The Florida Teachers Classroom Supply Assistance Program (Program), previously known as the Florida Teachers Lead Program,<sup>1</sup> was established in 1997 to provide eligible classroom teachers with funds to purchase classroom materials and supplies to supplement materials and supplies otherwise available to the teachers.<sup>2</sup> The funds are set annually by the General Appropriations Act and disbursed to each district by the Commissioner of Education based on each district's proportionate share of the state's total unweighted FTE student enrollment.<sup>3</sup> Program funds may not be used to purchase equipment.<sup>4</sup>

Districts must distribute funds to their classroom teachers by September 30 each year, using any means determined appropriate by the district school board, including, but not limited to, direct deposit, check, debit card, or purchasing card.<sup>5</sup> The funds must be distributed in identically proportionate shares to each teacher, as determined by the district school board or charter school board.<sup>6</sup> If debit cards are used, the cards must have an identifier on the front indicating the card has been issued specifically for this program.<sup>7</sup>

Teachers must sign a statement acknowledging receipt of the funds, keep receipts for no less than four years to demonstrate compliance with expenditure requirements, and return any unused funds to the district school board at the end of the school year. Funds returned to the district must be deposited into the school advisory council account of the school at which the classroom teacher was employed when the teacher received the funds or, in the case of a charter school, deposited into the district's Program account of the school district in which the charter school is sponsored.<sup>8</sup> The 2013-2014 General Appropriations Act appropriated \$45,286,750 to be disbursed through the Program.<sup>9</sup>

##### Effect of Proposed Changes

The bill requires school districts to estimate by July 1 each year the number of classroom teachers that will be employed by the district or a charter school in the district, and thus eligible to receive Program funds, on September 1. If, as of July 1, a classroom teacher is estimated to be employed on September 1, the district may provide the teacher his or her proportionate share by August 1 of that year. For teachers who are determined eligible by the district after July 1, or if the district elects not to disburse funds by August 1, the proportionate shares of Program funds must be disbursed by September 30.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 1012.71, revising the date for program funding distribution.

Section 2. Provides an effective date of July 1, 2013.

<sup>1</sup> The program was renamed in 2013 under SB 1664, s. 10, ch. 2013-185, L.O.F.

<sup>2</sup> Section 18, ch. 97-384, L.O.F.

<sup>3</sup> Section 1012.71(2), F.S.

<sup>4</sup> *Id.*

<sup>5</sup> Section 1012.71(3), F.S.

<sup>6</sup> *Id.*

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

<sup>8</sup> Section 1012.17(4), F.S.

<sup>9</sup> Specific Appropriations 7 and 87, s. 2, ch. 2013-40, L.O.F.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

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

Not applicable. This bill does not appear to affect county or municipal governments.

#### 2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 14, 2014, the K-12 Subcommittee adopted one amendment to HB 337 and reported the bill favorably as a committee substitute. The amendment removes the requirement that districts disburse Program funds by August 1 to teachers determined to be eligible as of July 1 and instead provides districts the option of the earlier disbursement.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

A bill to be entitled

An act relating to the Florida Teachers Classroom Supply Assistance Program; amending s. 1012.71, F.S.; revising procedures for distributing program funds to classroom teachers; providing an effective date.

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

Section 1. Subsection (3) of section 1012.71, Florida Statutes, is amended to read:

1012.71 The Florida Teachers Classroom Supply Assistance Program.—

(3) From the funds allocated to each school district and any funds received from local contributions for the Florida Teachers Classroom Supply Assistance Program, the district school board shall calculate an identical amount for each classroom teacher who is estimated to be employed by the school district or a charter school in the district on September 1 of each year, which is that teacher's proportionate share of the total amount allocated to the district from state funds and funds received from local contributions. A job-share classroom teacher may receive a prorated share of the amount provided to a full-time classroom teacher. For a classroom teacher determined eligible on July 1, the district school board and each charter school board may provide the teacher with his or her total proportionate share by August 1 based on the estimate of the

27 number of teachers who will be employed on September 1. For a  
 28 classroom teacher determined eligible after July 1, the district  
 29 school board and each charter school board shall provide the  
 30 ~~each classroom~~ teacher with his or her total proportionate share  
 31 by September 30. The proportionate share may be provided ~~of each~~  
 32 ~~year~~ by any means determined appropriate by the district school  
 33 board or charter school board, including, but not limited to,  
 34 direct deposit, check, debit card, or purchasing card. If a  
 35 debit card is used, an identifier must be placed on the front of  
 36 the debit card which clearly indicates that the card has been  
 37 issued for the Florida Teachers Classroom Supply Assistance  
 38 Program. Expenditures under the program are not subject to state  
 39 or local competitive bidding requirements. Funds received by a  
 40 classroom teacher do not affect wages, hours, or terms and  
 41 conditions of employment and, therefore, are not subject to  
 42 collective bargaining. Any classroom teacher may decline receipt  
 43 of or return the funds without explanation or cause.


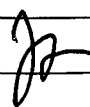
44           Section 2. This act shall take effect July 1, 2014.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 515 Public Assistance Fraud  
**SPONSOR(S):** Smith and others  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 1084

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	11 Y, 0 N	Jones	Cunningham
2) Healthy Families Subcommittee	10 Y, 2 N	Entress	Brazzell
3) Appropriations Committee		Pridgeon 	Leznoff 
4) Judiciary Committee			

**SUMMARY ANALYSIS**

Section 414.39, F.S., establishes a variety of crimes involving public assistance fraud. Public assistance fraud includes fraud involving temporary cash assistance, food assistance, Medicaid, or optional state supplementation program. The criminal penalties that apply to these offenses are based on the value of the public assistance involved in the offense. For example, s. 414.39(5)(b), F.S., specifies that if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more, in any 12 consecutive months, such person commits a third degree felony.

The bill amends the aggregate value amount in s. 414.39(5)(b), F.S., to make it a third degree felony if the value of the public assistance fraud or identification is of an aggregate value of \$200 or more *but less than \$20,000* in any 12 consecutive months. The bill also creates s. 414.39(5)(c) and (d), F.S., which:

- (c) Makes it a second degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months.
- (d) Makes it a first degree felony if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months.

The bill requires the Department of Children and Families (DCF), subject to available funding, to pay a reward to a person who reports original information relating to a violation of the state's public assistance fraud laws. The bill provides specifications that must be met before the reward money is paid.

The bill also amends s. 414.095(14), F.S., to add the following prohibitions and restrictions that apply to persons applying for or receiving Temporary Cash Assistance (TCA) benefits:

- Use of TCA benefits out-of-state is limited to 30 consecutive days. The TCA benefits of a recipient using his or her benefits out-of-state for more than 30 days shall be terminated.
- A parent or caretaker relative who has been disqualified due to fraud must have a protective payee designated to receive TCA benefits for an eligible child. An individual disqualified for fraud cannot be designated as a protective payee. In a two-parent household, if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

The bill creates new first and second degree felony offenses relating to public assistance fraud. The Criminal Justice Impact Conference met on March 3, and determined this bill will have an insignificant impact on state prison beds.

The bill has a significant fiscal impact on DCF and the Department of Financial Services (see fiscal section).

The bill is effective October 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Public Assistance Fraud**

"Public assistance" refers to benefits paid on the basis of the temporary cash assistance,<sup>1</sup> food assistance,<sup>2</sup> Medicaid,<sup>3</sup> or optional state supplementation program.<sup>4,5</sup> Section 414.39, F.S., establishes the following crimes involving public assistance fraud, which are investigated by the Division of Public Assistance Fraud within the Department of Financial Services (DFS)<sup>6</sup>:

Section 414.39(1), F.S., provides that a person commits a crime if he or she:

- Fails, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose a material fact used in making a determination as to such person's qualification to receive public assistance under any state or federally funded assistance program;
- Fails to disclose a change in circumstances in order to obtain or continue to receive any such public assistance to which he or she is not entitled or in an amount larger than that to which he or she is entitled; or
- Aids and abets another person in the commission of any such act.

Section 414.39(2), F.S., provides that a person commits a crime if he or she:

- Uses, transfers, acquires, traffics, alters, forges, or possesses;
- Attempts to use, transfer, acquire, traffic, alter, forge, or possess; or
- Aids and abets another person in the use, transfer, acquisition, traffic, alteration, forgery, or possession of, a food assistance identification card, an authorization, including, but not limited to, an electronic authorization for the expenditure of food assistance benefits, a certificate of eligibility for medical services, or a Medicaid identification card in any manner not authorized by law.

Section 414.39(3), F.S., specifies that any person having duties in the administration of a state or federally funded public assistance program or in the distribution of public assistance, or authorizations or identifications to obtain public assistance, under a state or federally funded public assistance program commits a crime if he or she:

- Fraudulently misappropriates, attempts to misappropriate, or aids and abets in the misappropriation of food assistance, an authorization for food assistance, a food assistance identification card, a certificate of eligibility for prescribed medicine, a Medicaid identification card, or public assistance from any other state or federally funded program with which he or she has been entrusted or of which he or she has gained possession by virtue of his or her position, or if they knowingly fail to disclose any such fraudulent activity; or
- Knowingly misappropriates, attempts to misappropriate, or aids or abets in the misappropriation of, funds given in exchange for food assistance program benefits or for any form of food assistance benefits authorization.

Section 414.39(4), F.S., provides that a person commits a crime if he or she:

- Knowingly files, attempts to file, or aids and abets in the filing of, a claim for services to a recipient of public assistance under any state or federally funded public assistance program for services that were not rendered; knowingly files a false claim or a claim for nonauthorized items or services under such a program; or if they knowingly bill the recipient

<sup>1</sup> Temporary cash assistance provides cash assistance to families with children to help families become self-supporting.

<sup>2</sup> The Food Assistance Program helps people with low-income, buy healthy food.

<sup>3</sup> Medicaid provides medical coverage to low-income individuals and families.

<sup>4</sup> Optional State Supplementation provides monthly cash payments to indigent elderly or disabled individuals.

<sup>5</sup> Section 414.0252(10), F.S.

<sup>6</sup> Section 414.411, F.S.

of public assistance under such a program, or his or her family, for an amount in excess of that provided for by law or regulation;

- Knowingly fails to credit the state or its agent for payments received from social security, insurance, or other sources; or
- In any way knowingly receives, attempts to receive, or aids and abets in the receipt of, unauthorized payment or other unauthorized public assistance or authorization or identification to obtain public assistance as provided herein.

Section 414.39(5), F.S., establishes criminal penalties that apply to all of the above-described offenses. The criminal penalties are based on the value of the public assistance involved in the offense.

Currently, s. 414.39(5), F.S., provides:

- (a) If the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is less than an aggregate value of \$200 in any 12 consecutive months, such person commits a first degree misdemeanor;<sup>7</sup> or
- (b) If the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more in any 12 consecutive months, such person commits a third degree felony.<sup>8</sup>

In Fiscal Year 2012-2013, TCA served 209,142 people, food assistance served 4,879,342 people, and Medicaid served 3,744,588 people.<sup>9</sup>

#### Effect of the Bill

The bill amends the aggregate value amount in s. 414.39(5)(b), F.S., to make it a third degree felony if the value of the public assistance fraud or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$200 or more *but less than \$20,000* in any 12 consecutive months.

The bill creates s. 414.39(5)(c) and (d), F.S., which:

- (c) Makes it a second degree felony<sup>10</sup> if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$20,000 or more, but less than \$100,000 in any 12 consecutive months.
- (d) Makes it a first degree felony<sup>11</sup> if the value of the public assistance or identification wrongfully received, retained, misappropriated, sought, or used is of an aggregate value of \$100,000 or more in any 12 consecutive months.

The bill requires the Department of Children and Families (DCF) or the director of DCF's Office of Public Benefits Integrity to pay a reward to a person who furnishes and reports original information relating to a violation of the state's public assistance fraud laws, unless the person declines the reward.

The information and report must:

- Be made to DCF, DFS, or the Florida Department of Law Enforcement;
- Relate to criminal fraud upon public assistance program funds or a criminal violation of public assistance fraud laws by another person; and
- Lead to the recovery of a fine, penalty, or forfeiture of property.

The reward requirement is subject to availability of funds and may not exceed 10 percent of the amount recovered or \$500,000, whichever is less, in a single case. The reward must be paid from the state share of the recovery in the Federal Grants Trust Fund from moneys collected pursuant to s. 414.41,

<sup>7</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>8</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>9</sup> *DCF 2013 Annual Report*, Florida Department of Children and Families.

<sup>10</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>11</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

F.S.<sup>12</sup> The bill specifies that a person who receives a reward for providing information about Medicaid fraud is not eligible to receive funds pursuant to the Florida False Claims Act.<sup>13</sup>

### **Temporary Cash Assistance**

“Temporary Case Assistance” (TCA) is defined as cash assistance provided under the state program certified under Title IV-A of the Social Security Act, as amended.<sup>14</sup> TCA is a program under the Temporary Assistance for Needy Families block grant.<sup>15</sup> DCF administers Florida’s TCA Program, which provides cash assistance to families with children under the age of 18 or under age 19 if full time high school students, that meet specified technical, income, and asset requirements. The program helps families become self-supporting while allowing children to remain in their own homes.<sup>16</sup>

Section 414.095, F.S., establishes the technical, income, and asset requirements that must be met before becoming eligible to receive TCA benefits,<sup>17</sup> sets forth criteria for determining how much TCA a person is entitled to, and establishes how TCA may be calculated and paid. For example, the statute requires that an applicant register for work and engage in work activities, be a resident of Florida, and have a minor child. The statute also contains a multitude of prohibitions and restrictions, such as:

- A family without a minor child living in the home is not eligible to receive TCA. However, a pregnant woman is eligible for TCA in the ninth month of pregnancy if all eligibility requirements are otherwise satisfied;
- An individual is ineligible to receive TCA during any period when the individual is fleeing to avoid prosecution, custody, or confinement after committing a crime, attempting to commit a crime that is a felony under the laws of the place from which the individual flees or a high misdemeanor in the State of New Jersey, or violating a condition of probation or parole imposed under federal or state law; and
- The parent or other caretaker relative must report to the department within a specified period that a minor child will be absent from the home for 30 or more consecutive days. A parent or caretaker relative who fails to report this information to DCF shall be disqualified from receiving TCA for 30 days for the first occurrence, 60 days for the second occurrence, and 90 days for the third or subsequent occurrence.<sup>18</sup>

Currently, eligible recipients may use benefits out of state, but there are no regulations relating to determining the length of absence that is permissible.<sup>19</sup>

In the event that TCA is terminated due to noncompliance with work requirements, DCF will establish a protective payee to receive cash assistance or food assistance funds on behalf of any children in the home who are under the age of 18.<sup>20</sup> The protective payee shall be designated by DCF and may include:

- A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interest of the child or children.

---

<sup>12</sup> Section 414.41, F.S., requires DCF to take all necessary steps to recover overpayment whenever it becomes apparent that any person or provider has received any public assistance to which she or he is not entitled, through either simple mistake or fraud on the part of DCF or on the part of the recipient or participant.

<sup>13</sup> Under Florida’s False Claims Act (ss. 68.081-68.092, F.S.), people who blow the whistle on Medicaid Fraud are entitled to share in any funds recovered by the state. <http://myfloridalegal.com/pages.nsf/Main/ebc480598bbf32d885256cc6005b54d1> (last visited on January 29, 2014). See s. 68.085(3), F.S.

<sup>14</sup> S. 414.0252(12), F.S.

<sup>15</sup> Title IV-A of the Social Security Act.

<sup>16</sup> *Temporary Cash Assistance*, The Department of Children and Families, *accessible at*: <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/temporary-cash-assistance-tca> (last visited on February 23, 2014).

<sup>17</sup> DCF determines if the families meet such requirements. Section 414.095(1), F.S.

<sup>18</sup> Section 414.095(14), F.S.

<sup>19</sup> DCF’s Bill Analysis of HB 515 (2014) (on file with the Healthy Families Subcommittee).

<sup>20</sup> Section 414.095(4), F.S.

- A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interest of the child or children.
- A volunteer or member of an organization who agrees in writing to fulfill the role of protective payee and utilize the assistance in the best interest of the child or children.<sup>21</sup>

#### Effect of the Bill

The bill amends s. 414.095(14), F.S., to add two additional prohibitions and restrictions. The first limits the out-of-state use of TCA benefits to 30 consecutive days and requires termination of the TCA benefits if used out-of-state for more than 30 days. The bill directs DCF to adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state.

The second requires a parent or caretaker relative who has been disqualified due to fraud to have a protective payee designated to receive the TCA benefits for an eligible child. The requirements for designation of a protective payee are the same as provided in s. 414.065(2)(b), F.S.<sup>22</sup> The bill specifies that an individual disqualified for fraud cannot be designated as a protective payee and in a two-parent household; if only one parent is disqualified, the other parent may be designated as the payee of the benefit.

#### B. SECTION DIRECTORY:

Section 1. Amends s. 414.39, F.S., relating to fraud.

Section 2. Amends s. 414.095, F.S., relating to determining eligibility for temporary cash assistance.

Section 3. Provides an effective date of October 1, 2014.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

- DCF reports that reducing annual TCA expenditures by terminating the benefits received by recipients no longer residing in the state of Florida may result in an estimated annual savings of \$1.8 million (based on repeated out of state use and averages).<sup>23</sup>
- DFS and DCF report that possible increased revenues if the reward provisions result in increased numbers of fraud violations reported that may generate a repayment to the state. According to DFS, the state retains between 20% and 35% of recoveries.<sup>24</sup>

##### 2. Expenditures:

The Criminal Justice Impact Conference met on March 3, and determined this bill will have an insignificant impact on state prison beds.

<sup>21</sup> Section 414.065(2), F.S.

<sup>22</sup> Section 414.065, F.S., requires all TCA applicants to register for work and engage in work activities in accordance with s. 445.024, F.S. Those who do not comply with the work requirements are subject to penalties. Upon the second or third occurrence of noncompliance, TCA for a child or children in a family who are under age 16 may be continued. However, any payments must be made through a protective payee. Protective payees must be designated by DCF and may include:

- A relative or other individual who is interested in or concerned with the welfare of the child or children and agrees in writing to utilize the assistance in the best interest of the child or children;
- A member of the community affiliated with a religious, community, neighborhood, or charitable organization who agrees in writing to utilize the assistance in the best interest of the child or children; or
- A volunteer or member of an organization who agrees in writing to fulfill the role of protective payee and to utilize the assistance in the best interest of the child or children.

<sup>23</sup> DCF's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

<sup>24</sup> DFS's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

According to DCF:

- Funding for rewards will be taken from moneys collected pursuant to s. 414.41, F.S.,<sup>25</sup> in the Federal Grants Trust Fund, which is a significant source of funding for DCF's Public Benefit Integrity (PBI) program. Reduction of these funds may have an impact on the trust fund balance which is used for the PBI operation.
- Additional staff would be needed to receive and investigate the tips and complaints received through the reward program. The Florida Office of the Attorney General experienced a 286% increase in calls relating to Medicaid fraud in the first year of a new reward program. DCF's Office of Public Benefit Integrity currently receives an average of 26,400 online and telephonic fraud reports annually. Assuming a similar increase in reports, an additional 7 staff would be needed to process the increase in complaint volume, investigative leads, and oversee the administration of the program.

Current call/ complaint volume	26,400
Additional anticipated volume (286% increase)	75,504
Minutes to log and process each complaint	8
Hours of additional workload	10,067
Contract staff to handle workload (10,067 hrs / 2,000 hrs per yr)	5.03

Expected additional cost (\$16.10/hr \* 2,000 hrs \* 5 staff) \$161,000

Additional DCF Staffing Need

1 FTE: Rewards Program Manager	
1 OPS ACCESS Integrity Investigator	
Salaries and Benefits	\$48,003
Other Personnel Services	\$35,601
Nonrecurring Expenses (furniture for FTE, Equipment for OPS & Contract Staff)	\$9,473
Recurring Expenses (Rent, Supplies, telephone, postage)	\$9,761
Technology (Software Programming)	\$85,000
Contracted Services (6 Financial Specialists)	\$161,000
DMS-Human Resources Services Contract	\$344
Mailing Costs for Notification to TCA recipients	\$3,500
<b>Total—FY 2014-15</b>	<b>\$352,682<sup>26</sup></b>

According to DFS:

- Implementation of the cash reward process provided by this bill will likely generate a significant increase in the number of complaints received, based on the 286% increase in public complaints received when a similar reward system began by the Attorney General's Medicaid Fraud Unit.<sup>27</sup> Given current Division staffing and the lack of sufficient administrative support positions, additional personnel resources would be needed along with dedicated telephone lines.
- DFS estimates the need for additional funding of:

Salaries and Benefits	\$187,140
Recurring Expenses	\$25,257
Nonrecurring Expenses	\$17,785
DMS - Human Resources Service Contract	\$1,720
<b>Total—FY 2014-15</b>	<b>\$231,920<sup>28</sup></b>

<sup>25</sup> S. 414.41 allows DCF, in conjunction with the Food and Nutrition Service and the Internal Revenue Service, to intercept federal income tax refunds when clients owe food assistance or temporary cash assistance debt to the state.

