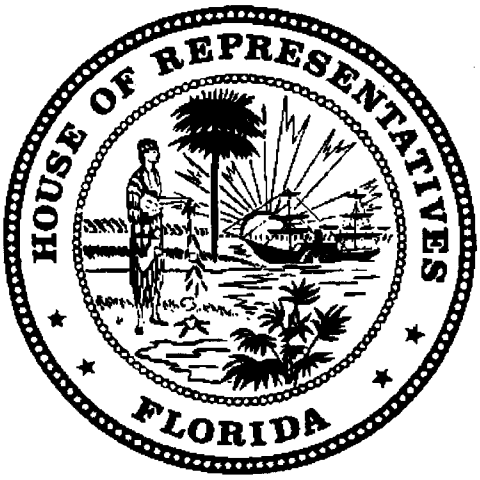

Appropriations Committee

Tuesday, April 1, 2014
2:30 PM – 5:00 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

Tuesday, April 1, 2014
212 Knott Building
2:30 PM – 5:00 PM

I. Call to Order/Roll Call

II. Opening Remarks by Chair McKeel

III. Consideration of the following bills:

CS/HB 295 Employment after Retirement of School District Personnel by Government Operations Subcommittee, Porter

CS/CS/HB 343 Rental Car Surcharge by Economic Affairs Committee, Transportation & Highway Safety Subcommittee, Nuñez

HM 625 Balanced Federal Budget by Wood

CS/HB 657 Tax on Insurance Premiums by Finance & Tax Subcommittee, Davis, Hutson

CS/HB 875 Education Fiscal Accountability by K-12 Subcommittee, Diaz, M., Fresen

CS/HB 939 Bail Bond Premiums by Finance & Tax Subcommittee, Stewart

HB 943 Department of Revenue's Certified Audit Program by Raulerson

CS/HB 7069 Early Learning and Child Care Regulation by Education Appropriations Subcommittee, Education Committee, O'Toole

HB 7095 Professional Sports Facilities Incentive Application Process by Economic Affairs Committee, Patronis

IV. Closing Remarks and Adjournment

221 The Capitol, 402 South Monroe Street, Tallahassee, Florida 32399-1300
(850) 717-4810 Fax: (850) 488-9633

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 295 Employment after Retirement of School District Personnel
SPONSOR(S): Government Operations Subcommittee; Porter
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Government Operations Subcommittee	10 Y, 0 N, As CS	Harrington	Williamson
2) Appropriations Committee		Delaney	Leznoff

SUMMARY ANALYSIS

Current law provides that instructional personnel may be awarded probationary contracts upon initial employment and may be awarded annual contracts thereafter; professional service contracts may not be issued to any instructional personnel hired on or after July 1, 2011. Additionally, the Florida Retirement System Act and the Teachers' Retirement System Act provide that retired instructional personnel who retired before July 1, 2010, may be rehired on an annual contractual basis. Although the retirement statute appears to provide for the issuance of annual contracts after retirement, in 2012, the Fifth District Court of Appeals held that the law was only applicable to the first year of reemployment and that retired instructional personnel rehired prior to July 1, 2011, may be awarded professional service contracts.

The bill clarifies that instructional personnel may be reemployed after retirement but only under a 1-year probationary contract. If the instructional personnel successfully complete the probationary contract, such employees may receive an annual contract; reemployed retired instructional personnel may not receive professional service contracts. The bill further provides legislative intent and clarification of applicable law for purposes of pending civil and administrative actions.

The bill does not appear to have a fiscal impact on state government; however, depending on the impact of the legislation on pending litigation, it could have a positive indeterminate fiscal impact on local school districts.

The bill takes effect upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Student Success Act

In 2011, the Legislature passed the Student Success Act (act),[1] which requires, among other things, the use of performance evaluations to assess performance. The evaluation system for administrative and instructional personnel differentiates among four levels of performance: highly effective, effective, needs improvement,[2] or unsatisfactory.[3] The Commissioner of Education was required to consult with experts, instructional personnel, school administrators, and education stakeholders in developing the criteria for the performance levels.

Prior to 2011, instructional personnel with as little as three years of service could be granted a professional service contract, which provided for automatic renewal of the contract unless the superintendent charged the employee with unsatisfactory performance.[4] For instructional personnel hired on or after July 1, 2011, the act, in effect, provides that professional service contracts and tenure may no longer be given to any instructional personnel who do not currently have a professional service contract.

Specifically, the act provides that employees hired on or after July 1, 2011, must be awarded probationary contracts for a period of one year upon initial employment in a school district.[5] Probationary contract employees may be dismissed without cause or may resign without breach of contract.[6] The district may not award a probationary contract more than once to the same employee;[7] after the initial year, the school district may award an annual contract upon the successful completion of a probationary contract.[8] An annual contract is an employment contract for a period of no longer than one school year, which the district school board may choose to award or not award at the end of the contract term without cause.[9] Instructional personnel with an annual contract may be suspended or dismissed at any time during the term of the contract for just cause.[10]

In addition, the act ties the renewal of a professional service contract, for those employees who have a professional service contract, to the employee's performance evaluation; the professional service contract is no longer automatically renewed.[11] If an employee who holds a professional service contract is not performing his or her duties in a satisfactory manner, the act requires such an employee to receive notice and be placed on probation.[12] If the employee receives two consecutive annual performance evaluations of unsatisfactory, two annual performance evaluations of unsatisfactory within a three-year period, or three consecutive annual performance evaluations of needs improvement or a combination of needs improvement and unsatisfactory, the district may terminate or not renew the employee's contract.[13]

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[1] Chapter 2011-1, L.O.F.
[2] For instructional personnel in the first three years of employment, the evaluation may designate the performance as developing.
[3] Section 1012.34, F.S.
[4] *See* s. 1012.33(3)(e), F.S. (2010).
[5] Section 1012.335(2)(a), F.S.
[6] Section 1012.335(1)(c), F.S.
[7] *Id.*
[8] Section 1012.335(2)(a), F.S.
[9] Section 1012.335(1)(a), F.S.
[10] Section 1012.335(4), F.S.
[11] Section 1012.33(3)(b), F.S.
[12] Section 1012.34(4)(b), F.S.
[13] See ss. 1012.33 and 1012.34, F.S.

Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the pension plan and, in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.[14] The FRS is a contributory system, with all members contributing 3 percent of their salaries.[15]

The FRS is governed by the Florida Retirement System Act.[16] The FRS, which is a multi-employer, contributory plan, provides retirement income benefits to 621,774 active members,[17] 334,682 retired members and beneficiaries, and 38,724 members of the Deferred Retirement Option Program (DROP).[18] It is the primary retirement plan for employees of state and county government agencies, district school boards, community colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 186 cities and 267 independent hospitals and special districts that have elected to join the system.[19]

Members of the FRS have two primary plan options available for participation:

- The defined benefit plan, also known as the pension plan; and
- The defined contribution plan, also known as the investment plan.

The pension plan is administered by the secretary of the Department of Management Services through the Division of Retirement.[20] Investment management is handled by the State Board of Administration (SBA). The SBA is primarily responsible for administering the investment plan.[21] The SBA is compromised of the Governor as chair, the Chief Financial Officer, and the Attorney General.[22]

Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits, or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with his or her FRS employer.[23] Termination is void if any FRS-participating employer reemploys a member a specified period of time.[24]

Subsection 121.091(9), F.S., governs employment after retirement. It allows reemployment of FRS retirees by a non-FRS employer and authorizes those retirees to continue receiving retirement benefits.[25]

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[14] *The Florida Retirement System Annual Report*, July 1, 2011 – June 30, 2012, at 10. A copy of the report can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports (last visited February 21, 2014).

[15] Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class employees or 6 percent for Special Risk Class members. Employees were again required to contribute to the system after July 1, 2011.

[16] Chapter 121, F.S.

[17] As of June 30, 2013, the FRS defined benefit plan, also known as the pension plan, had 514,436 members, and the defined contribution plan, also known as the investment plan, had 107,338 members. Email from staff of the Division of Retirement, Department of Management Services, February 4, 2014 (on file with the Government Operations Subcommittee).

[18] *Id.*

[19] Florida Retirement System Participating Employers for Plan Year 2013-14, prepared by the Department of Management Services, Division of Retirement, Revised January 2014, at 8. A copy of the document can be found online at: http://www.dms.myflorida.com/workforce_operations/retirement/publications (last visited March 14, 2014).

[20] Section 121.025, F.S.

[21] Section 121.4501(8), F.S.

[22] Section 4, Art. IV, Fla. Const.

[23] Section 121.021(39)(a), F.S.

[24] *Id.*

[25] Section 121.091(9)(a), F.S.

An FRS retiree may be reemployed by an FRS employer provided certain requirements are met. A member who retired before July 1, 2010, may be reemployed by an FRS employer one calendar month after retiring or after the member's DROP termination date. If the retiree is reemployed during months two through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13. However, a retiree who retired before July 1, 2010, may be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.[26]

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, then the retiree may not receive her or his pension benefit until month 13.[27] The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire on or after July 1, 2010.

Teachers' Retirement System

The Teachers' Retirement System (TRS), which is closed to new members effective December 1, 1970, is governed by chapter 238, F.S. As of June 2013, there were 18 active members and eight DROP participants.[28] Similar reemployment provisions apply for instructional personnel who retire under the TRS.

Legal Ambiguity for Reemployment of Instructional Personnel

In 2011, two retired reemployed instructional personnel brought suit in Orange County, Florida to determine whether the county was required to issue professional service contracts after the employees' successfully completed three years of employment.[29] The Orange County Public Schools argued that s. 121.091, F.S., required the instructional personnel to be rehired on an annual contractual basis. The issue in the case centered on whether the FRS act required instructional personnel to be reemployed with an annual contract for the rest of the member's career, or whether the FRS act only pertained to the initial year of reemployment and such member may ultimately be given a professional service contract under s. 1012.33, F.S., which provided for such a contract after three years of service.

The circuit court, applying the rules of statutory construction, found that the legislature intended for retired, rehired teachers to be rehired on the same terms as newly hired teachers; at that time, newly hired teachers were placed on an initial annual contract and after serving three years in the district, received a professional service contract. At the time of this lawsuit, professional service contracts were still provided for in law.

The Orange County School Board appealed the final judgment to the Fifth District Court of Appeal arguing that the trial court erred and that s. 121.091, F.S., precludes the school board from ever issuing a contract longer than an annual contract when employing retired instructional personnel.[30] The court, however, agreed with the lower court and found that the limitations in s. 121.091, F.S., only apply at the time of the initial rehire.

According to information supplied by the Orange County Public Schools, approximately 779 instructional personnel were rehired in Florida prior to July 1, 2011; 324 of the reemployed retired instructional personnel have been awarded professional service contracts.[31]

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[26] Section 121.091(9)(b), F.S.

[27] Section 121.091(9)(c), .F.S.

[28] Telephone conversation with staff of the Division of Retirement, Department of Management Services, on March 14, 2014.

[29] A copy of the circuit court decision is on file with the Government Operations Subcommittee.

[30] *Orange County School Board v. Rachman and Schuman*, 87 So.3d 48 (Fla. 5th DCA 2012).

[31] Although 455 instructional personnel were rehired prior to 2011 and have not been issued professional service contracts, it is unclear if such employees qualified for professional service contracts prior to the 2011 changes to the act. Once such changes were made, a teacher not previously provided a professional service contract was ineligible to receive one. A class action lawsuit was filed in 2013 in Orange County; the plaintiffs allege that they were rehired retirees and qualified for professional service contracts prior to the 2011 legislation. A copy of the amended complaint is on file with the Government Operations Subcommittee.

Effect of the Bill

The bill provides that instructional personnel hired after retirement may only be initially hired under a 1-year probationary contract. If the retiree successfully completes the probationary contract, such employee may receive an annual contract. The bill clarifies that reemployed retired instructional personnel may not receive professional service contracts.

The bill provides that the holding in *Orange County School Board v. Rachman and Shuman*[32] was contrary to legislative intent at the time the statutes were enacted and that retirees were never entitled to professional service contracts. The bill directs the judge in a civil action or administrative proceeding to rule against a classroom teacher on any claim or cause of action against the district school board, district superintendent, or district school board employee for not awarding such a teacher a professional service contract.

The bill provides that it does not void and is not intended to void or in any way impair any professional service contract inadvertently awarded by a district school board to a retiree before the effective date of the act.

B. SECTION DIRECTORY:

Section 1. amends s. 1012.33, F.S., revising provisions relating to reemployment of retirees as instructional personnel on a contract basis; providing legislative intent and findings to clarify authorization to award contracts; providing requirements for a judge in certain civil actions or administrative proceedings.

Section 2. directs the Division of Law Revision and Information to replace the phrase "the effective date of this act" wherever it occurs in this act with such date.

Section 3. provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None. The bill does have a fiscal impact on the FRS. It merely clarifies employment practices, which are independent of the FRS.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   See FISCAL COMMENTS.

2. Expenditures:

   See FISCAL COMMENTS.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

[32] *Supra* at n. 30.

None.

D. FISCAL COMMENTS:

As a result of the bill, local school districts could experience a positive indeterminate fiscal impact associated with pending litigation.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the Government Operations Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. The amendment:

- Removed from the bill changes related to the FRS and TRS; and
- Clarified that the bill does not void, and is not intended to void, any professional service contract already awarded by a district school board to a retiree.

A bill to be entitled

An act relating to employment after retirement of school district personnel; amending s. 1012.33, F.S.; revising provisions relating to reemployment of retirees as instructional personnel on a contract basis; providing legislative intent and findings to clarify authorization to award contracts; providing requirements for a judgment in certain civil actions or administrative proceedings; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

Section 1. Subsection (8) of section 1012.33, Florida Statutes, is amended to read:

1012.33 Contracts with instructional staff, supervisors, and school principals.—

(8) Notwithstanding any other provision of law, a district school board may reemploy a retiree as instructional personnel, as defined in s. 1012.01(2)(a), under a 1-year probationary contract as defined in s. 1012.335(1). If the retiree successfully completes the probationary contract, the district school board may reemploy the retiree under an annual contract as defined in s. 1012.335(1).

(a) Neither this subsection nor any other law enacted before the effective date of this act allows, or was intended to allow, a retiree to be awarded a professional service contract. The Legislature finds that the holding in Orange County School Board v. Rachman and Schuman, 87 So. 3d 48 (Fla. 5th DCA 2012), which found that retirees under s. 121.091(9)(b)1.a. and this subsection as enacted before the effective date of this act were entitled to a professional service contract, was contrary to legislative intent at the time the statutes were enacted. The Legislature finds that retirees under s. 121.091(9), regardless of the retiree's date of retirement, and this subsection are not eligible, and were never eligible, to receive a professional service contract under this section or any other law. In a civil action or administrative proceeding, if a classroom teacher was formerly retired and then reemployed by the district school board pursuant to s. 121.091(9) and this section as enacted before the effective date of this act, the Legislature intends, in accordance with the findings expressed in this subsection, that a judgment be entered against that classroom teacher on any claim or cause of action against the district school board, the district school superintendent, or a district school board employee for not awarding that teacher a professional service contract.

(b) This subsection does not void and is not intended to void or in any way impair any professional service contract inadvertently awarded by a district school board to a retiree

before the effective date of this act ~~Notwithstanding any other provision of law, a retired member may interrupt retirement and be reemployed in any public school. A member reemployed by the same district from which he or she retired may be employed on a probationary contractual basis as provided in subsection (1).~~

Section 2. The Division of Law Revision and Information is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with such date.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 343 Rental Car Surcharge
SPONSOR(S): Economic Affairs Committee, Transportation & Highway Safety Subcommittee, Nuñez
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 484

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Transportation & Highway Safety Subcommittee	10 Y, 2 N, As CS	Johnson	Miller
2) Finance & Tax Subcommittee	18 Y, 0 N	Flieger	Langston
3) Economic Affairs Committee	16 Y, 0 N, As CS	Johnson	Creamer
4) Appropriations Committee		Davis	Leznoff

SUMMARY ANALYSIS

Section 212.0606(1), F.S., provides that a surcharge of $2 per day, or part of a day, is imposed upon the lease or rental of a motor vehicle for hire and designed to carry less than nine passengers regardless of whether the motor vehicle is licensed in Florida. The surcharge applies to the first 30 days of the term of any lease or rental and is subject to all taxes imposed by ch. 212, F.S.

The bill creates s. 212.0606(2), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge, a surcharge of 50 cents per use is imposed.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle from an airport location is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The Revenue Estimating Conference met on March 21, 2014, and projected this bill would have an insignificant negative fiscal impact on General Revenue, a negative $300,000 impact on state trust funds in Fiscal Year 2014-15, with a recurring negative $600,000 impact on state trust funds. See the fiscal section for additional detail.

The bill has an effective date of January 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situation

Rental Car Surcharge

Section 212.0606(1), F.S., imposes a surcharge of $2.00 per day or any part of a day upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers, regardless of whether the vehicle is licensed in Florida. The surcharge is included in the lease or rental price on which sales tax is computed and must be listed separately on the invoice. Businesses that collect rental car surcharge are required to report surcharge collections according to the county to which the surcharge was attributed.

The surcharge only applies to the first 30 days of the term of any lease or rental. If the lease is renewed, the first 30 days of the renewed lease is subject to the surcharge. If payment for the lease or rental of a motor vehicle is made in Florida, the surcharge applies. The surcharge is not imposed on leases or rentals to tax-exempt entities. Section 216.0606(4), F.S., exempts from payment of the surcharge a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

After deduction for administrative fees and the General Revenue Service Charge, the rental car surcharge is distributed as follows:

- 80 percent to the State Transportation Trust Fund (STTF);
- 15.75 percent to the Tourism Promotional Trust Fund; and
- 4.25 percent to the Florida International Trade and Promotion Trust Fund.

The proceeds of the rental car surcharge deposited into the STTF are allocated to each Department of Transportation (DOT) district for transportation projects, based on the amount of proceeds collected in the counties within each respective district.

Car-Sharing Services

Car-sharing is generally marketed as an alternative to conventional car rental or car ownership and exists in a number of forms.

> "Traditional carsharing provides members access to a vehicle for short-term daily use. Automobiles owned or leased by a carsharing operator are distributed throughout a network; members access the vehicles with a reservation and are charged per time and often per mile....
>
> Traditional carsharing is intended for short trips and as a supplement to public transit. Initial market entry in North America focused on the neighborhood carsharing model, characterized by a fleet of shared-use vehicles parked in designated areas throughout a neighborhood or municipality. In recent years, business models have advanced and diversified. Variations on the neighborhood model developed in North America include: business; college/university; government/institutional fleet; and public transit (carsharing provided at public transit stations or multi-modal nodes). Despite differences in target markets, these models share a similar organizational structure, capital ownership, and revenue stream.
>
> The next generation of shared-use vehicle services, which provide access to a fleet of shared-use vehicles, incorporates new concepts, technologies, and operational methods. These models represent innovative solutions and notable advances. They include one-way carsharing and personal vehicle sharing. One-way carsharing, also known as "free-floating" carsharing, frees

> users from the restriction of having to return a vehicle to the same location from which it was accessed. Instead, users leave vehicles parked at any spot within the organization's operating area, allowing for the possibility of one-way trips. The one-way model resembles more traditional forms of carsharing—except for the logistics of vehicle redistribution and the need for expanded vehicle parking.
>
> Personal vehicle sharing ... represents a more distinct model due to differences in organizational structure, capital stock, and liability. Personal vehicle sharing involves short-term access to privately-owned vehicles, enabling a lower operating cost and a wider vehicle distribution. ..."[1]

While car sharing began at the local, grassroots level, car-sharing services are now also provided by conventional rental car companies, such as Avis, Enterprise, and Hertz.[2]

Current Practice Relating to Surcharge
On September 17, 2012, the Department of Revenue (DOR) issued Technical Assistance Advisement 12A-022 in which the question presented to DOR was whether a member based car-sharing service is subject to the Florida rental car surcharge. The facts presented to DOR were as follows:

> "Taxpayer [the car-sharing service] offers a member based car-sharing service with a fleet of vehicles available for use by registered members at any time of the day, seven days a week. A member can reserve a vehicle before use, or simply locate one and access it. Each use is labeled as a "trip" and can last up to four consecutive days. A unique feature of Taxpayer's car-sharing service is members may, and often do, use a car for a much shorter period of time than typical car rentals. According to Taxpayer, the typical trip lasts twenty-five to 40 minutes, costing between $7 and $10 before taxes. Members are invoiced daily for all trips that occur and Taxpayer adds the rental car surcharge and sales tax to this invoice."

First noting taxpayer's assertion that it is not engaged in the "traditional" rental of cars, DOR concluded that the taxpayer is clearly renting cars, is engaged in the rental of motor vehicles and, therefore, the rental car surcharge does apply. DOR further cited its rule, Fla. Admin. Code 12A-16.002(3)(b): "When the terms of a lease or rental agreement authorize the lessee to extend the lease or rental beyond the initial lease term without executing an additional lease or agreement and without any action on the part of the lessor, the extension period will not be considered a new lease or rental."

Highlighting the fact that the taxpayer's members may make multiple trips in one day without executing any additional agreement and without any action required of the taxpayer, and that members are charged for every trip within the same twenty-four hour period on a single daily invoice, DOR concluded that the rental car "surcharge is due from Taxpayer's members once a day, regardless of the number of trips taken by a member in a twenty-four hour period." Therefore, car-sharing services must pay the $2.00 surcharge per day for each member who uses the car-sharing service that day.

It should be noted that use of car-sharing services is also subject to the state's sales and use tax.

Proposed Changes
The bill creates s. 212.0606(2), F.S., providing that if a member of a car-sharing service uses a motor vehicle pursuant to an agreement with a car-sharing service for less than 24 hours, in lieu of the daily rental car surcharge[3] a surcharge of 50 cents per use is imposed. If a member of a car-sharing service uses the same motor vehicle for 24 consecutive hours or more, the usual surcharge of $2 per day or any part of a day shall be imposed.

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[1] Shaheen, Susan, Mark Mallery, and Karly Kingsley (2012). "Personal Vehicle Sharing Services in North America,"*Research in Transportation Business & Management*, Vol. 3, pp.71-81.
[2] Kell, John, Jan. 2, 2013, "Avis to Buy Car-Sharing Service Zipcar," *The Wall Street Journal.*
[3] This surcharge is imposed pursuant to s. 212.0606(1), F.S.

The bill defines "car-sharing service" as a membership based organization or business or division thereof which requires the payment of an application or membership fee and provides member access to motor vehicles:

- Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;
- Twenty-four hours per day, seven days per week;
- Only through automated means, which may include, but are not limited to, smartphone applications or electronic membership cards;
- On hourly or shorter increments;
- Without a separate fee for refueling the motor vehicle;
- Without a separate fee for minimum financial responsibility liability insurance; and
- Owned or controlled by the car sharing service or its affiliates.

The bill provides that the lease, rental, or usage of a motor vehicle for a location owned, operated, or leased by of for the benefit of an airport or airport authority is not eligible for the imposition of the surcharge for car-sharing services in lieu of the standard rental car surcharge.

The bill has an effective date of January 1, 2015.

B. SECTION DIRECTORY:

Section 1 Amends s. 212.0606, F.S., relating to the rental car surcharge.

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference met on March 21, 2014, and projected this bill would have an insignificant negative fiscal impact on General Revenue, a negative $300,000 impact on state trust funds in Fiscal Year 2014-15, with a recurring negative $600,000 impact on state trust funds. The following chart depicts these impacts by trust fund:

Trust Fund	Surcharge Distribution	Estimated Impacts	
		FY 2014-15	Recurring
State Transportation TF	80%	$ (240,000)	$ (480,000)
Tourism Promotional TF	15.75%	$ (47,250)	$ (94,500)
International Trade and Promotion TF	4.25%	$ (12,750)	$ (25,500)
Total		$ (300,000)	$ (600,000)

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons using car-sharing services for less than a 24-hour period will see a reduction in the rental car surcharge that they will pay.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the revenues from discretionary sales taxes levied by local governments; however, an exemption may apply as the negative impact to local governments is expected to be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DOR may need to revise its rules regarding the rental car surcharge[4] to conform to provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2015, the Transportation & Highway Safety Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date of the bill from July 1, 2014, to January 1, 2015.

On March 13, 2014, the Economic Affairs Committee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment changed the rental car surcharge from 8 cents per hour to 50 cents per use. The bill also conformed to the Senate language.

This analysis is written to the committee substitute as reported by the Economic Affairs Committee.

[4] Ch. 12A-16, F.A.C.

A bill to be entitled

An act relating to the rental car surcharge; amending s. 212.0606, F.S.; providing an alternative surcharge for use of a motor vehicle pursuant to an agreement with a car-sharing service for less than a specified number of consecutive hours; defining the term "car-sharing service"; providing applicability; providing an effective date.

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

Section 1. Section 212.0606, Florida Statutes, is amended to read:

212.0606 Rental car surcharge.—

(1) Except as provided in subsection (2), a surcharge of $2 ~~$2.00~~ per day or any part of a day is imposed upon the lease or rental of a motor vehicle licensed for hire and designed to carry less than nine passengers regardless of whether the ~~such~~ motor vehicle is licensed in this state ~~Florida~~. The surcharge applies to only the first 30 days of the term of a ~~any~~ lease or rental. The surcharge is subject to all applicable taxes imposed by this chapter.

(2) A member of a car-sharing service who uses a motor vehicle as described in subsection (1) for less than 24 hours pursuant to an agreement with the car-sharing service shall pay a surcharge of 50 cents per usage. A member of a car-sharing

service who uses the same motor vehicle for 24 hours or more shall pay a surcharge of $2 per day or any part of a day as provided in subsection (1). For purposes of this subsection, the term "car-sharing service" means a membership-based organization or business, or division thereof, which requires the payment of an application or membership fee and provides member access to motor vehicles:

(a) Only at locations that are not staffed by car-sharing service personnel employed solely for the purpose of interacting with car-sharing service members;

(b) Twenty-four hours per day, 7 days per week;

(c) Only through automated means, including, but not limited to, smartphone applications or electronic membership cards;

(d) On an hourly basis or for a shorter increment of time;

(e) Without a separate fee for refueling the motor vehicle;

(f) Without a separate fee for minimum financial responsibility liability insurance; and

(g) Owned or controlled by the car-sharing service or its affiliates.

The surcharge imposed under this subsection does not apply to the lease, rental, or use of a motor vehicle from a location owned, operated, or leased by or for the benefit of an airport or airport authority.

(3)(a) ~~(2)(a)~~ Notwithstanding s. ~~the provisions of section~~ 212.20, and less the costs of administration, 80 percent of the proceeds of this surcharge shall be deposited in the State Transportation Trust Fund, 15.75 percent of the proceeds of this surcharge shall be deposited in the Tourism Promotional Trust Fund created in s. 288.122, and 4.25 percent of the proceeds of this surcharge shall be deposited in the Florida International Trade and Promotion Trust Fund. For the purposes of this subsection, "proceeds" of the surcharge means all funds collected and received by the department under this section, including interest and penalties on delinquent surcharges. The department shall provide the Department of Transportation rental car surcharge revenue information for the previous state fiscal year by September 1 of each year.

(b) Notwithstanding any other provision of law, ~~in fiscal year 2007-2008 and each year thereafter,~~ the proceeds deposited in the State Transportation Trust Fund shall be allocated on an annual basis in the Department of Transportation's work program to each department district, except the Turnpike District. The amount allocated to ~~for~~ each district shall be based on ~~upon~~ the amount of proceeds attributed to the counties within each respective district.

(4) ~~(3)(a)~~ Except as provided in this section, the department shall administer, collect, and enforce the surcharge as provided in this chapter.

(a) ~~(b)~~ The department shall require dealers to report

surcharge collections according to the county to which the surcharge was attributed. For purposes of this section, the surcharge shall be attributed to the county where the rental agreement was entered into.

(b) ~~(c)~~ Dealers who collect the rental car surcharge shall report to the department all surcharge revenues attributed to the county where the rental agreement was entered into on a timely filed return for each required reporting period. The provisions of this chapter which apply to interest and penalties on delinquent taxes ~~shall~~ apply to the surcharge. The surcharge shall not be included in the calculation of estimated taxes pursuant to s. 212.11. The dealer's credit provided in s. 212.12 does ~~shall~~ not apply to any amount collected under this section.

(5) ~~(4)~~ The surcharge imposed by this section does not apply to a motor vehicle provided at no charge to a person whose motor vehicle is being repaired, adjusted, or serviced by the entity providing the replacement motor vehicle.

Section 2. This act shall take effect January 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HM 625 Balanced Federal Budget
SPONSOR(S): Wood and others
TIED BILLS: **IDEN./SIM. BILLS:** SM 658

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local & Federal Affairs Committee	13 Y, 3 N	Dougherty	Rojas
2) Appropriations Committee		Hawkins	Leznoff

SUMMARY ANALYSIS

HM 625 serves as an application to Congress, pursuant to Article V of the U.S. Constitution, to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject.

This memorial does not have a fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Methods of Amending the U.S. Constitution

Article V of the Constitution authorizes two methods for amending the Constitution: by Congress or by a constitutional convention.

Congressional Amendments

A constitutional amendment may be proposed by a two-thirds majority of both chambers in the form of a joint resolution. After Congress proposes an amendment, the Archivist of the United States is responsible for administering the ratification process under the provisions of 1 U.S.C. 106b. Since the President does not have a constitutional role in the amendment process, the joint resolution does not go to the White House for signature or approval. The Office of the Federal Register (OFR) assembles an information package for the states which includes copies of the joint resolution and the statutory procedure for ratification under 1 U.S.C. 106b. The Archivist submits the proposed amendment to the states for their consideration by sending a letter of notification and the OFR informational material to each Governor. The Governors then formally submit the amendment to their state legislatures.

When a state ratifies a proposed amendment, it sends the state action to the Archivist. A proposed amendment becomes part of the Constitution as soon as it is ratified by three-fourths of the states (38). The OFR verifies the 38 ratification documents and drafts a formal proclamation for the Archivist to certify that the amendment is valid and has become part of the Constitution. This certification is published in the Federal Register and U.S. Statutes at Large and serves as official notice that the amendment process has been completed.