<sup>26</sup> DCF's Bill Analysis of HB 515 (2014)(on file with the Health Care Appropriations Subcommittee).

<sup>27</sup> See DFS's Bill Analysis of HB 515 (2014)(on file with the Healthy Families Subcommittee).

<sup>28</sup> DFS's Bill Analysis of HB 515 (2014)(on file with the Government Operations Appropriations Subcommittee).

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

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

2. Expenditures:

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

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

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because:

- Portions of the bill are criminal law; and
- The bill does not appear to require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill limits the out-of-state use of TCA benefits to 30 consecutive days and requires termination of the TCA benefits if used out-of-state for more than 30 days. DCF is required to adopt rules providing for the determination of temporary absence and a recipient's intent to return to the state. Section 414.45, F.S., also gives DCF the authority to adopt rules pursuant to ss. 120.536(1) and 120.54, F.S., to implement and enforce the provisions of ch. 414, F.S. Therefore, adequate rulemaking authority appears to exist to implement any rules necessitated by the bill.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1                   A bill to be entitled  
 2           An act relating to public assistance fraud; amending  
 3           s. 414.39, F.S.; providing enhanced criminal penalties  
 4           if the value of public assistance or identification  
 5           wrongfully received, retained, misappropriated,  
 6           sought, or used is of an aggregate value exceeding  
 7           specified amounts; providing for a reward for a report  
 8           of original information relating to a violation of the  
 9           state's public assistance fraud laws if the  
 10          information and report meet specified requirements;  
 11          amending s. 414.095, F.S.; limiting to a specified  
 12          period the use of temporary cash assistance benefits  
 13          out of state; requiring rulemaking; requiring that a  
 14          parent or caretaker relative who has been disqualified  
 15          due to fraud have a protective payee designated to  
 16          receive temporary cash assistance benefits for  
 17          eligible children; providing requirements for  
 18          protective payees; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Subsections (1) through (5) of section 414.39,  
 23           Florida Statutes, are amended, and subsection (11) is added to  
 24           that section, to read:

25           414.39 Fraud.—

26           (1) Any person who knowingly:

27 (a) Fails, by false statement, misrepresentation,  
 28 impersonation, or other fraudulent means, to disclose a material  
 29 fact used in making a determination as to such person's  
 30 qualification to receive public assistance under any state or  
 31 federally funded assistance program;

32 (b) Fails to disclose a change in circumstances in order  
 33 to obtain or continue to receive any such public assistance to  
 34 which he or she is not entitled or in an amount larger than that  
 35 to which he or she is entitled; or

36 (c) Aids and abets another person in the commission of any  
 37 such act,

38  
 39 commits ~~is guilty of~~ a crime and shall be punished as provided  
 40 in subsection (5).

41 (2) Any person who knowingly:

42 (a) Uses, transfers, acquires, traffics, alters, forges,  
 43 or possesses; or ~~or~~

44 (b) Attempts to use, transfer, acquire, traffic, alter,  
 45 forge, or possess; or

46 (c) Aids and abets another person in the use, transfer,  
 47 acquisition, traffic, alteration, forgery, or possession of,  
 48  
 49 a food assistance identification card, an authorization,  
 50 including, but not limited to, an electronic authorization, for  
 51 the expenditure of food assistance benefits, a certificate of  
 52 eligibility for medical services, or a Medicaid identification

53 card in any manner not authorized by law commits a crime and  
 54 shall be punished as provided in subsection (5).

55 (3) Any person having duties in the administration of a  
 56 state or federally funded public assistance program or in the  
 57 distribution of public assistance, or authorizations or  
 58 identifications to obtain public assistance, under a state or  
 59 federally funded public assistance program and who:

60 (a) Fraudulently misappropriates, attempts to  
 61 misappropriate, or aids and abets in the misappropriation of,  
 62 food assistance, an authorization for food assistance, a food  
 63 assistance identification card, a certificate of eligibility for  
 64 prescribed medicine, a Medicaid identification card, or public  
 65 assistance from any other state or federally funded program with  
 66 which he or she has been entrusted or of which he or she has  
 67 gained possession by virtue of his or her position, or who  
 68 knowingly fails to disclose any such fraudulent activity; or

69 (b) Knowingly misappropriates, attempts to misappropriate,  
 70 or aids or abets in the misappropriation of, funds given in  
 71 exchange for food assistance program benefits or for any form of  
 72 food assistance benefits authorization,

73  
 74 commits ~~is guilty of~~ a crime and shall be punished as provided  
 75 in subsection (5).

76 (4) Any person who:

77 (a) Knowingly files, attempts to file, or aids and abets  
 78 in the filing of, a claim for services to a recipient of public

79 assistance under any state or federally funded public assistance  
 80 program for services that were not rendered; knowingly files a  
 81 false claim or a claim for nonauthorized items or services under  
 82 such a program; or knowingly bills the recipient of public  
 83 assistance under such a program, or his or her family, for an  
 84 amount in excess of that provided for by law or regulation;

85 (b) Knowingly fails to credit the state or its agent for  
 86 payments received from social security, insurance, or other  
 87 sources; or

88 (c) In any way knowingly receives, attempts to receive, or  
 89 aids and abets in the receipt of, unauthorized payment or other  
 90 unauthorized public assistance or authorization or  
 91 identification to obtain public assistance as provided herein,

92  
 93 commits ~~is guilty of~~ a crime and shall be punished as provided  
 94 in subsection (5).

95 (5)(a) If the value of the public assistance or  
 96 identification wrongfully received, retained, misappropriated,  
 97 sought, or used is less than an aggregate value of \$200 in any  
 98 12 consecutive months, such person commits a misdemeanor of the  
 99 first degree, punishable as provided in s. 775.082 or s.  
 100 775.083.

101 (b) If the value of the public assistance or  
 102 identification wrongfully received, retained, misappropriated,  
 103 sought, or used is of an aggregate value of \$200 or more, but  
 104 less than \$20,000 in any 12 consecutive months, such person

105 | commits a felony of the third degree, punishable as provided in  
 106 | s. 775.082, s. 775.083, or s. 775.084.

107 |       (c) If the value of the public assistance or  
 108 | identification wrongfully received, retained, misappropriated,  
 109 | sought, or used is of an aggregate value of \$20,000 or more, but  
 110 | less than \$100,000 in any 12 consecutive months, such person  
 111 | commits a felony of the second degree, punishable as provided in  
 112 | s. 775.082, s. 775.083, or s. 775.084.

113 |       (d) If the value of the public assistance or  
 114 | identification wrongfully received, retained, misappropriated,  
 115 | sought, or used is of an aggregate value of \$100,000 or more in  
 116 | any 12 consecutive months, such person commits a felony of the  
 117 | first degree, punishable as provided in s. 775.082, s. 775.083,  
 118 | or s. 775.084.

119 |       ~~(e)~~ As used in this subsection, the value of a food  
 120 | assistance authorization benefit is the cash or exchange value  
 121 | unlawfully obtained by the fraudulent act committed in violation  
 122 | of this section.

123 |       ~~(f)~~~~(d)~~ As used in this section, "fraud" includes the  
 124 | introduction of fraudulent records into a computer system, the  
 125 | unauthorized use of computer facilities, the intentional or  
 126 | deliberate alteration or destruction of computerized information  
 127 | or files, and the stealing of financial instruments, data, and  
 128 | other assets.

129 |       (11) (a) Subject to availability of funds, the department  
 130 | or the director of the Office of Public Benefits Integrity

131 shall, unless the person declines the reward, pay a reward to a  
 132 person who furnishes and reports original information relating  
 133 to a violation of the state's public assistance fraud laws if  
 134 the information and report:

135 1. Are made to the department, the Department of Financial  
 136 Services, or the Department of Law Enforcement.

137 2. Relate to criminal fraud upon public assistance program  
 138 funds or a criminal violation of public assistance fraud laws by  
 139 another person.

140 3. Lead to the recovery of a fine, penalty, or forfeiture  
 141 of property.

142 (b) The reward may not exceed 10 percent of the amount  
 143 recovered or \$500,000, whichever is less, in a single case.

144 (c) The reward shall be paid from the state share of the  
 145 recovery in the Federal Grants Trust Fund from moneys collected  
 146 pursuant to s. 414.41.

147 (d) A person who receives a reward pursuant to this  
 148 subsection is not eligible to receive funds pursuant to the  
 149 Florida False Claims Act for Medicaid fraud for which the reward  
 150 was received.

151 Section 2. Paragraphs (k) and (l) are added to subsection  
 152 (14) of section 414.095, Florida Statutes, to read:

153 414.095 Determining eligibility for temporary cash  
 154 assistance.—

155 (14) PROHIBITIONS AND RESTRICTIONS.—

156 (k) Use of temporary cash assistance benefits out of state

157 is limited to 30 consecutive days. The temporary cash assistance  
 158 benefits of a recipient using his or her benefits out-of-state  
 159 for more than 30 days shall be terminated. The department shall  
 160 adopt rules providing for the determination of temporary absence  
 161 and a recipient's intent to return to the state.

162 (1) A parent or caretaker relative who has been  
 163 disqualified due to fraud must have a protective payee  
 164 designated to receive temporary cash assistance benefits for an  
 165 eligible child. The requirements for designation of a protective  
 166 payee shall be the same as the requirements for designation of a  
 167 protective payee for work sanctions in s. 414.065(2)(b). An  
 168 individual disqualified for fraud cannot be designated as a  
 169 protective payee. In a two-parent household, if only one parent  
 170 is disqualified, the other parent may be designated as the payee  
 171 of the benefit.

172 Section 3. This act shall take effect October 1, 2014.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 515 (2014)

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: Appropriations Committee  
2 Representative Smith offered the following:

3  
4       **Amendment (with title amendment)**

5       Between lines 171 and 172, insert:

6       Section 3. For the 2014-2015 fiscal year, the sum of  
7 \$171,604 in recurring funds and \$4,736 in nonrecurring funds  
8 from the General Revenue Fund and \$171,605 in recurring funds  
9 and \$4,737 in nonrecurring funds from the Federal Grants Trust  
10 Fund are appropriated to the Department of Children and Families  
11 and 1.00 full-time equivalent position and associated salary  
12 rate of 32,698 are authorized, for the purpose of implementing  
13 the cash rewards process provisions of this act.

14       Section 4. For the 2014-2015 fiscal year, the sum of  
15 \$214,135 in recurring funds and \$17,785 in nonrecurring funds  
16 are appropriated from the Insurance Regulatory Trust Fund to the  
17 Department of Financial Services and 5.00 full-time equivalent

815439 - h0515-line171.docx

Published On: 3/19/2014 7:11:57 PM



Amendment No. 1

18 positions and associated salary rate of 114,040 are authorized,  
19 for the purpose of implementing the cash rewards process  
20 provisions of this act.  
21  
22  
23  
24

25 -----

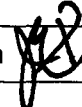

26 **T I T L E A M E N D M E N T**

27 Remove line 18 and insert:  
28 protective payees; providing appropriations; providing an  
29 effective date.  
30



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 709 Alzheimer's Disease  
**SPONSOR(S):** Health Quality Subcommittee; Hudson and others  
**TIED BILLS:** CS/HB 711 **IDEN./SIM. BILLS:** SB 872

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health Quality Subcommittee	11 Y, 0 N, As CS	Guzzo	O'Callaghan
2) Appropriations Committee		Pridgeon 	Leznoff 
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

In 2012, the Legislature created the Purple Ribbon Task Force (task force) within the Department of Elder Affairs (DOEA) to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers. The task force submitted its final report and recommendations for an Alzheimer's disease state strategy to the Governor and the Legislature on August 1, 2013.

CS/HB 709 implements several of the recommendations identified by the task force.

Special needs shelters (SNSs) provide shelter and services to persons with special needs, including individuals with Alzheimer's disease, who have no other option for sheltering in an emergency situation. Each local emergency management agency in the state is required to maintain a registry of persons with special needs. Currently, local emergency management agencies are required to register individuals with special needs with SNSs, but they are not required to provide SNS registration online.

The bill requires the Division of Emergency Management (DEM) to develop and implement a SNS registration program by specified dates. The registration program must include a uniform registration form and a database for uploading and storing registration forms. The bill also requires SNSs to have a staff member who is familiar with the needs of persons with Alzheimer's disease and to establish a designated area in the shelter for individuals with Alzheimer's disease to enable them to maintain their normal habits and routines.

The bill creates the Ed and Ethel Moore Alzheimer's Disease Research Program within the Department of Health to fund research leading to prevention of, or a cure for, Alzheimer's disease. The bill creates the Alzheimer's Disease Research Grant Advisory Board to consist of 11 members, including a required number of licensed professionals in specific fields generally associated with the provision of care for the elderly and individuals with Alzheimer's disease. The board is tasked with recommending to the State Surgeon General which research proposals should be funded.

DOEA is responsible for oversight and management of Memory Disorder Clinics (MDCs) in Florida. MDCs provide comprehensive assessments, diagnostic services, and treatment to individuals who exhibit symptoms of Alzheimer's disease. There are 13 MDCs in Florida, which are funded by the state. Currently, these MDCs receive equal funding and are not required to meet any performance measures.

The bill requires DOEA to develop a performance-based funding mechanism to allocate funds based on minimum performance standards, and reward those MDCs who exceed the minimum performance standards with funding above the base level.

The bill has a significant fiscal impact on DEM related to the SNS registration program, however this impact will be funded through a federal fund source. The House proposed General Appropriations Act for Fiscal Year 2014-2015 includes \$3 million from the General Revenue Fund to implement the provisions related to the Ed and Ethel Moore Alzheimer's Research Program within the Department of Health.

The bill provides an effective date of July 1, 2014.

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

STORAGE NAME: h0709b.APC.DOCX

DATE: 3/18/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Current Situation**

##### Alzheimer's Disease Statistics

###### *United States*

There are an estimated 5.4 million people in the United States with Alzheimer's disease, including 5.2 million people aged 65 and older and 200,000 individuals under age 65 who have younger-onset Alzheimer's disease.<sup>1</sup>

By 2030, the segment of the United States population aged 65 years and older is expected to double, and the estimated 71 million older Americans will make up approximately 20 percent of the total population.<sup>2</sup> By 2050, the number of people aged 65 and older with Alzheimer's disease is expected to triple to a projected 16 million people.<sup>3</sup>

Between 2000 and 2008, deaths attributed to Alzheimer's disease increased 66 percent nationally, while deaths attributed to heart disease, the number one cause of death, decreased by 13 percent. Alzheimer's disease is the sixth leading cause of death in the United States and the fifth leading cause of death age 65 and older.<sup>4</sup>

###### *Florida*

In 2000, there were an estimated 360,000 Floridians with Alzheimer's disease. The estimated number in 2010 was 450,000, and the estimated number for 2025 is 590,000.<sup>5</sup>

##### Alzheimer's Disease Research<sup>6</sup>

There are several not-for-profit institutions and associations in Florida who have invested capital to support "Alzheimer's disease and related forms of dementia" (ADRD) research. Research investments at the state and federal levels in institutions such as Scripps, Torrey Pines, and Burnham have added to our general research capabilities, but very few scientists at these institutions focus on ADRD. The 13 state funded MDCs provide valuable ADRD research, and the majority of academic institutions in Florida have active ADRD research programs.

The National Institute on Aging, within the National Institute of Health (NIH), funds 29 Alzheimer's Disease Research Centers (ADRCs) at major medical institutions across the United States.<sup>7</sup> NIH ADRCs serve a similar role to nationally designated cancer centers. They create infrastructure that supports clinical care for patients with ADRD.

---

<sup>1</sup> Alzheimer's Association, 2013 Alzheimer's Disease Fact and Figures, available at [http://www.alz.org/alzheimers\\_disease\\_facts\\_and\\_figures.asp](http://www.alz.org/alzheimers_disease_facts_and_figures.asp) (last visited February 26, 2014).

<sup>2</sup> *Id.*

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

<sup>4</sup> *Id.*

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

<sup>6</sup> Department of Elder Affairs, Purple Ribbon Task Force, 2013 *Final Report and Recommendation*, available at [http://elderaffairs.state.fl.us/doea/purple\\_ribbon.php](http://elderaffairs.state.fl.us/doea/purple_ribbon.php) (last visited February 26, 2014).

<sup>7</sup> National Institute on Aging, Alzheimer's Disease Research Centers, see <http://www.nia.nih.gov/alzheimers/alzheimers-disease-research-centers> (last visited February 28, 2014).

In order to be eligible for funding and recognition as an ADRC, institutions are required to have an established ongoing base of high-quality Alzheimer's disease research or research in other neurodegenerative diseases, or in aging of the nervous system.<sup>8</sup>

Currently, the Mayo Clinic Alzheimer's Disease Research Center is the only active NIH ADRC in Florida. Other states have multiple ADRCs, including California, which has six active NIH ADRCs and a similar population of individuals with ADRC compared to Florida. NIH ADRCs receive \$1.5 million in federal funding, annually, for five years.

The Mayo Clinic ADRC has more than 20 physicians and scientists involved in researching neurodegenerative diseases, and they receive more than \$10 million each year from the NIH and other agencies to study ADRC. The Mayo Clinic ADRC focuses their research on patient-oriented research and basic science research. Scientists at the Mayo Clinic ADRC were among the first in the United States to identify novel genetic mutations in some families with frontotemporal dementia<sup>9</sup> and the three most common dominantly inherited gene mutations that cause frontotemporal dementia were discovered at the Mayo Clinic ADRC.<sup>10</sup>

### Alzheimer's Disease – State Plans

In 2009, the Alzheimer's Study Group (ASG), an eleven member blue ribbon panel, released a report outlining recommendations to deal with Alzheimer's disease-related issues and policy. In response to the ASG report, Congress passed the National Alzheimer's Project Act (NAPA). NAPA requires the federal Department of Health and Human Services to create a national strategic plan to coordinate Alzheimer's disease efforts across the federal government.<sup>11</sup> Currently, 35 states have developed state plans to deal with the Alzheimer's disease epidemic.

#### *Purple Ribbon Task Force*

In 2012, the Legislature adopted HB 473, which created the Purple Ribbon Task Force (task force) within the Department of Elder Affairs (DOEA) to develop a comprehensive state plan to address the needs of individuals with Alzheimer's disease and their caregivers.

The task force conducted an inventory of resources available to assist and support individuals with ADRC, and their caregivers and families. DOEA conducted five surveys developed in collaboration with the task force. The surveys addressed the experiences of five groups of stakeholders, including:

- Persons with ADRC;
- Family caregivers of persons with ADRC;
- Concerned family members and friends of persons with ADRC;
- Health care providers and paid caregivers of persons with ADRC; and

---

<sup>8</sup> National Institute of Health Funding Opportunities, *NIH Guide for Grants and Contract, Alzheimer's Disease Research Centers, Eligibility Information*, available at <http://grants.nih.gov/grants/guide/rfa-files/RFA-AG-13-019.html> (last visited March 3, 2014).

<sup>9</sup> The Mayo Clinic defines Frontotemporal dementia as: (frontotemporal lobar degeneration) is an umbrella term for a diverse group of uncommon disorders that primarily affect the frontal and temporal lobes of the brain — the areas generally associated with personality, behavior and language. In frontotemporal dementia, portions of these lobes atrophy or shrink. Signs and symptoms vary, depending upon the portion of the brain affected. Some people with frontotemporal dementia undergo dramatic changes in their personality and become socially inappropriate, impulsive or emotionally indifferent, while others lose the ability to use language. Frontotemporal dementia is often misdiagnosed as a psychiatric problem or as Alzheimer's disease. But frontotemporal dementia tends to occur at a younger age than does Alzheimer's disease, generally between the ages of 40 and 75. Available at <http://www.mayoclinic.org/diseases-conditions/frontotemporal-dementia/basics/definition/con-20023876> (last visited March 7, 2015).

<sup>10</sup> Mayo Clinic Alzheimer's Disease Research Center, *Focus Areas*, available at <http://www.mayo.edu/research/centers-programs/alzheimers-disease-research-center/focus-areas> (last visited March 7, 2015).

<sup>11</sup> Alzheimer's Association, *Issue Kit: State Government Alzheimer's Disease Plans*

- Policy, legal, education, and other professionals.

A total of 840 people responded to the surveys. The inventory of resources and the surveys together highlighted needs of persons with ADRD and their caregivers, the impact of ADRD, and the existing services and resources, and also provided an identification of gaps and limitations.<sup>12</sup>

The task force submitted its final report and recommendations for an Alzheimer's disease state strategy to the Governor and the Legislature on August 1, 2013.

### Alzheimer's Disease Initiative

The Alzheimer's Disease Initiative (ADI) was created in law to provide a continuum of services to meet the changing needs of individuals with Alzheimer's disease and their families.<sup>13</sup> DOEA coordinates and develops policy to carry out the statutory requirements for the ADI. In conjunction with a ten-member advisory committee appointed by the Governor, the program includes the following four components:<sup>14</sup>

- Respite and supportive services;
- Model day care programs to test new care alternatives;
- A research database and brain bank to support research; and
- Memory disorder clinics to provide diagnosis, research, treatment, and referral.

Section 430.501, F.S., authorizes DOEA to adopt rules necessary to carry out the duties of the advisory committee. Each Area Agency on Aging (AAA), under contract with DOEA, is responsible for the planning and administration of respite and model day care services funded under the ADI and must contract with local service providers for the provision of these services.<sup>15</sup>

The ADI is funded by General Revenue and Tobacco Settlement funds. DOEA allocates General Revenue funding appropriated by the Legislature to each of the 11 AAAs, which in turn fund providers of model day care and respite care programs in designated counties. Provider agencies are responsible for the collection of fees for ADI services. To help pay for services received pursuant to the ADI, a functionally impaired elderly person is assessed a fee based on an overall ability to pay in accordance with Rule 58C-1.007, F.A.C.

### *Respite Services*

Alzheimer's Respite Care programs are established in all of Florida's 67 counties. ADI respite includes in-home, facility-based, emergency and extended care (up to 30 days) respite for caregivers who serve individuals with memory disorders. Funds are contracted according to an allocation formula, which is based on the number and proportion of the county population of individuals who are 75 years of age and older.<sup>16</sup> The AAAs contract with more than 60 providers for the provision of respite care, caregiver training and support, education, counseling, specialized medical equipment, services and supplies, and case management.<sup>17</sup> Services are authorized by a case manager based on a comprehensive assessment.

---

<sup>12</sup> Department of Elder Affairs, Purple Ribbon Task Force, *2013 Final Report and Recommendation*, available at [http://elderaffairs.state.fl.us/doea/purple\\_ribbon.php](http://elderaffairs.state.fl.us/doea/purple_ribbon.php) (last visited February 26, 2014).

<sup>13</sup> Chapter 95-418, L.O.F., see also ss. 430.501-430.504, F.S.

<sup>14</sup> Florida Department of Elder Affairs, see <http://elderaffairs.state.fl.us/english/alz.php> (last visited February 26, 2014).

<sup>15</sup> Rule 58D-1.005, F.A.C.

<sup>16</sup> Section 430.502(5), F.S.

<sup>17</sup> *Supra* note 10.

### *Model Day Care*

Specialized model day care programs provide services to persons suffering from ADRD and training for health care and social service personnel caring for persons having ADRD. Currently, model day care services are funded in three planning and service areas (PSAs 3 - Gainesville, 6 - Tampa, and 11 - Miami-Dade). Examples of activities implemented at model day care centers may include:<sup>18</sup>

- Exercise programs;
- Active and passive range of motion exercises;
- Daily walks;
- Music Therapy; and
- Therapeutic Art.

### *Brain Bank*

The Florida Alzheimer's disease Brain Bank is a service and research oriented network of statewide regional sites. The intent of the Brain Bank program is to collect and study the brains of deceased patients who had been clinically diagnosed with dementia. Mt. Sinai Medical Center contracts annually with the state of Florida to operate the primary Brain Bank. Coordinators at regional brain bank sites in Orlando, Tampa and Pensacola help recruit participants and act as liaisons between the Brain Bank and participants' families.

### *Memory Disorder Clinics*

Memory Disorder Clinics (MDCs) provide diagnostic and referral services, conduct basic and service-related multidisciplinary research, and develop training materials and educational opportunities for lay and professional caregivers of individuals with Alzheimer's disease. Currently, there are 13 state funded MDCs in Florida.<sup>19</sup> MDCs are established at medical schools, teaching hospitals, and public and private not-for-profit hospitals throughout the state in accordance with s. 430.502, F.S.

Currently MDCs receive equal funding regardless of performance. Each of the 13 MDCs received \$222,801 during fiscal year 2013-2014.

Pursuant to an annual contract agreement with DOEA, MDCs are required to provide and conduct certain services, training, and research.<sup>20</sup> Specifically, the contract requires MDCs to:<sup>21</sup>

- Evaluate at least 80 new unduplicated patients with symptoms of memory loss or other cognitive impairment;
- Follow-up with at least 40 patients or reevaluate patients to document rate of progression of the disease, its symptoms and its reaction to treatment;
- Identify and evaluate the needs of patients, including underserved minority populations, undergoing medical evaluation and their caregivers to provide appropriate referrals for services;
- Address driving issues with all patients, such as whether the patient is driving and if the patient or caregiver have concerns about driving;
- Follow-up on all Silver Alerts in the service area;
- Refer all appropriate patients to the State of Florida Brain Bank for enrollment;
- Identify and disseminate information on community resources for assistance with Alzheimer's disease, including information on Silver Alert;
- Determine satisfaction with the services provided; and

<sup>18</sup> *Id.*

<sup>19</sup> Section 430.502(1), F.S.

<sup>20</sup> Department of Elder Affairs, *Standard Contract-Alzheimer's Disease Initiative-Memory Disorder Clinic*, June 2013-July 2014.

<sup>21</sup> *Id.*

- Monitor the performance of subcontractors.

MDCs are required to provide at least 4 hours of in-service training annually to model day care and respite care providers in the designated service areas, and they must annually contact each model day care and respite care provider in the designated service areas to plan and develop service-related research projects. Further, MDCs must develop and disseminate training modules to respite and model day care providers and DOEA.<sup>22</sup>

According to the final report of the task force, the MDCs at the University of Florida and Mayo Clinic Jacksonville play a crucial role in the training of behavioral neurology fellows who are subspecialists able to care expertly for dementia patients. To date, the University of Florida has trained 81 fellows, and Mayo Clinic Jacksonville has trained 9 fellows.

The annual contract also requires MDCs to identify major research projects to be undertaken, which must include an innovative service-related research project designed, conducted, and evaluated in association with model day care, respite, and Brain Bank projects. MDCs are required to describe the scope, research methodology, and timeframe of the project.<sup>23</sup>

Included in the contract, is the MDC annual plan, which describes how the MDC will accomplish the services, training, and research initiatives to be undertaken during the contract period.

MDCs are required to submit quarterly reports to DOEA with details on the services and training provided, and the research conducted. The quarterly report must include specific information on the services provided, including the total number of.<sup>24</sup>

- Unduplicated persons seen;
- New patients;
- Evaluations completed;
- Community screenings conducted;
- Office visits;
- Referrals;
- Persons involved in research; and
- Persons referred to the Brain Bank.

The quarterly report also provides DOEA with demographic information for the individuals served, including age, sex, race, and ethnicity information.

In fiscal year 2011-2012, the MDCs:<sup>25</sup>

- Provided 3,942 total training hours to a total of 34,784 trainees, including 14,000 medical health professionals, 3,000 students, and 6,975 volunteers;
- Conducted 10,105 office visits and served 6,723 unduplicated persons;
- Provided telephone counseling, information, and support 12,570 times;
- Conducted 1,573 memory screenings;
- Made 13,678 referrals on the behalf of clients and caregivers for respite care, support groups, long-term care placement, counseling, medical care, and other social services.

The final report of the task force made a recommendation to remove the equal funding mechanism for MDCs. The task force recommends authorizing DOEA to develop minimum standards that must be

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> Department of Elder Affairs, *Memory Disorder Clinic Statewide Report, 2011-2012.*



achieved to be eligible for base level annual funding, and creating an incentive-based funding mechanism to reward MDCs who achieve greater levels of performance.

### Special Needs Shelters (SNS)

Part I of chapter 252, F.S., is the "State Emergency Management Act" (Act). Under s. 252.35, F.S., the Division of Emergency Management (DEM) is responsible for maintaining a comprehensive statewide program of emergency management and for coordinating with efforts of the Federal Government, other departments and agencies of state government, county and municipal governments and school boards, and private agencies that have a role in emergency management. Included in the Act, is a provision to set forth policy guidance for public shelters, including sheltering people with special needs.<sup>26</sup>

Section 252.355, F.S., requires each local emergency management agency to maintain a registry of persons with special needs located within the jurisdiction of the local agency. This section also requires all appropriate agencies and community-based service providers, including, home health care providers, hospices, nurse registries, and home medical equipment providers to assist local emergency management agencies by:

- Collecting registration information for persons with special needs;
- Establishing programs to increase the awareness of the registration process; and
- Educating clients about the procedures that may be necessary for their safety during disasters.

Section 381.0303, F.S., designates the Department of Health (DOH), through its county health departments, as the lead agency for coordination of the recruitment of health care practitioners to staff special needs shelters in times of emergency or disaster. This section requires DOH to reimburse, subject to the availability of funds for this purpose, health care practitioners for medical care provided at the request of DOH in special needs shelters.

Currently, local emergency management agencies are not required to post SNS registration information online. The DEM's website does provide links to each county's local emergency management website. However, the registration information is often very difficult to find and many local emergency management agencies do not include any special needs information at all.

A review was performed of all 67 counties in Florida to assess the availability of special needs information provided on their websites.<sup>27</sup> The results indicated the websites of 17 counties did not include a SNS page, a SNS registration form, or SNS information.<sup>28</sup>

### **Effect of Proposed Changes**

#### Alzheimer's Disease Research

As recommended by the task force, the bill creates the Ed and Ethel Moore Alzheimer's Disease Research Program (program), and authorizes the program to be administered by DOH. The purpose of the program is to fund research leading to prevention of, or a cure for, Alzheimer's disease.

The bill provides that applications for research funding under the program may be submitted by any university or established research institute in the state, and all qualified investigators in the state must have equal access and opportunity to compete for research funding. The bill authorizes certain types of applications to be considered for funding, including:

---

<sup>26</sup> Section 252.35(2)(a), F.S.

<sup>27</sup> Review based on data report generated by Florida CHARTS.

<sup>28</sup> The Counties include Bay, Calhoun, Escambia, Gilchrist, Gulf, Highlands, Jackson, Jefferson, Lafayette, Leon, Liberty, Madison, Okaloosa, Okeechobee, Putnam, Suwanee, and Wakulla.

- Investigatory-initiated research grants;
- Institutional research grants;
- Pre-doctoral and post-doctoral research fellowships; and
- Collaborative research grants, including those that advance the finding of cures through basic or applied research.

The bill creates the Alzheimer's Disease Research Grant Advisory Board (board). The board must consist of 11 members appointed by the State Surgeon General. The board members must include two gerontologists, two geriatric psychiatrists, two geriatricians, two neuroscientists, and three neurologists. In addition, the bill:

- Requires staggered 4-year terms for board members;
- Requires the board to elect a chairperson from the membership of the board to serve a term of two years;
- Requires the board to establish operating procedures and follow rigorous guidelines for ethical conduct and adhere to a strict policy with regard to conflict of interest;
- Requires DOH to provide staff to assist the board in carrying out its duties, and prohibits members of the board from receiving compensation, or reimbursement for per diem or travel;
- Requires the board to advise the State Surgeon General as to the scope of the research program;
- Requires the board to submit their recommendations to the State Surgeon General by December 15 of each year; and
- Requires the board to submit a fiscal-year progress report to the Governor, President of the Senate, and Speaker of the House by a specified date.

The bill provides that implementation of the program is subject to legislative appropriation.

### Memory Disorder Clinics

Currently, each of the 13 statutorily designated memory disorder clinics receives equal funding in the amount of \$222,801. As recommended by the task force, the bill allows for the creation of a performance-based funding mechanism to allocate funds based on minimum performance standards and benchmark goals.

Specifically, the bill:

- Requires DOEA to develop minimum performance standards that memory disorder clinics must achieve in order to receive base level annual funding;
- Requires DOEA to develop performance goals that exceed the minimum performance standards, which must be achieved in order for a memory disorder clinic to be eligible for incentive funding, which is above base level funding, and subject to appropriations;
- Provides guidance relating to criteria to be considered by DOEA in creating the minimum performance standards and performance goals; and
- Requires DOEA to measure and score memory disorder clinics based on the minimum performance standards and incentive performance goals.

DOEA has already created a performance check list to score MDCs in accordance with the provisions of the bill.<sup>29</sup>

<sup>29</sup> Department of Elder Affairs, *(Draft) Memory Disorder Clinic Performance Check List*, on file with subcommittee staff.  
 STORAGE NAME: h0709b.APC.DOCX  
 DATE: 3/18/2014

## Special Needs Shelters

The bill amends s. 252.355, F.S., to require DEM to develop and maintain a SNS registration program. The registration program is required to be developed by January 1, 2015 and fully implemented by March 1, 2015 and must include a uniform electronic registration form and a database for uploading and storing the registration forms. The link to the registration form must be easily accessible on each local emergency management agency's website. The registration information must be accessible to the local emergency management agency responsible for providing shelter for that individual.

Currently, certain agencies and entities are required to provide registration information to all of their clients. These agencies and entities include:

- Home health agencies;
- Hospices;
- Nurse registries;
- Home medical equipment providers;
- The Department of Children and Families;
- DOH;
- The Agency for Health Care Administration;
- The Department of Education;
- The Agency for Persons with Disabilities; and
- DOEA.

The bill adds memory disorder clinics to the list of entities and agencies that will provide registration information and assistance to their special needs clients or caregivers. Physicians licensed under chapters 458 or 459, F.S., and any pharmacy licensed under chapter 465, F.S., may provide the registration information assistance. Further, the bill requires DEM to develop a brochure that provides information regarding SNS registration procedures. The brochure must be easily accessible on DEM's website. The informational brochure is intended to assist the specified agencies and entities in providing registration information to their clients.

Currently, all appropriate agencies and community-based service providers, including, home health care providers, hospices, nurse registries, and home medical equipment providers are required to assist emergency management agencies by collecting registration information for persons with special needs as a part of program intake processes, establishing programs to increase the awareness of the registration process, and educating clients about the procedures that may be necessary for their safety during disasters. Since these entities and agencies are currently only required to "assist emergency management agencies by collecting registration information" it is unclear what they are required to do with the registration information upon collection.

The bill requires the appropriate agencies and community-based service providers to assist emergency management agencies by annually registering persons with special needs for special needs shelters. Since these agencies and entities are currently required to collect registration information, this provides guidance by requiring them to submit any registration forms collected at least annually. Submitting the registration forms may be accomplished by means of the newly created registration program and database. The bill adds memory disorder clinics to the list of entities required to submit registration forms and makes it discretionary for physicians licensed under chapters 458 or 459, F.S.

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

**Section 1:** Amends s. 120.80, F.S., relating to exceptions and special requirements.

**Section 2:** Amends s. 252.355, F.S., relating to registry of persons with special needs; notice.

**Section 3:** Amends s. 381.0303, F.S., relating to special needs shelters.

**Section 4:** Creates s. 381.82, F.S., relating to the Ed and Ethel Moore Alzheimer's Disease Research Program.

**Section 5:** Amends s. 430.502, F.S., relating to Alzheimer's disease; memory disorder clinics and day care and respite care programs.

**Section 6:** Provides an effective date of July 1, 2014.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

According to DEM, the costs for developing and maintaining a statewide electronic registration form and database system is estimated to be \$400,000 annually. The DEM has identified funding through a federal grant to cover the expense of procuring and maintaining a statewide special needs shelter registration program.<sup>30</sup> The department has also indicated this can be implemented through existing budget authority.

In addition, the bill creates the Ed and Ethel Moore Alzheimer's Disease Research Program and provides that implementation is subject to legislative appropriation. The Department of Health will utilize their existing infrastructure to implement the research program. The House proposed General Appropriations Act for Fiscal Year 2014-2015 includes \$3 million from the General Revenue Fund to implement the provisions related to Alzheimer's research.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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

None.

### D. FISCAL COMMENTS:

None.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

---

<sup>30</sup> HB 709 Agency Legislative Bill Analysis, Division of Emergency Management, March 4, 2014 (on file with the Appropriations Committee Staff).

**B. RULE-MAKING AUTHORITY:**

No additional rule-making is necessary to implement the provisions of the bill.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 5, 2014, the Health Quality Subcommittee adopted two amendments to HB 709 and reported the bill favorably as a committee substitute. The amendments made the following changes to the bill:

- Required the Division of Emergency Management to have the special needs shelter registration program developed by January 1, 2015, and fully implemented by March 1, 2015; and
- Changed the composition of the Alzheimer's Disease Research Grant Advisory Board from 12 members to 11 members to provide recourse in the event of a tie vote and added two neuroscientists to the professionals to be included on the board.

This analysis is drafted to the committee substitute as passed by the Health Quality Subcommittee.

1 A bill to be entitled

2 An act relating to Alzheimer's disease; amending s.  
3 120.80, F.S.; exempting grant programs administered by  
4 the Alzheimer's Disease Research Grant Advisory Board  
5 from the Administrative Procedure Act; amending s.  
6 252.355, F.S.; requiring the Division of Emergency  
7 Management, in coordination with local emergency  
8 management agencies, to maintain a registry of persons  
9 with special needs; requiring the division to develop  
10 and maintain a special needs shelter registration  
11 program by a specified date; requiring specified  
12 agencies and authorizing specified health care  
13 providers to provide registration information to  
14 special needs clients or their caregivers and to  
15 assist emergency management agencies in registering  
16 persons for special needs shelters; amending s.  
17 381.0303, F.S.; providing additional staffing  
18 requirements for special needs shelters; requiring  
19 special needs shelters to establish designated shelter  
20 areas for persons with Alzheimer's disease or related  
21 forms of dementia; authorizing the Department of  
22 Health, in coordination with the division, to adopt  
23 rules relating to standards for the special needs  
24 registration program; creating s. 381.82, F.S.;  
25 establishing the Ed and Ethel Moore Alzheimer's  
26 Disease Research Program within the department;

Page 1 of 16

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb0709-01-c1

27 requiring the program to provide grants and  
 28 fellowships for research relating to Alzheimer's  
 29 disease; creating the Alzheimer's Disease Research  
 30 Grant Advisory Board; providing for appointment and  
 31 terms of members; providing for organization, duties,  
 32 and operating procedures of the board; requiring the  
 33 department to provide staff to assist the board in  
 34 carrying out its duties; requiring the board to  
 35 annually submit recommendations for proposals to be  
 36 funded; requiring a report to the Governor,  
 37 Legislature, and State Surgeon General; providing that  
 38 implementation of the program is subject to  
 39 appropriation; amending s. 430.502, F.S.; requiring  
 40 the Department of Elderly Affairs to develop minimum  
 41 performance standards for memory disorder clinics to  
 42 receive base-level annual funding; requiring the  
 43 department to provide incentive-based funding, subject  
 44 to appropriation, for certain memory disorder clinics;  
 45 providing an effective date.

46  
 47 Be It Enacted by the Legislature of the State of Florida:

48  
 49 Section 1. Subsection (15) of section 120.80, Florida  
 50 Statutes, is amended to read:

51 120.80 Exceptions and special requirements; agencies.—  
 52 (15) DEPARTMENT OF HEALTH.—

53           (a) Notwithstanding s. 120.57(1)(a), formal hearings may  
 54 not be conducted by the State Surgeon General, the Secretary of  
 55 Health Care Administration, or a board or member of a board  
 56 within the Department of Health or the Agency for Health Care  
 57 Administration for matters relating to the regulation of  
 58 professions, as defined by chapter 456. Notwithstanding s.  
 59 120.57(1)(a), hearings conducted within the Department of Health  
 60 in execution of the Special Supplemental Nutrition Program for  
 61 Women, Infants, and Children; Child Care Food Program;  
 62 Children's Medical Services Program; the Brain and Spinal Cord  
 63 Injury Program; and the exemption from disqualification reviews  
 64 for certified nurse assistants program need not be conducted by  
 65 an administrative law judge assigned by the division. The  
 66 Department of Health may contract with the Department of  
 67 Children and Family Services for a hearing officer in these  
 68 matters.

69           (b) This chapter does not apply to grant programs  
 70 administered by the Alzheimer's Disease Research Grant Advisory  
 71 Board pursuant to s. 381.82.

72           Section 2. Section 252.355, Florida Statutes, is amended  
 73 to read:

74           252.355 Registry of persons with special needs; notice;  
 75 registration program.—

76           (1) In order to meet the special needs of persons who  
 77 would need assistance during evacuations and sheltering because  
 78 of physical, mental, cognitive impairment, or sensory



79 disabilities, the division, in coordination with each local  
 80 emergency management agency in the state, shall maintain a  
 81 registry of persons with special needs located within the  
 82 jurisdiction of the local agency. The registration shall  
 83 identify those persons in need of assistance and plan for  
 84 resource allocation to meet those identified needs.

85 (2) In order to ensure that all persons with special needs  
 86 may register, the division shall develop and maintain a special  
 87 needs shelter registration program. The registration program  
 88 must be developed by January 1, 2015, and fully implemented by  
 89 March 1, 2015.