Since 1789, Congress has proposed 33 amendments by this method, 27 of which have been adopted.

Constitutional Convention Amendments

An amendment may be proposed by a constitutional convention called for by two-thirds of the state legislatures (34). If 34 states apply, Congress must call an Article V Convention to consider and propose amendments. These proposed amendments must also be ratified by three-fourths of the states (38). This method has never been implemented; therefore, there is no precedent for the exact process and application requirements. Some of the issues concerning this process include procedures within the state legislatures; the scope and conditions of applications for a convention; steps in submitting applications to Congress; and the role of the state governors in the process.

The records of the Philadelphia Convention of 1787 demonstrate that the founders intended to balance Congress's amendatory power by providing the convention method to empower the people to propose amendments. Article V identifies these methods as equal and requires the same ratification for all proposed amendments.

Although never used in full, this method has been a useful tool to provoke congressional action. The most successful incidence of using the threat of a constitutional convention to induce change was the movement for the direct election of Senators, which prodded Congress to propose the 17th Amendment.

Spending Behavior of the Federal Government

The forecasted federal spending for fiscal year 2014 is $3.778 trillion. Mandatory spending will account for more than 60 percent ($2.3 trillion), supporting programs such as Social Security ($860 billion), Medicare ($524 billion), Medicaid ($304 billion), income support,[1] military retirement, and other congressionally established programs.[2] Also included in fiscal year 2014's mandatory spending is the $223 billion interest payment on the $17 trillion national debt.[3]

The remaining $1.48 trillion of the year's expenses will go towards discretionary spending as negotiated between Congress and the President. The Bipartisan Budget Act approves $1.012 trillion in discretionary spending, including $520.5 billion for Defense.[4] President Obama's budget proposal appropriates $1.242 trillion to run the rest of the federal government, including $618 billion for military expenditure.[5]

Before the recession in 2007, the Executive Office of Management and Budget (OMB) maintained federal spending at levels below 20 percent of GDP each year. Therefore, spending only grew as fast as the economy (about 3 percent per year). However, spending has been at higher levels since the recession, peaking at 24.3 percent of GDP in fiscal year 2012. Fiscal year 2014 spending is budgeted slightly lower at 22.4 percent of GDP. As the economy improves, the OMB forecasts that spending will drop to 21.2 percent of GDP by fiscal year 2018.[6]

Spending has increased since 2007 due to anti-recession stimulus spending; defense spending for Operation Enduring Freedom, Operation Iraqi Freedom, and Operation New Dawn; increased Social Security spending due to changing demographics; and more entitlement program spending as poverty rose.

Balanced budget amendment

A balanced budget amendment is a constitutional prohibition on a government's spending exceeding its income. Most states have adopted balanced budget provisions, but the federal government has not. Such an amendment would make it unconstitutional for the federal government to run annual budget deficits and may solve the persistent problem of deficits and increasing debt.

Most amendment proposals include additional restrictive elements to be imposed on the federal government beyond maintaining a balanced budget. Some common examples include the following:

- a requirement that the President submit a balanced budget to the Congress;
- provisions that allow some flexibility in times of war or economic recession provided that a congressional supermajority support the waiver;
- a provision requiring a supermajority vote of both houses to raise the debt ceiling;
- a cap on total spending unless waived by a supermajority of both houses;
- a limit on the total level of revenues unless waived by a supermajority of both houses;

[1] Food Stamps, Unemployment Compensation, Child Nutrition, Child Tax Credits, Supplemental Security for the blind and disabled, and Student Loans

[2] The amount for Mandatory programs is increasing thanks to the huge number of Baby Boomers who are reaching retirement age. The two major senior programs, Social Security and Medicare, went from 28% of the budget in FY 1988 to 37% of the budget in FY 2014. By FY 2023, the OMB projects that these two programs alone will rise to 40% of total spending.

[3] By 2023, interest payments on the national debt are expected to quadruple to $763 billion, making it the third largest budget item, after Social Security ($1.424 trillion) and Medicare ($867 billion). See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf

[4] See Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf and http://politicalticker.blogs.cnn.com/2013/12/10/the-budget-deal-in-plain-english/.

[5] Office of Management and Budget, FY 2014 Budget, Table S-5, available at http://useconomy.about.com/library/FY2014_budget.pdf.

[6] See http://useconomy.about.com/od/fiscalpolicy/p/Budget_Spending.htm

- a provision to prevent the courts from enforcing the amendment through tax increases;
- a provision assigning congressional responsibility to enforce the amendment through legislation.[7]

Proponents argue that as the legislative and executive branches are unwilling or unable to address the debt crisis through normal legislative procedures, only a constitutional constraint will be strong enough to lessen lawmakers' fiscally irresponsible over-spending. A constitutional requirement would impose needed accountability for fiscal policy. A 2005 national survey quantifying public support for possible constitutional amendments found that 76 percent of respondents favored a balanced budget amendment.[8]

Opponents argue that such an amendment could limit the ability of future policymakers to use fiscal policy to counteract recessions or respond to national emergencies. They view lack of political will as the cause of our fiscal imbalances and so a procedural change will not adequately resolve the issue. Furthermore, they fear that the political pressure could lead to budget gimmicks that meet only the letter, not the spirit, of the law.

A balanced budget amendment converges on the federal government's financial bottom line, which is the result of complex accounting rules covering the multi-faceted legislative process and priorities. Policy differences and lack of political consensus often contribute to fiscal irresponsibility, overspending, and increasing debt. Although a constitutional balanced budget amendment may rein in our national deficits and debt, it cannot resolve the underlying political disparities that caused them.

Effect of Proposed Changes

HM 625 serves as an application to Congress pursuant to Article V of the U.S. Constitution to call an Article V Convention of the states for the limited purpose of proposing a balanced budget amendment to the U.S. Constitution. This amendment would require that, in the absence of a national emergency, the total of all federal appropriations for any fiscal year would not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

The memorial provides that its subject matter is to be considered the same as that of all presently outstanding balanced budget applications from other states. It is to be aggregated with those applications and tallied toward the required two-thirds of the states calling for a balanced budget amendment convention, but it should not be aggregated with any convention applications on any other subject.

Furthermore, the memorial constitutes a continuing application until at least two-thirds of the states apply for a balanced budget convention. HM 625 supersedes all previous Florida applications on the subject.

Copies of the memorial will be provided to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Legislative memorials are not subject to the Governor's veto power and are not presented to the Governor for review. Memorials have no force of law—they are mechanisms for formally petitioning the U.S. Congress to act on a particular subject. This memorial does not have a fiscal impact.

B. SECTION DIRECTORY:

Not applicable.

[7] See http://pgpf.org/Issues/Fiscal-Outlook/2012/06/062112-Balanced-Budget-Explainer.
[8] Arthur H. Taylor, Fear of an Article V Convention, 20 BYU J. PUB. L. 101, 124-31 (2006).

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.

2. Other:
   None.

B. RULE-MAKING AUTHORITY:
None.

C. DRAFTING ISSUES OR OTHER COMMENTS:
None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

N/A

House Memorial

A memorial to the Congress of the United States, applying to Congress to call a convention for the sole purpose of proposing an amendment to the Constitution of the United States that requires a balanced federal budget.

WHEREAS, the Legislature of the State of Florida passed Senate Concurrent Resolution 10 on April, 21, 2010, and

WHEREAS, Senate Concurrent Resolution 10 made application to Congress to call a convention for proposing amendments pursuant to Article V of the Constitution of the United States for two purposes: to achieve and maintain a balanced federal budget and control the ability of Congress and federal executive agencies to dictate to states requirements for the expenditure of federal funds, and

WHEREAS, the Legislature of the State of Florida desires to conform to the single subject applications from Alabama, Alaska, Arkansas, Colorado, Delaware, Indiana, Iowa, Kansas, Maryland, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Pennsylvania, and Texas and limit its application to Congress for the sole purpose of proposing an amendment to the Constitution of the United States to require a balanced federal budget, NOW, THEREFORE,

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

(1) That the Legislature of the State of Florida hereby applies to Congress, under the provisions of Article V of the Constitution of the United States, to call a convention limited to the purpose of proposing an amendment to the Constitution requiring that, in the absence of a national emergency, the total of all federal appropriations made by the Congress for any fiscal year may not exceed the total of all estimated federal revenues for that fiscal year, together with any related and appropriate fiscal restraints.

(2) That this application is to be considered as covering the same subject matter as the presently outstanding balanced budget applications from other states and is to be aggregated with the applications from those states for the purpose of attaining the two-thirds number of states necessary to require the calling of a convention, but shall not be aggregated with any applications on any other subject calling for a constitutional convention under Article V of the United States Constitution.

(3) That this application constitutes a continuing application in accordance with Article V until the legislatures of at least two-thirds of the states have made applications on the same subject and supersedes all previous applications by this legislature on the same subject.

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 657 Tax on Insurance Premiums
SPONSOR(S): Finance & Tax and Davis
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 310

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	12 Y, 6 N, As CS	Pewitt	Langston
2) Appropriations Committee		Hawkins	Leznoff

SUMMARY ANALYSIS

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state. This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75%, with deductions allowed for reinsurance accepted, return premiums and assessments. It applies to self-insurance funds at a rate of 1.6%. It applies to annuities at a rate of 1%. It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.

The bill provides that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency. It also clarifies that this exemption does not impact the promulgation of title insurance rates by the Financial Services Commission.

The Revenue Estimating Conference met on February 17, 2014 and estimated that the bill would have a negative recurring impact on general revenues of $5.4 million beginning in fiscal year 2014-2015.

The effective date of the bill is July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Insurance Premiums Tax

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state.[1] This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75%, with deductions allowed for reinsurance accepted, return premiums and assessments.[2] It applies to self-insurance funds at a rate of 1.6%.[3] It applies to annuities at a rate of 1%.[4] It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.[5]

There are a number of credits allowed against insurance premiums tax liability. These include:

- 100% of corporate income tax paid pursuant to chapter 220, F.S.[6]
- 15% of salaries paid by the company to its Florida-based employees.[7]
- 50% of a community contribution made pursuant to the Community Contribution Tax Credit Program for enterprise zones.[8]
- 100% of donations made to eligible scholarship funding organizations pursuant to s. 1002.395.[9]

The sum of the credits granted for corporate income tax and employee salaries may not exceed 65% of the insurer's premium tax liability.[10]

Retaliatory Tax

When another state or foreign country levies certain taxes or fees, including insurance premiums tax, on Florida insurers in excess of the taxes and fees levied by Florida on insurers from such other state or foreign country, a retaliatory tax is charged.[11] Companies from the other state or foreign country are taxed using the same tax and fee structure that a similar Florida insurer operating in such state or foreign country would be charged.

Title Insurance

Title insurance companies insure owners of real property and others with an interest in real property against loss due to encumbrance, defective titles, invalidity, or adverse claim to title.[12] The Financial Services Commission, consisting of the Governor, Attorney General, Chief Financial Officer, and Commissioner of Agriculture and Consumer Services,[13] must adopt a rule setting the rates charged by title insurance companies and determining the minimum portion of those premiums retained by the title

[1] Section 624.509, F.S.
[2] Section 624.509(1)(a), F.S.
[3] Section 624.4625(4), F.S.
[4] Section 624.509(1)(b), F.S.
[5] Section 624.510, F.S.
[6] Section 624.509(4), F.S.
[7] Section 624.509(5), F.S.
[8] Section 624.5105, F.S.
[9] Section 624.51055, F.S.
[10] Section 624.509(6)(a), F.S.
[11] Section 524.5091, F.S.
[12] Section 624.608, F.S.
[13] Section 20.121(3), F.S.

insurer.[14] This percentage varies depending on the total coverage of the policy, and ranges from 30% to 40%.[15] The portion not retained by the title insurer goes to the title insurance agent.

Proposed Changes

The bill provides that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency. It also clarifies that this exemption does not impact the promulgation of title insurance rates by the Financial Services Commission.

B. SECTION DIRECTORY:

Section 1. Amends s. 264.509, F.S., providing that insurance premiums tax may not be imposed on any portion of a title insurance premium retained by a title insurance agent or agency.

Section 2. Amends s. 627.7711, F.S., to remove language in order to clarify that the exemption provided in section 1 does not impact promulgation of title insurance rates.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference met on February 17, 2014 and estimated that the bill would have a negative recurring impact on general revenues of $5.4 million beginning in fiscal year 2014-2015.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would reduce the amount of insurance premiums tax paid by title insurance companies.

D. FISCAL COMMENTS:

[14] Section 627.782, F.S.
[15] Rule 69O-186, F.A.C.

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:

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 13, 2014, the Finance & Tax Subcommittee adopted an amendment to this bill. The amendment removed language that moved some provisions related to wet marine and transportation insurance to a different place in statute. It also repeals some language to make clear that the tax exemptions in the bill do not impact the promulgation of title insurance rates.

This analysis reflects the above amendment.

A bill to be entitled

An act relating to tax on insurance premiums; amending s. 624.509, F.S.; revising provisions relating to premium taxes paid by insurers; providing that the tax does not apply to any portion of the title insurance premium retained by a title insurance agent or agency; amending s. 627.7711, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Subsection (8) of section 624.509, Florida Statutes, is amended to read:

624.509 Premium tax; rate and computation.—

(8) ~~From and after July 1, 1980,~~ The premium tax authorized by this section may ~~shall~~ not be imposed on:

(a) Any portion of the title insurance premium retained by a title insurance agent or agency; or

(b) ~~upon~~ Receipts of annuity premiums or considerations paid by holders in this state if the tax savings derived are credited to the annuity holders. Upon request by the Department of Revenue, an ~~any~~ insurer availing itself of this provision shall submit to the department evidence that ~~which~~ establishes that the tax savings derived have been credited to annuity holders. As used in this paragraph ~~subsection~~, the term "holders" includes ~~shall be deemed to include~~ employers

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

contributing to an employee's pension, annuity, or profit-sharing plan.

Section 2. Subsection (2) of section 627.7711, Florida Statutes, is amended to read:

627.7711 Definitions.—As used in this part, the term:

(2) "Premium" means the charge, as specified by rule of the commission, which ~~that~~ is made by a title insurer for a title insurance policy, including the charge for performance of primary title services by a title insurer or title insurance agent or agency, and incurring the risks incident to such policy, under the several classifications of title insurance contracts and forms~~, and upon which charge a premium tax is paid under s. 624.509~~. As used in this part or in any other law, with respect to title insurance, the word "premium" does not include a commission.

Section 3. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 875 Education Fiscal Accountability
SPONSOR(S): K-12 Subcommittee; Diaz, Jr. and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1100

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) K-12 Subcommittee	10 Y, 2 N, As CS	Brink	Ahearn
2) Appropriations Committee		Heflin	Leznoff
3) Education Committee			

SUMMARY ANALYSIS

The bill requires the Commissioner of Education to establish a return on investment (ROI) rating system by January 31, 2015, in order to evaluate the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance relative to fiscal peers. The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The bill defines the terms "return on investment rating," "fiscal peers," and "core operating expenditure" for the purpose of determining return on investment ratings for schools and districts.

In addition, the commissioner must determine fiscal peers for each public school and school district for the purpose of comparing ROI ratings among similar districts, public schools, and charter schools.

The bill creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The bill requires the commissioner to select at least 15 middle schools and 15 high schools to participate as pilot schools and establishes criteria for their selection. In addition, participation by a selected school is subject to district school board approval. The bill requires the Auditor General to audit and report any noncompliance by a participating district.

The bill also establishes requirements for the pilot program relating to participation in state assessment and school accountability systems, educator certification, background screening, and personnel evaluation. The bill also provides requirements with respect to employment contracts, personnel decisions, and distribution of state and federal funding.

The fiscal impact of the bill is indeterminate. *See* Fiscal Impact on State Government.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Return on Investment

Present Situation

The K-20 performance accountability system maintained by the Department of Education (DOE) must measure student progress toward goals that include, among other things, quality efficient services as measured by evidence of return on investment.[1]

In addition, school report cards, including school report cards for alternative schools, must include, along with information regarding school improvement and performance, indicators of return on investment.

Effect of Proposed Changes

The bill requires the Commissioner of Education (commissioner) to establish a return on investment (ROI) rating system by January 31, 2015 which evaluates the extent to which public school and school districts use financial resources in a cost-effective manner to improve student performance relative to fiscal peers. The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance.

The bill defines the term "return-on-investment rating," or "ROI rating," to mean a calculation developed by the commissioner which results in an annual ordinal rating for a public school and a school district that displays to the public the extent by which core operating expenditures have been used to positively impact student achievement. Ratings are assigned, as provided for under s. 1008.34(6), based on spending and student performance relative to a school's fiscal peers or a school district's fiscal peers.

The bill defines the additional following terms for the purpose of calculating a ROI rating:

- "Core operating expenditure" means the expenditure of general and special revenue funds, in accordance with the uniform chart of accounts included in the publication "Financial and Program Cost Accounting and Reporting for Florida Schools," in the functional categories of instruction and instructional support services and in the object categories of salaries, employee benefits, purchased services, and materials and supplies. The Commissioner of Education may classify other expenditures, funds, and functional and object categories as core operating expenditures.

- "Fiscal peers" means public schools and school districts that are of similar size and have similar average total cost-per-student funding in the Florida Education Finance Program, as determined by the commissioner. At a minimum, the commissioner shall take into consideration the following factors:
    - The Florida Price Level Index;
    - School size;
    - Student program cost factors; and
    - Geography.

[1] Section 1008.31(c)4., F.S. A statutory statement of legislative intent provides that that the K-20 education performance accountability system be established as a single, unified accountability system with multiple components, including, but not limited to, measures of adequate yearly progress, individual student learning gains in public school, school grades, and return on investment. Section 1008.31(1)(b), F.S.

In addition, the commissioner must determine fiscal peers for each public school and school district, as each ROI rating must be calculated relative to the performance of the fiscal peers of the school or school district. The bill requires the commissioner to assign the ROI ratings for all public schools and school districts in a sortable, easy-to-understand format that allows for comparison among districts, public schools, charter schools, and fiscal peers.

Beginning with the 2015-2016 school year, the commissioner must publish ratings on the Department of Education's (DOE) website when school report cards are published. Each school must provide a link to this information on its website and annually post a copy of its most recent ROI rating. Each school report card must include the ordinal ROI rating of the school and the school district.

The bill requires the commissioner to make every attempt to use aggregated student data that is already collected from public schools to develop the ROI rating. This includes, but is not limited to, data from:

- School report cards;
- Accountability measures, including the school accountability report;
- Profiles of school districts; and
- The state program cost reporting system.

The Schoolhouse Funding Pilot Program

Effect of Proposed Changes

The bill creates the Schoolhouse Funding Pilot Program for the purpose of giving pilot school principals increased authority over school budgets and human capital decisions and determining whether the increased authority positively impacts the return on investment for the principals' schools. The program is subject to annual appropriation as provided in the GAA. The bill defines the term "pilot school" to mean a public school that participates in the program.

The bill requires the commissioner to select a minimum of 15 high schools and 15 middle schools from throughout the state to participate in a two-year Schoolhouse Funding Pilot Program beginning with the 2015-2016 school year. To be eligible for selection, a middle or high school must:

- Have received a school grade of "C," "D," or "F" in the prior school year and have not received a school grade of "A" or "B" in the past five years; and
- Represent diverse student populations, including minority students, students receiving free or reduced-price lunches, and students with disabilities.

The DOE must measure the return on investment of each school upon its acceptance into the pilot program and annually thereafter.

The bill requires district school boards to approve a school's participation in the pilot program for a school in the district that is recommended by the commissioner. A district school board that refuses to allow a recommended school to participate must provide the commissioner with a detailed written explanation for the refusal.

The bill requires, subject to appropriation, principals, and if possible, assistant principals, of selected and approved schools to participate in a professional development program which focuses on improving student achievement; aligning standards, assessment, curriculum, and instruction; using data to drive instruction; and using best financial management practices to drive student achievement.

Under the pilot program, participating schools enjoy greater authority over managerial decisions in a manner analogous to charter schools, including decisions over allocation of specified funds. However,

the bill provides that state assessment, school accountability, educator certification, background screening, and personnel evaluation requirements still apply. The bill also provides requirements with respect to personnel decisions and distribution of state and federal funding. School districts that do not disburse state and federal funds to participating schools within 10 working days after receipt of the funding must pay the scheduled funding amount with interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance until a warrant for payment is issued.

In addition, the bill requires school districts to provide certain administrative and educational services to pilot schools, including transmittal of student performance data to each participating school in the same manner as provided to other schools in the district. A total administrative fee for the provision of such services must be calculated based upon up to 5 percent of the available funds for all students, except that if 75 percent or more of the students enrolled in the pilot school are exceptional students,[2] the 5 percent of those available funds must be calculated based on unweighted full-time equivalent students. A district may withhold up to a 5-percent administrative fee only for enrollment for 250 students or less. The bill requires the auditor general to audit and report any noncompliance by a participating district.

The bill charges the pilot school principal with selecting employees for the school and allows a pilot school to contract with its district for the services of district personnel. The bill provides that acceptance of employment at a pilot school constitutes leave from the district and that accrued seniority and benefits remain in place while the teacher is employed by the school. A school district may not require the resignation of an employee who desires to teach in a pilot school.

B. SECTION DIRECTORY:

Section 1. Amends s. 1008.02, F.S., defining the terms "core operating expenditure," "fiscal peers," and "return-on-investment rating."

Section 2. Amends s. 1008.34, F.S., requiring school report cards to include school and school district return-on-investment ratings; requiring the Commissioner of Education to establish a return-on-investment rating to evaluate the extent to which schools and school districts are using financial resources to improve student performance; requiring the commissioner to determine fiscal peers and assign and publish return-on-investment ratings.

Section 3. Amends s. 1011.69, F.S., creating the Schoolhouse Funding Pilot Program; defining terms; providing a procedure for a public school to participate in the pilot program; requiring the principal of a pilot school to participate in a professional development program; providing assessment and accountability requirements for a pilot school; providing funding for students enrolled in a pilot school and calculation therefor; providing for the receipt of federal funds and for the distribution of state and federal funds; requiring a school district to provide certain specified administrative and educational services to a pilot school; requiring a school district to provide student performance data to a pilot school in the same manner as it provides data to other public schools; providing for an administrative fee for the specified services; providing requirements relating to employees of a pilot school, including selection, contracting, certification, background screening, and employment history checks; requiring a pilot school to adopt policies that establish standards of ethical conduct for instructional personnel and school administrators.

Section 4. Amends s. 1003.621, F.S., conforming cross-references.

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[2] Under section 1003.01(3), F.S., an exceptional student is "any student who has been determined eligible for a special program in accordance with rules of the State Board of Education. The term includes students who are gifted and students with disabilities who have an intellectual disability; autism spectrum disorder; a speech impairment; a language impairment; an orthopedic impairment; an other health impairment; traumatic brain injury; a visual impairment; an emotional or behavioral disability; or a specific learning disability, including, but not limited to, dyslexia, dyscalculia, or developmental aphasia; students who are deaf or hard of hearing or dual sensory impaired; students who are hospitalized or homebound; children with developmental delays ages birth through 5 years, or children, ages birth through 2 years, with established conditions that are identified in State Board of Education rules."

Section 5. Amends s. 1011.64, F.S., conforming cross-references.

Section 6. Provides that the bill is effective upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   Indeterminate. To the extent establishment of the return on investment rating and determination of fiscal peers requires development of additional data collection and reporting processes, there may be associated costs. However, because the bill requires the commissioner to make every attempt to use aggregated student data already collected by the DOE, any costs would likely be minimal.

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:

   None.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 18, 2014, the K-12 Subcommittee reported the PCS to HB 875 favorably. The PCS increases the number of schools that may participate as a pilot school from no more than 14 to at least 15 middle schools and 15 high schools. The PCS also removes eligibility for elementary schools to participate as a pilot school, restricting participation to middle schools and high schools that have received a school grade of "C," "D," or "F" in each of the past five years and that represent diverse student populations.

The PCS removes administration of the pilot program from the DOE and provides for continued local operation of participating schools. In addition, the PCS provides that participation in the pilot program by a selected school is subject to district school board approval. The PCS requires district school boards that withhold approval for a selected school to provide the commissioner with a detailed written explanation for its refusal. The PCS also requires the Auditor General to audit and report any noncompliance by a participating district.

The PCS also makes various technical changes.

A bill to be entitled

An act relating to education fiscal accountability; amending s. 1008.02, F.S.; defining the terms "core operating expenditure," "fiscal peers," and "return-on-investment rating"; amending s. 1008.34, F.S.; requiring school report cards to include school and school district return-on-investment ratings; requiring the Commissioner of Education to establish a return-on-investment rating to evaluate the extent to which schools and school districts are using financial resources to improve student performance; requiring the commissioner to determine fiscal peers and assign and publish return-on-investment ratings; amending s. 1011.69, F.S.; creating the Schoolhouse Funding Pilot Program; defining terms; providing a procedure for a public school to participate in the pilot program; requiring the principal of a pilot school to participate in a professional development program; providing assessment and accountability requirements for a pilot school; providing funding for students enrolled in a pilot school and calculation therefor; providing for the receipt of federal funds and for the distribution of state and federal funds; requiring a school district to provide certain specified administrative and educational services to a pilot school; requiring a school district to provide student

performance data to a pilot school in the same manner as it provides data to other public schools; providing for an administrative fee for the specified services; providing requirements relating to employees of a pilot school, including selection, contracting, certification, background screening, and employment history checks; requiring a pilot school to adopt policies that establish standards of ethical conduct for instructional personnel and school administrators; amending ss. 1003.621 and 1011.64, F.S.; conforming cross-references; providing an effective date.

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

Section 1. Section 1008.02, Florida Statutes, is amended to read:

1008.02 Definitions.—As used in this chapter, the term:

(1) "Core operating expenditure" means the expenditure of general and special revenue funds, in accordance with the uniform chart of accounts included in the publication "Financial and Program Cost Accounting and Reporting for Florida Schools," in the functional categories of instruction and instructional support services and in the object categories of salaries, employee benefits, purchased services, and materials and supplies. The Commissioner of Education may classify other expenditures, funds, and functional and object categories as

core operating expenditures.

(2) ~~(1)~~ "Developmental education" means instruction through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction. Developmental education may be delivered through a variety of accelerated and corequisite strategies and includes any of the following:

(a) Modularized instruction that is customized and targeted to address specific skills gaps.

(b) Compressed course structures that accelerate student progression from developmental instruction to college-level coursework.

(c) Contextualized developmental instruction that is related to meta-majors.

(d) Corequisite developmental instruction or tutoring that supplements credit instruction while a student is concurrently enrolled in a credit-bearing course.

(3) "Fiscal peers" means public schools and school districts that are of similar size and have similar average total cost-per-student funding in the Florida Education Finance Program, as determined by the commissioner. At a minimum, the commissioner shall take into consideration the following factors:

(a) The Florida Price Level Index.

(b) School size.

(c) Student program cost factors.

(d) Geography.

(4) ~~(2)~~ "Gateway course" means the first course that provides transferable, college-level credit allowing a student to progress in his or her program of study.

(5) ~~(3)~~ "Meta-major" means a collection of programs of study or academic discipline groupings that share common foundational skills.

(6) "Return-on-investment rating" or "ROI rating" means a calculation developed by the commissioner which results in an annual ordinal rating for a public school and a school district that displays to the public the extent by which core operating expenditures have been used to positively impact student achievement. Ratings are assigned, as provided for under s. 1008.34(6), based on spending and student performance relative to a school's fiscal peers or a school district's fiscal peers.

Section 2. Subsection (5) of section 1008.34, Florida Statutes, is amended, subsections (6) through (8) are renumbered as subsections (7) through (9), respectively, and a new subsection (6) is added to that section, to read:

1008.34 School grading system; school report cards; district grade.—

(5) SCHOOL REPORT CARD.—The Department of Education shall annually develop, in collaboration with the school districts, a school report card to be provided by the school district to parents within the district. The report card must ~~shall~~ include

the school's grade, information regarding school improvement, an explanation of school performance as evaluated by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss. 6301 et seq., and indicators of return on investment as provided in subsection (6). Each school's report card shall be published annually by the department on its website.

(6) RETURN-ON-INVESTMENT (ROI) RATING.—

(a) By January 31, 2015, the Commissioner of Education shall establish a ROI rating system. The ROI rating evaluates the extent to which public schools and school districts are using their financial resources in a cost-effective manner to improve student performance relative to their fiscal peers, as defined in s. 1008.02(3). The ROI rating must place the most weight on indicators designed to measure how dollars are being used to facilitate increased student academic performance. Student performance means student achievement and student learning gains on statewide, standardized assessments as provided for in this section.

(b) The commissioner shall determine fiscal peers, as defined in s. 1008.02(3), for each public school and school district. Each ROI rating shall be calculated relative to the performance of the fiscal peers of the school or school district.

(c) The commissioner shall assign the ordinal ROI ratings for all public schools and school districts in a sortable, easy-to-understand format that allows for comparisons among school

districts, public schools, public charter schools, and fiscal peers. Beginning with the 2015-2016 school year, the commissioner shall publish ratings on the Department of Education's website when school report cards are made publicly available. Each public school shall provide a link to this information on its website and annually post a copy of its most recent rating in a visible location.

(d) Beginning with the 2015-2016 school year, each school's report card shall include the ordinal ROI rating of the school and the school district.

(e) The commissioner shall make every attempt to use aggregated student data that is already being collected from public schools to develop the ROI rating, including, but not limited to, data from:

1. School report cards issued under this section.

2. Accountability measures, including the annual school accountability report required by ss. 1001.42(18) and 1008.345.

3. Profiles of school districts pursuant to ss. 1010.20 and 1011.60.

4. The state's program cost reporting system.

Section 3. Subsection (5) is added to section 1011.69, Florida Statutes, to read:

1011.69 Equity in School-Level Funding Act.—

(5) Subject to annual appropriation in the General Appropriations Act, the Schoolhouse Funding Pilot Program is created for the purpose of giving principals increased authority

over school budgets and human capital decisions and then determining whether the increased flexibility positively impacts the return on investment at that school, as that term is defined in s. 1008.02(6).

(a) Definitions.—As used in this subsection, the term:

1. "Pilot program" means the Schoolhouse Funding Pilot Program.

2. "Pilot school" means a public school that participates in the pilot program.

(b) Participating pilot schools.—

1. The Commissioner of Education shall select a minimum of 15 high schools and 15 middle schools from throughout the state to participate in a 2-year Schoolhouse Funding Pilot Program, beginning with the 2015-2016 school year. Participating pilot schools shall be selected as follows:

a. The school received a school grade of "C," "D," or "F" in the prior school year and has not received a school grade of "A" or "B" in the past 5 years.

b. The school represents diverse student populations, including minority students, students receiving free or reduced-price lunches, and students with disabilities.

2. The district school board must approve a school's participation in the pilot program for a school in the district that is recommended by the commissioner. If the district school board fails to approve a school for participation in the pilot program, the district school board must provide the commissioner

with a detailed written explanation for its refusal.

(c) Professional development.—The principal, and if possible the assistant principals, of a pilot school selected by the commissioner and approved by the district school board must participate in a professional development program, as provided in the General Appropriations Act. The professional development program must include leadership training that focuses on all of the following:

1. Improving student achievement.

2. Aligning standards, assessment, curriculum, and instruction.

3. Using data to drive instruction.

4. Using best financial management practices to drive student achievement.

(d) Assessment and accountability.—

1. A pilot school must participate in the student assessment program for public schools under s. 1008.22 and is subject to the school grading system under s. 1008.34.

2. The department shall measure the return on investment of each school upon its acceptance into the pilot program and annually thereafter in accordance with s. 1008.34(6).

(e) Funding.—A student enrolled in a pilot school shall be funded as if the student were in a basic program or a special program at any other public school within the school district.

1. A pilot school shall report its student enrollment to the district as required under s. 1011.62. The district shall

include each pilot school's enrollment in the district's report of student enrollment. When submitting student record information required by the Department of Education, a pilot school shall comply with the department's guidelines for electronic data formats. Each district shall accept electronic data that complies with the department's electronic format.

2. The amount of funding for students enrolled in a pilot school shall be the sum of the school district's operating funds from the Florida Education Finance Program as provided in s. 1011.62 and the General Appropriations Act, including gross state and local funds, discretionary lottery funds, and funds from the school district's current operating discretionary millage levy; divided by total funded weighted full-time equivalent students in the school district; multiplied by the weighted full-time equivalent students for the pilot school. A pilot school whose students or programs meet the eligibility criteria in law is entitled to its proportionate share of categorical program funds included in the total funds made available in the Florida Education Finance Program by the Legislature, including transportation funds if applicable. Total funding for each pilot school shall be recalculated during the year to reflect the revised calculations under the Florida Education Finance Program by the state and the actual weighted full-time equivalent students reported by the pilot school during the full-time equivalent student survey periods designated by the Commissioner of Education.

3. If the district school board is providing programs or services to students funded by federal funds, any eligible student enrolled in a pilot school in the school district shall be provided federal funds at the same level as is provided to students in the schools operated by the district school board. Pursuant to the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss. 7221-7225g, each pilot school shall receive all federal funding for which the school is otherwise eligible, including Title I funding, no later than 5 months after the pilot school begins the pilot program and within 5 months after any subsequent expansion of enrollment. Unless otherwise mutually agreed to by the pilot school and the district, and consistent with state and federal rules and regulations governing the use and disbursement of federal funds, the district shall reimburse the pilot school on a monthly basis for all invoices submitted by the pilot school using federal funds available to the district for the benefit of the pilot school, the pilot school's students, and the pilot school's students as public school students in the school district. Such federal funds include, but are not limited to, Title I, Title II, and Individuals with Disabilities Education Act (IDEA) funds. To receive timely reimbursement for an invoice, the pilot school must submit the invoice to the district at least 30 days before the monthly date of reimbursement set by the district. In order to be reimbursed, any expenditure made by the pilot school must comply with all applicable state and federal rules and

regulations, including, but not limited to, the applicable federal Office of Management and Budget circulars; the regulations of the United States Department of Education; and program-specific statutes, rules, and regulations. Such funds may not be made available to the pilot school until a plan is submitted to the district for approval of the use of the funds in accordance with applicable federal requirements. The district has 30 days to review and approve any plan submitted pursuant to this subparagraph.

4. Each district school board shall make timely and efficient payment and reimbursement to pilot schools and shall process paperwork required to access special state and federal funding for which they may be eligible. The district school board may distribute funds to a pilot school for up to 3 months based on the projected full-time equivalent student membership of the pilot school. Thereafter, the results of full-time equivalent student membership surveys shall be used in adjusting the amount of funds distributed monthly to the pilot school for the remainder of the fiscal year. The payment shall be issued no later than 10 working days after the district school board receives a distribution of state or federal funds. If a warrant for payment is not issued within 10 working days after receipt of funding by the district school board, the school district shall pay to the pilot school, in addition to the amount of the scheduled disbursement, interest at a rate of 1 percent per month calculated on a daily basis on the unpaid balance from the

expiration of the 10 working days until such time as the warrant is issued.

(f) Services.—

1. A school district shall provide certain administrative and educational services to pilot schools. These services must include contract management services; full-time equivalent and data reporting services; exceptional student education administrative services; services related to eligibility and reporting duties required to ensure that school lunch services under the federal lunch program, consistent with the needs of the pilot school, are provided by the district at the request of the pilot school, that any funds due to the pilot school under the federal lunch program be paid to the pilot school if the pilot school begins serving food under the federal lunch program, and that the pilot school is paid at the same time and in the same manner under the federal lunch program as other public schools serviced by the district; test administration services, including payment of the costs of state-required or district-required student assessments; processing of teacher certificate data services; and information services, including equal access to student information systems that are used by public schools in the district in which the pilot school is located. Student performance data for each student in a pilot school, including, but not limited to, statewide test scores, standardized test scores, previous public school student report cards, and student performance measures, shall be provided by

the district to a pilot school in the same manner as they are provided to other public schools in the district.

2. A total administrative fee for the provision of such services shall be calculated based upon up to 5 percent of the available funds under paragraph (e) for all students, except that if 75 percent or more of the students enrolled in the pilot school are exceptional students as defined in s. 1003.01(3), the 5 percent of those available funds shall be calculated based on unweighted full-time equivalent students. However, a district may withhold up to a 5-percent administrative fee only for enrollment for 250 students or less. Pursuant to its authority under s. 11.45, the Auditor General shall audit and report any noncompliance by a participating district.

(g) Employees of pilot schools.—

1. A pilot school principal shall select the employees of the pilot school. A pilot school may contract with its school district for the services of personnel who are employed by the district.

2. Instructional personnel at a pilot school may choose to be part of a professional group that subcontracts with the district to operate an instructional program under the auspices of a partnership or cooperative that the instructional personnel collectively own. Under this arrangement, such personnel are not considered public employees for purposes of contract negotiations or for purposes of the Florida Retirement System.

3. An employee of a school district may take leave to

accept employment in a pilot school upon the approval of the district school board. While employed by the pilot school and on leave that is approved by the district school board, the employee may retain seniority accrued in that district and may continue to be covered by the benefit programs of that district if the pilot school and the district school board agree to this arrangement and its financing. A district may not require the resignation of an employee who desires to teach in a pilot school. This subparagraph does not prohibit a district school board from approving alternative leave arrangements consistent with chapter 1012.

4. A teacher who is employed by or under contract to a pilot school must be certified as required under chapter 1012. A pilot school may employ or contract with skilled selected noncertified personnel to provide instructional services or to assist instructional staff members as education paraprofessionals in the same manner as provided under chapter 1012 and as provided by State Board of Education rule. A pilot school may not knowingly employ an individual to provide instructional services or to serve as an education paraprofessional if the individual's certification or licensure as an educator is suspended or revoked by this state or any other state. A pilot school may not knowingly employ an individual who has resigned from a school district in lieu of disciplinary action with respect to child welfare or safety or who has been dismissed for just cause by any school district

with respect to child welfare or safety. The qualifications of teachers shall be disclosed to parents.

5.a. A pilot school shall employ or contract with employees who have undergone background screening as provided in s. 1012.32.

b. A pilot school shall disqualify instructional personnel and school administrators, as defined in s. 1012.01, from employment in any position that requires direct contact with students if the personnel or administrators are ineligible for such employment under s. 1012.315.

c. A pilot school shall adopt policies establishing standards of ethical conduct for instructional personnel and school administrators. The policies must require all instructional personnel and school administrators, as defined in s. 1012.01, to complete training on the standards; establish the duty of instructional personnel and school administrators to report alleged misconduct by other instructional personnel or school administrators that affects the health, safety, or welfare of a student and procedures for such reporting; and include an explanation of the liability protections provided under ss. 39.203 and 768.095.

d. A pilot school or an employee of a pilot school may not enter into a confidentiality agreement regarding terminated or dismissed instructional personnel or school administrators, or personnel or administrators who resign in lieu of termination, based in whole or in part on misconduct that affects the health,

safety, or welfare of a student and may not provide instructional personnel or school administrators with employment references or discuss such persons' performance with prospective employers in another educational setting without disclosing such misconduct. Any part of an agreement or contract that has the purpose or effect of concealing misconduct by instructional personnel or school administrators which affects the health, safety, or welfare of a student is void, is contrary to public policy, and may not be enforced.

e. Before employing instructional personnel or school administrators in any position that requires direct contact with students, a pilot school must conduct employment history checks of each such person's previous employers, screen such person using the educator screening tools described in s. 1001.10(5), and document the findings. If unable to contact such person's previous employer, the pilot school must document efforts to contact the employer.

Section 4. Paragraphs (a) and (d) of subsection (1) of section 1003.621, Florida Statutes, are amended to read:

1003.621 Academically high-performing school districts.—It is the intent of the Legislature to recognize and reward school districts that demonstrate the ability to consistently maintain or improve their high-performing status. The purpose of this section is to provide high-performing school districts with flexibility in meeting the specific requirements in statute and rules of the State Board of Education.

(1) ACADEMICALLY HIGH-PERFORMING SCHOOL DISTRICT.—

(a) A school district is an academically high-performing school district if it meets the following criteria:

1.a. ~~Beginning with the 2004-2005 school year,~~ Earns a grade of "A" under s. 1008.34(8) ~~1008.34(7)~~ for 2 consecutive years; and

b. Has no district-operated school that earns a grade of "F" under s. 1008.34;

2. Complies with all class size requirements in s. 1, Art. IX of the State Constitution and s. 1003.03; and

3. Has no material weaknesses or instances of material noncompliance noted in the annual financial audit conducted pursuant to s. 218.39.

(d) In order to maintain the designation as an academically high-performing school district pursuant to this section, a school district must meet the following requirements:

1. Comply with the provisions of subparagraphs (a)2. and 3.; and

2. Earn a grade of "A" under s. 1008.34(8) ~~1008.34(7)~~ for 2 years within a 3-year period.

However, a district in which a district-operated school earns a grade of "F" under s. 1008.34 during the 3-year period may not continue to be designated as an academically high-performing school district during the remainder of that 3-year period. The district must meet the criteria in paragraph (a) in order to be

redesignated as an academically high-performing school district.

Section 5. Paragraph (a) of subsection (2) of section 1011.64, Florida Statutes, is amended to read:

1011.64 School district minimum classroom expenditure requirements.—

(2) For the purpose of implementing the provisions of this section, the Legislature shall prescribe minimum academic performance standards and minimum classroom expenditure requirements for districts not meeting such minimum academic performance standards in the General Appropriations Act.

(a) Minimum academic performance standards may be based on, but are not limited to, district grades determined pursuant to s. 1008.34(8) ~~1008.34(7)~~.

Section 6. This act shall take effect upon becoming a law.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	____	(Y/N)
ADOPTED AS AMENDED	____	(Y/N)
ADOPTED W/O OBJECTION	____	(Y/N)
FAILED TO ADOPT	____	(Y/N)
WITHDRAWN	____	(Y/N)
OTHER		

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Fresen offered the following:

Amendment (with title amendment)

Remove lines 44-150 and insert:

(1) "Developmental education" means instruction through which a high school graduate who applies for any college credit program may attain the communication and computation skills necessary to successfully complete college credit instruction. Developmental education may be delivered through a variety of accelerated and corequisite strategies and includes any of the following:

(a) Modularized instruction that is customized and targeted to address specific skills gaps.

(b) Compressed course structures that accelerate student progression from developmental instruction to college-level coursework.

(c) Contextualized developmental instruction that is related to meta-majors.

(d) Corequisite developmental instruction or tutoring that supplements credit instruction while a student is concurrently enrolled in a credit-bearing course.

(2) "Gateway course" means the first course that provides transferable, college-level credit allowing a student to progress in his or her program of study.

(3) "Meta-major" means a collection of programs of study or academic discipline groupings that share common foundational skills.

(4) "Operating expenditures" means the expenditure of school district general and special revenue funds in accordance with the uniform chart of accounts included in the publication "Financial and Program Cost Accounting and Reporting for Florida Schools." The commissioner may specify expenditures, funds, and functional and object categories as operating expenditures.

(5) "Return-on-investment rating" or "ROI rating" means a calculation developed by the commissioner which results in an annual ordinal rating for a public school and a school district that displays to the public the extent by which operating expenditures have been used to positively impact student performance. Ratings shall be assigned, as provided in s. 1008.34(6), based on operating expenditures and student performance.

Section 2. Subsection (5) of section 1008.34, Florida

Statutes, is amended, subsections (6) through (8) are renumbered as subsections (7) through (9), respectively, and a new subsection (6) is added to that section, to read:

1008.34 School grading system; school report cards; district grade.—

(5) SCHOOL REPORT CARD.—The Department of Education shall annually develop, in collaboration with the school districts, a school report card to be provided by the school district to parents within the district. The report card shall include the school's grade, information regarding school improvement, an explanation of school performance as evaluated by the federal Elementary and Secondary Education Act (ESEA), 20 U.S.C. ss. 6301 et seq., and indicators of return on investment as provided in subsection (6). Each school's report card shall be published annually by the department on its website.

(6) RETURN-ON-INVESTMENT (ROI) RATING.—

(a) By February 28, 2015, the Commissioner of Education shall establish a ROI rating system. The ROI rating evaluates the extent to which public schools and school districts are using their financial resources in a cost-effective manner to improve student performance. Student performance means student learning gains on statewide, standardized assessments as provided for in this section.

(b) Schools shall be grouped for comparison as determined by the commissioner.

(c) The commissioner shall assign the ordinal ROI ratings for all public schools and school districts in a sortable, easy-to-understand format that allows for comparisons among school districts and public schools. Beginning with the 2015-2016 school year, the commissioner shall publish ratings on the Department of Education's website when school report cards are made publicly available. Each public school shall provide a link to this information on its website and annually post a copy of its most recent rating in a visible location.

(d) The ROI application shall include a metric to evaluate the resources available to a school as a percentage of the revenues generated by students at the school.

(e) Beginning with the 2015-2016 school year, each school's report card shall include the ordinal ROI rating of the school and the school district.

(f) The commissioner shall make every attempt to use aggregated student data that is already being collected from public schools to develop the ROI rating, including, but not limited to, data from:

1. School report cards issued under this section.

2. Accountability measures, including the annual school accountability report required by ss. 1001.42(18) and 1008.345.

3. Profiles of school districts pursuant to ss. 1010.20 and 1011.60.

4. The state's program cost reporting system.

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

Remove lines 3-13 and insert:

amending s. 1008.02, F.S.; defining the terms "operating expenditures" and "return-on-investment rating"; amending s. 1008.34, F.S.; requiring school report cards to include school and school district return-on-investment ratings; requiring the Commissioner of Education to establish a return-on-investment rating to evaluate the extent to which schools and school districts are using financial resources to improve student performance; requiring the commissioner to assign and publish return-on-investment ratings; amending s.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 939 Bail Bond Premiums
SPONSOR(S): Finance & Tax Subcommittee; Stewart and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1390

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	14 Y, 2 N, As CS	Pewitt	Langston
2) Insurance & Banking Subcommittee	11 Y, 1 N	Bauer	Cooper
3) Appropriations Committee		Hawkins	Leznoff

SUMMARY ANALYSIS

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state. This tax applies to life, health, property and casualty, title insurance, and most other types of policies at a rate of 1.75% on the gross amount of premium, with deductions allowed for reinsurance accepted, return premiums, assessments, and various credits. It applies to self-insurance funds at a rate of 1.6%. It applies to annuities at a rate of 1%. It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.

The bill provides that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of bail bond premiums excluding any portion of the premium retained by bail bond agents or managing general agents. Other credits and exemptions applicable to insurance premiums tax may still be applied as under current law.

The Revenue Estimating Conference met on March 7, 2014 and estimated this bill would have a cash and recurring impact of -$0.7 million to general revenue beginning in fiscal year 2014-2015.

The bill provides an effective date of January 1, 2015.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Insurance Premiums Tax

Florida imposes an annual tax on premiums collected by insurance companies doing business in the state.[1] This tax applies to life, health, property and casualty, surety, title insurance, and most other types of policies at a rate of 1.75% on the gross amount of premium, with deductions allowed for reinsurance accepted, return premiums and assessments.[2] It applies to self-insurance funds at a rate of 1.6%.[3] It applies to annuities at a rate of 1%.[4] It applies to wet marine and transportation insurance at a rate of 0.75% of gross underwriting profit, defined as net premiums minus net losses paid.[5]

There are a number of credits allowed against insurance premiums tax liability. These include:

- 100% of corporate income tax paid pursuant to chapter 220, F.S.[6]
- 15% of salaries paid by the company to its Florida-based employees.[7]
- 50% of a community contribution made pursuant to the Community Contribution Tax Credit Program for enterprise zones.[8]
- 100% of donations made to eligible scholarship funding organizations pursuant to s. 1002.395.[9]

The sum of the credits granted for corporate income tax and employee salaries may not exceed 65% of the insurer's premium tax liability.[10]

Retaliatory Tax

When another state or foreign country levies certain taxes or fees, including insurance premiums tax, on Florida insurers in excess of the taxes and fees levied by Florida on insurers from such other state or foreign country, a retaliatory tax is charged.[11] Companies from the other state or foreign country are taxed using the same tax and fee structure that a similar Florida insurer operating in such state or foreign country would be charged.

Bail Bonds

When a person is charged with a crime in this state, they may seek pre-trial release. One method of seeking release is by applying for bail.[12] After a bail determination hearing, the court may grant the defendant monetary bail. Such bail can be satisfied by a surety bond presented by a qualified individual, group of individuals, or a bail bond agent licensed under chapter 648, F.S.[13] Such surety bonds serve as a guarantee by the surety that the defendant will appear at all necessary hearings.[14]

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[1] Section 624.509, F.S.
[2] Section 624.509(1)(a), F.S.
[3] Section 624.4625(4), F.S.
[4] Section 624.509(1)(b), F.S.
[5] Section 624.510, F.S.
[6] Section 624.509(4), F.S.
[7] Section 624.509(5), F.S.
[8] Section 624.5105, F.S.
[9] Section 624.51055, F.S.
[10] Section 624.509(6)(a), F.S.
[11] Section 624.5091, F.S.
[12] Section 903.035, F.S.
[13] Section 903,045, F.S.
[14] Section 624.606, F.S.

Licensed bail bond agents are required to charge a premium in exchange for granting the surety bond.[15] Bail bond agents are subject to Section I of the Insurance Code contained in chapter 627, F.S., which requires that their rates be filed with and approved by the Office of Insurance Regulation (OIR).

Licensed bail bond agents or licensed managing general agents retain up to 93.5% of the premium, and the insurance company retains the remainder.[16] Unlike other types of insurance companies, domestic bail bond providers file their required financial reports to the OIR, based on premiums collected *net* of any amounts retained by agents.[17] However, current law requires that the reporting and payment of insurance premium taxes and related excise taxes under ss. 624.509, 624.5091, and 624.5092, F.S., is calculated using *gross* bail bond premiums.[18]

Proposed Changes

The bill provides that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of net bail bond premiums (i.e., excluding any portion of the premium retained by bail bond agents or managing general agents), as reported to the OIR. Other credits and exemptions applicable to insurance premiums tax may still be applied as under current law.

Additionally, it removes language from s. 624.4094(5), F.S., relating to calculation of insurance premiums tax on gross bail bond premiums, to conform to the changes detailed above.

B. SECTION DIRECTORY:

Section 1. Amends section 624.4094, F.S., repealing the provision that insurance premium taxes on bail bond premiums shall not be calculated based on premiums collected but excluding any portion of the premium retained by a bail bond agent.

Section 2. Amends section 624.509, F.S., to provide that insurance premiums tax on bail bond premiums shall be calculated as 1.75% of bail bond premiums but excluding any portion of the premium retained by a bail bond agent or managing general agent.

Section 3. Provides an effective date of January 1, 2015.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   The Revenue Estimating Conference met on March 7, 2014, and estimated that the bill would have a cash and recurring impact of -$0.7 million to general revenue beginning in fiscal year 2014-2015.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None,

[15] Section 648.33(2), F.S.
[16] Section 624.4094(1), F.S.
[17] Section 624.4094, F.S.
[18] Section 624.4094(5), F.S.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would reduce the insurance premiums tax levied on companies that provide bail bond insurance.

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 March 20, 2014, the Finance & Tax Subcommittee adopted a strike-all amendment to the bill. The amendment applied the exemption to both foreign and domestic companies, and changed the effective date to January 1, 2015. The analysis has been updated to reflect these changes.

A bill to be entitled

An act relating to bail bond premiums; amending s. 624.4094, F.S.; repealing a provision separating the calculation of insurance premium taxes from financial reporting for bail bond premiums; amending s. 624.509, F.S.; specifying the amount of direct written premiums for bail bonds for the purpose of calculation of certain taxes; providing an effective date.

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

Section 1. Subsection (5) of section 624.4094, Florida Statutes, is amended, and subsection (1) of that section is republished, to read:

624.4094 Bail bond premiums.—

(1) The Legislature finds that a significant portion of bail bond premiums is retained by the licensed bail bond agents or licensed managing general agents. For purposes of reporting in financial statements required to be filed with the office pursuant to s. 624.424, direct written premiums for bail bonds by a domestic insurer in this state shall be reported net of any amounts retained by licensed bail bond agents or licensed managing general agents. However, in no case shall the direct written premiums for bail bonds be less than 6.5 percent of the total consideration received by the agent for all bail bonds written by the agent. This subsection also applies to any

determination of compliance with s. 624.4095.

~~(5) This section does not affect the reporting or payment of insurance premium taxes under ss. 624.509, 624.5091, and 624.5092, and the insurance premium tax and related excise taxes shall continue to be calculated using gross bail bond premiums.~~

Section 2. Subsection (1) of section 624.509, Florida Statutes, is amended, to read:

624.509 Premium tax; rate and computation.—

(1) In addition to the license taxes provided for in this chapter, each insurer shall also annually, and on or before March 1 in each year, except as to wet marine and transportation insurance taxed under s. 624.510, pay to the Department of Revenue a tax on insurance premiums, premiums for title insurance, or assessments, including membership fees and policy fees and gross deposits received from subscribers to reciprocal or interinsurance agreements, and on annuity premiums or considerations, received during the preceding calendar year, the amounts thereof to be determined as set forth in this section, to wit:

(a) An amount equal to 1.75 percent of the gross amount of such receipts on account of life and health insurance policies covering persons resident in this state and on account of all other types of policies and contracts (except annuity policies or contracts taxable under paragraph (b) and bail bond policies or contracts taxable under paragraph (c)) covering property, subjects, or risks located, resident, or to be performed in this

state, omitting premiums on reinsurance accepted, and less return premiums or assessments, but without deductions:

1. For reinsurance ceded to other insurers;

2. For moneys paid upon surrender of policies or certificates for cash surrender value;

3. For discounts or refunds for direct or prompt payment of premiums or assessments; and

4. On account of dividends of any nature or amount paid and credited or allowed to holders of insurance policies; certificates; or surety, indemnity, reciprocal, or interinsurance contracts or agreements.~~; and~~

(b) An amount equal to 1 percent of the gross receipts on annuity policies or contracts paid by holders thereof in this state.

(c) An amount equal to 1.75 percent of the direct written premiums for bail bonds excluding any amounts retained by licensed bail bond agents or licensed managing general agents.

Section 3. This act shall take effect January 1, 2015.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 943 Department of Revenue's Certified Audit Program
SPONSOR(S): Raulerson and other
TIED BILLS: **IDEN./SIM. BILLS:** SB 1022

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Finance & Tax Subcommittee	17 Y, 0 N	Flieger	Langston
2) Appropriations Committee		Hawkins	Leznoff

SUMMARY ANALYSIS

Section 213.285, Florida Statutes, F.S., establishes a Certified Audit Program as a cooperative effort between the Department of Revenue and the Florida Institute of Certified Public Accountants. The program allows taxpayers to hire qualified CPA firms to review their tax compliance for the tourist development taxes imposed by ss. 125.0104 and 125.0108, F.S, and the sales and use tax imposed by ch. 212, F.S.

To encourage participation in the program, taxpayers who undergo a certified audit receive a statutorily guaranteed waiver of all penalties, abatement of the first $25,000 of interest, and an additional 25 percent of any interest liability in excess of the first $25,000 if that audit reveals additional liability. A taxpayer may not currently participate in the certified audit program if they are currently under audit or have received a written notice of intent to audit.

The bill allows taxpayers to participate in the certified audit program after they have received a notice of intent to audit. The amount of interest abated for such taxpayers is reduced to the first $15,000 and 15 percent of any amount over $15,000. The bill also increases the amount of interest that is abated for participating taxpayers who have not received a notice of intent to audit to an abatement of the first $50,000 of interest plus 50 percent of any amount over $50,000.

On February 28, 2014, the Revenue Estimating Conference estimated that allowing taxpayers to enter the certified audit program after receiving a notice of intent to audit would have a recurring impact of -$1.4 million to General Revenue and a recurring impact of -$0.3 million to local governments. Impacts will not begin until fiscal year 2015-2016. The interest abatement changes for the current program will have an indeterminate fiscal impact of unknown direction.

The effective date is July 1, 2014.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Department of Revenue ("DOR") routinely audits businesses in this state to determine if state taxes were collected, reported, and paid correctly. DOR begins the audit process by mailing a taxpayer a Notification of Intent to Audit Books and Records ("notice of intent").[1] This notice identifies the audit period and taxes to be examined. The types of records needed may include, but are not limited to: federal income tax returns, Florida tax returns, depreciation schedules, general ledgers and journals, property records, cash receipt and disbursement journals, purchase and sales journals, sales tax exemption or resale certificates, and documentation to verify amounts entered on tax returns. An audit may extend back three years.[2]

To encourage voluntarily compliance by taxpayers, s. 213.285, F.S., establishes a Certified Audit Program as a cooperative effort between DOR and the Florida Institute of Certified Public Accountants. The program allows taxpayers to hire qualified CPA firms to review their tax compliance for the tourist development taxes imposed by ss. 125.0104 and 125.0108, F.S, and the sales and use tax imposed by ch. 212, F.S.[3]

To encourage participation in the program, taxpayers who undergo a certified audit receive a statutorily guaranteed waiver of all penalties, abatement of the first $25,000 of interest, and an additional 25 percent of any interest liability in excess of the first $25,000 in cases where the audit reveals additional liability.[4] These incentives are not available where tax was collected but not remitted to the state. Additionally, except in cases of fraud or misrepresentation, DOR will not audit a taxpayer who uses the program for the same tax years that the certified audit reviewed.

A taxpayer may not participate in the certified audit program if they are currently under audit or have received a written notice of intent to audit from DOR.

To conduct a certified audit a CPA must possess an active Florida CPA license, attend a 2.5-day training seminar, and pass an examination to be certified. For a firm to be eligible to conduct certified audits, several additional requirements must be met. The firm must be a licensed audit firm with the Florida Board of Accountancy, have received a timely on-site peer review, and must conduct the audits using agreed-upon procedures. A staff member of the firm must have completed DOR-provided training on Florida multi-tax software.[5]

To be eligible to provide a certified audit service to a taxpayer, the qualified CPA firm must also be independent with respect to that taxpayer, pursuant to the guidelines established by Florida Board of Accountancy.[6]

When the certified audit project was authorized by the Legislature in 1998, a sunset provision was included of July 1, 2002. The program was made permanent in 2003.[7]

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[1] Form DR-840 or CA-I
[2] Section 95.091, F.S.
[3] Rule 12-25.0305, F.A.C.
[4] Section 213.21(8), F.S.
[5] Rule 12-25.033, F.A.C.
[6] http://www.ficpa.org/Content/CPAResources/Professional/Audit/Issues.aspx (last accessed 3/3/14)
[7] Section 40, ch. 2003-254, L.O.F.

Proposed Changes

The bill allows taxpayers to participate in the certified audit program after they have received a notice of intent to audit from DOR. The time limits for administering a certified audit in that situation are modified, giving the taxpayer an additional 30 days to submit a proposed audit plan. Within 90 days after the submittal of the proposed audit plan, the department shall designate the agreed-upon procedures for that audit. The certified auditor has 285 days from the date of the notice of intent to audit to timely complete the audit.

The amount of interest that is abated for such taxpayers is $15,000 plus 15 percent of any amount over $15,000.

The bill also increases the amount of interest that is abated for participating taxpayers who have not received a notice of intent to audit, increasing the abatement to the first $50,000 of interest plus 50 percent of any amount over $50,000.

The bill codifies into statute the current rule[8] that the certified audit program only applies to the sales and use tax and the tourist development tax.

B. SECTION DIRECTORY:

Section 1. Amends s. 213.21, F.S., to adjust the amount of interest abated.

Section 2. Amends s. 213.285, F.S., to allow taxpayers who have received a notice of intent to audit to participate in the certified audit program, providing procedures for such participation, codifying the applicable taxes.

Section 3. Amends s. 213.053, F.S., conforming changes.