90 (a) The registration program shall include, at a minimum,  
 91 a uniform electronic registration form and a database for  
 92 uploading and storing submitted registration forms that may be  
 93 accessed by the appropriate local emergency management agency.  
 94 The link to the registration form shall be easily accessible on  
 95 each local emergency management agency's website. Upon receipt  
 96 of a paper registration form, the local emergency management  
 97 agency shall enter the person's registration information into  
 98 the database.

99 (b) To assist ~~the local emergency management agency~~ in  
 100 identifying ~~such~~ persons with special needs, home health  
 101 agencies, hospices, nurse registries, home medical equipment  
 102 providers, the Department of Children and Families ~~Family~~  
 103 ~~Services~~, the Department of Health, the Agency for Health Care  
 104 Administration, the Department of Education, the Agency for

105 Persons with Disabilities, the ~~and~~ Department of Elderly  
 106 Affairs, and memory disorder clinics shall, and any physician  
 107 licensed under chapter 458 or chapter 459 and any pharmacy  
 108 licensed under chapter 465 may, annually ~~shall~~ provide  
 109 registration information to all of their special needs clients  
 110 or their caregivers ~~and to all persons with special needs who~~  
 111 ~~receive services.~~ The division shall develop a brochure that  
 112 provides information regarding special needs shelter  
 113 registration procedures. The brochure must be easily accessible  
 114 on the division's website. All appropriate agencies and  
 115 community-based service providers, including memory disorder  
 116 clinics, home health care providers, hospices, nurse registries,  
 117 and home medical equipment providers shall, and any physician  
 118 licensed under chapter 458 or chapter 459 may, assist emergency  
 119 management agencies by annually registering persons with special  
 120 needs for special needs shelters, collecting registration  
 121 information for persons with special needs as part of the  
 122 program intake process, and establishing programs to educate  
 123 clients about the registration process and disaster preparedness  
 124 safety procedures. A client of a state-funded or federally  
 125 funded service program who has a physical, mental, or cognitive  
 126 impairment or sensory disability and who needs assistance in  
 127 evacuating, or when in a shelter, must register as a person with  
 128 special needs. ~~The registry shall be updated annually.~~ The  
 129 registration program shall give persons with special needs the  
 130 option of preauthorizing emergency response personnel to enter

131 their homes during search and rescue operations if necessary to  
 132 ensure ~~assure~~ their safety and welfare following disasters.

133 (c) ~~(2)~~ The division shall be the designated lead agency  
 134 responsible for community education and outreach to the public,  
 135 including special needs clients, regarding registration and  
 136 special needs shelters and general information regarding shelter  
 137 stays.

138 (d) ~~(4)~~ ~~(a)~~ On or before May 31 of each year, each electric  
 139 utility in the state shall annually notify residential customers  
 140 in its service area of the availability of the registration  
 141 program available through their local emergency management  
 142 agency by:

143 1. An initial notification upon the activation of new  
 144 residential service with the electric utility, followed by one  
 145 annual notification between January 1 and May 31; or

146 2. Two separate annual notifications between January 1 and  
 147 May 31.

148  
 149 ~~(b)~~ The notification may be made by any available means,  
 150 including, but not limited to, written, electronic, or verbal  
 151 notification, and may be made concurrently with any other  
 152 notification to residential customers required by law or rule.

153 (3) A person with special needs must be allowed to bring  
 154 his or her service animal into a special needs shelter in  
 155 accordance with s. 413.08.

156 (4) ~~(5)~~ All records, data, information, correspondence, and

157 | communications relating to the registration of persons with  
 158 | special needs as provided in subsection (1) are confidential and  
 159 | exempt from ~~the provisions of~~ s. 119.07(1), except that such  
 160 | information shall be available to other emergency response  
 161 | agencies, as determined by the local emergency management  
 162 | director. Local law enforcement agencies shall be given complete  
 163 | shelter roster information upon request.

164 | ~~(6) All appropriate agencies and community-based service~~  
 165 | ~~providers, including home health care providers, hospices, nurse~~  
 166 | ~~registries, and home medical equipment providers, shall assist~~  
 167 | ~~emergency management agencies by collecting registration~~  
 168 | ~~information for persons with special needs as part of program~~  
 169 | ~~intake processes, establishing programs to increase the~~  
 170 | ~~awareness of the registration process, and educating clients~~  
 171 | ~~about the procedures that may be necessary for their safety~~  
 172 | ~~during disasters. Clients of state or federally funded service~~  
 173 | ~~programs with physical, mental, cognitive impairment, or sensory~~  
 174 | ~~disabilities who need assistance in evacuating, or when in~~  
 175 | ~~shelters, must register as persons with special needs.~~

176 | Section 3. Subsections (3) through (7) of section  
 177 | 381.0303, Florida Statutes, are renumbered as subsections (4)  
 178 | through (8), respectively, paragraph (b) of subsection (2) and  
 179 | present subsection (6) are amended, and a new subsection (3) is  
 180 | added to that section, to read:

181 | 381.0303 Special needs shelters.-

182 | (2) SPECIAL NEEDS SHELTER PLAN; STAFFING; STATE AGENCY

183 ASSISTANCE.—If funds have been appropriated to support disaster  
 184 coordinator positions in county health departments:

185 (b) County health departments shall, in conjunction with  
 186 the local emergency management agencies, have the lead  
 187 responsibility for coordination of the recruitment of health  
 188 care practitioners to staff local special needs shelters. County  
 189 health departments shall assign their employees to work in  
 190 special needs shelters when those employees are needed to  
 191 protect the health and safety of persons with special needs.  
 192 County governments shall assist the department with nonmedical  
 193 staffing and the operation of special needs shelters. The local  
 194 health department and emergency management agency shall  
 195 coordinate these efforts to ensure appropriate staffing in  
 196 special needs shelters, including a staff member who is familiar  
 197 with the needs of persons with Alzheimer's disease.

198 (3) SPECIAL CARE FOR PERSONS WITH ALZHEIMER'S DISEASE OR  
 199 RELATED FORMS OF DEMENTIA.—All special needs shelters must  
 200 establish designated shelter areas for persons with Alzheimer's  
 201 disease or related forms of dementia to enable those persons to  
 202 maintain their normal habits and routines to the greatest extent  
 203 possible.

204 (7)(6) RULES.—The department, in coordination with the  
 205 Division of Emergency Management, has the authority to adopt  
 206 rules necessary to implement this section. Rules shall include:

207 (a) The definition of a "person with special needs,"  
 208 including eligibility criteria for individuals with physical,

209 mental, cognitive impairment, or sensory disabilities and the  
 210 services a person with special needs can expect to receive in a  
 211 special needs shelter.

212 (b) The process for special needs shelter health care  
 213 practitioners and facility reimbursement for services provided  
 214 in a disaster.

215 (c) Guidelines for special needs shelter staffing levels  
 216 to provide services.

217 (d) The definition of and standards for special needs  
 218 shelter supplies and equipment, including durable medical  
 219 equipment.

220 (e) Standards for the special needs shelter registration  
 221 program process, including all necessary forms and guidelines  
 222 for addressing the needs of unregistered persons in need of a  
 223 special needs shelter.

224 (f) Standards for addressing the needs of families where  
 225 only one dependent is eligible for admission to a special needs  
 226 shelter and the needs of adults with special needs who are  
 227 caregivers for individuals without special needs.

228 (g) The requirement of the county health departments to  
 229 seek the participation of hospitals, nursing homes, assisted  
 230 living facilities, home health agencies, hospice providers,  
 231 nurse registries, home medical equipment providers, dialysis  
 232 centers, and other health and medical emergency preparedness  
 233 stakeholders in pre-event planning activities.

234 Section 4. Section 381.82, Florida Statutes, is created to

235 read:

236 381.82 Ed and Ethel Moore Alzheimer's Disease Research  
 237 Program.—

238 (1) The Ed and Ethel Moore Alzheimer's Disease Research  
 239 Program is created within the Department of Health. The purpose  
 240 of the program is to fund research leading to prevention of or a  
 241 cure for Alzheimer's disease. The long-term goals of the program  
 242 are to:

243 (a) Improve the health of Floridians by researching better  
 244 prevention and diagnoses of and treatments and cures for  
 245 Alzheimer's disease.

246 (b) Expand the foundation of knowledge relating to the  
 247 prevention, diagnosis, treatment, and cure of Alzheimer's  
 248 disease.

249 (c) Stimulate economic activity in the state in areas  
 250 related to Alzheimer's disease research.

251 (2) (a) Funds appropriated for the Ed and Ethel Moore  
 252 Alzheimer's Disease Research Program shall be used exclusively  
 253 for the award of grants and fellowships through a competitive,  
 254 peer-reviewed process for research relating to the prevention,  
 255 diagnosis, treatment, and cure of Alzheimer's disease and for  
 256 expenses incurred in the administration of this section.  
 257 Priority shall be granted to research designed to prevent or  
 258 cure Alzheimer's disease.

259 (b) Applications for Alzheimer's disease research funding  
 260 under the program may be submitted from any university or

261 established research institute in the state. All qualified  
 262 investigators in the state, regardless of institution  
 263 affiliation, shall have equal access and opportunity to compete  
 264 for research funding. The following types of applications may be  
 265 considered for funding:

- 266 1. Investigator-initiated research grants.
- 267 2. Institutional research grants.
- 268 3. Predoctoral and postdoctoral research fellowships.
- 269 4. Collaborative research grants, including those that  
 270 advance the finding of cures through basic or applied research.

271 (3) There is created within the Department of Health the  
 272 Alzheimer's Disease Research Grant Advisory Board.

273 (a) The board shall consist of 11 members appointed by the  
 274 State Surgeon General. The board shall be composed of two  
 275 gerontologists, two geriatric psychiatrists, two geriatricians,  
 276 two neuroscientists, and three neurologists. Initial  
 277 appointments to the board shall be made by October 1, 2014. The  
 278 board members shall serve 4-year terms, except that, to provide  
 279 for staggered terms, five of the initial appointees shall serve  
 280 2-year terms and six shall serve 4-year terms. All subsequent  
 281 appointments shall be for 4-year terms. The chair of the board  
 282 shall be elected from the membership of the board and shall  
 283 serve as chair for 2 years. An appointed member may not serve  
 284 more than two consecutive terms. Appointed members must have  
 285 experience in Alzheimer's disease or related biomedical  
 286 research. The board shall adopt internal organizational



287 procedures as necessary for its efficient organization. The  
 288 board shall establish and follow rigorous guidelines for ethical  
 289 conduct and adhere to a strict policy with regard to conflicts  
 290 of interest. A member of the board may not participate in any  
 291 discussion or decision of the board or a panel with respect to a  
 292 research proposal by any firm, entity, or agency with which the  
 293 member is associated as a member of the governing body or as an  
 294 employee or with which the member has entered into a contractual  
 295 arrangement.

296 (b) The department shall provide such staff, information,  
 297 and other assistance as is reasonably necessary to assist the  
 298 board in carrying out its responsibilities. Members of the board  
 299 shall serve without compensation and may not receive  
 300 reimbursement for per diem or travel expenses.

301 (c) The board shall advise the State Surgeon General as to  
 302 the scope of the research program and shall submit its  
 303 recommendations for proposals to be funded to the State Surgeon  
 304 General by December 15 of each year. Grants and fellowships  
 305 shall be awarded by the State Surgeon General, after  
 306 consultation with the board, on the basis of scientific merit.  
 307 Other responsibilities of the board may include, but are not  
 308 limited to, providing advice on program priorities and emphases;  
 309 assisting in the development of appropriate linkages to  
 310 nonacademic entities, such as voluntary organizations, health  
 311 care delivery institutions, industry, government agencies, and  
 312 public officials; and developing and providing oversight

313 regarding mechanisms for the dissemination of research results.

314 (4) The board shall submit a fiscal-year progress report  
 315 on the programs under its purview annually to the Governor, the  
 316 President of the Senate, the Speaker of the House of  
 317 Representatives, and the State Surgeon General by February 15.

318 The report must include:

319 (a) A list of research projects supported by grants or  
 320 fellowships awarded under the program.

321 (b) A list of recipients of program grants or fellowships.

322 (c) A list of publications in peer-reviewed journals  
 323 involving research supported by grants or fellowships awarded  
 324 under the program.

325 (d) The state ranking and total amount of Alzheimer's  
 326 disease research funding currently flowing into the state from  
 327 the National Institutes of Health.

328 (e) New grants for Alzheimer's disease research which were  
 329 funded based on research supported by grants or fellowships  
 330 awarded under the program.

331 (f) Progress toward programmatic goals, particularly in  
 332 the prevention, diagnosis, treatment, and cure of Alzheimer's  
 333 disease.

334 (g) Recommendations to further the mission of the program.

335 (5) Implementation of the Ed and Ethel Moore Alzheimer's  
 336 Disease Research Program is subject to legislative  
 337 appropriation.

338 Section 5. Subsections (3) through (9) of section 430.502,

339 Florida Statutes, are renumbered as subsections (6) through  
 340 (12), respectively, new subsections (3), (4), and (5) are added  
 341 to that section, and present subsections (4), (5), (8), and (9)  
 342 of that section are amended, to read:

343       430.502 Alzheimer's disease; memory disorder clinics and  
 344 day care and respite care programs.--

345       (3) The department shall develop minimum performance  
 346 standards for memory disorder clinics and include those  
 347 standards in each memory disorder clinic contract as a condition  
 348 for receiving base-level funding. The performance standards must  
 349 address, at a minimum, quality of care, comprehensiveness of  
 350 services, and access to services.

351       (4) The department shall develop performance goals that  
 352 exceed the minimum performance standards developed under  
 353 subsection (3), which goals must be achieved in order for a  
 354 memory disorder clinic to be eligible for incentive funding  
 355 above the base level, subject to legislative appropriation.  
 356 Incentive funding shall be based on criteria including, but not  
 357 limited to:

358           (a) Significant increase in the volume of clinical  
 359 services.

360           (b) Significant increase in public outreach to low-income  
 361 and minority populations.

362           (c) Significant increase in acceptance of Medicaid and  
 363 commercial insurance policies.

364           (d) Significant institutional financial commitments.

365           (5) The department shall measure and score each memory  
 366 disorder clinic based on minimum performance standards and  
 367 incentive performance goals.

368           ~~(7)(4)~~ Pursuant to ~~the provisions of~~ s. 287.057, the  
 369 department ~~of Elderly Affairs~~ may contract for the provision of  
 370 specialized model day care programs in conjunction with the  
 371 memory disorder clinics. The purpose of each model day care  
 372 program must be to provide service delivery to persons suffering  
 373 from Alzheimer's disease or a related memory disorder and  
 374 training for health care and social service personnel in the  
 375 care of persons having Alzheimer's disease or related memory  
 376 disorders.

377           (8)(5) Pursuant to s. 287.057, the department ~~of Elderly~~  
 378 ~~Affairs~~ shall contract for the provision of respite care. All  
 379 funds appropriated for the provision of respite care shall be  
 380 distributed annually by the department to each funded county  
 381 according to an allocation formula. In developing the formula,  
 382 the department shall consider the number and proportion of the  
 383 county population of individuals who are 75 years of age and  
 384 older. Each respite care program shall be used as a resource for  
 385 research and statistical data by the memory disorder clinics  
 386 established in this part. In consultation with the memory  
 387 disorder clinics, the department shall specify the information  
 388 to be provided by the respite care programs for research  
 389 purposes.

390           (11)(8) The department shall implement the waiver program

CS/HB 709

2014

391 specified in subsection (10) ~~(7)~~. The agency and the department  
 392 shall ensure that providers who have a history of successfully  
 393 serving persons with Alzheimer's disease are selected. The  
 394 department and the agency shall develop specialized standards  
 395 for providers and services tailored to persons in the early,  
 396 middle, and late stages of Alzheimer's disease and designate a  
 397 level of care determination process and standard that is most  
 398 appropriate to this population. The department and the agency  
 399 shall include in the waiver services designed to assist the  
 400 caregiver in continuing to provide in-home care. The department  
 401 shall implement this waiver program subject to a specific  
 402 appropriation or as provided in the General Appropriations Act.

403 (12) ~~(9)~~ Authority to continue the waiver program specified  
 404 in subsection (10) ~~(7)~~ shall be automatically eliminated at the  
 405 close of the 2010 Regular Session of the Legislature unless  
 406 further legislative action is taken to continue it before ~~prior~~  
 407 ~~to~~ such time.

408 Section 6. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 843 Cannabis  
**SPONSOR(S):** Criminal Justice Subcommittee; Gaetz; Edwards and others  
**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 1 N, As CS	Cunningham	Cunningham
2) Appropriations Committee		McAuliffe	Leznoff
3) Judiciary Committee			

### SUMMARY ANALYSIS

In recent months, a particular strain of cannabis has gained national attention as a way to treat various medical conditions, including seizure disorders in children. This strain of marijuana is high in cannabidiol (CBD), a non-psychoactive ingredient, and low in tetrahydrocannabinol (THC), which causes cannabis users to feel "high."

The bill creates s. 893.131, F.S., which establishes affirmative defenses for many of the cannabis-related controlled substance and drug paraphernalia offenses in ch. 893, F.S. For purposes of the affirmative defenses, the term "cannabis" is defined as:

A plant of the genus Cannabis, the dried flowers of which contain .8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin.

The affirmative defense for controlled substance offenses requires that:

- Cannabis was the only controlled substance involved in the violation;
- The defendant intended that the cannabis be consumed in a non-smoking manner; and
- The defendant intended that the cannabis be consumed by a person under the supervision of a physician licensed under chapters 458 or 459, F.S.

The affirmative defense for drug paraphernalia offenses requires that the defendant intended that the drug paraphernalia involved in the offense was intended to only be used to:

- Plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, or contain, cannabis; or
- Introduce cannabis into the human body in a non-smoking manner.

The bill also specifies that a person is eligible to apply for and receive a certificate of eligibility for expunction if the person is found not guilty at trial of an offense for which the person successfully raised an affirmative defense pursuant to s. 893.131, F.S.

The bill appropriates \$1 million in non-recurring funds from the General Revenue Fund to the Department of Health for FY 2014-2015 for the James and Esther King Biomedical Research Program. The funds must be deposited into the Biomedical Research Trust Fund, and are reserved for research of cannabidiol and its effect on intractable childhood epilepsy.

The research study portion of the bill is effective July 1, 2014. The remainder of the bill is effective upon becoming a law.

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

STORAGE NAME: h0843b.APC.DOCX

DATE: 3/18/2014

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Florida's Drug Control Act

##### *Cannabis Offenses*

Florida's drug control laws are contained in ch. 893, F.S., entitled the Florida Comprehensive Drug Abuse Prevention and Control Act (Drug Control Act). The Drug Control Act classifies controlled substances into five categories, ranging from Schedule I to Schedule V. Cannabis is currently a Schedule I<sup>1</sup> controlled substance, and is defined as:

All parts of any plant of the genus *Cannabis*, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds or resin.<sup>2</sup>

The Drug Control Act contains a variety of provisions criminalizing behavior related to cannabis. The majority of these penalties are found in s. 893.13, F.S., which provides the following:

- It is a third degree felony<sup>3</sup> for a person to sell; manufacture; deliver; or possess with intent to sell, manufacture, or deliver, cannabis;<sup>4</sup>
- It is a third degree felony for a person to purchase, or possess with intent to purchase, cannabis;<sup>5</sup>
- It is a first degree misdemeanor<sup>6</sup> for a person to deliver, without consideration, not more than 20 grams of cannabis;<sup>7</sup>
- It is a second degree felony<sup>8</sup> for a person 18 years of age or older to deliver cannabis to a person under the age of 18 years, or to use or hire a person under the age of 18 years as an agent or employee in the sale or delivery of cannabis, or to use such person to assist in avoiding detection or apprehension for a violation of ch. 893, F.S.;<sup>9</sup>
- It is a third degree felony for a person to bring cannabis into this state unless the possession of cannabis is authorized by ch. 893, F.S., or unless such person is licensed to do so by the appropriate federal agency;<sup>10</sup>
- It is a third degree felony for a person to be in actual or constructive possession of more than 20 grams of cannabis unless otherwise authorized by ch. 893, F.S., or unless the cannabis was lawfully obtained from a practitioner or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice.<sup>11</sup> It is a first degree misdemeanor for a person to possess 20 grams or less of cannabis;<sup>12</sup> and
- It is a first degree misdemeanor for a person to distribute or dispense cannabis.<sup>13</sup>

<sup>1</sup> Schedule I substances have a high potential for abuse and have no currently accepted medical use in treatment in the United States and its use under medical supervision does not meet accepted safety standards.

<sup>2</sup> Section 893.02(3), F.S.

<sup>3</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>4</sup> Section 893.13(1), F.S. It is a second degree felony if the offense occurred within 1,000 feet of specified locations (e.g., schools, churches, etc.).