Section 4. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   On February 28, 2014, the Revenue Estimating Conference estimated that allowing taxpayers to enter the certified audit program after receiving a notice of intent to audit would have a recurring impact of -$1.4 million to General Revenue. Impacts will not begin until fiscal year 2015-2016. The interest abatement changes for the current program will have an indeterminate fiscal impact of unknown direction.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   The Revenue Estimating Conference estimated that allowing taxpayers to enter the certified audit program after receiving a notice of intent to audit would have a recurring impact of -$0.3 million to

[8] Rule 12-25.0305, F.A.C.

local governments. Impacts will not begin until fiscal year 2015-2016. The interest abatement changes for the current program will have an indeterminate fiscal impact of unknown direction.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Taxpayers who take advantage of the certified audit program may see their tax liability decrease due to the abatement of interest and waiver of penalties. CPAs who are certified by DOR to conduct such audits will see additional demand for their services should the expanded eligibility lead to more participation.

D. FISCAL COMMENTS:

Increased participation in the certified audit program should free up resources to allow DOR to conduct more audits and collect additional taxes from noncompliant taxpayers whose liability would have otherwise gone undetected.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill may cause local governments to receive lower collections from local option sales taxes; however, an exemption may apply as the negative impact to local governments may be insignificant.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

A bill to be entitled

An act relating to the Department of Revenue's certified audit program; amending s. 213.21, F.S.; revising the amounts of interest liability that the department may abate for taxpayers participating in the certified audit program; authorizing a taxpayer to participate in the certified audit program after the department has issued notice of intent to conduct an audit of the taxpayer; reducing the amount of interest that may be abated for a taxpayer requesting to participate in the program; amending s. 213.285, F.S.; conforming provisions; specifying the tax programs to be audited; revising procedures, deadlines, and notice requirements for certified audits; authorizing the department to adopt rules prohibiting a qualified practitioner from representing a taxpayer in informal conference procedures under certain circumstances; amending s. 213.053, F.S.; conforming terminology; providing an effective date.

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

Section 1. Subsection (8) of section 213.21, Florida Statutes, is amended to read:

213.21 Informal conferences; compromises.—

(8) In order to determine whether certified audits are an

effective tool in the overall state tax collection effort, the executive director of the department or the executive director's designee shall settle or compromise penalty liabilities of taxpayers who participate in the certified audit program ~~audits project~~. As further incentive for participating in the program, the department shall:

(a) For a taxpayer who requests to participate in the program before the department has issued the taxpayer a written notice of intent to conduct an audit, abate the first $50,000 of any interest liability and 50 percent of any interest due in excess of the first $50,000; or

(b) For a taxpayer who requests to participate in the program after the department has issued the taxpayer a written notice of intent to conduct an audit, abate the first $15,000 ~~$25,000~~ of any interest liability and 15 ~~25~~ percent of any interest due in excess of the first $15,000 ~~$25,000~~.

A settlement or compromise of penalties or interest pursuant to this subsection is ~~shall~~ not ~~be~~ subject to ~~the provisions of~~ paragraph (3)(a), except for the requirement relating to confidentiality of records. The department may consider an additional compromise of tax or interest pursuant to ~~the provisions of~~ paragraph (3)(a). This subsection does not apply to ~~any~~ liability related to taxes collected but not remitted to the department.

Section 2. Section 213.285, Florida Statutes, is amended

to read:

213.285 Certified audits.—

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

(a) "Certification program" means an instructional curriculum, examination, and process for certification, recertification, and revocation of certification of certified public accountants which is administered by an independent provider and ~~which~~ is officially approved by the department to ensure that a certified public accountant possesses the necessary skills and abilities to successfully perform an attestation engagement for tax compliance review in the ~~a~~ certified audit program ~~audits project~~.

(b) "Department" means the Department of Revenue.

(c) "Participating taxpayer" means any person subject to the revenue laws administered by the department who enters into an engagement with a qualified practitioner for tax compliance review and who is approved by the department under the certified audit program ~~audits project~~.

(d) "Qualified practitioner" means a certified public accountant who is licensed to practice in this state ~~Florida~~ and who has completed the certification program.

(2)(a) The department may ~~is authorized to~~ initiate a certified audit program for sales and use taxes imposed under chapter 212 and local option taxes imposed under ss. 125.0104 and 125.0108 and administered by the department ~~audits project~~ to further enhance tax compliance reviews performed by qualified

practitioners and to encourage taxpayers to hire qualified practitioners at their own expense to review and report on their tax compliance. The nature of certified audit work performed by qualified practitioners shall be agreed-upon procedures in which the department is the specified user of the resulting report.

(b) As an incentive for taxpayers to incur the costs of a certified audit, the department shall compromise penalties and abate interest due on ~~any~~ tax liabilities revealed by the ~~a~~ certified audit:

1. For a taxpayer who requests to participate in the certified audit program before the department has issued the taxpayer a written notice of intent to conduct an audit, as provided in s. 213.21(8)(a); or

2. For a taxpayer who requests to participate in the certified audit program after the department has issued the taxpayer a written notice of intent to conduct an audit, as provided in s. 213.21(8)(b) ~~s. 213.21~~.

The ~~This~~ authority to compromise penalties or abate interest under this paragraph does ~~shall~~ not apply to ~~any~~ liability for taxes ~~that were~~ collected by the participating taxpayer but ~~that were~~ not remitted to the department.

(3) A ~~Any~~ practitioner responsible for planning, directing, or conducting a certified audit or reporting on a participating taxpayer's tax compliance with ~~in~~ a certified audit must be a qualified practitioner. For the purposes of this

subsection, a practitioner is considered responsible for:

(a) "Planning" in a certified audit when performing work that involves determining the objectives, scope, and methodology of the certified audit, ~~when~~ establishing criteria to evaluate matters subject to the review as part of the certified audit, ~~when~~ gathering information used in planning the certified audit, or ~~when~~ coordinating the certified audit with the department.

(b) "Directing" in a certified audit when the work involves supervising the efforts of others who are involved or ~~when~~ reviewing the work to determine whether it is properly accomplished and complete.

(c) "Conducting" a certified audit when performing tests and procedures or field audit work necessary to accomplish the audit objectives in accordance with applicable standards.

(d) "Reporting" on a participating taxpayer's tax compliance in a certified audit when determining report contents and substance or reviewing reports for technical content and substance before ~~prior to~~ issuance.

(4)(a) A ~~The~~ qualified practitioner shall notify the department of an engagement to perform a certified audit and ~~shall~~ provide the department with the information the department deems necessary to identify the taxpayer, to confirm whether ~~that~~ the taxpayer is ~~not~~ already under audit by the department, and to establish the basic nature of the taxpayer's business and the taxpayer's potential exposure to the ~~Florida~~ revenue laws administered by the department. Once the department has issued a

written notice of intent to conduct an audit to a taxpayer, and if the taxpayer requests to participate in the certified audit program, the qualified practitioner or the taxpayer must notify the department of the engagement to perform the certified audit within 30 days after the notice of intent to conduct the audit was issued to the taxpayer.

(b) The information provided in the notification must ~~shall~~ include the taxpayer's name, federal employer identification number or social security number, state tax account number, mailing address, and business location~~,~~ and the specific taxes and period proposed to be covered by the engagement for the certified audit. In addition, the notice must ~~shall~~ include the name, address, identification number, contact person, e-mail address, and telephone number of the engaged firm.

(c)~~(b)~~ Upon the department's receipt of the engagement ~~If the taxpayer has not been issued a written~~ notice ~~of intent to conduct an audit~~, the taxpayer becomes ~~shall be~~ a participating taxpayer and the department shall so advise the qualified practitioner in writing within 10 days after receipt of the engagement notice. However, the department may exclude a taxpayer from a certified audit or may limit the taxes or periods subject to the certified audit if ~~on the basis that~~ the department has previously conducted an audit, ~~that it~~ is in the process of conducting an investigation or other examination of the taxpayer's records, or for just cause determined solely by

the department.

(d) ~~(c)~~ Notice of the qualification of a taxpayer for a certified audit tolls ~~shall toll~~ the statute of limitations provided in s. 95.091 with respect to the taxpayer for the tax and periods covered by the engagement.

(e) ~~(d) Within 30 days after receipt of the notice of qualification from the department,~~ The qualified practitioner shall contact the department and, within the following periods, shall submit a proposed audit plan and procedures for review and agreement by the department:

1. For a taxpayer who requests to participate in the certified audit program before the department has issued the taxpayer a written notice of intent to conduct an audit, within 30 days after receipt of the notice of qualification from the department; or

2. For a taxpayer who requests to participate in the certified audit program after the department has issued the taxpayer a written notice of intent to conduct an audit, within 60 days after the department issued the taxpayer the notice of intent to conduct the audit.

The department may extend the time for submission of the plan and procedures for reasonable cause. The qualified practitioner shall initiate action to advise the department that amendment or modification of the plan and procedures is necessary if ~~in the event that~~ the qualified practitioner's inspection reveals that

the taxpayer's circumstances or exposure to the revenue laws is substantially different than as described in the engagement notice.

(f) If the taxpayer has been issued a written notice of intent to conduct an audit but submits a proposed audit plan and procedures in accordance with subparagraph (e)2. within 90 days after the notice of intent was issued to the taxpayer, the department shall designate the agreed-upon procedures to be followed by the qualified practitioner in the certified audit.

(5) Upon the department's designation of the agreed-upon procedures to be followed by the practitioner in the certified audit, the qualified practitioner shall perform the engagement and ~~shall~~ timely submit a completed report to the department. The report must ~~shall~~ affirm completion of the agreed-upon procedures and ~~shall~~ provide ~~any~~ required disclosures. For a certified audit completed pursuant to agreed-upon procedures designated by the department under paragraph (4)(f), the completed report is considered timely only if submitted to the department within 285 days after the notice of intent to conduct the audit was issued to the taxpayer.

(6) The department shall review the report of the certified audit and shall accept it when it is determined to be complete. Once the report is accepted by the department, the department shall issue a notice of proposed assessment reflecting the determination of any additional liability reflected in the report and shall provide the taxpayer with all

the normal payment, protest, and appeal rights with respect to the liability. In cases where the report indicates an overpayment has been made, the taxpayer shall submit a properly executed application for refund to the department. Otherwise, the certified audit report is a final and conclusive determination with respect to the tax and period covered. An ~~No~~ additional assessment may not be made by the department for the specific taxes and period referenced in the report, except upon a showing of fraud or misrepresentation of material facts and except for adjustments made under s. 198.16 or s. 220.23. This determination does ~~shall~~ not prevent the department from collecting liabilities not covered by the report or from conducting an audit or investigation and making an assessment for additional tax, penalty, or interest for any tax or period not covered by the report.

(7) To administer ~~implement~~ the certified audit program ~~audits project~~, the department may ~~shall have authority to~~ adopt rules relating to:

(a) The availability of the certification program required for participation in the certified audit program ~~project~~;

(b) The requirements and basis for establishing just cause for approval or rejection of participation by taxpayers;

(c) Procedures for assessment, collection, and payment of liabilities or refund of overpayments and provisions for taxpayers to obtain informal and formal review of certified audit results;

(d) The nature, frequency, and basis for the department's review of certified audits conducted by qualified practitioners, including the requirements for documentation, work-paper retention and access, and reporting; ~~and~~

(e) Requirements for conducting certified audits and for review of agreed-upon procedures; and

(f) The circumstances under which a qualified practitioner who conducts a certified audit for a taxpayer after the department has issued the taxpayer a written notice of intent to conduct the audit is prohibited from representing the taxpayer in informal conference procedures established pursuant to s. 213.21.

Section 3. Paragraph (m) of subsection (8) of section 213.053, Florida Statutes, is amended to read:

213.053 Confidentiality and information sharing.—

(8) Notwithstanding any other provision of this section, the department may provide:

(m) Information contained in returns, reports, accounts, or declarations to the Board of Accountancy in connection with a disciplinary proceeding conducted pursuant to chapter 473 when related to a certified public accountant participating in the certified audit program ~~audits project~~, or to the court in connection with a civil proceeding brought by the department relating to a claim for recovery of taxes due to negligence on the part of a certified public accountant participating in the certified audit program ~~audits project~~. In a ~~any~~ judicial

proceeding brought by the department, upon motion for protective order, the court shall limit disclosure of tax information when necessary to effectuate the purposes of this section.

Disclosure of information under this subsection shall be pursuant to a written agreement between the executive director and the agency. Such agencies, governmental or nongovernmental, shall be bound by the same requirements of confidentiality as the Department of Revenue. Breach of confidentiality is a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.

Section 4. This act shall take effect July 1, 2014.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 7069 PCB EDC 14-01 Early Learning and Child Care Regulation
SPONSOR(S): Education Appropriations Subcommittee, Education Committee, and O'Toole
TIED BILLS: **IDEN./SIM. BILLS:** SB 1702

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Education Committee	16 Y, 0 N	Beagle	Mizereck
1) Education Appropriations Subcommittee	12 Y, 0 N, As CS	Seifert	Heflin
2) Appropriations Committee		Fontaine	Leznoff

SUMMARY ANALYSIS

Currently, the state-funded early learning programs, i.e., the School Readiness and Voluntary Prekindergarten Education (VPK) programs, are delivered by a diverse range of providers, including public schools, licensed child care providers, licensed-exempt child care providers, and nonpublic schools. The child health and safety standards applicable to each provider type and the degree to which minimum levels of health and safety are inspected and enforced vary widely. Among other things, the bill increases early learning provider health and safety requirements and personnel quality by requiring:

- Private providers to be licensed or, if the provider is a licensed-exempt faith-based provider or nonpublic school, agree to substantially comply with specified health and safety standards and submit to inspections by the Department of Children and Families (DCF) or local licensing agency.
- Providers to notify parents of health and safety violations and prominently post citations that result in disciplinary action and inspection reports on the premises.
- That providers with Class I violations in the previous year be denied program eligibility unless certain requirements are met.
- By January 1, 2016, personnel to be at least 18 years of age and hold a high school diploma (or equivalent), with exceptions.
- By January 1, 2015, personnel to be trained in first aid and cardiopulmonary resuscitation, with exceptions.
- Personnel to be trained in developmentally appropriate practices aligned to the age and needs of children served by the personnel.
- The Office of Early Learning (OEL) to develop online training on the School Readiness program performance standards and provider personnel to complete the training.

Several bill provisions effect child care regulation in general. Among other things, the bill adds failure to report child abuse as a disqualifying offense for child care employment and requires employment history checks; prohibits licensed child care providers who have been disciplined for serious licensing violations from transferring ownership to relatives in order to remain in business; requires family day care homes (FDCH) to conspicuously post their license or registration on the premises; and requires substitutes for operators of registered FDCHs to meet the same training requirements as substitutes in licensed homes.

The bill reduces regulatory burdens on state agencies and child care providers by authorizing Early Learning Coalitions (ELC) to allow private providers to determine child eligibility for the VPK program; requiring ELCs, OEL, and DCF to cooperate in reducing paperwork and duplicative regulations; expanding DCF's authority to conduct abbreviated inspections; and extending to large family child care homes certain protections regarding zoning, property insurance, and utility rates currently available to FDCHs. Among other terminology changes, the bill directs the Division of Law Revision and Information to change the name of the School Readiness Program to the Child Care and Development Program.

The bill has a significant fiscal impact upon DCF due to the increased regulatory workload. Nonpublic schools and license-exempt faith-based providers of state-funded early learning programs may experience increased costs associated with increased health and safety regulation. *See* Fiscal Analysis & Economic Impact Statement.

The bill takes effect July 1, 2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Early Learning and Child Care Regulation

Present Situation

Florida's Office of Early Learning (OEL)[1] provides state-level administration for two state-funded early learning programs serving preschool age children – the School Readiness program and the Voluntary Prekindergarten Education (VPK) program. Both programs differ in purpose and utilize a variety of providers to deliver program services, such as licensed and unlicensed child care providers and public and nonpublic schools.[2] The Florida Department of Children and Families' Office of Child Care Regulation (DCF), as the agency responsible for the state's child care provider licensing program, regulates child care providers that provide early learning programs.[3]

School Readiness Program

The School Readiness program provides subsidies for child care services and early childhood education for children of low-income families; children in protective services who are at risk of abuse, neglect, or abandonment; and children with disabilities. The School Readiness Program is a state-federal partnership between OEL and the Office of Child Care of the United States Department of Health and Human Services.[4] The School Readiness program receives funding from a mixture of state and federal sources, including the federal Child Care and Development Fund (CCDF) block grant, the federal Temporary Assistance for Needy Families (TANF) block grant, and general revenue and other state funds.[5] The program is administered at the county or regional level by early learning coalitions (ELC).[6]

In order to be eligible to deliver the School Readiness program, a provider must be:

- A licensed child care facility;
- A licensed or registered family day care home (FDCH);
- A licensed large family child care home (LFCCH);
- A public school or nonpublic school;
- A license-exempt faith-based child care provider;
- A before-school or after-school program; or

[1] In 2013, the Legislature established the Office of Early Learning in the Office of Independent Education and Parental Choice within the Department of Education (DOE).The office is administered by an executive director and is fully accountable to the Commissioner of Education but shall independently exercise all powers, duties, and functions prescribed by law, as well as adopt rules for the establishment and operation of the school readiness program and the Voluntary Prekindergarten Education Program. Section 1, 2013-252, L.O.F., *codified as* s. 1001.213, F.S.

[2] Parts V and VI, ch. 1002, F.S.

[3] *See* ss. 402.301-319, F.S., and Parts V and VI, ch. 1002, F.S.

[4] Part VI, ch. 1002, F.S.; 42 U.S.C. ss. 618 & 9858-9858q; U.S. Department of Health and Human Services, *Child Care and Development Fund Fact Sheet* (2014), *available at* http://www.acf.hhs.gov/sites/default/files/assets/FS_OCC_0.pdf.

[5] Specific Appropriations 78A and 79, s. 2, ch. 2013-40, L.O.F.

[6] Sections 1002.83-1002.85, F.S. There are currently 31 ELCs, which is the maximum permitted by law. Section 1002.83(1), F.S.; *see* Florida's Office of Early Learning, *Early Learning Coalition Directory* (Feb. 5, 2014), http://www.floridaearlylearning.com/sites/www/Uploads/files/Parents/CoalitionDirectory.pdf.

- An informal child care provider authorized in the state's CCDF plan.[7]

Voluntary Prekindergarten Education Program

The VPK program is a voluntary, free prekindergarten program offered to eligible four-year old children in the year before admission to kindergarten.[8] Children enrolled in the VPK program receive instruction in emergent literacy and mathematics skills necessary for kindergarten readiness.[9] A child must be a Florida resident and attain four years of age on or before September 1 of the academic year to be eligible for the VPK program. Parents may choose either a school-year or summer program offered by either a public school or private prekindergarten provider.[10] A parent enrolling a child in the VPK program must complete and submit an application to the ELC. Thus, public school and private prekindergarten providers do not determine child eligibility for the program.[11]

Local oversight of individual VPK program providers is split, with ELCs providing administration over programs delivered by private prekindergarten providers and school districts administering public school VPK programs.[12] Each district school board determines which district schools will offer the school-year and summer VPK programs and such schools must register with the ELC.[13]

The VPK program may be offered by either a private prekindergarten provider or a public school. To offer the VPK program, a private prekindergarten provider must be a:

- Licensed child care facility;
- Licensed FDCH;
- Licensed LFCCH;
- Nonpublic school; or
- License-exempt faith-based child care provider.[14]

In addition, a private prekindergarten provider must:

- Be accredited by an accrediting association that is a member of either the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, the Western Association of Colleges and Schools, the North Central Association of Colleges and Schools, the Middle States Association of Colleges and Schools, or the New England Association of Colleges and

[7] Section 1002.88(1)(a), F.S. Generally speaking, informal child care is care provided by a relative. *See* Florida's Office of Early Learning, *Child Care and Development Fund State Plan FFY 2014-15,* at 71 (Oct. 1, 2013), *available at* http://www.floridaearlylearning.com/sites/www/Uploads/files/Oel%20Resources/2014-2015_CCDF_Plan_%20Optimized.pdf.

[8] Part V, ch. 1002, F.S.; *see also* Art. IX, s. 1(b)-(c), Fla. Const. The VPK program originated from a ballot initiative proposing an amendment to the Florida Constitution in the November 2002 general election. The amendment required the Legislature to establish a free prekindergarten education program for every four-year old child residing in Florida by the 2005 academic year. Voters approved the amendment by a total of 59 percent for to 41 percent against. Florida Department of State, Division of Elections, *Voluntary Universal Prekindergarten Education*, http://election.dos.state.fl.us/initiatives/initdetail.asp?account=34708&seqnum=1 (last visited Feb. 9, 2014).

[9] Section 1002.67(1)(a), F.S.

[10] Section 1002.53(2)-(3), F.S.

[11] Section 1002.53(4), F.S.

[12] Sections 1002.53(6), 1002.55(1), 1002.61(1), and 1002.63(1), F.S.

[13] Sections 1002.61(3)(a) and (8)(a) and 1002.63(3) and (8)(a), F.S. School districts must offer a summer VPK program and may limit enrollment at individual public schools so long as admission is provided to every eligible student who seeks enrollment in the district's summer program. Sections 1002.53(6)(b) and 1002.61(3)(a), F.S.

[14] Section 1002.55(3)(a) and (h), F.S.; *see also* rule 6M-8.300(3), F.A.C.; s. 402.305, F.S. (child care facilities licensing); s. 402.3025, F.S. (nonpublic schools); s. 402.313, F.S. (FDCH licensing); s. 402.3131, F.S. (LFCCH licensing); s. 402.316, F.S. (faith-based provider exempt from licensure).

Schools; and has written accreditation standards that meet the state's licensing requirements and requires at least one onsite visit before accreditation is granted;[15]
- Hold a current Gold Seal Quality Care designation;[16] or
- Be licensed and demonstrate to the ELC that the provider meets the VPK program's statutory requirements.[17]

Unlicensed (registered) FDCHs and informal child care providers are not eligible to offer the VPK program.[18]

Child Care Personnel and Instructor Qualifications

An application for a child care personnel position with a licensed child care facility, FDCH, or LFCCH must require the applicant to disclose, under penalty of perjury, whether he or she has ever worked for a provider that has had its license denied, revoked, or suspended in any state or jurisdiction or if he or she, individually, has been the subject of a disciplinary action or been fined while so employed.[19] Child care employers must conduct employment history checks on prospective employees.[20] The law generally requires all employers of employees who are subject to background screening requirements to furnish copies of personnel records of employees and former employees, including records of termination or disciplinary actions, when requested by other employers. The law shields such employers from any liability resulting from such release of employment records, unless the employer maliciously falsifies the records.[21]

Child care personnel employed by licensed child care facilities, licensed and registered FDCHs, LFCCHs, licensed-exempt child care providers, and nonpublic schools and VPK program instructors employed by public schools, must undergo Level 2[22] background screening.[23] The Level 2 screening requirement for public school VPK program instructors differs with the screening requirements for other public school instructional personnel. Such personnel are screened against a distinct list of 59 disqualifying offenses.[24]

Currently, the minimum age for employment as child care personnel is 16 years of age.[25] The minimum age for employment in an instructional capacity with a public school district is 18 years of age.[26] Licensed child care facility personnel, licensed and registered FDCH operators, and LFCCH operators must complete introductory child care training and .5 unit of continuing education which includes, among other things, early literacy and language development.[27] Introductory training for licensed child

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[15] Section 1002.55(3)(b)1., F.S.
[16] Section 402.281, F.S.; rule 65C-22.009, F.A.C.; *see also* Florida Department of Children and Family Services, *Gold Seal Quality Care,* http://www.dcf.state.fl.us/childcare/goldseal.shtml (last visited Feb. 21, 2014). DCF issues the Gold Seal Quality Care designation to child care facilities, LFCCHs, and FDCHs that are accredited by a nationally recognized accrediting association with standards that meet or exceed DCF-adopted standards. DCF's standards are based upon those of the National Association for the Education of Young Children, National Association of Family Child Care, and National Early Childhood Program Accreditation Commission. Section 402.281(1)-(3), F.S.
[17] Section 1002.55(3)(b), F.S.
[18] Section 1002.55(3)(a), F.S..
[19] Section 402.3055(1)(b), F.S.
[20] Section 402.302(15), F.S.
[21] Section 435.10, F.S.
[22] Level 2 background screening requires individuals to be screened against a statutorily prescribed list of 51 offenses. *See* s. 435.04, F.S.
[23] Sections 402.302(15)(definition of screening), 402.305(2)(child care facilities), 402.313(3)(FDCH), 402.3131(2)(LFCCH), 1002.55(3)(d)-(e)(private provider of VPK school year program), 1002.61(5)-(6)(public school and private providers of the VPK summer program), and 1002.63(5)-(6), F.S. (public school provider of school year VPK program).
[24] Sections 1012.315 and 1012.32, F.S.; rule 6A-5.056(8), F.A.C. (crimes involving moral turpitude).
[25] Section 402.305(2)(c), F.S.
[26] Section 1012.32(1), F.S.
[27] Section 402.305(2)(d)1. and 5., F.S. (licensed child care facilities); s. 402.313(1)(a)6. and (6), F.S. and rule 65C-20.009(3), F.A.C. (FDCH) and 402.3131(5), F.S. and rule 65C-20.013(5), F.A.C. (LFCCH).

care facility personnel and LFCCH operators includes developmentally appropriate practices courses for serving infants and toddlers, preschoolers, school-age children, and special needs children.[28] There is no requirement that introductory training or continuing education address emergent numeracy skills or that personnel take developmentally appropriate practices courses aligned to the specific age group or child classification to which they are assigned.

A licensed child care facility must have at least one employee on site who is trained in first aid and cardiopulmonary resuscitation (CPR). Operators of licensed FDCHs and LFCCHs and their substitutes must also be trained in these techniques.[29] First aid and CPR training are not required for registered FDCH operators and their substitutes.

Currently, the training requirements for substitutes for licensed FDCH operators differentiate between substitutes who work 40 hours or more per month from those who work less. Substitutes who work 40 hours or more per month must take a 30-clock-hour introductory child care course; a .5 continuing education unit early literacy course, and first aid and CPR training. Substitutes who work less than 40 hours per month must take a 6-clock-hour child care rules and regulations course. These training requirements do not apply to substitutes working in registered FDCHs.[30]

The law specifies minimum allowable educational credentials for VPK program instructors, which vary depending on whether they work for a private or public school provider or teach during a school year or summer program. Such credentials include the child development associate credential, various education and early childhood-related associates or bachelor's degrees, or a Florida professional teaching certificate.[31] There is no requirement that other child care personnel employed by a VPK program provider or School Readiness program provider hold a high school diploma.

The law requires OEL to develop and adopt standards and benchmarks that address the age-appropriate progress of children in the development of school readiness skills. These standards must be aligned with the performance standards adopted for children in the VPK program and must address:

- Approaches to learning.
- Cognitive development and general knowledge.
- Numeracy, language, and communication.
- Physical development.
- Self-regulation.[32]

Each ELC must provide professional development to School Readiness program teachers regarding the OEL-adopted performance standards.[33]

Child Health and Safety

State-funded early learning programs are delivered by a diverse range of providers, including licensed child care providers, licensed-exempt child care providers, public schools, and nonpublic schools. The child health and safety standards applicable to each provider type and degree to which minimum levels of health and safety are inspected and enforced vary widely.

Early Learning Providers by Classification[34]

[28] Section 402.305(2)(d), F.S. and rule 65C-22.003(2)(a)3., F.A.C. (licensed child care facilities); s. 402.3131(3), F.S. and rule 65C-20.013(5)(b), F.A.C. (LFCCH).
[29] Section 402.305(7)(a), F.S.; rule 65C-20.009(3)(c), F.S.
[30] Section 402.313(1)(a) and (13), F.S.; rule 65C-20.009(3), F.A.C.
[31] Section 1002.55(3)(c)1. and (4), F.S.
[32] Section 1002.82(2)(j), F.S.
[33] Section 1002.83(13), F.S.
[34] Email, Office of Early Learning, Legislative Affairs Director, (Feb. 12, 2014).

Provider Classification	Eligible Providers	
	School Readiness Program	VPK Program
Licensed Child Care Facility	5,413	4,694
Licensed FDCH	1,468	49
Registered FDCH	198	Ineligible
Licensed LFCCH	233	41
Public School	782	1,026
Nonpublic School	224	82
Faith-Based Exempt	221	144
Informal Provider	18	Ineligible

Licensed Providers

DCF issues licenses to child care facilities, FDCHs, and LFCCHs. A county may designate a local licensing agency to license such providers if its licensing standards meet or exceed DCF's standards. Five counties have established local licensing agencies – Broward, Hillsborough, Palm Beach, Pinellas, and Sarasota.[35]

Child care provider licenses must be renewed annually.[36] Licensure is optional for FDCHs; however, homes that choose not to be licensed must annually register with DCF or the local licensing agency, as applicable. A county may by ordinance require that FDCHs be licensed. Fifteen counties have enacted such ordinances -- Brevard, Broward, Clay, Duval, Hernando, Hillsborough, Manatee, Miami-Dade, Nassau, Palm Beach, Pasco, Pinellas, Polk, Sarasota, and St. Johns.[37] Among other things, licensed child care facilities, FDCHs, and LFCCHs must annually provide information to parents regarding the influenza virus during the months or August and September.[38]

DCF conducts inspections of all licensed child care providers to determine initial and renewal licensure and periodically assess continued compliance with licensing standards. Licensed child care facilities are inspected three times annually. LFCCHs and licensed FDCHs are inspected twice annually. In each case, the first inspection is an announced initial or renewal licensing inspection. Subsequent inspections are unannounced.[39]

Licensed child care facilities are inspected based upon 354 total licensing standards in 63 categories. Licensed FDCHs are inspected based upon 261 total standards in 38 categories. LFCCHs are inspected based upon 321 total standards in 55 categories.[40] Legislation enacted in 1996 directed DCF and local licensing agencies to develop and implement a plan to eliminate duplicative and unnecessary inspections and implement an abbreviated inspection plan for providers with no Class I or Class II violations in a two-year period.[41] DCF's abbreviated inspection plan is only applicable to child care facilities. Abbreviated inspections consist of 39 of the 63 categories of standards and only the initial or renewal licensing inspection is a full inspection.[42]

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[35] Section 402.306(1), F.S.; Department of Children and Families, *Licensing Information*, http://www.myflfamilies.com/service-programs/child-care/licensing-information (last visited Feb. 10, 2014).
[36] Sections 402.305 and 402.306-402.308, F.S.
[37] Section 402.313(1), F.S.; *see* Department of Children and Families, *Registered Family Day Care Homes*, http://www.myflfamilies.com/service-programs/child-care/registered-family-day-care (last visited Dec. 5, 2013).
[38] Sections 402.305(9), 402.313(14), and 402.3131(9), F.S.
[39] Sections 402.308 and 402.311, F.S. Licensing standards are found throughout ss. 402.301-402.319, F.S., and ch. 65C-22, F.A.C. Prior to 2010, DCF and the Department of Health (DOH) shared responsibility for health/safety inspections of child care facilities. However, legislation enacted that year removed child care facility inspections from the purview of DOH. *See, e.g.,* ss. 17 and 18, ch. 2010-161, L.O.F.; Memorandum of Agreement between DCF and DOH (April 16, 1997).
[40] *Id.*; ch. 65C-22, F.A.C.
[41] Section 79, ch. 96-175, L.O.F., *codified as* s. 402.3115, F.S.
[42] Email, Department of Children and Families, Legislative Affairs Director (Dec. 2, 2013).