<sup>5</sup> Section 893.13(2), F.S.

<sup>6</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>7</sup> Section 893.13(3), F.S. For purposes of this offense, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis* or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

<sup>8</sup> A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

<sup>9</sup> Section 893.13(4), F.S.

<sup>10</sup> Section 893.13(5), F.S.

<sup>11</sup> Section 893.13(6), F.S. For purposes of this offense, the term "cannabis" does not include the resin extracted from the plants of the genus *Cannabis*, or any compound manufacture, salt, derivative, mixture, or preparation of such resin.

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

<sup>13</sup> Section 893.13(7)(a)1. and 4., F.S.



In addition to the above-described offenses, s. 893.135, F.S., makes it a first degree felony<sup>14</sup> for a person to knowingly sell, purchase, manufacture, deliver, bring into this state, or possess more than 25 pounds of cannabis or 300 or more cannabis plants (known as “trafficking in cannabis”).<sup>15</sup> A person convicted of trafficking in cannabis must be sentenced to minimum mandatory terms of imprisonment that vary from 3-15 years depending on the amount of cannabis involved in the offense.<sup>16</sup>

### *Drug Paraphernalia*

The Drug Control Act also contains a variety of provisions criminalizing behavior related to drug paraphernalia. For example, it is a crime for a person to:

- Use or possession of drug paraphernalia;
- Manufacture or delivery of drug paraphernalia;
- Delivery of drug paraphernalia to a minor;
- Transportation of drug paraphernalia; or
- Advertisement of drug paraphernalia.<sup>17</sup>

Drug paraphernalia is defined in s. 893.145, F.S., as:

All equipment, products, and materials of any kind which are used, intended for use, or designed for use in the planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, transporting, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance in violation of ch. 893 or s. 877.111, F.S.

The statute lists a variety of items that are included in the definition, such as:

- Kits used, intended for use, or designed for use in the planting, propagating, cultivating, growing, or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;
- Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness, or purity of, controlled substances; and
- Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing cannabis, into the human body.<sup>18</sup>

It is important to note that the items listed above are not illegal to possess, use, manufacture, deliver, transport or advertise unless they are used, intended for use, or designed for use in a particular manner.<sup>19</sup> In determining whether an object is drug paraphernalia, a court or other authority or jury must consider certain factors, such as the proximity of the object to controlled substances, and the existence of any residue of controlled substances on the object.<sup>20</sup>

### *Charlotte's Web*

In recent months, a particular strain of cannabis has gained national attention as a way to treat certain seizure disorders in children.<sup>21</sup> This strain of marijuana is high in cannabidiol (CBD), a non-

<sup>14</sup> A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>15</sup> Section 893.135(1), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> Section 893.147, F.S.

<sup>18</sup> Section 893.145, F.S.

<sup>19</sup> *Id.*

<sup>20</sup> Section 893.146, F.S.

<sup>21</sup> *See, e.g., Meet The Children Who Rely On Marijuana To Survive*, January 31, 2014,

[http://www.huffingtonpost.com/2014/01/31/cannabis-for-children\\_n\\_4697135.html](http://www.huffingtonpost.com/2014/01/31/cannabis-for-children_n_4697135.html) (last visited on March 10, 2104); *Moving for marijuana: Families with seizure-stricken kids relocating to Colorado for strain of pot*, February 18, 2014,

<http://www.nydailynews.com/life-style/health/kids-seizure-charlotte-web-pot-treatment-article-1.1619066> (last visited on March 10 21, 2014); *Marijuana stops child's severe seizures*, August 7, 2013, <http://www.cnn.com/2013/08/07/health/charlotte-child-medical-marijuana/> (last visited on March 10, 2014).

psychoactive ingredient known for treating seizures, and low in tetrahydrocannabinol (THC), which causes cannabis users to feel "high."

Currently, more than 180 Colorado children are being treated with a special strain of medical cannabis that's helping to combat their extreme seizures and other debilitating conditions.<sup>22</sup> The strain, known as "Charlotte's Web," was developed by a group of brothers who run the Realm of Caring Foundation in Colorado Springs, and is named for 7 year-old Charlotte Figi, who was successfully treated with the strain.<sup>23</sup>

Charlotte's Web and similar strains of cannabis are administered in liquid or capsule form and are reported to produce little to no side effects. Because of the low THC count, users don't experience a traditional marijuana high.<sup>24</sup>

### Effect of the Bill

The bill creates an affirmative defense for each of the cannabis-related controlled substance and drug paraphernalia offenses described above. For purposes of the affirmative defenses, the term "cannabis" is defined as:

A plant of the genus Cannabis, the dried flowers of which contain .8 percent or less of tetrahydrocannabinol and more than 10 percent of cannabidiol weight for weight; the seeds thereof; the resin extracted from any part of such plant; or any compound, manufacture, salt, derivative, mixture, or preparation of such plant or its seeds or resin.

The affirmative defense for controlled substance offenses requires that:

- Cannabis was the only controlled substance involved in the violation;
- The person committing the offense intended that the cannabis be consumed in a non-smoking manner; and
- The person committing the offense intended that the cannabis be consumed by a person under the supervision of a physician licensed under chapters 458 or 459.

The affirmative defense for drug paraphernalia offenses requires that the person committing the offense intended that the drug paraphernalia involved in the offense was intended to only be used to:

- Plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, or contain, cannabis; or
- Introduce cannabis into the human body in a non-smoking manner.

The bill includes the following legislative findings and intent:

- The Legislature finds that research has shown that cannabis has significant health benefits to individuals suffering from medical conditions, such as seizure disorders among children, when ingested in a non-smoking manner.
- The Legislature intends to discourage law enforcement from arresting, and state attorneys from prosecuting, persons who commit violations of s. 893.13 and s. 893.147 when the violation only involves cannabis.

### **Expunging Criminal History Records**

Section 943.0585 F.S., sets forth procedures for expunging criminal history records. When a criminal history record is expunged, criminal justice agencies other than the Florida Department of Law Enforcement (FDLE) must physically destroy the record, and can only make a notation indicating

---

<sup>22</sup> *Meet The Children Who Rely On Marijuana To Survive*, January 31, 2014, [http://www.huffingtonpost.com/2014/01/31/cannabis-for-children\\_n\\_4697135.html](http://www.huffingtonpost.com/2014/01/31/cannabis-for-children_n_4697135.html) (last visited on March 10, 2104).

<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

compliance with an expunction order.<sup>25</sup> FDLE must retain expunged records.<sup>26</sup> Records that have been expunged are confidential and exempt from public records.<sup>27</sup>

Persons who have had their criminal history records expunged may lawfully deny or fail to acknowledge the arrests covered by their record, except when they are applying for certain types of employment,<sup>28</sup> petitioning the court for a record sealing or expunction, or are a defendant in a criminal prosecution.<sup>29</sup>

A person seeking an expunction must first obtain a certificate of eligibility from FDLE. In order to receive a certificate, a person must:

- Submit to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that:
  - An indictment, information, or other charging document was not filed or issued in the case; or if filed, was dismissed or nolle prosequi by the state attorney or statewide prosecutor or was dismissed by a court of competent jurisdiction;
  - None of the charges related to the record the person wishes to expunge resulted in a trial, without regard to whether the outcome was other than an adjudication of guilt; and
  - The criminal history record does not relate to a violation of specified offenses.<sup>30</sup>
- Pay a \$75 processing fee.
- Submit a certified copy of the disposition of the record they wish to have expunged.
- Have never been adjudicated guilty or delinquent for committing a felony or misdemeanor specified in s. 943.051(3)(b), F.S.,<sup>31</sup> prior to the date of their application for the certificate.<sup>32</sup>
- Have never been adjudicated guilty or delinquent for committing any of the acts stemming from the arrest or alleged criminal activity of the record they wish to have expunged.
- Have never had a prior sealing or expunction of criminal history record unless an expunction is sought for a record previously sealed for 10 years and the record is otherwise eligible for expunction. A record must have been sealed for 10 years before it can be expunged, unless charges were not filed or were dismissed by the prosecutor or court.<sup>33</sup>
- No longer be under any court supervision related to the record they wish to have expunged.<sup>34</sup>

---

<sup>25</sup> Section 943.0585(4), F.S.

<sup>26</sup> *Id.*

<sup>27</sup> Section 943.0585(4)(c), F.S.

<sup>28</sup> These include candidates for employment with a criminal justice agency; applicants for admission to the Florida Bar; those seeking a sensitive position involving direct contact with children, the developmentally disabled, or the elderly with the Department of Children and Family Services, Division of Vocational Rehabilitation within the Department of Education, the Agency for Health Care Administration, the Agency for Persons with Disabilities, the Department of Health, the Department of Elderly Affairs, or the Department of Juvenile Justice; persons seeking to be employed or licensed by the Department of Education, any district school board, any university laboratory school, any charter school, any private or parochial school, or any local governmental entity that licenses child care facilities; or a Florida seaport.

<sup>29</sup> Section 943.0585(4)(c), F.S.

<sup>30</sup> These offenses include: sexual misconduct with developmentally disabled clients, mental health patients, or forensic clients, or the reporting of such sexual misconduct; luring or enticing a child; sexual battery; procuring a person under 18 years for prostitution; lewd, lascivious, or indecent assault upon a child, lewd or lascivious offenses committed on an elderly or disabled person; communications fraud; sexual performance by a child; unlawful distribution of obscene materials to a minor; unlawful activities involving computer pornography; selling or buying minors for the purpose of engaging in sexually explicit conduct; offenses by public officers and employees; drug trafficking; and other dangerous crimes such as arson, aggravated assault or battery, kidnapping, murder, robbery, home invasion robbery, carjacking, stalking, domestic violence, and burglary.

<sup>31</sup> These offenses include: assault, as defined in s. 784.011, F.S.; battery, as defined in s. 784.03, F.S.; carrying a concealed weapon, as defined in s. 790.01(1), F.S.; unlawful use of destructive devices or bombs, as defined in s. 790.1615(1), F.S.; negligent treatment of children, as defined in s. 827.05, F.S.; assault or battery on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a) and (b), F.S.; open carrying of a weapon, as defined in s. 790.053 F.S.; exposure of sexual organs, as defined in s. 800.03, F.S.; unlawful possession of a firearm, as defined in s. 790.22(5), F.S.; petit theft, as defined in s. 812.014(3), F.S.; cruelty to animals, as defined in s. 828.12(1), F.S.; arson, as defined in s. 806.031(1), F.S.; and unlawful possession or discharge of a weapon or firearm at a school-sponsored event or on school property as defined in s. 790.115, F.S.

<sup>32</sup> Section 943.0585(2)(d), F.S.

<sup>33</sup> Section 943.0585(2)(h), F.S.

<sup>34</sup> Section 943.0585(2), F.S.

In addition to the certificate, a petition to expunge a criminal history record must also include the petitioner's sworn statement that he or she:

- Has not previously been adjudicated guilty of an offense or comparable ordinance violation, or adjudicated delinquent for committing a felony or misdemeanor listed in s. 943.051(3)(b), F.S.;
- Has not been adjudicated guilty or delinquent for committing any of the acts he or she is currently trying to have sealed or expunged;
- Has not obtained a prior sealing or expunction; and
- Is eligible to the best of his or her knowledge and has no other pending expunction or sealing petitions before any court.<sup>35</sup>

Once a petition to expunge is submitted, the court must decide whether the expunction is appropriate.<sup>36</sup>

### Effect of the Bill

As noted above, in order to obtain a certificate of eligibility, a person must submit to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that an indictment, information, or other charging document, if filed, was dismissed, or nolle prosequi by the state attorney or statewide prosecutor or dismissed by the court with jurisdiction and that none of the charges related to the record the person wishes to expunge resulted in a trial, without regard to whether the outcome of the trial was other than an adjudication of guilt.

The bill specifies that a person is eligible to apply for and receive a certificate of eligibility for expunction if the person is found not guilty at trial of an offense for which the person successfully raised an affirmative defense pursuant to s. 893.131, F.S. (relating to cannabis). Such persons must obtain and submit to FDLE a written, certified statement from the appropriate state attorney or statewide prosecutor indicating that the person was found not guilty at trial of an offense for which the person successfully raised an affirmative defense pursuant to s. 893.131, F.S. A person will still have to comply with all of the other above-described criteria for obtaining a certificate of eligibility.

### **Research Study**

Section 215.5602, F.S., establishes the James and Esther King Biomedical Research Program (Program) within the Department of Health (DOH). The purpose of the Program is to provide an annual and perpetual source of funding in order to support research initiatives that address the health care problems of Floridians in the areas of tobacco-related cancer, cardiovascular disease, stroke, and pulmonary disease.<sup>37</sup>

Funds appropriated for the Program are used to award grants and fellowships for research relating to the prevention, diagnosis, treatment, and cure of diseases related to tobacco use, including cancer, cardiovascular disease, stroke, and pulmonary disease. Priority is given to research designed to prevent or cure disease.<sup>38</sup>

Any university or established research institute may apply for biomedical research funding under the Program.<sup>39</sup> Grants and fellowships are awarded by the State Surgeon General, after consultation with the Biomedical Research Advisory Council,<sup>40</sup> on the basis of scientific merit, as determined by the competitively open peer-reviewed process to ensure objectivity, consistency, and high quality.<sup>41</sup>

---

<sup>35</sup> Section 943.0585(1)(b), F.S. Knowingly providing false information on the sworn statement is a third degree felony.

<sup>36</sup> Section 943.0585, F.S.

<sup>37</sup> Section 215.5602(1), F.S.

<sup>38</sup> Section 215.5602(2), F.S.

<sup>39</sup> Section 215.5602(5)(a), F.S.

<sup>40</sup> The Biomedical Research Advisory Council, created within DOH, consists of 11 members and is tasked with advising the State Surgeon General as to the direction and scope of the Program. This includes providing advice on Program priorities, developing criteria and standards for the award of research grants, and making recommendations for research grants and fellowships. Section 215.5602(3) and (4), F.S.

<sup>41</sup> Section 215.5602(5)(b), F.S.

To ensure that all proposals for research funding are appropriate and are evaluated fairly on the basis of scientific merit, DOH appoints peer review panels of independent, scientifically qualified individuals to review the scientific merit of each proposal and establish its scientific priority score. The priority scores are forwarded to the Biomedical Research Advisory Council and are considered in determining which proposals are recommended for funding.<sup>42</sup>

#### Effect of the Bill

The bill appropriates \$1 million in non-recurring general revenue to DOH for FY 2014-2015 for the James and Esther King Biomedical Research Program. The funds must be deposited into the Biomedical Research Trust Fund,<sup>43</sup> and are reserved for research of cannabidiol and its effect on intractable childhood epilepsy.

The bill requires any biomedical research funding for research of cannabidiol and its effect on intractable childhood epilepsy to be awarded pursuant to s. 215.5602, F.S. Application for such funding may be submitted by any research university in the state which has obtained approval from the U.S. Food and Drug Administration for an exploratory investigational new drug study of cannabidiol and its effect on intractable childhood epilepsy. The bill requires the Biomedical Research Advisory Council to advise the State Surgeon General as to the direction and scope of research of cannabidiol and its effect on intractable childhood epilepsy and the award of research funding.

For purposes of this section of the bill, the term "cannabidiol" means an extract from the cannabis plant that has less than 0.8 percent tetrahydrocannabinol and the chemical signature 2-[(1R,6R)-6-isopropenyl-3-methylcyclohex-2-en-1-yl]-5-pentylbenzene-1,3-diol, or a derivative thereof, as determined by the International Union of Pure and Applied Chemistry.<sup>44</sup>

#### B. SECTION DIRECTORY:

Section 1. Creates s. 893.131, F.S., relating to affirmative defense to prohibited acts.

Section 2. Amends s. 943.0585, F.S., relating to court-ordered expunction of criminal history records.

Section 3. Appropriating \$1 million to the Department of Health to fund research of cannabidiol and its effect on intractable childhood epilepsy, effective July 1, 2014.

Section 4. Provides an effective date of upon becoming a law, except as otherwise provided.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

The bill appropriates \$1 million from the General Revenue Fund to the James and Esther King Biomedical Research Program through the Department of Health. The general revenue funds will be transferred to the Biomedical Research Trust Fund to fund research of cannabidiol and its effect on intractable childhood epilepsy.

##### 2. Expenditures:

---

<sup>42</sup> Section 215.5602(6), F.S.

<sup>43</sup> The Biomedical Research Trust Fund is created in s. 20.435(8), F.S., and is administered by DOH.

<sup>44</sup> The International Union of Pure and Applied Chemistry (IUPAC) is a non-governmental organization of member countries that encompass more than 85% of the world's chemical sciences and industries. IUPAC addresses international issues in the chemical sciences utilizing expert volunteers from its member countries. <http://www.iupac.org/home/about/strategic-plan.html> (last visited on March 10, 2014).

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

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

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

2. Expenditures:

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

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

The bill appropriates \$1 million to the Department of Health to fund research of cannabidiol and its effect on intractable childhood epilepsy. Applications for such funding may be submitted by Florida research universities.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

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

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On March 5, 2014, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Defined "cannabis;"
- Provided legislative findings and intent;
- Created an affirmative defense for specified offenses involving cannabis;
- Provided that a person was eligible to apply for a certificate of eligibility to expunge a criminal history record if the person was found not guilty at trial of an offense for which the person successfully raised an affirmative defense; and
- Appropriated \$1 million to the Department of Health to fund research of cannabidiol and its effect on intractable childhood epilepsy.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

1                                   A bill to be entitled  
 2       An act relating to cannabis; creating s. 893.131,  
 3       F.S., defining the term "cannabis"; providing  
 4       legislative findings and intent; creating an  
 5       affirmative defense for specified controlled substance  
 6       offenses; creating an affirmative defense for  
 7       specified drug paraphernalia offenses; amending s.  
 8       943.0585, F.S.; providing that a person is eligible to  
 9       apply for and receive a certificate of eligibility for  
 10      expunction, notwithstanding certain eligibility  
 11      requirements, if the person is found not guilty at  
 12      trial of an offense for which the person raised an  
 13      affirmative defense pursuant to s. 893.131, F.S.;  
 14      providing an appropriation to the Department of Health  
 15      for research of cannabidiol and its effect on  
 16      intractable childhood epilepsy; specifying how  
 17      biomedical research funding for research of  
 18      cannabidiol and its effect on intractable childhood  
 19      epilepsy shall be awarded; specifying who may apply  
 20      for such funding; providing effective dates.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Section 893.131, Florida Statutes, is created  
 25   to read:  
 26           893.131 Affirmative defense to prohibited acts.—

27        (1) As used in this section, the term "cannabis" means a  
 28 plant of the genus Cannabis, the dried flowers of which contain  
 29 0.8 percent or less of tetrahydrocannabinol and more than 10  
 30 percent of cannabidiol weight for weight; the seeds thereof; the  
 31 resin extracted from any part of such plant; or any compound,  
 32 manufacture, salt, derivative, mixture, or preparation of such  
 33 plant or its seeds or resin.

34        (2) (a) The Legislature finds that research has shown that  
 35 cannabis has significant health benefits to individuals  
 36 suffering from medical conditions, such as seizure disorders  
 37 among children, when ingested in a nonsmoking manner.

38        (b) The Legislature intends to discourage law enforcement  
 39 from arresting, and state attorneys from prosecuting, persons  
 40 who commit violations of s. 893.13 and s. 893.147 when the  
 41 violation only involves cannabis.

42        (3) It is an affirmative defense to a prosecution under s.  
 43 893.13(1)-(6), (7)(a)1., and (7)(a)4. and s. 893.135(1) that:

44        (a) Cannabis was the only controlled substance involved in  
 45 the violation.

46        (b) The person committing the offense intended that the  
 47 cannabis be consumed in a nonsmoking manner.

48        (c) The person committing the offense intended that the  
 49 cannabis be consumed by a person under the supervision of a  
 50 physician licensed under chapter 458 or chapter 459.

51        (4) It is an affirmative defense to a prosecution under s.  
 52 893.147 that the person committing the offense intended that the



53 drug paraphernalia involved in the offense was intended to only  
 54 be used to:

55 (a) Plant, propagate, cultivate, grow, harvest,  
 56 manufacture, compound, convert, produce, process, prepare, test,  
 57 analyze, pack, repack, store, or contain, cannabis; or

58 (b) Introduce cannabis into the human body in a nonsmoking  
 59 manner.

60 Section 2. Subsection (5) of section 943.0585, Florida  
 61 Statutes, is renumbered as subsection (6), and a new subsection  
 62 (5) is added to that section, to read:

63 943.0585 Court-ordered expunction of criminal history  
 64 records.—The courts of this state have jurisdiction over their  
 65 own procedures, including the maintenance, expunction, and  
 66 correction of judicial records containing criminal history  
 67 information to the extent such procedures are not inconsistent  
 68 with the conditions, responsibilities, and duties established by  
 69 this section. Any court of competent jurisdiction may order a  
 70 criminal justice agency to expunge the criminal history record  
 71 of a minor or an adult who complies with the requirements of  
 72 this section. The court shall not order a criminal justice  
 73 agency to expunge a criminal history record until the person  
 74 seeking to expunge a criminal history record has applied for and  
 75 received a certificate of eligibility for expunction pursuant to  
 76 subsection (2). A criminal history record that relates to a  
 77 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,  
 78 s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s.

79 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.  
 80 893.135, s. 916.1075, a violation enumerated in s. 907.041, or  
 81 any violation specified as a predicate offense for registration  
 82 as a sexual predator pursuant to s. 775.21, without regard to  
 83 whether that offense alone is sufficient to require such  
 84 registration, or for registration as a sexual offender pursuant  
 85 to s. 943.0435, may not be expunged, without regard to whether  
 86 adjudication was withheld, if the defendant was found guilty of  
 87 or pled guilty or nolo contendere to the offense, or if the  
 88 defendant, as a minor, was found to have committed, or pled  
 89 guilty or nolo contendere to committing, the offense as a  
 90 delinquent act. The court may only order expunction of a  
 91 criminal history record pertaining to one arrest or one incident  
 92 of alleged criminal activity, except as provided in this  
 93 section. The court may, at its sole discretion, order the  
 94 expunction of a criminal history record pertaining to more than  
 95 one arrest if the additional arrests directly relate to the  
 96 original arrest. If the court intends to order the expunction of  
 97 records pertaining to such additional arrests, such intent must  
 98 be specified in the order. A criminal justice agency may not  
 99 expunge any record pertaining to such additional arrests if the  
 100 order to expunge does not articulate the intention of the court  
 101 to expunge a record pertaining to more than one arrest. This  
 102 section does not prevent the court from ordering the expunction  
 103 of only a portion of a criminal history record pertaining to one  
 104 arrest or one incident of alleged criminal activity.

105 Notwithstanding any law to the contrary, a criminal justice  
 106 agency may comply with laws, court orders, and official requests  
 107 of other jurisdictions relating to expunction, correction, or  
 108 confidential handling of criminal history records or information  
 109 derived therefrom. This section does not confer any right to the  
 110 expunction of any criminal history record, and any request for  
 111 expunction of a criminal history record may be denied at the  
 112 sole discretion of the court.

113 (5) Notwithstanding the eligibility requirements in  
 114 subparagraph (2)(a)2., a person is eligible to apply for and  
 115 receive a certificate of eligibility for expunction if the  
 116 person is found not guilty at trial of an offense for which the  
 117 person successfully raised an affirmative defense pursuant to s.  
 118 893.131. A person applying for a certificate of eligibility  
 119 pursuant to this subsection must obtain and submit to the  
 120 department a written, certified statement from the appropriate  
 121 state attorney or statewide prosecutor that indicates that the  
 122 person was found not guilty at trial of an offense for which the  
 123 person successfully raised an affirmative defense pursuant to s.  
 124 893.131. This subsection does not confer any right to the  
 125 expunction of a criminal history record, and any request for  
 126 expunction of a criminal history record may be denied at the  
 127 discretion of the court.

128 Section 3. (1) As used in this section, the term  
 129 "cannabidiol" means an extract from the cannabis plant that has  
 130 less than 0.8 percent tetrahydrocannabinol and the chemical

131 signature 2-[(1R,6R)-6-isopropenyl-3-methylcyclohex-2-en-1-yl]-  
 132 5-pentylbenzene-1,3-diol, or a derivative thereof, as determined  
 133 by the International Union of Pure and Applied Chemistry.

134 (2) For the 2014-2015 fiscal year, \$1 million in  
 135 nonrecurring general revenue is appropriated to the Department  
 136 of Health for the James and Esther King Biomedical Research  
 137 Program and shall be deposited into the Biomedical Research  
 138 Trust Fund. These funds shall be reserved for research of  
 139 cannabidiol and its effect on intractable childhood epilepsy.

140 (3) Biomedical research funding for research of  
 141 cannabidiol and its effect on intractable childhood epilepsy  
 142 shall be awarded pursuant to s. 215.5602, Florida Statutes,  
 143 except as otherwise provided in this section. An application for  
 144 such funding may be submitted by any research university in the  
 145 state that has obtained approval from the United States Food and  
 146 Drug Administration for an exploratory investigational new drug  
 147 study of cannabidiol and its effect on intractable childhood  
 148 epilepsy. For the purposes of this section, the Biomedical  
 149 Research Advisory Council created under s. 215.5602, Florida  
 150 Statutes, shall advise the State Surgeon General as to the  
 151 direction and scope of research of cannabidiol and its effect on  
 152 intractable childhood epilepsy and the award of research  
 153 funding.

154 (4) This section shall take effect July 1, 2014, and  
 155 expires June 30, 2015.

156 Section 4. Except as otherwise expressly provided in this

CS/HB 843



2014

157 | act, this act shall take effect upon becoming a law.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7081    PCB FTSC 14-01    Tax Administration  
**SPONSOR(S):** Finance & Tax Subcommittee, Caldwell  
**TIED BILLS:**        **IDEN./SIM. BILLS:** SB 1654

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Finance & Tax Subcommittee	17 Y, 0 N	Wolfgang	Langston
1) Appropriations Committee		Hawkins 	Leznoff 

### SUMMARY ANALYSIS

This bill contains recommendations for general tax administration improvements, primarily consisting of legislative concepts submitted by the Department of Revenue (Department). The bill includes numerous statutory changes that may reduce the burden on taxpayers, reduce the Department's costs, increase efficiency in tax administration, and improve enforcement of tax laws.

This bill:

- Removes the requirement that the Department conduct in-depth reviews of the level of assessment for agricultural and other use-valued properties in its reviews of county assessment rolls.
- Revises the procedures local governments may use to authorize ad valorem exemptions for economic development.
- Clarifies that charges for the storage of towed vehicles resulting from a "lawful impoundment" by a law enforcement agency are not taxable.
- Clarifies and reorganizes the statutes pertaining to the application of current criminal penalties regarding any person who willfully fails to collect a tax or fee, who makes a false or fraudulent return with willful intent, or who engages in acts that require a certificate of registration and "fails or refuses" to register or willfully fails to register after the Department provides notice.
- Provides that the Department can require certain individuals and entities seeking to obtain a dealer's certificate of registration to post a cash deposit, bond, or other security if that business will be operated at an identical location of a previous business that would have been required to post such security. This requirement can be waived if absence of tax liability or an arms-length transfer of the business can be demonstrated.
- Clarifies a provision requiring the clerks of the court to transmit all court-related collections electronically by the 10th of the month immediately following the month in which the funds are collected to conform to a similar law changes made by the Legislature in 2010.
- Increases the authority of the Executive Director of the Department of Revenue to compromise tax assessed from \$250,000 up to \$500,000 when there is doubt as to liability or collectability.
- Provides definitions for "automated sales suppression device" or "zappers" and "phantom-ware", and criminalizes the knowing sale, purchase, installation, transfer, or possession of such software or software devices that can be used to falsify records of cash registers and other point-of-sale systems.
- Establishes a requirement for employers to comply with requests for all work records during an audit as prerequisite to earn a lower, unemployment tax contribution rate instead of the "standard rate" at 5.4%. The bill further standardizes the interest rate provisions for unemployment tax to make them the same rate as is applied to other taxes administered by the Department.

The Revenue Estimating Conference has determined that several provisions of the bill will have positive indeterminate impacts on state and local revenues. Also, the increase in compromise authority will have an indeterminate impact of unknown direction on state and local revenues. The change in interest rates applicable to late reemployment assistance tax remittances will have an insignificant impact on General Revenue and a -\$0.6 million impact on state trust funds in 2014-15 (-\$0.2 million recurring).

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Section 1. Department Review of Assessment Classification**

###### Present situation

Section 195.096, F.S., requires the department to conduct an in-depth review of the assessment rolls at least once every two years. This in-depth review may include proceedings of the value adjustment board and the audit or review of procedures used by the counties to appraise property. The Department must study individually the level of assessment in relation to just value for the following use-classes of property if they constitute at least 5 percent of the total assessed value of all real property in a county on the previous assessment roll:

- residential property that consists of one primary living unit;
- residential property that consists of two or more living units;
- agricultural and other use-valued property;
- vacant lots;
- undeveloped property; improved commercial and industrial property; and
- taxable institutional or governmental, utility, locally assessed railroad, oil, gas and mineral land, subsurface rights, and other real property.

Currently, there are 22 predominantly rural counties where classified use properties such as agricultural, historical, or high-water recharge properties are reviewed because of the five percent threshold.<sup>1</sup>

###### Proposed change

This bill removes the agricultural and other use-valued (classified use) properties from the list of property classes that must be studied and reported separately if they constitute at least 5 percent of the total assessed value of all real property in a county.

##### **Section 2. Motion or Resolution Authorizing Economic Development Ad Valorem Tax Exemption**

###### Present situation

Section 196.1995, F.S., allows cities and counties to grant up to a 100 percent exemption from city or county ad valorem taxation for improvements to real property and tangible personal property for a new business. Initially, the city or county calls for a referendum within its total jurisdiction to determine whether the jurisdiction may grant economic development ad valorem exemptions under s. 3, Art. VII of the State Constitution. Once the referendum measure is approved, specific exemptions are effectuated by enactment of an ordinance. To qualify for the exemption, the improvements must be made or the tangible personal property added after the adoption of the ordinance. Businesses seeking to take advantage of the exemption must file a written application with the city or county in the year the exemption is desired to take effect to request the adoption of the ordinance and provide supporting information.

###### Proposed change

Real property improvements and tangible personal property could be exempted by a local government if purchased or added after receiving approval by a local motion or resolution but before the ordinance enacting the exemption. Section 14 of the bill states that an ordinance in existence prior to the effective date of this act will not be invalidated simply because the improvements to real property were made or the tangible personal property was added or increased prior to the day such ordinance was adopted as long as the local governing body acted substantially in accordance with the law as amended by the bill.

<sup>1</sup> Florida Department of Revenue, 2014 Legislative Concepts (11/19/2013).



### **Section 3. Storage of Towed Vehicles**

#### Present situation

Section 212.03(6), F.S., provides that every person engaging in a lease or rental of parking or storage spaces for motor vehicles in parking lots or garages, who leases or rents docking or storage space for boats in boat docks or marinas, or who leases or rents tie-down or storage space for aircraft at airports, shall be taxed at the rate of 6 percent on the total rental charged. Current administration of this statute treats storage facilities for towed vehicles as "parking lots and garages" for purposes of application of the tax.

#### Proposed change

The bill explicitly states in statute that storage facilities for towed vehicles are included in "parking lots and garages" for purposes of applying the tax. The bill also adds s. 212.03(6)(b), F.S., stating that the storage of towed vehicles from a "lawful impoundment" by a law enforcement agency is not taxable. The bill further provides that "lawful impoundment" means the storing of or having custody over an aircraft, boat, or motor vehicle by, or at the direction of, a local, state, or federal law enforcement agency which the owner or the owner's representative is not authorized to enter upon, have access to, or remove without the consent of the law enforcement agency.

### **Section 4. Failure to Collect; Penalties**

#### Present situation

Provisions in s. 212.07(1)(b), F.S., provide that a resale must be in strict compliance with s. 212.18, F.S., and the rules and regulations of the Department. A dealer who makes a sale for resale that is not in strict compliance with 212.18, F.S., shall himself or herself be liable for and pay the tax due. Dealer guidelines for sales for resale are established and supported by rules of the Department. Section 212.07(3), F.S., establishes that any dealer who fails, neglects, or refuses to collect the tax is guilty of a first degree misdemeanor.

#### Proposed change

This bill amends s. 212.07(3), F.S., to clarify that a dealer who willfully fails to collect a tax or fee after receiving notice from the Department is liable for the uncollected tax or fee and subject to criminal penalties that are graduated based on the number of offenses and amount of taxes or fees that go uncollected. This section also provides that the Department may contact the dealer in violation by personal service, registered mail, or both. This section will become effective upon becoming a law. This amended section is related to similar changes made in sections 5 & 7. This bill also corrects a cross reference in s. 212.07(1).

### **Section 5. False or Fraudulent Return; Penalties**

#### Present situation

Provisions in s. 212.12, F.S., establish rules regarding a person (dealer) who makes false or fraudulent returns and/or fails to register as a dealer. The Department will contact a person by written notice with a "failure to register" letter followed, if needed, by an intentional failure to collect letter. The provisions cited under s. 775.082, s. 775.083, and s. 775.084, F.S., provide the civil and criminal penalties imposed upon these violators.

#### Proposed change

This bill amends s. 212.12(2)(d), F.S., to provide that a person who makes a false or fraudulent return with willful intent is liable for the uncollected taxes or fees and subject to criminal penalties that are graduated based on the number of offenses and amount of taxes or fees that go uncollected. This amended section is related to similar changes made in sections 4 & 7. This section will become effective upon becoming a law.

## **Section 6. Security Requirements for New Registrations**

### Present situation

Section 212.14(4), F.S., authorizes the Department, where necessary to ensure compliance with the Sales and Use Tax, to require a cash deposit, bond, or other security as a condition to a person obtaining or retaining a dealer's certificate of registration. Despite this requirement, some delinquent sales tax dealers are able to close down their businesses with outstanding tax liabilities and reopen under a new name, allowing the dealers to repeatedly fail to remit sales and use tax for successive businesses. Delinquent dealers can engage in this activity because the current provisions in s. 212.14(4), F.S., do not clearly apply to all of the individuals who were operating, or all who had an ownership interest in, the prior businesses.

### Proposed change

This bill amends s. 212.14(4), F.S., to define which individuals or entities the Department can require to produce a cash deposit, bond, or other security. Included in this list of individuals and entities are not only those who had an ownership interest or a controlling interest in a business that would otherwise be liable for posting a cash deposit, bond, or other security, but those individuals and entities seeking to obtain a dealer's certificate of registration for a business that will be operated at an identical location of a previous business that would have otherwise been liable for posting a cash deposit, bond, or other security. These requirements can be waived if absence of tax liability or an arms-length transfer of the business can be demonstrated. The bill further allows the Department to adopt rules necessary to administer this subsection. The bill expressly authorizes the Department to adopt rules necessary to administer this subsection.

## **Section 7. Failure to Register; Penalties**

### Present situation

In s. 212.18(3), F.S., guidelines are provided for persons who want to engage in and conduct business within the state as a dealer. The Department also grants certificates of registration for each place of business. The failure or refusal of any person, firm, co-partnership, or corporation to follow these rules is a first degree misdemeanor and is subject to injunctive proceedings as provided by law.

### Proposed change

This bill amends s. 212.18(3)(c), F.S., to clarify that any person that engages in acts that require a certificate of registration and "fails or refuses" to register, commits a misdemeanor of the first degree. This bill also adds s. 212.18(3)(c)2., F.S., to provide that a person who willfully fails to register after the Department provides notice, commits a felony of the third degree, punishable as proscribed in law. This section further provides that the Department shall give written notice of the duty to register to the person through registered mail, personal service or both. This section will become effective upon becoming a law. This amended section is related to similar changes made in sections 4 & 5.

## **Section 8. Republishes s. 212.20, F.S., which contains a reference to s. 212.18(3).**

## **Section 9. Electronic Remittance and Distribution of Funds by the Clerk of Courts**

### Present situation

In 2010, the Legislature passed ch. 2010-162, L.O.F., that changed the remittance date for funds collected by the clerks of the court from the 20th to the 10th day of the month immediately following the month in which the funds are collected. A conforming provision in s. 213.13, F.S., regarding electronic remittance was not updated after the law change.

### Proposed change

This bill amends s. 213.13(5), F.S., to require the clerks of the court to transmit all court-related collections electronically by the 10th of the month immediately following the month in which the funds are collected.

## **Section 10. Informal Conferences; Compromises**

### Present Situation

Section 213.13, F.S., allows the Executive Director of the Department of Revenue to enter into an agreement to accept less than the tax allegedly owed if there is a doubt as to liability or collectability of the tax assessed. The statute limits the Executive Director's compromise authority to reduce tax to no more than \$250,000.

### Proposed Changes

The bill increases the Executive Director's compromise limit from \$250,000 to \$500,000.

## **Section 11. Automated Sales Suppression Devices or "Zappers"**

### Present situation

The Department has identified a practice of retailers using automated sales suppression software programs ("zappers") and/or "phantom-ware" to falsify the records of electronic cash registers and other point-of-sale systems. In effect, the technologies allow dealers to create a fraudulent, virtual second set of books by which the dealers are able to evade sales taxes.

### Proposed change

The bill creates s. 213.295, F.S., defines zappers and phantom-ware, and criminalizes the knowing sale, purchase, installation, transfer, or possession of phantom-ware in this state. This section provides that any person in violation of this section shall be guilty of a felony of the third degree and shall be liable for all taxes, fees, penalties, and interest due to the state; the dealer shall also forfeit to the state all profits associated with the sale or use of the zappers or phantom-ware. Finally, the bill classifies zappers and phantom-ware as contraband articles under s. 932.701-932.706, F.S., the Florida Contraband Forfeiture Act. This section will become effective upon becoming a law.

## **Section 12. Standard Rate for Non-Compliance with Audit Record Requests; Reemployment Tax**

### Present situation

Florida law provides a standard reemployment tax rate, and allows many employers to earn a lower rate if they meet certain compliance conditions set forth in s. 443.131(3)(h), F.S. However, under the current requirements to meet the compliance standards, it does not explicitly state that the taxpayer must comply with records requests to qualify for the reduced tax rate pursuant to s. 443.171(5), F.S.

### Proposed change

This bill amends s. 443.131, F.S., to require an employer to comply with records requests as a prerequisite for that employer to earn the lower, reemployment tax contribution rate. In order to receive the lower contribution rate, the employer must produce all work records requested during an audit by the DEO or the state agency providing tax collection services pursuant to s. 443.171(5), F.S. This section will become effective upon becoming a law.

## **Section 13. Floating Interest Rate; Reemployment Tax**

### Present situation

Section 443.141(1)(a), F.S., states that reemployment assistance tax contributions or reimbursements that are unpaid on the due date bear an interest rate of 1 percent per month (an effective rate of 12 percent annually). Other payment deficiencies on taxes that the Department administers have an interest rate of prime plus 4 percent but not to exceed an effective rate of 1 percent per month, adjusted twice per year.

### Proposed change

This bill amends s. 443.141(1)(a), F.S., to adjust the interest rate applied to contributions or reimbursements unpaid on the date due. The current interest rate of 1 percent will carry on through December 31, 2014. Beginning January 1, 2015, the interest rate shall be calculated in accordance with s. 213.235, F.S., except that the rate of interest shall never be greater than 1 percent per month. This bill would reduce the interest rate provisions for reemployment tax and make them the same rate as is applied to other taxes administered by the Department. This section provides a 20-day protest period for reemployment tax assessments (extended from 15 days), which is the assessment period allowed for other reemployment tax actions.

### **Section 14.**

Related to the provisions in section 2, the bill states that an ordinance in existence prior to the effective date of this act will not be invalidated simply because the improvements to real property were made or the tangible personal property was added or increased prior to the day such ordinance was adopted as long as the local governing body acted substantially in accordance with the law as amended by the bill.

### **Section 15. Effective Date**

This act shall take effect upon becoming law, except as expressly provided within the bill.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The Revenue Estimating Conference met on January 17, 2014, and made the following estimates with respect to state revenues and trust funds:

- The provision relating to security requirements for sales tax dealers is expected to be zero or positive indeterminate.
- The standard reemployment tax rate for failure to provide records and criminalization of "zappers," will have positive, indeterminate impacts on state general revenues and trust fund revenues.
- The provision relating to the Department's compromise authority will have an indeterminate impact of unknown direction on state general revenues and trust fund revenues.
- The provision relating to the interest rate on late reemployment tax remittances will have a negative insignificant general revenue impact in FY2014-2015 and a -\$0.6 million FY 2014-15 impact on the Special Employment Security Administration Trust Fund (-\$0.2 million recurring).

#### **2. Expenditures:**

None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

#### **1. Revenues:**

The Revenue Estimating Conference met on January 17, 2014, and estimated if the Department ceases to review assessments for agricultural properties in counties that have 5% or more land classified as agricultural property for ad valorem purposes, there would be an indeterminate impact of unknown direction. The provision relating to security requirements for sales tax dealers is expected to be zero or a positive indeterminate. Criminalization of "zappers," will have positive, indeterminate impacts on local revenues. The provision relating to the Department's compromise authority will have an indeterminate impact of unknown direction on local revenues.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce the interest paid by some taxpayers who remit their reemployment tax payments late.