DCF rule classifies licensing violations as follows:

- Class I violations are the most serious in nature, pose an imminent threat to a child including abuse or neglect and which could or does result in death or serious harm to the health, safety or well-being of a child.
- Class II violations are less serious in nature than Class I violations, and could be anticipated to pose a threat to the health, safety or well-being of a child, although the threat is not imminent.
- Class III violations are less serious in nature than either Class I or Class II violations, and pose a low potential for harm to children.[43]

Class I violations include serious threats to health and safety, e.g., failure to report child abuse, child abuse by child care personnel, leaving children alone with personnel who have not been background screened, transporting children in vehicles without enough seat belts, and leaving a child in a vehicle while on a field trip.[44]

Licensed Child Care Provider Standards By Class of Violation			
Provider Type	**Class I**	**Class II**	**Class III**
Child Care Facility	21 standards	104 standards	229 standards
Family Day Care Home	28 standards	83 standards	150 standards
Large Family Child Care Home	31 standards	96 standards	194 standards

An OEL review of 2012-13 DCF child care licensing inspection results indicates that 106 providers of the School Readiness or VPK programs were issued Class I violations. Since the initial review of the data, eight of the child care providers closed leaving 98 providers with a total of 118 Class I violations. Class I violations were issued for:

- Leaving unscreened individuals alone to supervise children: 25
- Failure to report child abuse: 19
- Inadequate supervision of children in care: 19
- Exceeding vehicle capacity or available child restraints while transporting children: 17
- The number of children in care exceeding licensed capacity: 8
- Misrepresentations by provider personnel to inspectors: 7
- Leaving a child behind in a vehicle: 6
- Use of prohibited forms of discipline: 6
- Records indicating an active employee was convicted of a disqualifying offense: 4
- Child abuse/neglect by a provider: 3
- Failure to follow medication instructions: 3
- Failure to inspect a vehicle after off-loading children: 1
- Total: 118[45]

The law authorizes DCF and local licensing agencies to impose sanctions on child care providers for licensing violations and other misconduct. Sanctions include license suspension or revocation, fines, probation. When cause exists to impose sanctions, DCF or the local licensing agency must provide written notice to the licensee stating the grounds for the sanction and, if requested, grant a hearing on the matter.[46] The law requires the owner of a licensed child care facility to notify parents of each child in

[43] Rule 65C-22.010(1)(d), F.A.C.
[44] *See, e.g.,* Florida Department of Children and Families, *Facility/Center Classification Summary* (July 2012), *available at* http://ccrain.fl-dcf.org/(X(1))/documents/2/443.pdf#page=1.
[45] Email, Office of Early Learning, Legislative Affairs Director (Dec. 4, 2013).
[46] Sections 402(1)(a), (2), and (3) and 120.60, F.S.

care regarding any transfer of ownership of the facility. The new owner must apply for a new license.[47] The law does not prohibit the owner of a licensed child care facility from transferring ownership to a relative after having his or her license suspended or revoked or after suspension or revocation proceedings are initiated by DCF or a local licensing agency.

The requirements regarding notifying parents of licensure status and violations vary by child care provider type:

- Each child care facility and LFCCH must conspicuously display on the premises its license.[48]
- Each child care facility must post conspicuously on the premises any citations that resulted in disciplinary action for one-year after its effective date.[49]
- Child care facilities, FDCHs, and LFCCHs must distribute to parents a DCF-developed brochure indicating the licensure status of the provider and that information about the provider's compliance with applicable state and local requirements (including violations) can be obtained by telephoning DCF or the local licensing agency.[50]

These requirements are inapplicable to license-exempt faith-based providers and nonpublic schools. Such providers delivering the School Readiness program must annually complete a health and safety checklist, which must be posted prominently on the premises where parents can view it. The check list must be submitted to the ELC, but the ELC does not have authority to investigate and verify the accuracy of the information therein.[51]

Registered Family Day Care Homes

A registered FDCH must annually register with DCF by submitting the following information:

- The name and address of the home, name of the operator, and number of children served.
- Proof of a written plan to provide a substitute for the operator that includes the name, address, and telephone number of the substitute.
- Proof of screening and background checks.
- Proof that the operator has completed the 30-hour introductory child care training course, as evidenced by passage of a competency examination, and continuing education.
- Proof that immunization records are kept current.[52]

Substitutes for the operator of a registered FDCH are not currently required to complete any training.[53] Operators of FDCHs must annually complete a health and safety self-evaluation checklist. The checklist must be signed by the operator and provided to parents as certification that specified health and safety standards are being met. There is no requirement that the checklist be submitted to DCF, nor does DCF have authority to inspect registered FDCHs.[54]

License-Exempt Faith-Based Providers

Child care facilities that are an integral part of a church or parochial school and accredited by an organization which requires compliance with published health, safety, and sanitation standards are exempt from licensure. DCF does not have authority to investigate whether the accreditor of a faith-

[47] Section 402.305(18), F.S.
[48] Section 402.3125(1)(a), F.S. (child care facilities); s. 402.3131(7) and rule 65C-20.013(3)(g), F.A.C. (LFCCHs);
[49] Section 402.3125(1)(b), F.S.
[50] Sections 402.3125(5), 402.313(9), and 402.3131(6), F.S.
[51] Section 1002.88(1)(c), F.S.
[52] Section 402.313(1)(a), F.S.
[53] *Id.*
[54] Section 402.313(7), F.S.

based provider actually conducts site visits or otherwise enforces compliance with its health and safety standards.[55]

Public and Nonpublic Schools

The law requires each public and nonpublic school facility to obtain an environmental health inspection by the local county health department[56] and fire safety inspection by the local fire authority prior to opening and operating in Florida.[57] Sanitation and safety standards for public and nonpublic school facilities are prescribed in State Board of Education rule and county health departments apply these standards when inspecting facilities.[58] For public schools, the law requires that these inspections be conducted periodically.[59] The law is silent regarding the frequency of inspections for nonpublic schools and the Department of Education (DOE) does not verify that nonpublic schools obtain inspections, unless the nonpublic school participates in a state-funded school choice scholarship program, in which case the school must annually submit a compliance form to DOE documenting annual health and fire inspections.[60]

Prior to opening, nonpublic schools must also obtain a signed inspection report from the county or city electrical, plumbing, and building department certifying that the school facility meets local standards for educational facilities. If a public or nonpublic school serves or caters food, Department of Health food safety standards apply and a food permit is required. The local county health department permits and inspects food service at all educational facilities.[61]

Nonpublic school programs for children who are at least three years of age, but under five years of age, must substantially comply with minimum child care standards for licensed child care facilities. The law defines "substantial compliance" to mean "that level of adherence which is sufficient to safeguard the health, safety, and well-being of all children under care. Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance."[62]

DCF or a local licensing agency must enforce substantial compliance with the standards to protect child health and safety. Enforcement mechanisms include corrective action plans, fines, and seeking a court order to close a school if conditions there pose a threat to child safety. DCF and local licensing agencies must take measures to eliminate duplicative inspections and unnecessary regulation, as practicable. Nonpublic school personnel who misrepresent or fail to disclose information regarding qualification for the licensing exemption or misuse criminal and juvenile delinquency records obtained in employee background screening may be subjected to criminal penalties.[63] The "substantial compliance" requirement has only been implemented in four counties.[64]

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[55] Sections 402.3025 and 402.316, F.S. Faith-based child care facilities must be an integral part of a church or parochial school. Section 402.316(1), F.S.

[56] Sections 381.006(16) and 1013.12, F.S. Nonpublic schools are also required to register with the DOE. Section 1002.41, F.S.

[57] Sections 633.206 and 1013.12, F.S.; rule 69A-58, F.A.C. (fire safety in educational facilities).

[58] *See* rules 6A-2.0010, 6A-2.0040, and 64E-13.004, F.A.C.

[59] Section 1013.12, F.S.

[60] Section 1002.421(2), F.S. State funded scholarship programs include the John M. McKay Scholarships for Students with Disabilities Program and Florida Tax Credit Scholarship Program. Sections 1002.39 and 1002.395, F.S.

[61] Section 381.0072, F.S.; ch. 64E-11, F.A.C

[62] Section 402.302(17), F.S.

[63] Section 402.3025(2)(d), F.S.

[64] The counties are Broward, Hillsborough, Palm Beach, and Pinellas. Department of Children and Families, *Provider Information*, https://www.dcf.state.fl.us/programs/childcare/programform.shtml (last visited Feb. 12, 2014).

Effect of Proposed Changes

Currently, the state-funded School Readiness and VPK programs are delivered by a diverse range of providers, including public schools, licensed child care providers, licensed-exempt child care providers, and nonpublic schools. The child health and safety standards applicable to each provider type and degree to which minimum levels of health and safety are inspected and enforced varies widely. This bill holds all providers of state-funded early learning programs accountable to high standards of health and safety and site inspections. It also increases the qualifications and training for child care personnel employed by such providers. The bill empowers parents to make informed child care decisions by requiring that early learning providers cited for health and safety violations notify parents regarding violations. Lastly, while the bill increases health and safety requirements for some providers, a number of the bill's provisions reduce regulatory burdens on state agencies and child care providers.

The bill makes several terminology changes in statutory sections amended by the bill:

- The "School Readiness program" is changed to the "Child Care and Development program."
- References to "school readiness" are changed to "child care and development."
- "Family day care home" is changed to "family child care home."
- References to "family day care" are changed to "family child care."

The Division of Law Revision and Information is directed to prepare a reviser's bill for the 2015 general session to change these terms anywhere else they appear in the Florida Statutes.

Existing terminology is used in the Effect of Proposed Changes section of this bill analysis to avoid confusion.

Health, Safety, and Welfare

The bill maintains eligibility to offer the School Readiness program for public schools, licensed child care facilities, licensed FDCHs and LFCCHs, license exempt faith-based providers, and nonpublic schools. The bill removes registered FDCHs and informal providers as eligible School Readiness program providers.

The bill maintains eligibility to offer the VPK school year program for licensed child care facilities, licensed FDCHs, LFCCHs, license-exempt faith-based providers, and nonpublic schools and the existing requirement that unlicensed providers either be accredited by an authorized accreditor or hold a Gold Seal Quality Care Designation. U.S. Department of Defense (DOD)-certified child development centers operating on military installations are added as a new class of eligible private provider.

The bill requires each School Readiness or VPK program provider to comply with basic health and safety standards and specifies the manner for achieving such compliance. For licensed child care providers, this requirement is met through compliance with applicable licensing standards. For public schools, this requirement is met through compliance with existing public school health and safety requirements. The bill does not specify standards for child development centers operating on military bases. Health and safety in these centers is regulated according to standards adopted by DOD, which, among other things, require centers to be inspected at least four times annually.[65]

Most significantly, license-exempt faith-based providers and nonpublic schools must demonstrate substantial compliance with specified child care licensing standards, i.e, standards related to supervision, transportation, access, health, food and nutrition, personnel screening, and records. The bill grants DCF and local licensing agencies, as applicable, authority to inspect any portion of a license-exempt provider's or a nonpublic school's facility in which early learning programs are delivered.

[65] 10 U.S.C. s. 1794; *see, e.g.,* Army Regulation 608-10.

The bill authorizes DCF or a local licensing agency, as applicable, to issue a certificate of substantial compliance to license-exempt faith-based providers and nonpublic schools that offer the VPK or School Readiness programs. Such a school or provider must obtain the certificate in order to offer the programs. The school or provider must pass a site inspection prior to issuance of the certificate. The certificate is valid for one year and must be renewed annually.

The statutory definition of "substantial compliance" is revised to apply directly to license-exempt faith-based and nonpublic school providers of state-funded early learning programs. Under the bill, "substantial compliance" means "that level of adherence to adopted standards which is sufficient to safeguard the health, safety, and well-being of all children under care." These new requirements may not be applied in a manner that limits or excludes the curriculum provided by a faith-based provider or nonpublic school. The substantial compliance requirement may not be construed to authorize the state, its officers, local licensing agencies, or any ELC to exceed the regulatory authority granted by the bill.

A public school or private School Readiness program provider and private VPK program provider must be denied program eligibility if it has been cited for a class I violation in the 12 months prior to seeking eligibility. An existing provider that is cited for a class I violation may not have its eligibility renewed for a period of 12 months. These requirements do not apply if OEL determines that the violation was reported by the provider and the employee responsible for the violation was terminated or the violation was corrected by the provider. Additionally, such providers must notify parents electronically or in writing when cited for a Class I violation. Notice of Class I violations must be provided within 24 hours of receiving the citation. The bill also requires providers to post citations that result in disciplinary action and inspection reports on the premises in an area visible to parents. Such citations must remain posted for a period of one year. Each inspection report must remain posted until the next inspection report is available, at which time the provider must post the new report. OEL is directed to develop and implement best practices for providing parental notifications, including those related to violations, in a parent's native language if the parent's native language is a language other than English.

The bill prohibits the owner of a child care facility, FDCH, or LFCCH from transferring ownership to a relative if the owner has had his or her license suspended or revoked by DCF, has received notice from DCF that reasonable cause exists to suspend or revoke the license, or has been placed on the U.S. Department of Agriculture National Disqualified list. The bill defines "relative" to mean father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

The bill revises the requirement that licensed child care facilities and FDCHs and LFCCHs provide influenza information to parents during August and September each year. Instead, such information must be provided to parents upon enrollment of the child. Thus, children who enroll after August or September will get this information.

Child Care Personnel and Instructors

The bill revises several training requirements and employment qualifications applicable to child care personnel employed by early learning program providers:

- Beginning January 1, 2016, child care personnel employed by a School Readiness provider or private VPK provider must be at least 18 years of age and hold a high school diploma (or equivalent).
- Beginning January 1, 2015, School Readiness provider personnel and private VPK program instructors must complete training in infant and child first aid and CPR within 30 days of employment. Individuals hired on or after January 1, 2015, must complete this training, as a condition of employment, within 30 days of employment.

- School Readiness and VPK program personnel who supervise children must complete the applicable DCF developmentally appropriate practices course within 30 days of being assigned to supervise an age group of children for which such course has not been completed.
- OEL must develop online training on the School Readiness program performance standards and provider personnel must complete the training.

The new minimum age and diploma requirements will not apply to personnel who are not responsible for supervision of children or under direct supervision by a qualified staff member. The CPR/First Aid requirement will not apply to personnel who are not responsible for supervision of children. The bill's changes to training requirements increase the likelihood that individuals caring for children in state-funded early learning programs are able to respond to emergencies that threaten child safety; have basic reading, writing, and speaking ability necessary to teach early literacy skills; and receive training aligned to the age and needs of children served.

Several bill provisions affect all child care personnel while others impact personnel employed by a specified provider classification. Failure to report child abuse is added as an employment disqualifier for all child care personnel statewide, including School Readiness and VPK program personnel and instructors. The bill eliminates Level 2 screening for public school provider employees and instead subjects them to the background screening requirements applicable to public school instructional personnel.

The bill also clarifies the process child care employers must use to conduct employment history checks on prospective employees. Before employing child care personnel, the employer must conduct employment history checks of each of the personnel's previous employers and document the findings. If unable to contact a previous employer, the employer must document efforts to contact the employer.

The bill adds a requirement that introductory child care and continuing education trainings for personnel serving in licensed child care facilities, FDCHs, and LFCCHs include instruction regarding emergent numeracy skills. This change better aligns this training with skills taught in the School Readiness and VPK programs.

Early Learning Program and Child Care Administration

The bill requires VPK program providers to provide parents information about the provider's program such as child development information, expectations for parent engagement, the daily schedule, and the attendance policy. School Readiness and VPK program provider attendance policies must include procedures for contacting a parent on the second consecutive day a child is absent for which the reason is unknown. The bill expands eligibility for the School Readiness program currently granted to children with disabilities aged three to five to include such children age birth to five.

The bill provides that a charter school that is authorized to provide the VPK program in its charter is part of the school district's VPK program and subject to district oversight. Charter schools not so authorized may still provide the VPK program, but must do so as a private provider.

The bill reduces regulatory burdens on child care providers and state agencies by:

- Authorizing ELCs to allow private providers to determine child eligibility for and enroll children in the VPK program. These providers must maintain enrollment records and ELCs may audit the records in order to detect fraud or errors.
- Requiring ELCs, OEL, and DCF to cooperate in reducing paperwork and duplicative regulation regarding the VPK program.
- Clarifying that worker's and unemployment compensation requirements do not apply to early learning providers who are exempt under state and federal law.
- Eliminating the requirement that School Readiness program providers add the local ELC as an additional insured on its liability insurance policy.

- Expanding DCF's authority to conduct abbreviated inspections to include FDCHs and LFCCHs. These inspections currently apply only to licensed child care facilities with no class 1 or 2 violations in a two year period.

The bill specifically authorizes OEL to hire a general counsel and inspector general. The duties of the Early Learning Advisory Council (ELAC)[66] are revised to specify that it must provide written input to OEL's executive director regarding early learning program administration, efficient use of funding, professional development, and ELC plans. The bill also charges the executive director with responsibility to call ELAC meetings and determine appropriate levels of administrative support for ELAC.

The bill requires OEL to conduct a two-year pilot project to study the impact of assessing the kindergarten readiness of VPK program participants who are English Language Learners (ELL) in both English and Spanish. Under the pilot, OEL will administer the Florida Assessments for Instruction in Reading and an appropriate assessment in Spanish. OEL must examine the results of the assessments and report its findings annually to the Governor, President of the Senate, and Speaker of the House of Representatives. The purpose of the pilot project is to better ascertain the capabilities and kindergarten readiness of ELLs, which may otherwise be masked by their lack of English proficiency.

The bill also contains several glitch fixes requested by OEL, which, generally speaking, align state law with federal law, the state CCDF plan, or existing administrative practices. Additionally, the bill authorizes ELCs to use School Readiness program quality improvement funds to provide financial support to providers and their staff for, among other things, obtaining a license or accreditation and CPR and first aid training.

Family Day Care Homes and Large Family Child Care Homes

The bill requires each FDCH to conspicuously post its license or registration on the premises in an area viewable by parents. The bill also repeals obsolete provisions requiring DCF to conduct a media campaign to inform the public regarding registration and other operational requirements related to FDCHs. This requirement dates back to early codification of FDCHs and has been fulfilled.[67]

The bill codifies the training requirements in DCF rule for licensed FDCH substitutes, which differentiate between substitutes who work 40 hours or more per month from those who work less. The bill requires substitutes in registered FDCHs to complete the same training as substitutes in licensed FDCHs. Currently, there are no training requirements for such substitutes.

Current law provides special benefits to FDCHs regarding zoning, property insurance, and utility rates that are not provided to LFCCHs, likely because LFCCHs were codified after these provisions were enacted.[68] The law prohibits:

- Counties and municipalities from requiring that FDCHs be commercially zoned;
- Property and casualty insurers from canceling residential insurance coverage solely because the residence operates as a FDCH; and
- Utilities from charging FDCHs commercial utility rates.[69]

The bill extends these zoning, insurance, and utility rate benefits to LFCCHs.

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[66] Section 1002.77(1), F.S.
[67] *See* s. 402.313(11), F.S.
[68] *Compare, e.g.,* s. 15, ch. 99-304, L.O.F. (LFCCH statute enacted 1999.) *with* s.3, ch. 86-87, L.O.F. (FDCH county and municipal zoning exceptions enacted 1986.).
[69] *See* ss. 125.0109, 166.0445, 627.70161, and 402.313(12), F.S.

B. SECTION DIRECTORY:

Section 1. Creates an unnumbered section of law directing the Division of Law Revision and Information to change the name of the "School Readiness Program" to the "Child Care and Development Program" and the term "family day care home" to "family child care home."

Section 2. Amends s. 125.0109, F.S., relating to family day care homes; local zoning regulation (counties).

Section 3. Amends s. 166.0445, F.S., relating to family day care homes; local zoning regulation (municipalities).

Section 4. Amends s. 402.302, F.S., relating to child care definitions.

Section 5. Amends s. 402.3025, F.S., relating to public and nonpublic schools.

Section 6. Amends s. 402.305, F.S., relating to licensing standards; child care facilities.

Section 7. Creates s. 402.3085, F.S., relating to a certificate of substantial compliance with minimum child care standards.

Section 8. Amends s. 402.311, F.S., relating to inspection.

Section 9. Amends s. 402.3115, F.S., relating to elimination of duplicative and unnecessary inspections; abbreviated inspections.

Section 10. Amends s. 402.313, F.S., relating to family day care homes.

Section 11. Amends s. 402.3131, F.S., relating to large family child care homes.

Section 12. Amends s. 402.316, F.S., relating to licensing exemptions for faith-based child care.

Section 13. Amends s. 627.70161, F.S., relating to residential property insurance coverage; family day care homes.

Section 14. Amends s. 1001.213, F.S., relating to Office of Early Learning.

Section 15. Amends s. 1002.53, F.S., relating to Voluntary Prekindergarten Education Program; eligibility and enrollment.

Section 16. Amends s. 1002.55, F.S., relating to school-year prekindergarten program delivered by private prekindergarten providers.

Section 17. Amends s. 1002.59, F.S., relating to emergent literacy and performance standards.

Section 18. Amends s. 1002.61, F.S., relating to summer prekindergarten program delivered by public schools and private prekindergarten providers.

Section 19. Amends s. 1002.63, F.S., relating to school-year prekindergarten program delivered by public schools.

Section 20. Amends s. 1002.71, F.S., relating to funding; financial and attendance reporting.

Section 21. Amends s. 1002.75, F.S., relating to Office of Early Learning; VPK program powers and duties.

Section 22. Amends s. 1002.77, F.S., relating to Florida Early Learning Advisory Council.

Section 23. Amends s. 1002.81, F.S., relating to School Readiness program definitions.

Section 24. Amends s. 1002.82, F.S., relating to Office of Early Learning; School Readiness program powers and duties.

Section 25. Amends s. 1002.84, F.S., relating to early learning coalitions; school readiness powers and duties.

Section 26. Amends s. 1002.87, F.S., relating to School Readiness program; eligibility and enrollment.

Section 27. Amends s. 1002.88, F.S., relating to School Readiness program provider standards; eligibility to deliver the school readiness program.

Section 28. Amends s. 1002.89, F.S., relating to School Readiness program; funding.

Section 29. Amends s. 1002.91, F.S., relating to investigations of fraud or overpayment; penalties.

Section 30. Amends s. 1002.94, F.S., relating to Child Care Executive Partnership Program.

Section 31. Creates an unnumbered section of law directing OEL to conduct a pilot project to study the impact of assessing the early literacy skills of ELLs in both English and Spanish.

Section 32. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Consistent with DCF's current authorization to collect fees for the licensure of child care facilities, it's expected an additional $70,800 in revenue may be generated to mitigate the expenditure impact of the bill.

2. Expenditures:

   The bill expands DCF's workload by requiring the inspection of license-exempt faith-based providers and nonpublic schools. It is expected that DCF will need an additional 18.00 full-time equivalent positions and $1,046,284 to address these additional regulatory functions as outlined in the following chart[70]:

Position and FTE Required	Recurring FTE Costs	Nonrecurring FTE Costs	FY 2014-15 Fiscal Impact
Licensing Counselor - 14	$ 804,485	$ 3,773	
Licensing Counselor Supervisor - 2	$ 130,931	$ 3,773	
Senior Attorney - 2	$ 170,349	$ 3,773	
TOTAL FTE - 18	$ 1,105,765		
LESS: Licensing Fee Revenue	($70,800)		
TOTAL Cost to DCF	**$1,034,965**	**$ 11,319**	**$ 1,046,284**

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[70] Based upon DCF's bill analysis dated February 27, 2014, and on file with staff of the Health Care Appropriations Committee

1. Revenues:

   None.

2. Expenditures:

   The bill extends to LFCCHs the protections that FDCHs currently receive regarding zoning requirements, insurance coverage, and utility rates. Under the bill:

   - Local governments are prohibited from requiring that LFCCHs be commercially zoned;
   - Property and casualty insurers are prohibited from canceling residential insurance coverage because the residence operates as a LFCCH; and
   - Utilities are prohibited from charging LFCCHs commercial utility rates.

   The extent to which local governments require LFCCHs to be commercially zoned, property insurers require LFCCHs to obtain additional coverage, and utility companies charge LFCCHs commercial rates is unknown. In order to qualify for licensure as a LFCCH, the home must operate as a licensed FDCH in the two years prior to seeking licensure as a LFCCH. It appears that most local governments, insurers, and utility companies do not treat LFCCHs any differently than FDCHs. There are currently 2,941 licensed FDCHs and 429 LFCCHs operating in Florida. Given the small number of LFCCHs that will receive these protections under the bill, the fiscal impact on counties, municipalities, property insurers, and utility companies is likely minimal.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill authorizes DCF to charge an inspection fee to nonpublic schools and license-exempt faith-based providers of state-funded early learning programs in order to enforce substantial compliance with minimum health and safety standards. The fee must be sufficient to cover costs and may not exceed that charged for child care licensure. Currently, the licensing fee for a child care facility is $1 per child, based on the licensed capacity of the facility, with a minimum fee of $25 and a maximum fee of $100 per facility.[71]

Protections regarding zoning requirements, insurance coverage, and utility rates provided to LFCCHs may result in cost savings. Other bill provisions with positive financial implications on private sector child care providers include:

- Clarifying that worker's and unemployment compensation requirements do not apply to early learning providers who are exempt under state and federal law.
- Eliminating the requirement that School Readiness program providers add the local ELC as an additional insured on its liability insurance policy.

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.

[71] Section 402.315(3)(a), F.S.

B. RULE-MAKING AUTHORITY:

The bill authorizes DCF to adopt rules to define and enforce substantial compliance with minimum child care health and safety standards by license-exempt faith-based child care providers and nonpublic schools. This includes the adoption of minimum standards and procedures for inspection and disciplinary actions.

The bill requires DCF to adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules which provide for both announced and unannounced inspections

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 20, 2014, the Education Committee adopted three amendments and reported the proposed committee bill favorably. The amendments added provisions:

- Providing that School Readiness program providers with class I violation must be denied eligibility to offer the program.
- Requiring OEL to develop and implement best practices for providing parental notifications in a parent's native language to a parent whose native language is a language other than English.
- Establishing a two-year pilot project to study the impact of assessing the kindergarten readiness of English Language Learners participating in the VPK program in both English and Spanish.

On March 24, 2014, the Education Appropriations Subcommittee adopted eight amendments and reported the bill favorably as a committee substitute. The amendments added provisions:

- Requesting that the Division of Law Revision and Information change the phrase "family day care" to "family child care."
- Limiting the regulatory authority of local licensing agencies to enforce substantial compliance with minimum child care standards by nonpublic schools and licensed-exempt faith-based child care providers participating in the VPK program or School Readiness program.
- Authorizing DCF and local licensing agencies, as applicable, to issue a certificate of substantial compliance to nonpublic schools and license-exempt faith-based providers participating in the VPK program or School Readiness program.
- Authorizing OEL to allow VPK program or School Readiness program providers that are cited with a Class I violation to remain eligible to offer the programs if they self-reported and corrected the violation.

The amendments removed provisions revising the Rilya Wilson Act and those requiring FDCH substitutes to complete the same training requirements as the operator. Instead, the amendments codified the training requirements in DCF rule for licensed FDCH substitutes, which differentiate between substitutes who work 40 hours or more per month from those who work less. The amendments also required substitutes in registered FDCHs to complete the same training as substitutes in licensed FDCHs.

This bill analysis is drafted to the committee substitute, as passed by the Education Appropriations Subcommittee.

A bill to be entitled

An act relating to early learning and child care regulation; changing the term "school readiness program" to "child care and development program," the term "school readiness" to "child care and development," the term "family day care home" to "family child care home," and the term "family day care" to "family child care"; providing a directive to the Division of Law Revision and Information; amending ss. 125.0109 and 166.0445, F.S.; including large family child care homes in local zoning regulation requirements; amending s. 402.302, F.S.; revising the definition of the term "substantial compliance"; amending s. 402.3025, F.S.; providing requirements for nonpublic schools delivering certain Voluntary Prekindergarten Education (VPK) and child care and development programs; amending s. 402.305, F.S.; revising certain minimum standards for child care facilities; authorizing the Department of Children and Families to adopt rules for compliance by certain programs not licensed by the department; creating s. 402.3085, F.S.; authorizing the Department of Children and Families or local licensing agencies to issue a certificate of substantial compliance with minimum child care licensing standards; requiring certain providers to obtain the certificate in order to offer

VPK or child care and development programs; amending s. 402.311, F.S.; providing for inspection of programs regulated by the department; amending s. 402.3115, F.S.; providing for abbreviated inspections of specified child care homes; requiring rulemaking; amending s. 402.313, F.S.; revising provisions for licensure, registration, and operation of family day care homes, including requirements for staffing, training, and background screening; amending s. 402.3131, F.S.; revising requirements for large family child care homes; amending s. 402.316, F.S., relating to exemptions from child care facility licensing standards; requiring a child care facility operating as a provider of certain VPK or child care programs to comply with minimum standards; providing penalties for failure to disclose or for use of certain information; requiring a fee for inspection and compliance activities; amending s. 627.70161, F.S.; revising restrictions on residential property insurance coverage to include coverage for large family child care homes; amending s. 1001.213, F.S.; providing additional duties of the Office of Early Learning; amending s. 1002.53, F.S.; revising requirements for application and determination of eligibility to enroll in the VPK program; amending s. 1002.55, F.S.; revising requirements for a school-year

prekindergarten program delivered by a private prekindergarten provider, including requirements for providers, instructors, and child care personnel; providing requirements in the case of provider violations; amending s. 1002.59, F.S.; correcting a cross-reference; amending ss. 1002.61 and 1002.63, F.S.; providing requirements for a charter school delivering a summer prekindergarten program or a school-year prekindergarten program; revising employment requirements and educational credentials of certain instructional personnel; amending s. 1002.71, F.S.; revising information that must be reported to parents; amending s. 1002.75, F.S.; revising provisions included in the standard statewide VPK program provider contract; amending s. 1002.77, F.S.; revising the purpose and meetings of the Florida Early Learning Advisory Council; amending s. 1002.81, F.S.; revising certain school readiness program definitions; amending s. 1002.82, F.S.; revising powers and duties of the Office of Early Learning; revising provisions included in the standard statewide school readiness program provider contract; amending s. 1002.84, F.S.; revising powers and duties of early learning coalitions; amending s. 1002.87, F.S.; revising student eligibility and enrollment requirements for the school readiness program; amending s. 1002.88,

F.S.; revising eligibility requirements for delivering the school readiness program; providing requirements in the case of provider violations; providing child care personnel requirements; amending s. 1002.89, F.S.; revising the use of funds for the school readiness program; amending s. 1002.91, F.S.; prohibiting an early learning coalition from contracting with specified persons; amending s. 1002.94, F.S.; revising establishment of a community child care task force by an early learning coalition; requiring the Office of Early Learning to conduct a pilot project to study the impact of assessing the early literacy skills of certain VPK program participants; requiring reports to the Governor and Legislature; providing an effective date.

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

Section 1. The Division of Law Revision and Information is requested to prepare a reviser's bill for the 2015 Regular Session of the Legislature to change the term "school readiness program" to "child care and development program," the term "school readiness" to "child care and development," the term "family day care home" to "family child care home," and the term "family day care" to "family child care" wherever the terms appear in the Florida Statutes.

Section 2. Section 125.0109, Florida Statutes, is amended to read:

125.0109 Family child ~~day~~ care homes and large family child care homes; local zoning regulation.—The operation of a residence as a family child ~~day~~ care home or large family child care home, as defined in s. 402.302, licensed or registered pursuant to s. 402.313 or s. 402.3131, as applicable, ~~as defined by law, registered or licensed with the Department of Children and Family Services~~ shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family child ~~day~~ care home or large family child care home to obtain any special exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use.

Section 3. Section 166.0445, Florida Statutes, is amended to read:

166.0445 Family child ~~day~~ care homes and large family child care homes; local zoning regulation.—The operation of a residence as a family child ~~day~~ care home or large family child care home, as defined in s. 402.302, licensed or registered pursuant to s. 402.313 or s. 402.3131, as applicable, ~~as defined by law, registered or licensed with the Department of Children and Family Services~~ shall constitute a valid residential use for purposes of any local zoning regulations, and no such regulation shall require the owner or operator of such family child ~~day~~ care home or large family child care home to obtain any special

exemption or use permit or waiver, or to pay any special fee in excess of $50, to operate in an area zoned for residential use.

Section 4. Subsections (8) and (17) of section 402.302, Florida Statutes, are amended to read:

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

(8) "Family child ~~day~~ care home" means an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit. Household children under 13 years of age, when on the premises of the family child ~~day~~ care home or on a field trip with children enrolled in child care, shall be included in the overall capacity of the licensed home. A family child ~~day~~ care home shall be allowed to provide care for one of the following groups of children, which shall include household children under 13 years of age:

(a) A maximum of four children from birth to 12 months of age.

(b) A maximum of three children from birth to 12 months of age, and other children, for a maximum total of six children.

(c) A maximum of six preschool children if all are older than 12 months of age.

(d) A maximum of 10 children if no more than 5 are preschool age and, of those 5, no more than 2 are under 12 months of age.

(17) "Substantial compliance" means, for purposes of

programs operating under s. 1002.55, s. 1002.61, or s. 1002.88, ~~that level of~~ adherence to adopted standards which is sufficient to safeguard the health, safety, and well-being of all children under care. The standards must address requirements found in s. 402.305 and are limited to supervision, transportation, access, health-related requirements, food and nutrition, personnel screening, records, and enforcement of these standards. The standards must not limit or exclude the curriculum provided by a faith-based provider or nonpublic school. ~~Substantial compliance is greater than minimal adherence but not to the level of absolute adherence. Where a violation or variation is identified as the type which impacts, or can be reasonably expected within 90 days to impact, the health, safety, or well-being of a child, there is no substantial compliance.~~

Section 5. Paragraphs (d) and (e) of subsection (2) of section 402.3025, Florida Statutes, are amended to read:

402.3025 Public and nonpublic schools.—For the purposes of ss. 402.301-402.319, the following shall apply:

(2) NONPUBLIC SCHOOLS.—

(d)1. Nonpublic schools delivering programs under s. 1002.55, s. 1002.61, or s. 1002.88 ~~Programs for children who are at least 3 years of age, but under 5 years of age,~~ which are not licensed under ss. 402.301-402.319 shall substantially comply with the minimum child care standards adopted ~~promulgated~~ pursuant to ss. 402.305-402.3057.

2. The department or local licensing agency shall enforce

compliance with such standards, where possible, to eliminate or minimize duplicative inspections or visits by staff enforcing the minimum child care standards and staff enforcing other standards under the jurisdiction of the department.

3. The department or local licensing agency may inspect programs operating under this paragraph and pursue administrative or judicial action under ss. 402.310-402.312 against nonpublic schools operating under this paragraph ~~commence and maintain all proper and necessary actions and proceedings for any or all of the following purposes:~~

~~a.~~ to protect the health, sanitation, safety, and well-being of all children under care.

~~b. To enforce its rules and regulations.~~

~~c. To use corrective action plans, whenever possible, to attain compliance prior to the use of more restrictive enforcement measures.~~

~~d. To make application for injunction to the proper circuit court, and the judge of that court shall have jurisdiction upon hearing and for cause shown to grant a temporary or permanent injunction, or both, restraining any person from violating or continuing to violate any of the provisions of ss. 402.301-402.319. Any violation of this section or of the standards applied under ss. 402.305-402.3057 which threatens harm to any child in the school's programs for children who are at least 3 years of age, but are under 5 years of age, or repeated violations of this section or the standards~~

~~under ss. 402.305-402.3057, shall be grounds to seek an injunction to close a program in a school.~~

~~e. To impose an administrative fine, not to exceed $100, for each violation of the minimum child care standards promulgated pursuant to ss. 402.305-402.3057.~~

4. It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for any person willfully, knowingly, or intentionally to:

a. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any required written documentation for exclusion from licensure pursuant to this section a material fact used in making a determination as to such exclusion; or

b. Use information from the criminal records obtained under s. 402.305 or s. 402.3055 for any purpose other than screening that person for employment as specified in those sections or release such information to any other person for any purpose other than screening for employment as specified in those sections.

5. It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for any person willfully, knowingly, or intentionally to use information from the juvenile records of any person obtained under s. 402.305 or s. 402.3055 for any purpose other than screening for employment as specified in those sections or to release information from such records to any other person for any

purpose other than screening for employment as specified in those sections.

6. The inclusion of nonpublic schools within options available under ss. 1002.55, 1002.61, and 1002.88 does not expand the regulatory authority of the state, its officers, any local licensing agency, or any early learning coalition to impose any additional regulation of nonpublic schools beyond those reasonably necessary to enforce requirements expressly set forth in this paragraph.

~~(c) The department and the nonpublic school accrediting agencies are encouraged to develop agreements to facilitate the enforcement of the minimum child care standards as they relate to the schools which the agencies accredit.~~

Section 6. Paragraphs (a) and (d) of subsection (2), paragraph (b) of subsection (9), and subsections (10) and (18) of section 402.305, Florida Statutes, are amended, and subsection (19) is added to that section, to read:

402.305 Licensing standards; child care facilities.—

(2) PERSONNEL.—Minimum standards for child care personnel shall include minimum requirements as to:

(a) Good moral character based upon screening, according to the level 2 screening requirements of~~. This screening shall be conducted as provided in~~ chapter 435~~, using the level 2 standards for screening set forth in that chapter~~. In addition to the offenses listed in s. 435.04, all child care personnel required to undergo background screening pursuant to this

section must not have an arrest awaiting final disposition for, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent and the record not have been sealed or expunged for an offense specified in s. 39.205. Before employing child care personnel subject to this section, the employer must conduct employment history checks of each of the personnel's previous employers and document the findings. If unable to contact a previous employer, the employer must document efforts to contact the employer.

(d) Minimum training requirements for child care personnel.

1. Such minimum standards for training shall ensure that all child care personnel take an approved 40-clock-hour introductory course in child care, which course covers at least the following topic areas:

a. State and local rules and regulations which govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical language, cognitive, motor, social, and self-help skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine the child's developmental age level.

f. Specialized areas, including computer technology for professional and classroom use and numeracy, early literacy, and language development of children from birth to 5 years of age, as determined by the department, for owner-operators and child care personnel of a child care facility.

g. Developmental disabilities, including autism spectrum disorder and Down syndrome, and early identification, use of available state and local resources, classroom integration, and positive behavioral supports for children with developmental disabilities.

Within 90 days after employment, child care personnel shall begin training to meet the training requirements. Child care personnel shall successfully complete such training within 1 year after the date on which the training began, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25. Exemption from all or a portion of the required training shall be granted to child care personnel based upon educational credentials or passage of competency examinations. Child care personnel possessing a 2-year degree or higher that includes 6 college credit hours in early childhood development or child growth and development, or a child development associate credential or an equivalent state-approved child development associate credential, or a child development

associate waiver certificate shall be automatically exempted from the training requirements in sub-subparagraphs b., d., and e.

2. The introductory course in child care shall stress, to the extent possible, an interdisciplinary approach to the study of children.

3. The introductory course shall cover recognition and prevention of shaken baby syndrome; prevention of sudden infant death syndrome; recognition and care of infants and toddlers with developmental disabilities, including autism spectrum disorder and Down syndrome; and early childhood brain development within the topic areas identified in this paragraph.

4. On an annual basis in order to further their child care skills and, if appropriate, administrative skills, child care personnel who have fulfilled the requirements for the child care training shall be required to take an additional 1 continuing education unit of approved inservice training, or 10 clock hours of equivalent training, as determined by the department.

5. Child care personnel shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in numeracy, early literacy, and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subparagraph 4.

6. Procedures for ensuring the training of qualified child care professionals to provide training of child care personnel, including onsite training, shall be included in the minimum standards. It is recommended that the state community child care coordination agencies (central agencies) be contracted by the department to coordinate such training when possible. Other district educational resources, such as community colleges and career programs, can be designated in such areas where central agencies may not exist or are determined not to have the capability to meet the coordination requirements set forth by the department.

7. Training requirements shall not apply to certain occasional or part-time support staff, including, but not limited to, swimming instructors, piano teachers, dance instructors, and gymnastics instructors.

8. The department shall evaluate or contract for an evaluation for the general purpose of determining the status of and means to improve staff training requirements and testing procedures. The evaluation shall be conducted every 2 years. The evaluation shall include, but not be limited to, determining the availability, quality, scope, and sources of current staff training; determining the need for specialty training; and determining ways to increase inservice training and ways to increase the accessibility, quality, and cost-effectiveness of current and proposed staff training. The evaluation methodology shall include a reliable and valid survey of child care

personnel.

9. The child care operator shall be required to take basic training in serving children with disabilities within 5 years after employment, either as a part of the introductory training or the annual 8 hours of inservice training.

(9) ADMISSIONS AND RECORDKEEPING.—

(b) ~~During the months of August and September of each year,~~ Each child care facility shall provide parents of children enrolling ~~enrolled~~ in the facility detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) TRANSPORTATION SAFETY.—Minimum standards shall include requirements for child restraints or seat belts in vehicles used by child care facilities, ~~and~~ large family child care homes, and family child care homes to transport children, requirements for annual inspections of the vehicles, limitations on the number of children in the vehicles, and accountability for children being transported.

(18) TRANSFER OF OWNERSHIP.—

(a) One week before ~~prior to~~ the transfer of ownership of a child care facility, ~~or~~ family child ~~day~~ care home, or large family child care home, the transferor shall notify the parent or caretaker of each child of the impending transfer.

(b) The owner of a child care facility, family child care home, or large family child care home may not transfer ownership to a relative of the operator if the operator has had his or her license suspended or revoked by the department pursuant to s. 402.310, has received notice from the department that reasonable cause exists to suspend or revoke the license, or has been placed on the United States Department of Agriculture National Disqualified list. For purposes of this paragraph, "relative" means father, mother, son, daughter, grandfather, grandmother, brother, sister, uncle, aunt, cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(c) ~~(b)~~ The department shall, by rule, establish methods by which notice will be achieved and minimum standards by which to implement this subsection.

(19) RULES.—The department may adopt rules to define and enforce substantial compliance with minimum standards for child care facilities for programs operating under s. 1002.55, s. 1002.61, or s. 1002.88 that are regulated but not licensed by the department.

Section 7. Section 402.3085, Florida Statutes, is created to read:

402.3085 Certificate of substantial compliance with minimum child care standards.—Each nonpublic school or provider

seeking to operate a program pursuant to s. 402.3025(2)(d) or s. 402.316(4), respectively, shall annually obtain a certificate from the department or local licensing agency in the manner and on the forms prescribed by the department or local licensing agency. An annual certificate or a renewal of an annual certificate shall be issued upon an examination of the applicant's premises and records to determine that the applicant is in substantial compliance with the minimum child care standards. A provider may not participate in these programs without this certification. Local licensing agencies may apply their own minimum child care standards if the department determines that such standards meet or exceed department standards as provided in s. 402.307.

Section 8. Section 402.311, Florida Statutes, is amended to read:

402.311 Inspection.—A licensed child care facility or program regulated by the department shall accord to the department or the local licensing agency, whichever is applicable, the privilege of inspection, including access to facilities and personnel and to those records required in s. 402.305, at reasonable times during regular business hours, to ensure compliance with ~~the provisions of~~ ss. 402.301-402.319. The right of entry and inspection shall also extend to any premises which the department or local licensing agency has reason to believe are being operated or maintained as a child care facility or program ~~without a license~~, but no such entry or

inspection of any premises shall be made without the permission of the person in charge thereof unless a warrant is first obtained from the circuit court authorizing same. Any application for a license, application for authorization to operate a child care program which must maintain substantial compliance with child care standards adopted under this chapter, or renewal of such license or authorization ~~made pursuant to this act~~ or the advertisement to the public for the provision of child care as defined in s. 402.302 shall constitute permission for any entry or inspection of the subject premises ~~for which the license is sought in order~~ to facilitate verification of the information submitted on or in connection with the application. In the event a ~~licensed~~ facility or program refuses permission for entry or inspection to the department or local licensing agency, a warrant shall be obtained from the circuit court authorizing same before ~~prior to~~ such entry or inspection. The department or local licensing agency may institute disciplinary proceedings pursuant to s. 402.310~~,~~ for such refusal.

Section 9. Section 402.3115, Florida Statutes, is amended to read:

402.3115 ~~Elimination of duplicative and unnecessary inspections;~~ Abbreviated inspections.~~ The Department of Children and Family Services and local governmental agencies that license child care facilities shall develop and implement a plan to eliminate duplicative and unnecessary inspections of child care facilities. In addition,~~ The department and the local licensing

~~governmental~~ agencies shall conduct ~~develop and implement an~~ abbreviated inspections of ~~inspection plan for~~ child care facilities licensed under s. 402.305, family child care homes licensed under s. 402.313, and large family child care homes licensed under s. 402.3131 that have had no Class I ~~1~~ or Class II violations ~~2 deficiencies~~, as defined by rule, for at least 2 consecutive years. The abbreviated inspection must include those elements identified by the department and the local licensing ~~governmental~~ agencies as being key indicators of whether the child care facility continues to provide quality care and programming. The department shall adopt rules establishing criteria and procedures for abbreviated inspections and inspection schedules that provide for both announced and unannounced inspections.

Section 10. Section 402.313, Florida Statutes, is amended to read:

402.313 Family child ~~day~~ care homes.—

(1) A family child ~~day~~ care home must ~~homes shall~~ be licensed under this section ~~act~~ if it is ~~they are~~ presently being licensed under an existing county licensing ordinance, ~~or~~ ~~if~~ the board of county commissioners passes a resolution that requires licensure of family child ~~day~~ care homes, or the family child care home is operating a program under s. 1002.55, s. 1002.61, or s. 1002.88 ~~be licensed~~. Each licensed or registered family child care home must conspicuously display its license or registration in an area viewable by all parents during hours of

operation.

(a) If not subject to license, a family child ~~day~~ care home must comply with this section and ~~homes shall~~ register annually with the department, providing the following information:

1. The name and address of the home.

2. The name of the operator.

3. The number of children served.

4. Proof of a written plan to identify a ~~provide at least one other~~ competent adult who has met the screening and training requirements of the department to serve as a designated ~~to be available to~~ substitute for the operator ~~in an emergency~~. This plan must ~~shall~~ include the name, address, and telephone number of the designated substitute who will serve in the absence of the operator.

~~5. Proof of screening and background checks.~~

~~6. Proof of successful completion of the 30-hour training course, as evidenced by passage of a competency examination, which shall include:~~

~~a. State and local rules and regulations that govern child care.~~

~~b. Health, safety, and nutrition.~~

~~c. Identifying and reporting child abuse and neglect.~~

~~d. Child development, including typical and atypical language development; and cognitive, motor, social, and self-help skills development.~~

~~c. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.~~

~~f. Specialized areas, including early literacy and language development of children from birth to 5 years of age, as determined by the department, for owner-operators of family day care homes.~~

5.~~7.~~ Proof that immunization records are kept current.

~~8. Proof of completion of the required continuing education units or clock hours.~~

Upon receipt of registration information submitted by a family child care home, the department shall verify that the home is in compliance with the background screening requirements in subsection (3) and that the operator and the designated substitute are in compliance with applicable training requirements in subsection (4).

(b) A family child ~~day~~ care home may volunteer to be licensed ~~under this act~~.

(c) The department may provide technical assistance to counties and operators of family child ~~day~~ care homes ~~home providers~~ to enable counties and operators ~~family day care providers~~ to achieve compliance with family child ~~day~~ care home ~~homes~~ standards.

(2) This information shall be included in a directory to be published annually by the department to inform the public of

available child care facilities.

(3) Child care personnel in family child ~~day~~ care homes are ~~shall be~~ subject to the applicable screening provisions contained in ss. 402.305(2) and 402.3055. For purposes of screening in family child ~~day~~ care homes, the term "child care personnel" includes the operator, the designated substitute, any member over the age of 12 years of a family child ~~day~~ care home operator's family, or persons over the age of 12 years residing with the operator in the family child ~~day~~ care home. Members of the operator's family, or persons residing with the operator, who are between the ages of 12 years and 18 years shall not be required to be fingerprinted~~,~~ but shall be screened for delinquency records.

(4)(a) Before licensure and before caring for children, operators of family child ~~day~~ care homes and an individual serving as a substitute for the operator who works 40 hours or more per month on average must:

1. Successfully complete an approved 30-clock-hour introductory course in child care, as evidenced by passage of a competency examination~~, before caring for children~~. The course must include:

a. State and local rules and regulations that govern child care.

b. Health, safety, and nutrition.

c. Identifying and reporting child abuse and neglect.

d. Child development, including typical and atypical

language development, and cognitive, motor, social, and executive functioning skills development.

e. Observation of developmental behaviors, including using a checklist or other similar observation tools and techniques to determine a child's developmental level.

f. Specialized areas, including numeracy, early literacy, and language development of children from birth to 5 years of age, as determined by the department, for operators of family child care homes.

~~(5) In order to further develop their child care skills and, if appropriate, their administrative skills, operators of family day care homes shall be required to complete an additional 1 continuing education unit of approved training or 10 clock hours of equivalent training, as determined by the department, annually.~~

2.~~(6) Operators of family day care homes shall be required to~~ Complete 0.5 continuing education unit of approved training in numeracy, early literacy, and language development of children from birth to 5 years of age one time. For an operator, the year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in paragraph (c) ~~subsection (5)~~.

3. Complete training in first aid and infant and child cardiopulmonary resuscitation as evidenced by current documentation of course completion.

(b) Before licensure and before caring for children, family child care home substitutes who work fewer than 40 hours per month on average must complete the department's 6-clock-hour Family Child Care Home Rules and Regulations training, as evidenced by successful completion of a competency examination and first aid and infant and child cardiopulmonary resuscitation training under subparagraph (a)3. A substitute who has successfully completed the 3-clock-hour Fundamentals of Child Care training established by rules of the department or the 30-clock-hour training under subparagraph (a)1. is not required to complete the 6-clock-hour Family Child Care Home Rules and Regulations training.

(c) Operators of family day care homes must annually complete an additional 1 continuing education unit of approved training regarding child care and administrative skills or 10 clock hours of equivalent training, as determined by the department.

(5) ~~(7)~~ Operators of family child ~~day~~ care homes must ~~shall be required~~ annually ~~to~~ complete a health and safety home inspection self-evaluation checklist developed by the department in conjunction with the statewide resource and referral program. The completed checklist shall be signed by the operator of the family child ~~day~~ care home and provided to parents as certification that basic health and safety standards are being met.

(6) ~~(8)~~ Operators of family child ~~day~~ care homes ~~home~~

~~operators~~ may avail themselves of supportive services offered by the department.

(7)~~(9)~~ The department shall prepare a brochure on family child ~~day~~ care for distribution by the department and by local licensing agencies, if appropriate, to family child ~~day~~ care homes for distribution to parents using ~~utilizing~~ such child care, and to all interested persons, including physicians and other health professionals; mental health professionals; school teachers or other school personnel; social workers or other professional child care, foster care, residential, or institutional workers; and law enforcement officers. The brochure shall, at a minimum, contain the following information:

(a) A brief description of the requirements for family child ~~day~~ care registration, training, and background ~~fingerprinting and~~ screening.

(b) A listing of those counties that require licensure of family child ~~day~~ care homes. Such counties shall provide an addendum to the brochure that provides a brief description of the licensure requirements or may provide a brochure in lieu of the one described in this subsection, provided it contains all the required information on licensure and the required information in the subsequent paragraphs.

(c) A statement indicating that information about the family child ~~day~~ care home's compliance with applicable state or local requirements can be obtained from ~~by telephoning~~ the department ~~office~~ or ~~the office of~~ the local licensing agency,

including the~~, if appropriate, at a~~ telephone number or numbers and website address for the department or local licensing agency, as applicable ~~which shall be affixed to the brochure~~.

(d) The statewide toll-free telephone number of the central abuse hotline, together with a notice that reports of suspected and actual child physical abuse, sexual abuse, and neglect are received and referred for investigation by the hotline.

(e) Any other information relating to competent child care that the department or local licensing agency, if preparing a separate brochure, considers ~~deems would be~~ helpful to parents and other caretakers in their selection of a family child ~~day~~ care home.

(8)~~(10)~~ On an annual basis, the department shall evaluate the registration and licensure system for family child ~~day~~ care homes. Such evaluation shall, at a minimum, address the following:

(a) The number of family child ~~day~~ care homes registered and licensed and the dates of such registration and licensure.

(b) The number of children being served in both registered and licensed family child ~~day~~ care homes and any available slots in such homes.

(c) The number of complaints received concerning family child ~~day~~ care, the nature of the complaints, and the resolution of such complaints.

(d) The training activities used ~~utilized~~ by child care

personnel in family child ~~day~~ care homes for meeting the state or local training requirements.

The evaluation shall be used ~~utilized~~ by the department in any administrative modifications or adjustments to be made in the registration of family child ~~day~~ care homes or in any legislative requests for modifications to the system of registration or to other requirements for family child ~~day~~ care homes.

~~(11) In order to inform the public of the state requirement for registration of family day care homes as well as the other requirements for such homes to legally operate in the state, the department shall institute a media campaign to accomplish this end. Such a campaign shall include, at a minimum, flyers, newspaper advertisements, radio advertisements, and television advertisements.~~

(9)~~(12)~~ Notwithstanding any other state or local law or ordinance, any family child ~~day~~ care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. A licensed family child ~~day~~ care home may not be charged commercial utility rates.

(10)~~(13)~~ The department shall, by rule, establish minimum standards for family child ~~day~~ care homes that are required to be licensed by county licensing ordinance or county licensing resolution or that voluntarily choose to be licensed. The

standards should include requirements for staffing, training, maintenance of immunization records, minimum health and safety standards, reduced standards for the regulation of child care during evening hours by municipalities and counties, and enforcement of standards. Additionally, the department shall, by rule, adopt procedures for verifying a registered family child care home's compliance with background screening and training requirements.

(11) ~~(14) During the months of August and September of each year,~~ Each family child ~~day~~ care home shall provide parents of children enrolling ~~enrolled~~ in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

Section 11. Subsections (3), (5), and (9) of section 402.3131, Florida Statutes, are amended, and subsection (10) is added to that section, to read:

402.3131 Large family child care homes.—

(3) Operators of large family child care homes must successfully complete an approved 40-clock-hour introductory course in group child care, including numeracy, early literacy, and language development of children from birth to 5 years of age, as evidenced by passage of a competency examination. Successful completion of the 40-clock-hour introductory course

shall articulate into community college credit in early childhood education, pursuant to ss. 1007.24 and 1007.25.

(5) Operators of large family child care homes shall be required to complete 0.5 continuing education unit of approved training or 5 clock hours of equivalent training, as determined by the department, in numeracy, early literacy, and language development of children from birth to 5 years of age one time. The year that this training is completed, it shall fulfill the 0.5 continuing education unit or 5 clock hours of the annual training required in subsection (4).

(9) ~~During the months of August and September of each year,~~ Each large family child care home shall provide parents of children enrolling ~~enrolled~~ in the home detailed information regarding the causes, symptoms, and transmission of the influenza virus in an effort to educate those parents regarding the importance of immunizing their children against influenza as recommended by the Advisory Committee on Immunization Practices of the Centers for Disease Control and Prevention.

(10) Notwithstanding any other state or local law or ordinance, any large family child care home licensed pursuant to this chapter or pursuant to a county ordinance shall be charged the utility rates accorded to a residential home. Such a home may not be charged commercial utility rates.

Section 12. Subsections (4), (5), and (6) are added to section 402.316, Florida Statutes, to read:

402.316 Exemptions.—

(4) A child care facility operating under subsection (1) that is applying to operate or is operating as a provider of a program described in s. 1002.55, s. 1002.61, or s. 1002.88 must substantially comply with the minimum standards for child care facilities adopted pursuant to ss. 402.305-402.3057 and must allow the department or local licensing agency access to monitor and enforce compliance with such standards.

(a) The department or local licensing agency may pursue administrative or judicial action under ss. 402.310-402.312 and the rules adopted under those sections against any child care facility operating under this subsection to enforce substantial compliance with child care facility minimum standards or to protect the health, safety, and well-being of any children in the facility's care. A child care facility operating under this subsection is subject to ss. 402.310-402.312 and the rules adopted under those sections to the same extent as a child care facility licensed under ss. 402.301-402.319.

(b) It is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, for a person willfully, knowingly, or intentionally to:

1. Fail, by false statement, misrepresentation, impersonation, or other fraudulent means, to disclose in any required written documentation for exclusion from licensure pursuant to this section a material fact used in making a determination as to such exclusion; or

2. Use information from the criminal records obtained

under s. 402.305 or s. 402.3055 for a purpose other than screening that person for employment as specified in those sections or to release such information to any other person for a purpose other than screening for employment as specified in those sections.

(c) It is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, for a person willfully, knowingly, or intentionally to use information from the juvenile records of a person obtained under s. 402.305 or s. 402.3055 for a purpose other than screening for employment as specified in those sections or to release information from such records to any other person for a purpose other than screening for employment as specified in those sections.

(5) The department shall establish a fee for inspection and compliance activities performed pursuant to this section in an amount sufficient to cover costs. However, the amount of such fee for the inspection of a program may not exceed the fee imposed for child care licensure pursuant to s. 402.315.

(6) The inclusion of a child care facility operating under subsection (1) as a provider of a program described in s. 1002.55, s. 1002.61, or s. 1002.88 does not expand the regulatory authority of the state, its officers, any local licensing agency, or any early learning coalition to impose any additional regulation of child care facilities beyond those reasonably necessary to enforce requirements expressly set forth in this section.

Section 13. Section 627.70161, Florida Statutes, is amended to read:

627.70161 Residential property insurance coverage; family child ~~day~~ care homes and large family child care homes ~~insurance~~.—

(1) PURPOSE AND INTENT.—The Legislature recognizes that family child ~~day~~ care homes and large family child care homes fulfill a vital role in providing child care in Florida. It is the intent of the Legislature that residential property insurance coverage should not be canceled, denied, or nonrenewed solely because child ~~on the basis of the family day~~ care services are provided at the residence. The Legislature also recognizes that the potential liability of residential property insurers is substantially increased by the rendition of child care services on the premises. The Legislature therefore finds that there is a public need to specify that contractual liabilities associated ~~that arise in connection~~ with the operation of a ~~the~~ family child ~~day~~ care home or large family child care home are excluded from residential property insurance policies unless they are specifically included in such coverage.

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

(a) "Child care" means the care, protection, and supervision of a child, for a period up to ~~of less than~~ 24 hours a day on a regular basis, which supplements parental care, enrichment, and health supervision for the child, in accordance with his or her individual needs, and for which a payment, fee,

or grant is made for care.