D. FISCAL COMMENTS:

None

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill grants the Department of Revenue authority to adopt rules to administer their ability to require cash bonds from some sales tax dealers.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
2       An act relating to tax administration; amending s.  
3       195.096, F.S.; revising the requirements for  
4       assessment roll reviews; amending s. 196.1995, F.S.;  
5       requiring certain real property improvements and  
6       tangible personal property additions to occur within a  
7       specified period in order to qualify for a specified  
8       ad valorem tax exemption; amending s. 212.03, F.S.;  
9       providing that certain charges for the impoundment of  
10      an aircraft, boat, or motor vehicle by a law  
11      enforcement agency are not subject to taxation;  
12      amending s. 212.07, F.S.; conforming a cross-  
13      reference; providing that a dealer who willfully fails  
14      to collect certain taxes or fees after the Department  
15      of Revenue provides notice commits a criminal offense;  
16      providing civil and criminal penalties; amending s.  
17      212.12, F.S.; deleting provisions providing criminal  
18      and civil penalties for failing to register a business  
19      as a dealer and for failing to collect specified taxes  
20      after the department provides notice; amending s.  
21      212.14, F.S.; authorizing the department to adopt  
22      rules; defining the term "person"; amending s. 212.18,  
23      F.S.; providing that a person who engages in acts  
24      requiring a certificate of registration and willfully  
25      fails to register after the department provides notice  
26      commits a criminal offense; providing criminal

27 penalties; reenacting s. 212.20(6)(c), F.S., relating  
 28 to the disposition of funds collected from the  
 29 imposition of specified fees, to incorporate the  
 30 amendments made by the act to s. 212.18(3), F.S., in a  
 31 reference thereto; amending s. 213.13, F.S.; revising  
 32 the date for transmitting certain funds collected by  
 33 the clerks of court to the department; amending s.  
 34 213.21 F.S.; authorizing the department to delegate to  
 35 the executive director of the department greater  
 36 compromise authority for closing agreements; creating  
 37 s. 213.295, F.S.; providing definitions; providing  
 38 that a person who knowingly sells, purchases,  
 39 installs, transfers, possesses, uses, or accesses an  
 40 automated sales suppression device, a zapper, or  
 41 phantom-ware commits a criminal offense; providing  
 42 civil and criminal penalties; providing that automated  
 43 sales suppression devices, zappers, and phantom-ware  
 44 are contraband articles; amending s. 443.131, F.S;  
 45 requiring employers to produce certain records in  
 46 order to receive a reduced contribution rate; amending  
 47 s. 443.141, F.S.; revising the interest rate for  
 48 unpaid employer contributions or reimbursements;  
 49 increasing the number of days during which an employer  
 50 may protest a determination and assessment; providing  
 51 that certain local ordinances conveying ad valorem tax  
 52 exemptions shall not be invalidated on specified

53 grounds if the local governing body acted in  
 54 accordance with this act; providing effective dates.

55  
 56 Be It Enacted by the Legislature of the State of Florida:

57  
 58 Section 1. Paragraph (a) of subsection (3) of section  
 59 195.096, Florida Statutes, is amended to read:

60 195.096 Review of assessment rolls.—

61 (3) (a) Upon completing the reviews ~~completion of review~~  
 62 pursuant to paragraph (2) (f), the department shall publish the  
 63 results of reviews conducted under this section. The results  
 64 must include all statistical and analytical measures computed  
 65 under this section for the real property assessment roll as a  
 66 whole, the personal property assessment roll as a whole, and  
 67 independently for the following real property classes if the  
 68 classes constituted 5 percent or more of the total assessed  
 69 value of real property in a county on the previous tax roll:

70 1. Residential property that consists of one primary  
 71 living unit, including, but not limited to, single-family  
 72 residences, condominiums, cooperatives, and mobile homes.

73 2. Residential property that consists of two or more  
 74 primary living units.

75 ~~3. Agricultural, high-water recharge, historic property~~  
 76 ~~used for commercial or certain nonprofit purposes, and other~~  
 77 ~~use-valued property.~~

78 3.4. Vacant lots.



79           ~~4.5.~~ Nonagricultural acreage and other undeveloped  
80 parcels.

81           ~~5.6.~~ Improved commercial and industrial property.

82           ~~6.7.~~ Taxable institutional or governmental, utility,  
83 locally assessed railroad, oil, gas and mineral land, subsurface  
84 rights, and other real property.

85

86 If one of the above classes constituted less than 5 percent of  
87 the total assessed value of all real property in a county on the  
88 previous assessment roll, the department may combine it with one  
89 or more other classes of real property for purposes of  
90 assessment ratio studies or use the weighted average of the  
91 other classes for purposes of calculating the level of  
92 assessment for all real property in a county. The department  
93 shall also publish such results for any subclassifications of  
94 the classes or assessment rolls it may have chosen to study.

95           Section 2. Subsection (5) of section 196.1995, Florida  
96 Statutes, is amended to read:

97           196.1995 Economic development ad valorem tax exemption.—

98           (5) Upon a majority vote in favor of such authority, the  
99 board of county commissioners or the governing authority of the  
100 municipality, at its discretion, by ordinance may exempt from ad  
101 valorem taxation up to 100 percent of the assessed value of all  
102 improvements to real property made by or for the use of a new  
103 business and of all tangible personal property of such new  
104 business, or up to 100 percent of the assessed value of all

105 added improvements to real property made to facilitate the  
 106 expansion of an existing business and of the net increase in all  
 107 tangible personal property acquired to facilitate such expansion  
 108 of an existing business. To qualify for this exemption, provided  
 109 ~~that~~ the improvements to real property must be ~~are~~ made or the  
 110 tangible personal property must be ~~is~~ added or increased after  
 111 approval by motion or resolution of the local governing body,  
 112 subject to ordinance adoption or on or after the day the  
 113 ordinance is adopted. However, if the authority to grant  
 114 exemptions is approved in a referendum in which the ballot  
 115 question contained in subsection (3) appears on the ballot, the  
 116 authority of the board of county commissioners or the governing  
 117 authority of the municipality to grant exemptions is limited  
 118 solely to new businesses and expansions of existing businesses  
 119 that are located in an enterprise zone or brownfield area.  
 120 Property acquired to replace existing property shall not be  
 121 considered to facilitate a business expansion. The exemption  
 122 applies only to taxes levied by the respective unit of  
 123 government granting the exemption. The exemption does not apply,  
 124 however, to taxes levied for the payment of bonds or to taxes  
 125 authorized by a vote of the electors pursuant to s. 9(b) or s.  
 126 12, Art. VII of the State Constitution. Any such exemption shall  
 127 remain in effect for up to 10 years with respect to any  
 128 particular facility, regardless of any change in the authority  
 129 of the county or municipality to grant such exemptions. The  
 130 exemption shall not be prolonged or extended by granting

131 exemptions from additional taxes or by virtue of any  
 132 reorganization or sale of the business receiving the exemption.

133 Section 3. Subsection (6) of section 212.03, Florida  
 134 Statutes, is amended to read:

135 212.03 Transient rentals tax; rate, procedure,  
 136 enforcement, exemptions.-

137 (6) The Legislature finds ~~It is the legislative intent~~  
 138 ~~that every person is engaging in a taxable privilege~~ who leases  
 139 or rents parking or storage spaces for motor vehicles in parking  
 140 lots or garages, including storage facilities for towed  
 141 vehicles, who leases or rents docking or storage spaces for  
 142 boats in boat docks or marinas, or who leases or rents tie-down  
 143 or storage space for aircraft at airports is engaging in a  
 144 taxable privilege.

145 (a) For the exercise of this privilege, a tax is hereby  
 146 levied at the rate of 6 percent on the total rental charged.

147 (b) Charges for parking, docking, tie-down, or storage  
 148 arising from a lawful impoundment are not subject to taxation  
 149 under this subsection. As used in this paragraph, the term  
 150 "lawful impoundment" means the storing of or having custody over  
 151 an aircraft, boat, or motor vehicle by, or at the direction of,  
 152 a local, state, or federal law enforcement agency which the  
 153 owner or the owner's representative is not authorized to enter  
 154 upon, have access to, or remove without the consent of the law  
 155 enforcement agency.

156 Section 4. Effective July 1, 2014, paragraph (b) of

157 subsection (1) and subsection (3) of section 212.07, Florida  
 158 Statutes, are amended to read:

159 212.07 Sales, storage, use tax; tax added to purchase  
 160 price; dealer not to absorb; liability of purchasers who cannot  
 161 prove payment of the tax; penalties; general exemptions.—

162 (1)

163 (b) A resale must be in strict compliance with s. 212.18  
 164 and the rules and regulations adopted thereunder. ~~A, and any~~  
 165 dealer who makes a sale for resale that ~~which~~ is not in strict  
 166 compliance with s. 212.18 and the rules and regulations adopted  
 167 thereunder is ~~shall himself or herself be~~ liable for and must  
 168 pay the tax. ~~A~~ Any dealer who makes a sale for resale shall  
 169 document the exempt nature of the transaction, as established by  
 170 rules adopted ~~promulgated~~ by the department, by retaining a copy  
 171 of the purchaser's resale certificate. In lieu of maintaining a  
 172 copy of the certificate, a dealer may document, before ~~prior to~~  
 173 the time of sale, an authorization number provided  
 174 telephonically or electronically by the department, or by such  
 175 other means established by rule of the department. The dealer  
 176 may rely on a resale certificate issued pursuant to s.  
 177 212.18(3)(d) ~~s. 212.18(3)(e)~~, valid at the time of receipt from  
 178 the purchaser, without seeking annual verification of the resale  
 179 certificate if the dealer makes recurring sales to a purchaser  
 180 in the normal course of business on a continual basis. For  
 181 purposes of this paragraph, "recurring sales to a purchaser in  
 182 the normal course of business" refers to a sale in which the

183 dealer extends credit to the purchaser and records the debt as  
 184 an account receivable, or in which the dealer sells to a  
 185 purchaser who has an established cash or C.O.D. account, similar  
 186 to an open credit account. For purposes of this paragraph,  
 187 purchases are made from a selling dealer on a continual basis if  
 188 the selling dealer makes, in the normal course of business,  
 189 sales to the purchaser at least ~~no less frequently than~~ once in  
 190 every 12-month period. A dealer may, through the informal  
 191 protest provided for in s. 213.21 and the rules of the  
 192 department ~~of Revenue~~, provide the department with evidence of  
 193 the exempt status of a sale. Consumer certificates of exemption  
 194 executed by those exempt entities that were registered with the  
 195 department at the time of sale, resale certificates provided by  
 196 purchasers who were active dealers at the time of sale, and  
 197 verification by the department of a purchaser's active dealer  
 198 status at the time of sale in lieu of a resale certificate shall  
 199 be accepted by the department when submitted during the protest  
 200 period, but may not be accepted in any proceeding under chapter  
 201 120 or any circuit court action instituted under chapter 72.

202 (3) (a) A ~~Any~~ dealer who fails, neglects, or refuses to  
 203 collect the tax or fees imposed under this chapter ~~herein~~  
 204 ~~provided, either~~ by himself or herself or through the dealer's  
 205 agents or employees, ~~is~~, in addition to the penalty of being  
 206 liable for ~~and~~ paying the tax or fee ~~himself or herself~~, commits  
 207 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
 208 provided in s. 775.082 or s. 775.083.

209        (b) A dealer who willfully fails to collect a tax or fee  
 210 after the department provides notice of the duty to collect the  
 211 tax or fee is liable for a specific penalty of 100 percent of  
 212 the uncollected tax or fee. This penalty is in addition to any  
 213 other penalty that may be imposed by law. A dealer who willfully  
 214 fails to collect taxes or fees totaling:

215            1. Less than \$300:

216            a. For a first offense, commits a misdemeanor of the  
 217 second degree, punishable as provided in s. 775.082 or s.  
 218 775.083.

219            b. For a second offense, commits a misdemeanor of the  
 220 first degree, punishable as provided in s. 775.082 or s.  
 221 775.083.

222            c. For a third or subsequent offense, commits a felony of  
 223 the third degree, punishable as provided in s. 775.082, s.  
 224 775.083, or s. 775.084.

225            2. An amount equal to \$300 or more, but less than \$20,000,  
 226 commits a felony of the third degree, punishable as provided in  
 227 s. 775.082, s. 775.083, or s. 775.084.

228            3. An amount equal to \$20,000 or more, but less than  
 229 \$100,000, commits a felony of the second degree, punishable as  
 230 provided in s. 775.082, s. 775.083, or s. 775.084.

231            4. An amount equal to \$100,000 or more, commits a felony  
 232 of the first degree, punishable as provided in s. 775.082, s.  
 233 775.083, or s. 775.084.

234            (c) The department shall provide written notice of the

235 duty to collect taxes or fees to the dealer by personal service  
 236 or by sending notice to the dealer's last known address by  
 237 registered mail. The department may provide written notice using  
 238 both methods described in this paragraph.

239 Section 5. Effective July 1, 2014, paragraph (d) of  
 240 subsection (2) of section 212.12, Florida Statutes, is amended  
 241 to read:

242 212.12 Dealer's credit for collecting tax; penalties for  
 243 noncompliance; powers of Department of Revenue in dealing with  
 244 delinquents; brackets applicable to taxable transactions;  
 245 records required.-

246 (2)

247 (d) A Any person who makes a false or fraudulent return  
 248 and who has ~~with~~ a willful intent to evade payment of any tax or  
 249 fee imposed under this chapter is; ~~any person who, after the~~  
 250 ~~department's delivery of a written notice to the person's last~~  
 251 ~~known address specifically alerting the person of the~~  
 252 ~~requirement to register the person's business as a dealer,~~  
 253 ~~intentionally fails to register the business; and any person~~  
 254 ~~who, after the department's delivery of a written notice to the~~  
 255 ~~person's last known address specifically alerting the person of~~  
 256 ~~the requirement to collect tax on specific transactions,~~  
 257 ~~intentionally fails to collect such tax, shall, in addition to~~  
 258 ~~the other penalties provided by law, be liable for a specific~~  
 259 ~~penalty of 100 percent of any unreported or any uncollected tax~~  
 260 ~~or fee.~~ This penalty is in addition to any other penalty

261 provided by law. A person who makes a false or fraudulent return  
 262 with a willful intent to evade payment of taxes or fees  
 263 totaling:

264 1. Less than \$300:

265 a. For a first offense, commits a misdemeanor of the  
 266 second degree, punishable as provided in s. 775.082 or s.  
 267 775.083.

268 b. For a second offense, commits a misdemeanor of the  
 269 first degree, punishable as provided in s. 775.082 or s.  
 270 775.083.

271 c. For a third or subsequent offense, commits a felony of  
 272 the third degree, punishable as provided in s. 775.082, s.  
 273 775.083, or s. 775.084.

274 2. An amount equal to \$300 or more, but less than \$20,000,  
 275 commits a felony of the third degree, punishable as provided in  
 276 s. 775.082, s. 775.083, or s. 775.084.

277 3. An amount equal to \$20,000 or more, but less than  
 278 \$100,000, commits a felony of the second degree, punishable as  
 279 provided in s. 775.082, s. 775.083, or s. 775.084.

280 4. An amount equal to \$100,000 or more, commits a felony  
 281 of the first degree, punishable and, upon conviction, for fine  
 282 and punishment as provided in s. 775.082, s. 775.083, or s.  
 283 775.084. Delivery of written notice may be made by certified  
 284 mail, or by the use of such other method as is documented as  
 285 being necessary and reasonable under the circumstances. The  
 286 civil and criminal penalties imposed herein for failure to



287 ~~comply with a written notice alerting the person of the~~  
 288 ~~requirement to register the person's business as a dealer or to~~  
 289 ~~collect tax on specific transactions shall not apply if the~~  
 290 ~~person timely files a written challenge to such notice in~~  
 291 ~~accordance with procedures established by the department by rule~~  
 292 ~~or the notice fails to clearly advise that failure to comply~~  
 293 ~~with or timely challenge the notice will result in the~~  
 294 ~~imposition of the civil and criminal penalties imposed herein.~~

295 ~~1. If the total amount of unreported or uncollected taxes~~  
 296 ~~or fees is less than \$300, the first offense resulting in~~  
 297 ~~conviction is a misdemeanor of the second degree, the second~~  
 298 ~~offense resulting in conviction is a misdemeanor of the first~~  
 299 ~~degree, and the third and all subsequent offenses resulting in~~  
 300 ~~conviction is a misdemeanor of the first degree, and the third~~  
 301 ~~and all subsequent offenses resulting in conviction are felonies~~  
 302 ~~of the third degree.~~

303 ~~2. If the total amount of unreported or uncollected taxes~~  
 304 ~~or fees is \$300 or more but less than \$20,000, the offense is a~~  
 305 ~~felony of the third degree.~~

306 ~~3. If the total amount of unreported or uncollected taxes~~  
 307 ~~or fees is \$20,000 or more but less than \$100,000, the offense~~  
 308 ~~is a felony of the second degree.~~

309 ~~4. If the total amount of unreported or uncollected taxes~~  
 310 ~~or fees is \$100,000 or more, the offense is a felony of the~~  
 311 ~~first degree.~~

312 Section 6. Effective July 1, 2014, subsection (4) of

313 section 212.14, Florida Statutes, is amended to read:  
 314       212.14 Departmental powers; hearings; distress warrants;  
 315 bonds; subpoenas and subpoenas duces tecum.—  
 316       (4) In all cases where it is necessary to ensure  
 317 compliance with ~~the provisions of~~ this chapter, the department  
 318 shall require a cash deposit, bond, or other security as a  
 319 condition to a person obtaining or retaining a dealer's  
 320 certificate of registration under this chapter. Such bond must  
 321 ~~shall~~ be in the form and ~~such~~ amount ~~as~~ the department deems  
 322 appropriate under the particular circumstances. A ~~Every~~ person  
 323 failing to produce such cash deposit, bond, or other security is  
 324 ~~as provided for herein shall~~ not be entitled to obtain or retain  
 325 a dealer's certificate of registration under this chapter, and  
 326 the Department of Legal Affairs is hereby authorized to proceed  
 327 by injunction, if ~~when so~~ requested by the Department of  
 328 Revenue, to prevent such person from doing business subject to  
 329 ~~the provisions of~~ this chapter until such cash deposit, bond, or  
 330 other security is posted with the department, and any temporary  
 331 injunction for this purpose may be granted by any judge or  
 332 chancellor authorized by law to grant injunctions. Any security  
 333 required to be deposited may be sold by the department at public  
 334 sale if ~~it becomes~~ necessary ~~so to do~~ in order to recover any  
 335 tax, interest, or penalty due. Notice of such sale may be served  
 336 personally or by mail upon the person who deposited the ~~such~~  
 337 security. If by mail, notice sent to the last known address as  
 338 it ~~the same~~ appears on the records of the department is ~~shall be~~

339 sufficient for the purpose of this requirement. Upon such sale,  
 340 the surplus, if any, above the amount due under this chapter  
 341 shall be returned to the person who deposited the security. The  
 342 department may adopt rules necessary to administer this  
 343 subsection. For the purpose of the cash deposit, bond, or other  
 344 security required by this subsection, the term "person"  
 345 includes:

346 (a) Those entities listed in s. 212.02(12).

347 (b) An individual or entity owning a controlling interest  
 348 in a business.

349 (c) An individual or entity that acquired an ownership  
 350 interest or a controlling interest in a business that would  
 351 otherwise be liable for posting a cash deposit, bond, or other  
 352 security, unless the department has determined that the  
 353 individual or entity is not liable for the taxes, interest, or  
 354 penalties described in s. 213.758.

355 (d) An individual or entity seeking to obtain a dealer's  
 356 certificate of registration for a business that will be operated  
 357 at the same location as a previous business that would otherwise  
 358 have been liable for posting a cash deposit, bond, or other  
 359 security, if the individual or entity fails to provide evidence  
 360 that the business was acquired for consideration in an arms-  
 361 length transaction.

362 Section 7. Effective July 1, 2014, subsection (3) of  
 363 section 212.18, Florida Statutes, is amended to read:

364 212.18 Administration of law; registration of dealers;

365 rules.-  
 366 (3) (a) A ~~Every~~ person desiring to engage in or conduct  
 367 business in this state as a dealer, ~~as defined in this chapter,~~  
 368 or to lease, rent, or let or grant licenses in living quarters  
 369 or sleeping or housekeeping accommodations in hotels, apartment  
 370 houses, roominghouses, or tourist or trailer camps that are  
 371 subject to tax under s. 212.03, or to lease, rent, or let or  
 372 grant licenses in real property, ~~as defined in this chapter,~~ and  
 373 a ~~every~~ person who sells or receives anything of value by way of  
 374 admissions, must file with the department an application for a  
 375 certificate of registration for each place of business. The  
 376 application must include, ~~showing~~ the names of the persons who  
 377 have interests in such business and their residences, the  
 378 address of the business, and ~~such~~ other data reasonably required  
 379 by ~~as~~ the department ~~may reasonably require~~. However, owners and  
 380 operators of vending machines or newspaper rack machines are  
 381 required to obtain only one certificate of registration for each  
 382 county in which such machines are located. The department, by  
 383 rule, may authorize a dealer that uses independent sellers to  
 384 sell its merchandise to remit tax on the retail sales price  
 385 charged to the ultimate consumer in lieu of having the  
 386 independent seller register as a dealer and remit the tax. The  
 387 department may appoint the county tax collector as the  
 388 department's agent to accept applications for registrations. The  
 389 application must be submitted ~~made~~ to the department before the  
 390 person, firm, copartnership, or corporation may engage in such

391 business, and it must be accompanied by a registration fee of  
 392 \$5. However, a registration fee is not required to accompany an  
 393 application to engage in or conduct business to make mail order  
 394 sales. The department may waive the registration fee for  
 395 applications submitted through the department's Internet  
 396 registration process.