(b) "Family child ~~day~~ care home" has the same meaning as provided in s. 402.302(8) ~~means an occupied residence in which child care is regularly provided for children from at least two unrelated families and which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for a profit~~.

(c) "Large family child care home" has the same meaning as provided in s. 402.302(11).

(3) CHILD ~~FAMILY DAY~~ CARE; COVERAGE.—A residential property insurance policy shall not provide coverage for liability for claims arising out of, or in connection with, the operation of a family child ~~day~~ care home or large family child care home, and the insurer shall be under no obligation to defend against lawsuits covering such claims, unless:

(a) Specifically covered in a policy; or

(b) Covered by a rider or endorsement for business coverage attached to a policy.

(4) DENIAL, CANCELLATION, REFUSAL TO RENEW PROHIBITED.—An insurer may not deny, cancel, or refuse to renew a policy for residential property insurance solely on the basis that the policyholder or applicant operates a family child ~~day~~ care home or large family child care home. In addition to other lawful reasons for refusing to insure, an insurer may deny, cancel, or refuse to renew a policy of a family child ~~day~~ care home or large family child care home provider if one or more of the

following conditions occur:

(a) The policyholder or applicant provides care for more children than authorized for family child ~~day~~ care homes or large family child care homes by s. 402.302;

(b) The policyholder or applicant fails to maintain a separate commercial liability policy or an endorsement providing liability coverage for ~~the~~ family child ~~day~~ care home or large family child care home operations;

(c) The policyholder or applicant fails to comply with the family child ~~day~~ care home licensure and registration requirements specified in s. 402.313 or the large family child care home licensure requirements specified in s. 402.3131; or

(d) Discovery of willful or grossly negligent acts or omissions or any violations of state laws or regulations establishing safety standards for family child ~~day~~ care homes and large family child care homes by the named insured or his or her representative which materially increase any of the risks insured.

Section 14. Subsections (7), (8), and (9) are added to section 1001.213, Florida Statutes, to read:

1001.213 Office of Early Learning.—There is created within the Office of Independent Education and Parental Choice the Office of Early Learning, as required under s. 20.15, which shall be administered by an executive director. The office shall be fully accountable to the Commissioner of Education but shall:

(7) Hire a general counsel who reports directly to the

executive director of the office.

(8) Hire an inspector general who reports directly to the executive director of the office and to the Chief Inspector General pursuant to s. 14.32.

(9) By July 1, 2016, develop and implement, in consultation with early learning coalitions and providers of the Voluntary Prekindergarten Education Program and the child care and development program, best practices for providing parental notifications in the parent's native language to a parent whose native language is a language other than English.

Section 15. Subsection (4) of section 1002.53, Florida Statutes, is amended to read:

1002.53 Voluntary Prekindergarten Education Program; eligibility and enrollment.—

(4)(a) Each parent enrolling a child in the Voluntary Prekindergarten Education Program must complete and submit an application to the early learning coalition through the single point of entry established under s. 1002.82 or to a private prekindergarten provider if the provider is authorized by the early learning coalition to determine student eligibility for enrollment in the program.

(b) The application must be submitted on forms prescribed by the Office of Early Learning and must be accompanied by a certified copy of the child's birth certificate. The forms must include a certification, in substantially the form provided in s. 1002.71(6)(b)2., that the parent chooses the private

prekindergarten provider or public school in accordance with this section and directs that payments for the program be made to the provider or school. The Office of Early Learning may authorize alternative methods for submitting proof of the child's age in lieu of a certified copy of the child's birth certificate.

(c) If a private prekindergarten provider has been authorized to determine child eligibility and enrollment, upon receipt of an application, the provider must:

1. Determine the child's eligibility for the program and be responsible for any errors in such determination.

2. Retain the original application and certified copy of the child's birth certificate or authorized alternative proof of age on file for at least 5 years.

The early learning coalition may audit applications held by a private prekindergarten provider in the coalition's service area to determine whether children enrolled and reported for funding by the provider have met the eligibility criteria in subsection (2).

(d) ~~(c)~~ Each early learning coalition shall coordinate with each of the school districts within the coalition's county or multicounty region in the development of procedures for enrolling children in prekindergarten programs delivered by public schools, including procedures for making child eligibility determinations and auditing enrollment records to

confirm that enrolled children have met eligibility requirements.

Section 16. Section 1002.55, Florida Statutes, is amended to read:

1002.55 School-year prekindergarten program delivered by private prekindergarten providers.—

(1) Each early learning coalition shall administer the Voluntary Prekindergarten Education Program at the county or regional level for students enrolled under s. 1002.53(3)(a) in a school-year prekindergarten program delivered by a private prekindergarten provider. Each early learning coalition must cooperate with the Office of Early Learning and the Child Care Services Program Office of the Department of Children and Families to reduce paperwork and to avoid duplicating interagency activities, health and safety monitoring, and acquiring and composing data pertaining to child care training and credentialing.

(2) Each school-year prekindergarten program delivered by a private prekindergarten provider must comprise at least 540 instructional hours.

(3) To be eligible to deliver the prekindergarten program, a private prekindergarten provider must meet each of the following requirements:

~~(a) The private prekindergarten provider must be a child care facility licensed under s. 402.305, family day care home licensed under s. 402.313, large family child care home licensed~~

~~under s. 402.3131, nonpublic school exempt from licensure under s. 402.3025(2), or faith-based child care provider exempt from licensure under s. 402.316.~~

(a) ~~(b)~~ The private prekindergarten provider must:

1. Be accredited by an accrediting association that is a member of the National Council for Private School Accreditation, or the Florida Association of Academic Nonpublic Schools, or be accredited by the Southern Association of Colleges and Schools, or Western Association of Colleges and Schools, or North Central Association of Colleges and Schools, or Middle States Association of Colleges and Schools, or New England Association of Colleges and Schools; and have written accreditation standards that meet or exceed the state's licensing requirements under s. 402.305, s. 402.313, or s. 402.3131 and require at least one onsite visit to the provider or school before accreditation is granted;

2. Hold a current Gold Seal Quality Care designation under s. 402.281; ~~or~~

3. Be licensed under s. 402.305, s. 402.313, or s. 402.3131; or

4. Be a child development center located on a military installation that is certified by the United States Department of Defense.

(b) The private prekindergarten provider must provide basic health and safety on its premises and in its facilities. For a public school, compliance with ss. 1003.22 and 1013.12

satisfies this requirement. For a nonpublic school, compliance with s. 402.3025(2)(d) satisfies this requirement. For a child care facility, a licensed family child care home, or a large family child care home, compliance with s. 402.305, s. 402.313, or s. 402.3131, respectively, satisfies this requirement. For a facility exempt from licensure, compliance with s. 402.316(4) satisfies this requirement ~~and demonstrate, before delivering the Voluntary Prekindergarten Education Program, as verified by the early learning coalition, that the provider meets each of the requirements of the program under this part, including, but not limited to, the requirements for credentials and background screenings of prekindergarten instructors under paragraphs (c) and (d), minimum and maximum class sizes under paragraph (f), prekindergarten director credentials under paragraph (g), and a developmentally appropriate curriculum under s. 1002.67(2)(b)~~.

(c) The private prekindergarten provider must have, for each prekindergarten class of 11 children or fewer, at least one prekindergarten instructor who meets each of the following requirements:

1. The prekindergarten instructor must hold, at a minimum, one of the following credentials:

a. A child development associate credential issued by the National Credentialing Program of the Council for Professional Recognition; ~~or~~

b. A credential approved by the Department of Children and Families, pursuant to s. 402.305(3)(c), as being equivalent to

or greater than the credential described in sub-subparagraph a.;

c. An associate or higher degree in child development;

d. An associate or higher degree in an unrelated field, at least 6 credit hours in early childhood education or child development, and at least 480 hours of experience in teaching or providing child care services for children any age from birth through 8 years of age;

e. A baccalaureate or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;

f. A baccalaureate or higher degree in family and child science and at least 480 hours of experience in teaching or providing child care services for children any age from birth through 8 years of age;

g. A baccalaureate or higher degree in elementary education if the prekindergarten instructor has been certified to teach children any age from birth through grade 6, regardless of whether the instructor's educator certificate is current, and if the instructor is not ineligible to teach in a public school because his or her educator certificate is suspended or revoked; or

h. A credential approved by the department as being equivalent to or greater than a credential described in sub-subparagraphs a.-f. The department may adopt criteria and procedures for approving such equivalent credentials.

~~The Department of Children and Families may adopt rules under ss. 120.536(1) and 120.54 which provide criteria and procedures for approving equivalent credentials under sub-subparagraph b.~~

2. The prekindergarten instructor must successfully complete an emergent literacy training course and a student performance standards training course approved by the office as meeting or exceeding the minimum standards adopted under s. 1002.59. The requirement for completion of the standards training course shall take effect July 1, 2015 ~~2014~~, and the course shall be available online.

3. Beginning January 1, 2015, each prekindergarten instructor must be trained in first aid and infant and child cardiopulmonary resuscitation, as evidenced by current documentation of course completion, unless the instructor is not responsible for supervising children in care. As a condition of employment, instructors hired on or after January 1, 2015, must complete this training within 30 days after employment.

~~(d) Each prekindergarten instructor employed by the private prekindergarten provider must be of good moral character, must be screened using the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked.~~

~~(e) A private prekindergarten provider may assign a~~

~~substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor is of good moral character and has been screened before employment in accordance with level 2 background screening requirements in chapter 435. The Office of Early Learning shall adopt rules to implement this paragraph which shall include required qualifications of substitute instructors and the circumstances and time limits for which a private prekindergarten provider may assign a substitute instructor.~~

(d) ~~(f)~~ Each of the private prekindergarten provider's prekindergarten classes must be composed of at least 4 students but may not exceed 20 students. In order to protect the health and safety of students, each private prekindergarten provider must also provide appropriate adult supervision for students at all times and, for each prekindergarten class composed of 12 or more students, must have, in addition to a prekindergarten instructor who meets the requirements of paragraph (c), at least one adult prekindergarten instructor who is not required to meet those requirements but who must meet each requirement of s. 402.305(2) ~~paragraph (d)~~. This paragraph does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

(e) Beginning January 1, 2016, the private prekindergarten provider must employ child care personnel who hold a high school diploma or its equivalent and are at least 18 years of age, unless the personnel are not responsible for supervising

children in care or are under direct supervision and are not counted for the purposes of computing the personnel-to-child ratio.

(f) ~~(g)~~ The private prekindergarten provider must have a prekindergarten director who has a prekindergarten director credential that is approved by the office as meeting or exceeding the minimum standards adopted under s. 1002.57. Successful completion of a child care facility director credential under s. 402.305(2)(f) before the establishment of the prekindergarten director credential under s. 1002.57 or July 1, 2006, whichever occurs later, satisfies the requirement for a prekindergarten director credential under this paragraph.

(g) ~~(h)~~ The private prekindergarten provider must register with the early learning coalition on forms prescribed by the Office of Early Learning.

(h) ~~(i)~~ The private prekindergarten provider must execute the statewide provider contract prescribed under s. 1002.75, except that an individual who owns or operates multiple private prekindergarten providers within a coalition's service area may execute a single agreement with the coalition on behalf of each provider.

(i) ~~(j)~~ The private prekindergarten provider must maintain general liability insurance and provide the coalition with written evidence of general liability insurance coverage, including coverage for transportation of children if prekindergarten students are transported by the provider. A

provider must obtain and retain an insurance policy that provides a minimum of $100,000 of coverage per occurrence and a minimum of $300,000 general aggregate coverage. The office may authorize lower limits upon request, as appropriate. ~~A provider must add the coalition as a named certificateholder and as an additional insured.~~ A provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider contract with the coalition.

(j) ~~(k)~~ The private prekindergarten provider must obtain and maintain any required workers' compensation insurance under chapter 440 and any required reemployment assistance or unemployment compensation coverage under chapter 443, unless exempt under state or federal law.

(k) ~~(l)~~ Notwithstanding paragraph (i) ~~(j)~~, for a private prekindergarten provider that is a state agency or a subdivision thereof, as defined in s. 768.28(2), the provider must agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

(l) The private prekindergarten provider shall be denied initial eligibility to offer the program if the provider has been cited for a Class I violation in the 12 months before

seeking eligibility. An existing provider that is cited for a Class I violation may not have its eligibility renewed for 12 months. This paragraph does not apply if the Office of Early Learning determines that the violation was reported by the provider and the employee responsible for the violation was terminated or the violation was corrected by the provider.

(m) The private prekindergarten provider must deliver the Voluntary Prekindergarten Education Program in accordance with this part and have child disciplinary policies that prohibit children from being subjected to discipline that is severe, humiliating, frightening, or associated with food, rest, toileting, spanking, or any other form of physical punishment as provided in s. 402.305(12).

~~(4) A prekindergarten instructor, in lieu of the minimum credentials and courses required under paragraph (3)(c), may hold one of the following educational credentials:~~

~~(a) A bachelor's or higher degree in early childhood education, prekindergarten or primary education, preschool education, or family and consumer science;~~

~~(b) A bachelor's or higher degree in elementary education, if the prekindergarten instructor has been certified to teach children any age from birth through 6th grade, regardless of whether the instructor's educator certificate is current, and if the instructor is not ineligible to teach in a public school because his or her educator certificate is suspended or revoked;~~

~~(c) An associate's or higher degree in child development;~~

~~(d) An associate's or higher degree in an unrelated field, at least 6 credit hours in early childhood education or child development, and at least 480 hours of experience in teaching or providing child care services for children any age from birth through 8 years of age; or~~

~~(e) An educational credential approved by the department as being equivalent to or greater than an educational credential described in this subsection. The department may adopt criteria and procedures for approving equivalent educational credentials under this paragraph.~~

~~(5) Notwithstanding paragraph (3)(b), a private prekindergarten provider may not participate in the Voluntary Prekindergarten Education Program if the provider has child disciplinary policies that do not prohibit children from being subjected to discipline that is severe, humiliating, frightening, or associated with food, rest, toileting, spanking, or any other form of physical punishment as provided in s. 402.305(12).~~

Section 17. Subsection (1) of section 1002.59, Florida Statutes, is amended to read:

1002.59 Emergent literacy and performance standards training courses.—

(1) The office shall adopt minimum standards for one or more training courses in emergent literacy for prekindergarten instructors. Each course must comprise 5 clock hours and provide instruction in strategies and techniques to address the age-

appropriate progress of prekindergarten students in developing emergent literacy skills, including oral communication, knowledge of print and letters, phonemic and phonological awareness, and vocabulary and comprehension development. Each course must also provide resources containing strategies that allow students with disabilities and other special needs to derive maximum benefit from the Voluntary Prekindergarten Education Program. Successful completion of an emergent literacy training course approved under this section satisfies requirements for approved training in early literacy and language development under ss. 402.305(2)(d)5., 402.313(4)(c) ~~402.313(6)~~, and 402.3131(5).

Section 18. Paragraph (d) is added to subsection (3) of section 1002.61, Florida Statutes, and subsections (4) through (7) of that section are amended, to read:

1002.61 Summer prekindergarten program delivered by public schools and private prekindergarten providers.—

(3)

(d) Each charter school authorized to deliver the prekindergarten program pursuant to its charter contract shall be considered part of the sponsor's overall prekindergarten program and must meet all requirements of this part applicable to prekindergarten programs delivered by public schools. The sponsor shall provide the same level of oversight of the charter school's prekindergarten program as it provides for other public schools in the school district. A charter school not authorized

to deliver the summer prekindergarten program pursuant to its charter contract may deliver the program as a private provider in accordance with s. 1002.55 and this section.

(4) ~~Notwithstanding ss. 1002.55(3)(c)1. and 1002.63(4),~~ Each public school and private prekindergarten provider that delivers the summer prekindergarten program must have, for each prekindergarten class, at least one prekindergarten instructor who is a certified teacher or holds one of the educational credentials specified in s. 1002.55(3)(c)1.e.-h. ~~1002.55(4)(a) or (b).~~ As used in this subsection, the term "certified teacher" means a teacher holding a valid Florida educator certificate under s. 1012.56 who has the qualifications required by the district school board to instruct students in the summer prekindergarten program. In selecting instructional staff for the summer prekindergarten program, each school district shall give priority to teachers who have experience or coursework in early childhood education.

(5) Each prekindergarten instructor employed by a ~~public school or~~ private prekindergarten provider delivering the summer prekindergarten program must be of good moral character, must undergo background screening pursuant to s. 402.305(2)(a) ~~be screened using the level 2 screening standards in s. 435.04~~ before employment, must be ~~and~~ rescreened at least once every 5 years, and must be denied employment or terminated if required under s. 435.06. Each prekindergarten instructor employed by a public school delivering the summer prekindergarten program~~, and~~

must satisfy the ~~not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede~~ employment requirements for instructional personnel in public schools as provided in s. 1012.32 ~~which are more stringent than the requirements of this subsection~~.

(6) A public school or private prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor meets the requirements of subsection (5) ~~is of good moral character and has been screened before employment in accordance with level 2 background screening requirements in chapter 435. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection.~~ The Office of Early Learning shall adopt rules to implement this subsection which shall include required qualifications of substitute instructors and the circumstances and time limits for which a public school or private prekindergarten provider may assign a substitute instructor.

(7) Notwithstanding ss. 1002.55(3)(d) ~~1002.55(3)(f)~~ and 1002.63(7), each prekindergarten class in the summer prekindergarten program, regardless of whether the class is a public school's or private prekindergarten provider's class, must be composed of at least 4 students but may not exceed 12

students ~~beginning with the 2009 summer session~~. In order to protect the health and safety of students, each public school or private prekindergarten provider must also provide appropriate adult supervision for students at all times. This subsection does not supersede any requirement imposed on a provider under ss. 402.301-402.319.

Section 19. Paragraph (c) is added to subsection (3) of section 1002.63, Florida Statutes, and subsections (5) and (6) of that section are amended, to read:

1002.63 School-year prekindergarten program delivered by public schools.—

(3)

(c) Each charter school authorized to deliver the prekindergarten program pursuant to its charter contract shall be considered part of the sponsor's overall prekindergarten program and must meet all requirements of this part applicable to prekindergarten programs delivered by public schools. The sponsor shall provide the same level of oversight of the charter school's prekindergarten program as it provides for other public schools in the school district. A charter school not authorized to deliver the prekindergarten program pursuant to its charter contract may deliver the program as a private provider in accordance with s. 1002.55.

(5) Each prekindergarten instructor employed by a public school delivering the school-year prekindergarten program must satisfy the ~~be of good moral character, must be screened using~~

~~the level 2 screening standards in s. 435.04 before employment and rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked. This subsection does not supersede~~ employment requirements for instructional personnel in public schools as provided in s. 1012.32 ~~which are more stringent than the requirements of this subsection~~.

(6) A public school prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor meets the requirements of subsection (5) ~~is of good moral character and has been screened before employment in accordance with level 2 background screening requirements in chapter 435. This subsection does not supersede employment requirements for instructional personnel in public schools which are more stringent than the requirements of this subsection~~. The Office of Early Learning shall adopt rules to implement this subsection which shall include required qualifications of substitute instructors and the circumstances and time limits for which a public school prekindergarten provider may assign a substitute instructor.

Section 20. Paragraph (a) of subsection (6) of section 1002.71, Florida Statutes, is amended to read:

1002.71 Funding; financial and attendance reporting.—

(6)(a) Each parent enrolling his or her child in the Voluntary Prekindergarten Education Program must agree to comply with the attendance policy of the private prekindergarten provider or district school board, as applicable. Upon enrollment of the child, the private prekindergarten provider or public school, as applicable, must provide the child's parent with program information, including, but not limited to, child development, expectations for parent engagement, the daily schedule, and the ~~a copy of the provider's or school district's~~ attendance policy, which must include procedures for contacting a parent on the 2nd consecutive day a child is absent for which the reason is unknown ~~as applicable~~.

Section 21. Subsection (1) of section 1002.75, Florida Statutes, is amended to read:

1002.75 Office of Early Learning; powers and duties.—

(1) The Office of Early Learning shall adopt by rule a standard statewide provider contract to be used with each Voluntary Prekindergarten Education Program provider, with standardized attachments by provider type. The office shall publish a copy of the standard statewide provider contract on its website. The standard statewide contract shall include, at a minimum, provisions that:

(a) Govern ~~for~~ provider probation, termination for cause, and emergency termination for those actions or inactions of a provider that pose an immediate and serious danger to the health, safety, or welfare of children. The standard statewide

contract shall also include appropriate due process procedures. During the pendency of an appeal of a termination, the provider may not continue to offer its services.

(b) Require each private prekindergarten provider to notify the parent of each child in care if it is cited for a Class I violation as defined by rule of the Department of Children and Families. Such notice shall describe each violation with specificity, in simple language, and include a copy of the citation and the contact information of the Department of Children and Families or local licensing agency where the parent may obtain additional information regarding the citation. Notice of a Class I violation by the provider must be provided electronically or in writing to the parent within 24 hours after receipt of the citation. A private prekindergarten provider must conspicuously post each citation for a violation that results in disciplinary action on the premises in an area visible to parents pursuant to s. 402.3125(1)(b). Additionally, such a provider must post each inspection report on the premises in an area visible to parents, which report must remain posted until the next inspection report is available.

(c) Specify that child care personnel employed by the provider who are responsible for supervising children in care must be trained in developmentally appropriate practices aligned to the age and needs of children over which the personnel are assigned supervision duties. This requirement is met by completion of developmentally appropriate practice courses

administered by the Department of Children and Families under s. 402.305(2)(d)1. within 30 days after being assigned to children for which developmentally appropriate practice training has not been completed by the personnel.

Any provision imposed upon a provider that is inconsistent with, or prohibited by, law is void and unenforceable.

Section 22. Section 1002.77, Florida Statutes, is amended to read:

1002.77 Florida Early Learning Advisory Council.—

(1) There is created the Florida Early Learning Advisory Council within the Office of Early Learning. The purpose of the advisory council is to provide written input ~~submit recommendations~~ to the executive director ~~office~~ on early learning best practices, including ~~recommendations relating to the most~~ effective program administration; ~~of the Voluntary Prekindergarten Education Program under this part and the school readiness program under part VI of this chapter. The advisory council shall periodically analyze and provide recommendations to the office on the~~ effective and efficient use of local, state, and federal funds; ~~the content of~~ professional development training programs; and ~~best practices for the development and implementation of~~ coalition plans pursuant to s. 1002.85.

(2) The advisory council shall be composed of the following members:

(a) The chair of the advisory council who shall be appointed by and serve at the pleasure of the Governor.

(b) The chair of each early learning coalition.

(c) One member who shall be appointed by and serve at the pleasure of the President of the Senate.

(d) One member who shall be appointed by and serve at the pleasure of the Speaker of the House of Representatives.

The chair of the advisory council appointed by the Governor and the members appointed by the presiding officers of the Legislature must be from the business community and be in compliance with s. 1002.83(5).

(3) The advisory council shall meet at least quarterly upon the call of the executive director ~~but may meet as often as necessary to carry out its duties and responsibilities~~. The executive director is encouraged to ~~advisory council may~~ use communications media technology ~~any method of telecommunications~~ to conduct meetings in accordance with s. 120.54(5)(b)~~,~~ ~~including establishing a quorum through telecommunications, only if the public is given proper notice of a telecommunications meeting and reasonable access to observe and, when appropriate,~~ ~~participate~~.

(4)(a) Each member of the advisory council may ~~shall~~ serve without compensation but is entitled to receive reimbursement for per diem and travel expenses for attendance at council meetings as provided in s. 112.061.

(b) Each member of the advisory council is subject to the ethics provisions in part III of chapter 112.

(c) For purposes of tort liability, each member of the advisory council shall be governed by s. 768.28.

(5) The Office of Early Learning shall provide staff and administrative support for the advisory council as determined by the executive director.

Section 23. Paragraph (f) of subsection (1) and subsections (8) and (16) of section 1002.81, Florida Statutes, are amended to read:

1002.81 Definitions.—Consistent with the requirements of 45 C.F.R. parts 98 and 99 and as used in this part, the term:

(1) "At-risk child" means:

(f) A child in the custody of a parent who is considered homeless as verified by a designated lead agency on the homeless assistance continuum of care established under ss. 420.622-420.624 ~~Department of Children and Families certified homeless shelter~~.

(8) "Family income" means the combined gross income, whether earned or unearned, that is derived from any source by all family or household members who are 18 years of age or older who are currently residing together in the same dwelling unit. The term does not include:

(a) Income earned by a currently enrolled high school student who, since attaining the age of 18 years, or a student with a disability who, since attaining the age of 22 years, has

not terminated school enrollment or received a high school diploma, high school equivalency diploma, special diploma, or certificate of high school completion.

(b) Income earned by a teen parent residing in the same residence as a separate family unit.

(c) Selected items from the Child Care and Development Fund state plan, such as ~~The term also does not include~~ food stamp benefits, documented child support and alimony payments paid out of the home, or federal housing assistance payments issued directly to a landlord or the associated utilities expenses.

(16) "Working family" means:

(a) A single-parent family in which the parent with whom the child resides is employed or engaged in eligible work or education activities for at least 20 hours per week or is exempt from work requirements due to age or disability, as determined and documented by a physician licensed under chapter 458 or chapter 459;

(b) A two-parent family in which both parents with whom the child resides are employed or engaged in eligible work or education activities for a combined total of at least 40 hours per week; ~~or~~

(c) A two-parent family in which one of the parents with whom the child resides is exempt from work requirements due to age or disability, as determined and documented by a physician licensed under chapter 458 or chapter 459, and one parent is

employed or engaged in eligible work or education activities at least 20 hours per week; or

(d) A two-parent family in which both of the parents with whom the child resides are exempt from work requirements due to age or disability, as determined and documented by a physician licensed under chapter 458 or chapter 459.

Section 24. Paragraphs (b), (j), (m), and (p) of subsection (2) of section 1002.82, Florida Statutes, are amended to read:

1002.82 Office of Early Learning; powers and duties.—

(2) The office shall:

(b) Preserve parental choice by permitting parents to choose from a variety of child care categories authorized in s. 1002.88(1)(a)~~, including center-based care, family child care, and informal child care to the extent authorized in the state's Child Care and Development Fund Plan as approved by the United States Department of Health and Human Services pursuant to 45 C.F.R. s. 98.18~~. Care and curriculum by a faith-based provider may not be limited or excluded in any of these categories.

(j) Develop and adopt standards and benchmarks that address the age-appropriate progress of children in the development of child care and development ~~school readiness~~ skills. The standards for children from birth to 5 years of age in the child care and development ~~school readiness~~ program must be aligned with the performance standards adopted for children in the Voluntary Prekindergarten Education Program and must

address the following domains:

1. Approaches to learning.

2. Cognitive development and general knowledge.

3. Numeracy, language, and communication.

4. Physical development.

5. Self-regulation.

By July 1, 2015, the Office of Early Learning shall develop and implement an online training course on the performance standards for child care and development program provider personnel.

(m) Adopt by rule a standard statewide provider contract to be used with each child care and development ~~school readiness~~ program provider, with standardized attachments by provider type. The office shall publish a copy of the standard statewide provider contract on its website. The standard statewide contract shall include, at a minimum, provisions that:

1. Govern ~~for~~ provider probation, termination for cause, and emergency termination for those actions or inactions of a provider that pose an immediate and serious danger to the health, safety, or welfare of the children. The standard statewide provider contract shall also include appropriate due process procedures. During the pendency of an appeal of a termination, the provider may not continue to offer its services.

2. Require each provider that is eligible to provide the program pursuant to s. 1002.88(1)(a) to notify the parent of

each child in care if it is cited for a Class I violation as defined by rule of the Department of Children and Families. Such notice shall describe each violation with specificity, in simple language, and include a copy of the citation and the contact information of the Department of Children and Families or local licensing agency where the parent may obtain additional information regarding the citation. Notice of a Class I violation by the provider must be provided electronically or in writing to the parent within 24 hours after receipt of the citation. A provider must conspicuously post each citation for a violation that results in disciplinary action on the premises in an area visible to parents pursuant to s. 402.3125(1)(b). Additionally, such a provider must post each inspection report on the premises in an area visible to parents, which report must remain posted until the next inspection report is available.

3. Specify that child care personnel employed by the provider who are responsible for supervising children in care must be trained in developmentally appropriate practices aligned to the age and needs of children over which the personnel are assigned supervision duties. This requirement is met by completion of developmentally appropriate practice courses administered by the Department of Children and Families under s. 402.305(2)(d)1. within 30 days after being assigned to children for which developmentally appropriate practice training has not been completed by the personnel.

4. Require child care personnel who are employed by the

provider to complete an online training course on the performance standards adopted pursuant to paragraph (j).

Any provision imposed upon a provider that is inconsistent with, or prohibited by, law is void and unenforceable.

(p) Monitor and evaluate the performance of each early learning coalition in administering the child care and development ~~school readiness~~ program and the Voluntary Prekindergarten Education Program, ensuring proper payments for child care and development ~~school readiness~~ program and Voluntary Prekindergarten Education Program services, and implementing the coalition's child care and development ~~school readiness~~ program plan~~, and administering the Voluntary Prekindergarten Education Program~~. These monitoring and performance evaluations must include, at a minimum, onsite monitoring of each coalition's finances, management, operations, and programs.

Section 25. Subsections (8) and (20) of section 1002.84, Florida Statutes, are amended to read:

1002.84 Early learning coalitions; child care and development ~~school readiness~~ powers and duties.—Each early learning coalition shall:

(8) Establish a parent sliding fee scale that requires a parent copayment to participate in the child care and development ~~school readiness~~ program. Providers are required to collect the parent's copayment. A coalition may, on a case-by-

case basis, waive the copayment for an at-risk child or temporarily waive the copayment for a child whose family's income is at or below the federal poverty level and ~~family~~ experiences a natural disaster or an event that limits the parent's ability to pay, such as incarceration, placement in residential treatment, ~~or becoming homeless,~~ or an emergency situation such as a household fire or burglary, or while the parent is participating in parenting classes. A parent may not transfer child care and development ~~school readiness~~ program services to another child care and development ~~school readiness~~ program provider until the parent has submitted documentation from the current child care and development ~~school readiness~~ program provider to the early learning coalition stating that the parent has satisfactorily fulfilled the copayment obligation.