397 (b) The department, upon receipt of such application,  
 398 shall ~~will~~ grant to the applicant a separate certificate of  
 399 registration for each place of business, which ~~certificate~~ may  
 400 be canceled by the department or its designated assistants for  
 401 any failure by the certificateholder to comply with ~~any of the~~  
 402 ~~provisions of~~ this chapter. The certificate is not assignable  
 403 and is valid only for the person, firm, copartnership, or  
 404 corporation to which it is issued. The certificate must be  
 405 placed in a conspicuous place in the business or businesses for  
 406 which it is issued and must be displayed at all times. Except as  
 407 provided in this subsection, a ~~no~~ person may not ~~shall~~ engage in  
 408 business as a dealer or in leasing, renting, or letting of or  
 409 granting licenses in living quarters or sleeping or housekeeping  
 410 accommodations in hotels, apartment houses, roominghouses,  
 411 tourist or trailer camps, or real property, or as ~~as hereinbefore~~  
 412 ~~defined, nor shall any person~~ sell or receive anything of value  
 413 by way of admissions, without a valid ~~first having obtained such~~  
 414 ~~a certificate. A~~ or after ~~such certificate has been canceled; no~~  
 415 person may not ~~shall~~ receive a ~~any~~ license from any authority  
 416 within the state to engage in any such business without a valid

417 ~~certificate first having obtained such a certificate or after~~  
 418 ~~such certificate has been canceled. A person may not engage The~~  
 419 ~~engaging~~ in the business of selling or leasing tangible personal  
 420 property or services ~~or as a dealer; engage, as defined in this~~  
 421 ~~chapter, or the engaging~~ in leasing, renting, or letting of or  
 422 granting licenses in living quarters or sleeping or housekeeping  
 423 accommodations in hotels, apartment houses, roominghouses, or  
 424 tourist or trailer camps that are taxable under this chapter, or  
 425 real property; ~~r~~ or engage ~~the engaging~~ in the business of  
 426 selling or receiving anything of value by way of admissions,  
 427 without a valid ~~such~~ certificate ~~first being obtained or after~~  
 428 ~~such certificate has been canceled by the department, is~~  
 429 ~~prohibited.~~

430 (c)1. A ~~The failure or refusal of any person who engages~~  
 431 in acts requiring a certificate of registration under this  
 432 subsection and who fails or refuses to register commits, firm,  
 433 ~~copartnership, or corporation to so qualify when required~~  
 434 ~~hereunder is~~ a misdemeanor of the first degree, punishable as  
 435 provided in s. 775.082 or s. 775.083. Such acts are, or subject  
 436 to injunctive proceedings as provided by law. A person who  
 437 engages in acts requiring a certificate of registration and who  
 438 fails or refuses to register is also subject ~~Such failure or~~  
 439 ~~refusal also subjects the offender~~ to a \$100 initial  
 440 registration fee in lieu of the \$5 registration fee required by  
 441 ~~authorized in~~ paragraph (a). However, the department may waive  
 442 the increase in the registration fee if it finds ~~is determined~~

443 ~~by the department~~ that the failure to register was due to  
 444 reasonable cause and not to willful negligence, willful neglect,  
 445 or fraud.

446 2.a. A person who willfully fails to register after the  
 447 department provides notice of the duty to register as a dealer  
 448 commits a felony of the third degree, punishable as provided in  
 449 s. 775.082, s. 775.083, or s. 775.084.

450 b. The department shall provide written notice of the duty  
 451 to register to the person by personal service or by sending  
 452 notice by registered mail to the person's last known address.  
 453 The department may provide written notice by both methods  
 454 described in this sub-subparagraph.

455 (d) ~~(e)~~ In addition to the certificate of registration, the  
 456 department shall provide to each newly registered dealer an  
 457 initial resale certificate that will be valid for the remainder  
 458 of the period of issuance. The department shall provide each  
 459 active dealer with an annual resale certificate. For purposes of  
 460 this section, the term "active dealer" means a person who is  
 461 currently registered with the department and who is required to  
 462 file at least once during each applicable reporting period.

463 (e) ~~(d)~~ The department may revoke a any dealer's  
 464 certificate of registration if ~~when~~ the dealer fails to comply  
 465 with this chapter. Before ~~Prior to~~ revocation of a dealer's  
 466 certificate of registration, the department must schedule an  
 467 informal conference at which the dealer may present evidence  
 468 regarding the department's intended revocation or enter into a

469 compliance agreement with the department. The department must  
 470 notify the dealer of its intended action and the time, place,  
 471 and date of the scheduled informal conference by written  
 472 notification sent by United States mail to the dealer's last  
 473 known address of record furnished by the dealer on a form  
 474 prescribed by the department. The dealer is required to attend  
 475 the informal conference and present evidence refuting the  
 476 department's intended revocation or enter into a compliance  
 477 agreement with the department which resolves the dealer's  
 478 failure to comply with this chapter. The department shall issue  
 479 an administrative complaint under s. 120.60 if the dealer fails  
 480 to attend the department's informal conference, fails to enter  
 481 into a compliance agreement with the department resolving the  
 482 dealer's noncompliance with this chapter, or fails to comply  
 483 with the executed compliance agreement.

484 (f)~~(e)~~ As used in this paragraph, the term "exhibitor"  
 485 means a person who enters into an agreement authorizing the  
 486 display of tangible personal property or services at a  
 487 convention or a trade show. The following provisions apply to  
 488 the registration of exhibitors as dealers under this chapter:

489 1. An exhibitor whose agreement prohibits the sale of  
 490 tangible personal property or services subject to the tax  
 491 imposed in this chapter is not required to register as a dealer.

492 2. An exhibitor whose agreement provides for the sale at  
 493 wholesale only of tangible personal property or services subject  
 494 to the tax imposed by ~~in~~ this chapter must obtain a resale



495 certificate from the purchasing dealer but is not required to  
 496 register as a dealer.

497 3. An exhibitor whose agreement authorizes the retail sale  
 498 of tangible personal property or services subject to the tax  
 499 imposed by ~~in~~ this chapter must register as a dealer and collect  
 500 the tax ~~imposed under this chapter~~ on such sales.

501 4. An ~~Any~~ exhibitor who makes a mail order sale pursuant  
 502 to s. 212.0596 must register as a dealer.

503

504 A ~~Any~~ person who conducts a convention or a trade show must make  
 505 his or her ~~their~~ exhibitor's agreements available to the  
 506 department for inspection and copying.

507 Section 8. Effective July 1, 2014, for the purpose of  
 508 incorporating the amendment made by this act to subsection (3)  
 509 of section 212.18, Florida Statutes, in a reference thereto,  
 510 paragraph (c) of subsection (6) of section 212.20, Florida  
 511 Statutes, is reenacted to read:

512 212.20 Funds collected, disposition; additional powers of  
 513 department; operational expense; refund of taxes adjudicated  
 514 unconstitutionally collected.—

515 (6) Distribution of all proceeds under this chapter and s.  
 516 202.18(1)(b) and (2)(b) shall be as follows:

517 (c) Proceeds from the fees imposed under ss.  
 518 212.05(1)(h)3. and 212.18(3) shall remain with the General  
 519 Revenue Fund.

520 Section 9. Subsection (5) of section 213.13, Florida

521 Statutes, is amended to read:

522 213.13 Electronic remittance and distribution of funds  
523 collected by clerks of the court.—

524 (5) All court-related collections, including fees, fines,  
525 reimbursements, court costs, and other court-related funds that  
526 the clerks must remit to the state pursuant to law, must be  
527 transmitted electronically by the 10th ~~20th~~ day of the month  
528 immediately following the month in which the funds are  
529 collected.

530 Section 10. Paragraph (a) of subsection (2) of section  
531 213.21, Florida Statutes, is amended to read:

532 213.21 Informal conferences; compromises.—

533 (2)(a) The executive director of the department or his or  
534 her designee is authorized to enter into closing agreements with  
535 any taxpayer settling or compromising the taxpayer's liability  
536 for any tax, interest, or penalty assessed under any of the  
537 chapters specified in s. 72.011(1). Such agreements must ~~shall~~  
538 be in writing if ~~when~~ the amount of tax, penalty, or interest  
539 compromised exceeds \$30,000, or for lesser amounts, if ~~when~~ the  
540 department deems it appropriate or if ~~when~~ requested by the  
541 taxpayer. When a written closing agreement has been approved by  
542 the department and signed by the executive director or his or  
543 her designee and the taxpayer, it shall be final and conclusive;  
544 and, except upon a showing of fraud or misrepresentation of  
545 material fact or except as to adjustments pursuant to ss. 198.16  
546 and 220.23, no additional assessment may be made by the

547 department against the taxpayer for the tax, interest, or  
 548 penalty specified in the closing agreement for the time period  
 549 specified in the closing agreement, and the taxpayer is ~~shall~~  
 550 not ~~be~~ entitled to institute any judicial or administrative  
 551 proceeding to recover any tax, interest, or penalty paid  
 552 pursuant to the closing agreement. The department is authorized  
 553 to delegate to the executive director the authority to approve  
 554 any such closing agreement resulting in a tax reduction of  
 555 \$500,000 ~~\$250,000~~ or less.

556 Section 11. Effective July 1, 2014, section 213.295,  
 557 Florida Statutes, is created to read:

558 213.295 Automated sales suppression devices.-

559 (1) As used in this section, the term:

560 (a) "Automated sales suppression device" or "zapper" means  
 561 a software program that falsifies the electronic records of  
 562 electronic cash registers or other point-of-sale systems,  
 563 including, but not limited to, transaction data and transaction  
 564 reports. The term includes the software program, any device that  
 565 carries the software program, or an Internet link to the  
 566 software program.

567 (b) "Electronic cash register" means a device that keeps a  
 568 register or supporting documents through the use of an  
 569 electronic device or computer system designed to record  
 570 transaction data for the purpose of computing, compiling, or  
 571 processing retail sales transaction data.

572 (c) "Phantom-ware" means a hidden programming option

573 embedded in the operating system of an electronic cash register  
 574 or hardwired into the electronic cash register which may be used  
 575 to create a second set of records or eliminate or manipulate  
 576 transaction records, which may or may not be preserved in  
 577 digital formats, to represent the true or manipulated record of  
 578 transactions in the electronic cash register.

579 (d) "Transaction data" includes:

- 580 1. The identification of items purchased by a customer.
- 581 2. The price charged for each item.
- 582 3. A taxability determination for each item.
- 583 4. A segregated tax amount for each of the taxed items.
- 584 5. The amount of cash or credit tendered.
- 585 6. The net amount returned to the customer in change.
- 586 7. The date and time of the purchase.
- 587 8. The name, address, and identification number of the  
 588 vendor.

589 9. The receipt or invoice number of the transaction.

590 (e) "Transaction report" means:

591 1. A report printed on cash register tape at the end of a  
 592 day or shift that contains information including, but not  
 593 limited to, the sales, taxes, or fees collected, media totals,  
 594 and discount voids on an electronic cash register; or

595 2. A report that is stored electronically which documents  
 596 every action on an electronic cash register.

597 (2) A person may not knowingly sell, purchase, install,  
 598 transfer, possess, use, or access an automated sales suppression

599 device, a zapper, or phantom-ware.

600 (3) A person who violates this section:

601 (a) Commits a felony of the third degree, punishable as  
 602 provided in s. 775.082, s. 775.083, or s. 775.084.

603 (b) Is liable for all taxes, fees, penalties, and interest  
 604 due the state which result from the use of an automated sales  
 605 suppression device, a zapper, or phantom-ware.

606 (c) Shall forfeit to the state as an additional penalty  
 607 all profits associated with the sale or use of an automated  
 608 sales suppression device, a zapper, or phantom-ware.

609 (4) An automated sales suppression device, a zapper,  
 610 phantom-ware, or any device containing such device or software  
 611 is a contraband article as provided in s. 932.701(2)(a) and may  
 612 be seized and forfeited pursuant to the Florida Contraband  
 613 Forfeiture Act.

614 Section 12. Paragraph (h) of subsection (3) of section  
 615 443.131, Florida Statutes, is amended to read:

616 443.131 Contributions.—

617 (3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT  
 618 EXPERIENCE.—

619 (h) *Additional conditions for variation from the standard*  
 620 *rate.*—An employer's contribution rate may not be reduced below  
 621 the standard rate under this section unless:

622 1. All contributions, reimbursements, interest, and  
 623 penalties incurred by the employer for wages paid by him or her  
 624 in all previous calendar quarters, except the 4 calendar

625 quarters immediately preceding the calendar quarter or calendar  
 626 year for which the benefit ratio is computed, are paid; ~~and~~

627 2. The employer has produced for inspection and copying  
 628 all work records in his or her possession, custody, or control  
 629 which were requested by the Department of Economic Opportunity  
 630 or its tax collection service provider pursuant to s.  
 631 443.171(5). An employer shall have at least 60 days to provide  
 632 the requested work records before the employer is assigned the  
 633 standard rate; and

634 3.2. The employer entitled to a rate reduction must have  
 635 at least one annual payroll as defined in subparagraph (b)1.  
 636 unless the employer is eligible for additional credit under the  
 637 Federal Unemployment Tax Act. If the Federal Unemployment Tax  
 638 Act is amended or repealed in a manner affecting credit under  
 639 the federal act, this section applies only to the extent that  
 640 additional credit is allowed against the payment of the tax  
 641 imposed by the ~~Federal Unemployment Tax~~ act.

642  
 643 The tax collection service provider shall assign an earned  
 644 contribution rate to an employer for ~~under subparagraph 1.~~ the  
 645 quarter immediately after the quarter in which all  
 646 contributions, reimbursements, interest, and penalties are paid  
 647 in full and all work records requested pursuant to s. 443.171(5)  
 648 are produced for inspection and copying by the Department of  
 649 Economic Opportunity or the tax collection service provider.

650 Section 13. Effective January 1, 2015, paragraph (a) of

651 subsection (1) and paragraph (b) of subsection (2) of section  
 652 443.141, Florida Statutes, are amended to read:

653 443.141 Collection of contributions and reimbursements.—

654 (1) PAST DUE CONTRIBUTIONS AND REIMBURSEMENTS; DELINQUENT,  
 655 ERRONEOUS, INCOMPLETE, OR INSUFFICIENT REPORTS.—

656 (a) *Interest.*—Contributions or reimbursements unpaid on  
 657 the date due bear interest at the rate of 1 percent per month  
 658 through December 31, 2014. Beginning January 1, 2015, the  
 659 interest rate shall be calculated in accordance with s. 213.235,  
 660 except that the rate of interest may not exceed 1 percent per  
 661 month from and after the ~~that~~ date due until payment plus  
 662 accrued interest is received by the tax collection service  
 663 provider, unless the service provider finds that the employing  
 664 unit has good reason for failing to pay the contributions or  
 665 reimbursements when due. Interest collected under this  
 666 subsection must be paid into the Special Employment Security  
 667 Administration Trust Fund.

668 (2) REPORTS, CONTRIBUTIONS, APPEALS.—

669 (b) *Hearings.*—The determination and assessment are final  
 670 20 ~~15~~ days after the date the assessment is mailed unless the  
 671 employer files with the tax collection service provider within  
 672 the 20 ~~15~~ days a written protest and petition for hearing  
 673 specifying the objections ~~thereto~~. The tax collection service  
 674 provider shall promptly review each petition and may reconsider  
 675 its determination and assessment in order to resolve the  
 676 petitioner's objections. The tax collection service provider

677 shall forward each unresolved petition ~~remaining unresolved~~ to  
 678 the department for a hearing on the objections. Upon receipt of  
 679 a petition, the department shall schedule a hearing and notify  
 680 the petitioner of the time and place of the hearing. The  
 681 department may appoint special deputies to conduct hearings who  
 682 shall ~~and to~~ submit their findings together with a transcript of  
 683 the proceedings before them and their recommendations to the  
 684 department for its final order. Special deputies are subject to  
 685 the prohibition against ex parte communications in s. 120.66. At  
 686 any hearing conducted by the department or its special deputy,  
 687 evidence may be offered to support the determination and  
 688 assessment or to prove it is incorrect. In order to prevail,  
 689 however, the petitioner must ~~either~~ prove that the determination  
 690 and assessment are incorrect or file full and complete corrected  
 691 reports. Evidence may also be submitted ~~at the hearing~~ to rebut  
 692 the determination by the tax collection service provider that  
 693 the petitioner is an employer under this chapter. Upon evidence  
 694 taken before it or upon the transcript submitted to it with the  
 695 findings and recommendation of its special deputy, the  
 696 department shall ~~either~~ set aside the tax collection service  
 697 provider's determination that the petitioner is an employer  
 698 under this chapter or reaffirm the determination. The amounts  
 699 assessed under the final order, together with interest and  
 700 penalties, must be paid within 15 days after notice of the final  
 701 order is mailed to the employer, unless judicial review is  
 702 instituted in a case of status determination. Amounts due when



703 the status of the employer is in dispute are payable within 15  
 704 days after the entry of an order by the court affirming the  
 705 determination. However, a ~~any~~ determination that an employing  
 706 unit is not an employer under this chapter does not affect the  
 707 benefit rights of an ~~any~~ individual as determined by an appeals  
 708 referee or the commission unless:

709 1. The individual is made a party to the proceedings  
 710 before the special deputy; or

711 2. The decision of the appeals referee or the commission  
 712 has not become final or the employing unit and the department  
 713 were not made parties to the proceedings before the appeals  
 714 referee or the commission.

715 Section 14. A local ordinance enacted pursuant to s.  
 716 196.1995, Florida Statutes, before the effective date of this  
 717 act shall not be invalidated on the ground that improvements to  
 718 real property were made or that tangible personal property was  
 719 added or increased before the date that such ordinance was  
 720 adopted, as long as the local governing body acted substantially  
 721 in accordance with s. 196.1995(5), Florida Statutes, as amended  
 722 by this act.

723 Section 15. Except as otherwise expressly provided in this  
 724 act, this act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7081 (2014)

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: Appropriations Committee  
2 Representative Caldwell offered the following:

3

4 **Amendment (with title amendment)**

5 Remove lines 58-94

6

7

8

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

9

Remove lines 3-4 and insert:

10

196.1995, F.S.;

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 7081 (2014)

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

---

1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Caldwell offered the following:

3  
4 **Amendment (with title amendment)**

5 Between lines 519 and 520, insert:

6 Section 9. Subsection (5) of section 213.0535, Florida  
7 Statutes, is amended to read:

8 213.0535 Registration Information Sharing and Exchange  
9 Program.—

10 (5) A ~~Any~~ provision of law imposing confidentiality upon  
11 data shared under this section, including, but not limited to, a  
12 ~~any~~ provision imposing penalties for disclosure, applies to  
13 recipients of this data and their employees. Data exchanged  
14 under this section may not be provided to a ~~any~~ person or entity  
15 other than a person or entity administering the tax or licensing  
16 provisions of those provisions of law enumerated in paragraph  
17 (4) (a), and such data may not be used for any purpose other than

646733 - h7081-line519.docx

Published On: 3/19/2014 7:17:14 PM

Amendment No. 2

18 for enforcing those tax or licensing provisions. This section  
19 does not prevent a level-two participant from publishing  
20 statistics made confidential so as to prevent the identification  
21 of particular accounts, reports, declarations, or returns.  
22 However, statistics may not be published if they contain data  
23 pertaining to fewer than three taxpayers or if the statistics  
24 are prepared for geographic areas below the county level and  
25 contain data pertaining to fewer than 10 taxpayers. Statistics  
26 published under this subsection must relate only to tourist  
27 development taxes imposed under s. 125.0104, the tourist impact  
28 tax imposed under s. 125.0108, convention development taxes  
29 imposed under s. 212.0305, or the municipal resort tax  
30 authorized under chapter 67-930, Laws of Florida.

31  
32 -----  
33 **T I T L E A M E N D M E N T**

34 Remove line 31 and insert:  
35 reference thereto; amending s. 213.0535, F.S.; providing that  
36 certain confidential tax data may be published as statistics  
37 under certain circumstances; amending s. 213.13, F.S.; revising