(20) To increase transparency and accountability, comply with ~~the requirements of~~ this section before contracting with a member of the coalition, an employee of the coalition, or a relative, as defined in s. 112.3143(1)(b), of a coalition member or of an employee of the coalition. Such contracts may not be executed without the approval of the office. Such contracts, as well as documentation demonstrating adherence to this section by the coalition, must be approved by a two-thirds vote of the coalition, a quorum having been established; all conflicts of interest must be disclosed before the vote; and any member who may benefit from the contract, or whose relative may benefit

from the contract, must abstain from the vote. A contract under $25,000 between an early learning coalition and a member of that coalition or between a relative, as defined in s. 112.3143(1)(b), of a coalition member or of an employee of the coalition is not required to have the prior approval of the office but must be approved by a two-thirds vote of the coalition, a quorum having been established, and must be reported to the office within 30 days after approval. If a contract cannot be approved by the office, a review of the decision to disapprove the contract may be requested by the early learning coalition or other parties to the disapproved contract.

Section 26. Subsections (1), (6), (7), and (8) of section 1002.87, Florida Statutes, are amended to read:

1002.87 Child care and development ~~School readiness~~ program; eligibility and enrollment.—

(1) Effective August 1, 2013, or upon reevaluation of eligibility for children currently served, whichever is later, each early learning coalition shall give priority for participation in the child care and development ~~school readiness~~ program as follows:

(a) Priority shall be given first to a child younger than 13 years of age from a family that includes a parent who is receiving temporary cash assistance under chapter 414 and subject to the federal work requirements.

(b) Priority shall be given next to an at-risk child

younger than 9 years of age.

(c) Priority shall be given next to a child from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. who is from a working family that is economically disadvantaged, and may include such child's eligible siblings, beginning with the school year in which the sibling is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2. until the beginning of the school year in which the sibling enters ~~is eligible to begin~~ 6th grade, provided that the first priority for funding an eligible sibling is local revenues available to the coalition for funding direct services. However, a child eligible under this paragraph ceases to be eligible if his or her family income exceeds 200 percent of the federal poverty level.

(d) Priority shall be given next to a child of a parent who transitions from the work program into employment as described in s. 445.032 from birth to the beginning of the school year for which the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(e) Priority shall be given next to an at-risk child who is at least 9 years of age but younger than 13 years of age. An at-risk child whose sibling is enrolled in the school readiness program within an eligibility priority category listed in paragraphs (a)-(c) shall be given priority over other children who are eligible under this paragraph.

(f) Priority shall be given next to a child who is younger than 13 years of age from a working family that is economically disadvantaged. A child who is eligible under this paragraph whose sibling is enrolled in the school readiness program under paragraph (c) shall be given priority over other children who are eligible under this paragraph. However, a child eligible under this paragraph ceases to be eligible if his or her family income exceeds 200 percent of the federal poverty level.

(g) Priority shall be given next to a child of a parent who transitions from the work program into employment as described in s. 445.032 who is younger than 13 years of age.

(h) Priority shall be given next to a child who ~~has special needs,~~ has been determined eligible as an infant or toddler from birth to 3 years of age with an individualized family support plan receiving early intervention services or ~~as~~ a student with a disability with~~, has~~ a current individual education plan with a Florida school district~~, and is not younger than 3 years of age~~. A ~~special needs~~ child eligible under this paragraph remains eligible until the child is eligible for admission to kindergarten in a public school under s. 1003.21(1)(a)2.

(i) Notwithstanding paragraphs (a)-(d), priority shall be given last to a child who otherwise meets one of the eligibility criteria in paragraphs (a)-(d) but who is also enrolled concurrently in the federal Head Start Program and the Voluntary Prekindergarten Education Program.

(6) Eligibility for each child must be reevaluated annually. Upon reevaluation, a child may not continue to receive child care and development ~~school readiness~~ program services if he or she has ceased to be eligible under this section. If a child no longer meets eligibility or program requirements, the coalition must immediately notify the child's parent and the provider that funding will end 2 weeks after the date on which the child was determined to be ineligible or when the current child care authorization expires, whichever occurs first.

(7) If a coalition disenrolls children from the child care and development ~~school readiness~~ program due to lack of funding or a change in eligibility priorities, the coalition must disenroll the children in reverse order of the eligibility priorities listed in subsection (1) beginning with children from families with the highest family incomes. A notice of disenrollment must be sent to the parent and child care and development ~~school readiness~~ program provider at least 2 weeks before disenrollment or the expiration of the current child care authorization, whichever occurs first, to provide adequate time for the parent to arrange alternative care for the child. However, an at-risk child receiving services from the Child Welfare Program Office of the Department of Children and Families may not be disenrolled from the program without the written approval of the Child Welfare Program Office ~~of the Department of Children and Families~~ or the community-based lead agency.

(8) If a child is absent from the program for 2 consecutive days without parental notification to the program of such absence, the child care and development program provider shall contact the parent and determine the cause for absence and expected date of return. If a child is absent from the program for 5 consecutive days without parental notification to the program of such absence, the child care and development ~~school readiness~~ program provider shall report the absence to the early learning coalition for a determination of the need for continued care.

Section 27. Section 1002.88, Florida Statutes, is amended to read:

1002.88 Child care and development ~~School readiness~~ program provider standards; eligibility to deliver the child care and development ~~school readiness~~ program.—

(1) To be eligible to deliver the child care and development ~~school readiness~~ program, a child care and development ~~school readiness~~ program provider must:

(a)1. Be a nonpublic school in substantial compliance with s. 402.3025(2)(d), a child care facility licensed under s. 402.305, a family child ~~day~~ care home licensed ~~or registered~~ under s. 402.313, a large family child care home licensed under s. 402.3131, or a child care facility exempt from licensure operating under s. 402.316(4); or

2. Be an entity that is part of Florida's education system under s. 1000.04(1) ~~a public school or nonpublic school exempt~~

~~from licensure under s. 402.3025, a faith-based child care provider exempt from licensure under s. 402.316, a before-school or after-school program described in s. 402.305(1)(c), or an informal child care provider to the extent authorized in the state's Child Care and Development Fund Plan as approved by the United States Department of Health and Human Services pursuant to 45 C.F.R. s. 98.18~~.

(b) Provide instruction and activities to enhance the age-appropriate progress of each child in attaining the child development standards adopted by the office pursuant to s. 1002.82(2)(j). A provider should include activities to foster brain development in infants and toddlers; provide an environment that is rich in language and music and filled with objects of various colors, shapes, textures, and sizes to stimulate visual, tactile, auditory, and linguistic senses; and include 30 minutes of reading to children each day. A provider must provide parents information on child development, expectations for parent engagement, the daily schedule, and the attendance policy.

(c) Provide basic health and safety of its premises and facilities in accordance with applicable licensing and inspection requirements ~~and compliance with requirements for age-appropriate immunizations of children enrolled in the school readiness program~~. For a child care facility, a large family child care home, or a licensed family child ~~day~~ care home, compliance with s. 402.305, s. 402.3131, or s. 402.313 satisfies

this requirement. For a public ~~or nonpublic~~ school, compliance with ss. ~~s. 402.3025 or s.~~ 1003.22 and 1013.12 satisfies this requirement. For a nonpublic school, compliance with s. 402.3025(2)(d) satisfies this requirement. For a facility exempt from licensure, compliance with s. 402.316(4) satisfies this requirement. A provider shall be denied initial eligibility to offer the program if the provider has been cited for a Class I violation in the 12 months before seeking eligibility. An existing provider that is cited for a Class I violation may not have its eligibility renewed for 12 months. A provider that is cited for a Class I violation may remain eligible to deliver the program if the Office of Early Learning determines that the violation was reported by the provider and the employee responsible for the violation was terminated or the violation was corrected by the provider. ~~A faith-based child care provider, an informal child care provider, or a nonpublic school, exempt from licensure under s. 402.316 or s. 402.3025, shall annually complete the health and safety checklist adopted by the office, post the checklist prominently on its premises in plain sight for visitors and parents, and submit it annually to its local early learning coalition.~~

(d) Provide an appropriate staff-to-children ratio, pursuant to s. 402.305(4) or s. 402.302(8) or (11), as applicable, and as verified pursuant to s. 402.311.

(e) Provide a healthy and safe environment pursuant to s. 402.305(5), (6), and (7), as applicable, and as verified

pursuant to s. 402.311.

(f) Implement one of the curricula approved by the office that meets the child development standards.

(g) Implement a character development program to develop basic values.

(h) Collaborate with the respective early learning coalition to complete initial screening for each child, aged 6 weeks to kindergarten eligibility, within 45 days after the child's first or subsequent enrollment, to identify a child who may need individualized supports.

(i) Implement minimum standards for child discipline practices that are age-appropriate and consistent with the requirements in s. 402.305(12). Such standards must provide that children not be subjected to discipline that is severe, humiliating, or frightening or discipline that is associated with food, rest, or toileting. Spanking or any other form of physical punishment is prohibited.

(j) Obtain and keep on file record of the child's immunizations, physical development, and other health requirements as necessary, including appropriate vision and hearing screening and examination, within 30 days after enrollment.

(k) Implement before-school or after-school programs that meet or exceed the requirements of s. 402.305(5), (6), and (7).

(l) ~~For a provider that is not an informal provider,~~ Maintain general liability insurance and provide the coalition

with written evidence of general liability insurance coverage, including coverage for transportation of children if child care and development ~~school readiness~~ program children are transported by the provider. A private provider must obtain and retain an insurance policy that provides a minimum of $100,000 of coverage per occurrence and a minimum of $300,000 general aggregate coverage. The office may authorize lower limits upon request, as appropriate. ~~A provider must add the coalition as a named certificateholder and as an additional insured.~~ A private provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider contract with the coalition.

~~(m) For a provider that is an informal provider, comply with the provisions of paragraph (l) or maintain homeowner's liability insurance and, if applicable, a business rider. If an informal provider chooses to maintain a homeowner's policy, the provider must obtain and retain a homeowner's insurance policy that provides a minimum of $100,000 of coverage per occurrence and a minimum of $300,000 general aggregate coverage. The office may authorize lower limits upon request, as appropriate. An informal provider must add the coalition as a named certificateholder and as an additional insured. An informal provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or~~

~~changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider's contract with the coalition.~~

(m) ~~(n)~~ Obtain and maintain any required workers' compensation insurance under chapter 440 and any required reemployment assistance or unemployment compensation coverage under chapter 443, unless exempt under state or federal law.

(n) ~~(o)~~ Notwithstanding paragraph (l), for a provider that is a state agency or a subdivision thereof, as defined in s. 768.28(2), agree to notify the coalition of any additional liability coverage maintained by the provider in addition to that otherwise established under s. 768.28. The provider shall indemnify the coalition to the extent permitted by s. 768.28.

(o) ~~(p)~~ Execute the standard statewide provider contract adopted by the office.

(p) ~~(q)~~ Operate on a full-time and part-time basis and provide extended-day and extended-year services to the maximum extent possible without compromising the quality of the program to meet the needs of parents who work.

(2) Beginning January 1, 2016, child care personnel employed by a child care and development program provider must hold a high school diploma or its equivalent and be at least 18 years of age, unless the personnel are not responsible for supervising children in care or are under direct supervision and are not counted for the purposes of computing the personnel-to-child ratio.

(3) Beginning January 1, 2015, child care personnel employed by a child care and development program provider must be trained in first aid and infant and child cardiopulmonary resuscitation, as evidenced by current documentation of course completion, unless the personnel are not responsible for supervising children in care. As a condition of employment, personnel hired on or after January 1, 2015, must complete this training within 30 days after employment.

(4) ~~(2)~~ If a child care and development ~~school readiness~~ program provider fails or refuses to comply with this part or any contractual obligation of the statewide provider contract under s. 1002.82(2)(m), the coalition may revoke the provider's eligibility to deliver the child care and development ~~school readiness~~ program or receive state or federal funds under this chapter for ~~a period of~~ 5 years.

(5) ~~(3)~~ The office and the coalitions may not:

(a) Impose any requirement on a child care provider or early childhood education provider that does not deliver services under the child care and development ~~school readiness~~ program or receive state or federal funds under this part;

(b) Impose any requirement on a child care and development ~~school readiness~~ program provider that exceeds the authority provided under this part or part V of this chapter or rules adopted pursuant to this part or part V of this chapter; or

(c) Require a provider to administer a preassessment or postassessment.

Section 28. Subsections (6) and (7) of section 1002.89, Florida Statutes, are amended to read:

1002.89 Child care and development ~~School readiness~~ program; funding.—

(6) Costs shall be kept to the minimum necessary for the efficient and effective administration of the child care and development ~~school readiness~~ program with the highest priority of expenditure being direct services for eligible children. However, no more than 5 percent of the funds described in subsection (5) may be used for administrative costs and no more than 22 percent of the funds described in subsection (5) may be used in any fiscal year for any combination of administrative costs, quality activities, and nondirect services as follows:

(a) Administrative costs as described in 45 C.F.R. s. 98.52, which shall include monitoring providers using the standard methodology adopted under s. 1002.82 to improve compliance with state and federal regulations and law pursuant to the requirements of the statewide provider contract adopted under s. 1002.82(2)(m).

(b) Activities to improve the quality of child care as described in 45 C.F.R. s. 98.51, which shall be limited to the following:

1. Developing, establishing, expanding, operating, and coordinating resource and referral programs specifically related to the provision of comprehensive consumer education to parents and the public to promote informed child care choices specified

in 45 C.F.R. s. 98.33 ~~regarding participation in the school readiness program and parental choice~~.

2. Awarding grants and providing financial support to child care and development ~~school readiness~~ program providers and their staff to assist them in meeting applicable state requirements for child care performance standards, implementing developmentally appropriate curricula and related classroom resources that support curricula, providing literacy supports, obtaining a license or accreditation, and providing professional development, including scholarships and other incentives. Any grants awarded pursuant to this subparagraph shall comply with ~~the requirements of~~ ss. 215.971 and 287.058.

3. Providing training, ~~and~~ technical assistance, and financial support for child care and development ~~school readiness~~ program providers, staff, and parents on standards, child screenings, child assessments, developmentally appropriate curricula, character development, teacher-child interactions, age-appropriate discipline practices, health and safety, nutrition, first aid, cardiopulmonary resuscitation, the recognition of communicable diseases, and child abuse detection and prevention.

4. Providing from among the funds provided for the activities described in subparagraphs 1.-3., adequate funding for infants and toddlers as necessary to meet federal requirements related to expenditures for quality activities for infant and toddler care.

5. Improving the monitoring of compliance with, and enforcement of, applicable state and local requirements as described in and limited by 45 C.F.R. s. 98.40.

6. Responding to Warm-Line requests by providers and parents ~~related to school readiness program children~~, including providing developmental and health screenings to child care and development ~~school readiness~~ program children.

(c) Nondirect services as described in applicable Office of Management and Budget instructions are those services not defined as administrative, direct, or quality services that are required to administer the child care and development ~~school readiness~~ program. Such services include, but are not limited to:

1. Assisting families to complete the required application and eligibility documentation.

2. Determining child and family eligibility.

3. Recruiting eligible child care providers.

4. Processing and tracking attendance records.

5. Developing and maintaining a statewide child care information system.

As used in this paragraph, the term "nondirect services" does not include payments to child care and development ~~school readiness~~ program providers for direct services provided to children who are eligible under s. 1002.87, administrative costs as described in paragraph (a), or quality activities as

described in paragraph (b).

(7) Funds appropriated for the child care and development ~~school readiness~~ program may not be expended for the purchase or improvement of land; for the purchase, construction, or permanent improvement of any building or facility; or for the purchase of buses. However, funds may be expended for minor remodeling necessary for the administration of the program and upgrading of child care facilities to ensure that providers meet state and local child care standards, including applicable health and safety requirements.

Section 29. Subsection (7) of section 1002.91, Florida Statutes, is amended to read:

1002.91 Investigations of fraud or overpayment; penalties.—

(7) The early learning coalition may not contract with a child care and development ~~school readiness~~ program provider, ~~or~~ a Voluntary Prekindergarten Education Program provider, or an individual who is on the United States Department of Agriculture National Disqualified List. In addition, the coalition may not contract with any provider that shares an officer or director with a provider that is on the United States Department of Agriculture National Disqualified List.

Section 30. Paragraph (d) of subsection (3) of section 1002.94, Florida Statutes, is amended to read:

1002.94 Child Care Executive Partnership Program.—

(3)

(d) Each early learning coalition shall establish a community child care task force ~~for each child care purchasing pool~~. The task force must be composed of employers, parents, private child care providers, and one representative from the local children's services council, if one exists in the area ~~of the purchasing pool~~. The early learning coalition is expected to recruit the task force members from existing child care councils, commissions, or task forces already operating in the area ~~of a purchasing pool~~. A majority of the task force shall consist of employers.

Section 31. The Office of Early Learning shall conduct a 2-year pilot project to study the impact of assessing the early literacy skills of Voluntary Prekindergarten Education Program participants who are English Language Learners, in both English and Spanish. The assessments must include, at a minimum, the first administration of the Florida Assessments for Instruction in Reading in kindergarten and an appropriate alternative assessment in Spanish. The study must include a review of the kindergarten screening results for 2009-2010 and 2010-2011 program participants and their subsequent Florida Comprehensive Assessment Test scores. The office shall annually report its findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives by July 1, 2015, and July 1, 2016.

Section 32. This act shall take effect July 1, 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	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment

Remove lines 1057-1075 and insert:

(d) Each prekindergarten instructor employed by the private prekindergarten provider must be of good moral character, must undergo background screening pursuant to s. 402.305(2)(a) ~~be screened using the level 2 screening standards in s. 435.04~~ before employment, must be ~~and~~ rescreened at least once every 5 years, must be denied employment or terminated if required under s. 435.06, and must not be ineligible to teach in a public school because his or her educator certificate is suspended or revoked.

(e) A private prekindergarten provider may assign a substitute instructor to temporarily replace a credentialed

instructor if the credentialed instructor assigned to a prekindergarten class is absent, as long as the substitute instructor meets the requirements of paragraph (d) ~~is of good moral character and has been screened before employment in accordance with level 2 background screening requirements in chapter 435~~. The Office of Early Learning shall adopt rules to implement this paragraph which shall include required qualifications of substitute instructors and the circumstances and time limits for which a private prekindergarten provider may assign a substitute instructor.

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	_____

Committee/Subcommittee hearing bill: Appropriations Committee

Representative O'Toole offered the following:

Amendment

Remove lines 1121-1123 and insert:

authorize lower limits upon request, as appropriate. A provider must add the coalition as a named certificateholder ~~and as an additional insured~~. A provider must provide the coalition with a

Amendment No. 3

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee

Representative O'Toole offered the following:

Amendment

Remove lines 1495-1499 and insert:

1002.88(1)(a)~~, including center-based care, family child care, and informal child care~~ to the extent authorized in the state's Child Care and Development Fund Plan as approved by the United States Department of Health and Human Services pursuant to 45 C.F.R. s. 98.18. Care and curriculum by a faith-based provider

Amendment No. 4

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment

Remove lines 1827-1848 and insert:

request, as appropriate. A private provider must add the coalition as a named certificateholder ~~and as an additional insured~~. A private provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider contract with the coalition.

(m) For a provider that is an informal provider, comply with the provisions of paragraph (l) or maintain homeowner's liability insurance and, if applicable, a business rider. If an informal provider chooses to maintain a homeowner's policy, the

provider must obtain and retain a homeowner's insurance policy that provides a minimum of $100,000 of coverage per occurrence and a minimum of $300,000 general aggregate coverage. The office may authorize lower limits upon request, as appropriate. An informal provider must add the coalition as a named certificateholder ~~and as an additional insured~~. An informal provider must provide the coalition with a minimum of 10 calendar days' advance written notice of cancellation of or changes to coverage. The general liability insurance required by this paragraph must remain in full force and effect for the entire period of the provider's contract with the coalition.

Amendment No. 5

COMMITTEE/SUBCOMMITTEE ACTION	
ADOPTED	__ (Y/N)
ADOPTED AS AMENDED	__ (Y/N)
ADOPTED W/O OBJECTION	__ (Y/N)
FAILED TO ADOPT	__ (Y/N)
WITHDRAWN	__ (Y/N)
OTHER	_____

Committee/Subcommittee hearing bill: Appropriations Committee
Representative O'Toole offered the following:

Amendment

Between lines 2025 and 2026, insert:

For the 2014-2015 fiscal year, the sum of $1,034,965 in recurring funds and $11,319 in nonrecurring funds from the General Revenue Fund, and $70,800 in recurring funds from the Operations and Maintenance Trust Fund are appropriated to the Department of Children and Families and 18.00 full-time equivalent positions and associated salary rate of 608,446 are authorized, for the purpose of implementing the regulatory provisions of this act.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7095 PCB EAC 14-02 Professional Sports Facilities Incentive Application Process
SPONSOR(S): Economic Affairs Committee, Patronis
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Economic Affairs Committee	17 Y, 2 N	Collins	Creamer
1) Appropriations Committee		Proctor	Leznoff

SUMMARY ANALYSIS

The bill creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program (program) process to provide state funding for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility. The program will be administered by the Department of Economic Opportunity (DEO). Annual distributions of state funds will be made by the Department of Revenue (DOR).

The bill allows municipalities and counties to expend portions of the local government half-cent sales tax for reimbursing the state as required by the program.

The bill adds the program to the list of economic development programs subject to review by the Office of Economic and Demographic Research (EDR) and the Office of Program Policy Analysis and Government Accountability (OPPAGA) by January 1, 2015.

The bill creates a new application, review, and approval process for funding sports facilities, but does not require any expenditure of funds. It also caps the total potential annual distributions at $12 million in General Revenue funds. Such distributions will be contingent upon future approval by the Legislature and enactment by general law approved by the Governor.[1]

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

[1] S. 8, Art. III of the State Constitution.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Professional Sports in Florida

There are nine major professional sports teams based in Florida covering each of the major professional sports leagues; the National Football League (NFL), Major League Baseball (MLB), National Basketball Association (NBA), and National Hockey League (NHL). The oldest major professional sports franchise in the state is the Miami Dolphins (NFL). The Dolphins franchise began play in 1966. The newest major professional sports team in the state is the Tampa Bay Rays (MLB) baseball franchise. The Rays franchise began play in 1998. The Miami Marlins (MLB), Tampa Bay Buccaneers (NFL), Jacksonville Jaguars (NFL), Orlando Magic (NBA), Miami Heat (NBA), Tampa Bay Lightning (NHL), and Florida Panthers (NHL) all play their home games in the state. MLB's Spring Training Grapefruit League is also based in Florida, with 15 teams claiming the state as their second home for preseason training and exhibition games.[2]

Beginning in 2015, the state will be home to a tenth major professional sports team when the Orlando City Soccer Club begins play as the 21st Major League Soccer (MLS) franchise.[3] Plans for a future franchise in Miami have also been announced by the league.[4] MLS is the premier professional soccer organization in the United States, having been launched in 1996 and boasting eight franchises valued at over $100 million.[5]

Franchise	League	Inaugural Season	Home Facility	County	Facility Opened
Miami Dolphins	NFL	1966	Sun Life Stadium	Miami-Dade	1987
Tampa Bay Buccaneers	NFL	1976	Raymond James Stadium	Hillsborough	1998
Miami Heat	NBA	1988	American Airlines Arena	Miami-Date	1999
Orlando Magic	NBA	1989	Amway Center	Orange	2010
Tampa Bay Lightning	NHL	1992	Tampa Bay Times Forum	Hillsborough	1996
Florida Panthers	NHL	1993	BB&T Center	Broward	1998
Miami Marlins	MLB	1993	Marlins Park	Miami-Dade	2012
Jacksonville Jaguars	NFL	1995	EverBank Field	Duval	1995
Tampa Bay Rays	MLB	1998	Tropicana Field	Pinellas	1990

[2] Florida Sports Foundation, *Sports in Florida* http://www.flasports.com/index.php?option=com_content&view=article&id=97&Itemid=211 (last accessed January 14, 2014).
[3] Major League Soccer, *Major League Soccer Names Orlando City SC as 21st Franchise, Set for 2015 Debut,* November 19, 2013; http://www.mlssoccer.com/news/article/2013/11/19/major-league-soccer-names-orlando-city-21st-franchise-set-2015-debut (last accessed February 20, 2014).
[4] Major League Soccer, *David Beckham Exercises MLS Expansion Option on Future Miami Franchise,* February 5, 2014; http://www.mlssoccer.com/news/article/2014/02/05/david-beckham-exercises-mls-expansion-option-future-miami-franchise (last accessed February 20, 2014).
[5] Forbes, *Major League Soccer's Most Valuable Teams* November 20, 2013; http://www.forbes.com/sites/chrissmith/2013/11/20/major-league-soccers-most-valuable-teams/ (last accessed January 14, 2014).

State Incentives for Professional Sports Teams

Section 288.1162, F.S., provides the procedure by which professional sports franchises in Florida may be certified to receive state funding for the purpose of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise. Local governments, non-profit, and for-profit entities may apply to the program.

DEO is responsible for screening and certifying applicants for state funding.[6] An applicant qualifying as a new professional sports franchise must be a professional sports franchise that was not based in Florida prior to April 1, 1987. Applicants qualifying as retained professional sports franchises must have had a league-authorized location in the state on or before December 31, 1976, and be continuously located at the location.[7] The number of certified professional sports franchises, both new and retained, is limited to eight total franchises.[8]

For both new and retained franchises, DEO must confirm and verify the following:

- A local government is responsible for the construction, management, or operation of the professional sports franchise facility, or holds title to the property where the facility is located.[9]
- The applicant has a verified copy of a signed agreement with a new professional sports franchise for at least 10 years, or for 20 years in the case of a retained franchise.[10]
- The applicant has a verified copy of the approval by the governing body of the NFL, MLB, NHL, or NBA authorizing the location of a new franchise in the state after April 1, 1987, for new professional sports franchises, or verified evidence of a league-authorized location in the state on or before December 31, 1976, for a retained professional sports franchise.[11]
- The applicant has projections demonstrating a paid annual attendance of over 300,000 annually.[12]
- The applicant has an independent analysis demonstrating that the amount of sales taxes generated by the use or operation of the franchise's facility will equal or exceed $2 million annually.[13]
- The city where the franchise's facility is located, or the county if the facility is in an unincorporated area, has certified by resolution after a public hearing that the application serves a public purpose.[14]
- The applicant has demonstrated that it has provided, or is capable of providing, financial or other commitments of more than one-half of the costs incurred or related to the improvement or development of the franchise's facility.[15]

Any applicant that meets the above mentioned criteria, as verified by DEO, is eligible to receive monthly payments from the state in the amount of $166,667 for not more than 30 years totaling $2,000,004 annually.[16]

State funding may only be used for the public purposes of paying for the acquisition, construction, reconstruction, or renovation of a facility for a new or retained professional sports franchise; reimbursing associated costs for such activities; paying or pledging payments of debt service on bonds

[6] Section 288.1162(1), F.S.
[7] Section 288.1162(4)(c), F.S.
[8] Section 288.1162(6), F.S.
[9] Section 288.1162(4)(a), F.S.
[10] Section 288.1162(4)(b), F.S.
[11] Section 288.1162(4)(c), F.S.
[12] Section 288.1162(4)(d), F.S.
[13] Section 288.1162(4)(e), F.S.
[14] Section 288.1162(4)(f), F.S.
[15] Section 288.1162(4)(g), F.S.
[16] Section 212.20(6)(d)6.b., F.S.

issued for such activities; funding debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect to bonds issued for such activities; or refinancing the bonds.[17] The state may only pursue recovery of funds if the Auditor General finds that the distributions were not expended as required by statute.[18]

No facility may be certified more than once, and no sports franchise can be the basis for more than one certification unless the previous certification was withdrawn by the facility or invalidated by DEO before any funds were disbursed under s. 212.20(6)(d), F.S.[19]

As of February 17, 2014, there were eight certified professional sports franchise facilities in Florida. The facilities and the payment distribution for each, as provided by the Department of Revenue, are listed below:

Sun Life Stadium	Dolphin Stadium/South Florida Stadium Corp.	Florida Marlins	06/94	$41,333,416
Everbank Field	City of Jacksonville	Jacksonville Jaguars	06/94	$39,500,079
Tropicana Field	City of St. Petersburg	Tampa Bay Rays	06/95	$37,333,408
Tampa Bay Times Forum	Tampa Sports Authority	Tampa Bay Lightning	09/95	$37,000,074
BB&T Center	Broward County	Florida Panthers	08/96	$35,166,737
Raymond James Stadium	Hillsborough County	Tampa Bay Buccaneers	01/97	$34,333,402
American Airlines Arena	BPL, LTD	Miami Heat	03/98	$31,833,397
Amway Center	City of Orlando	Orlando Magic	02/08	$12,166,691

Effect of Proposed Changes

The bill creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program. The purpose of the program is to provide state funding under s. 212.60(6)(d)6.f., F.S., for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility.

Application Process

Applicants must be a unit of local government or an entity that is responsible for construction, management, or operation of a pro sports facility. A professional sports franchise (beneficiary) is eligible to apply under certain circumstances. DEO is directed to establish procedures and application forms to be used by program applicants and accept applications between June 1 and November 1 of each year. The bill gives DEO 60 days to complete its evaluation and notify the applicant in writing of its decision to recommend that the Legislature fund the project or deny the application. Applicants not approved by the Legislature, but recommended for funding by DEO may update a previously submitted application and re-apply.

The applicant must provide an independent analysis (Expected Sales Tax Analysis) by a state-certified public accountant (CPA) that provides an estimate of the new incremental state sales taxes generated

[17] Section 288.1162(5), F.S.
[18] Section 288.1162(7), F.S.
[19] Section 288.1162(8), F.S.
[20] Total paid as of February17, 2014.

by sales at the facility above the average annual amount of state sales taxes generated by sales at the facility during the preceding 36-month period (estimate).

Evaluation Process

Before recommending an applicant for funding to the Legislature, DEO must first verify that all of the following requirements are met:

- The applicant is responsible for the project.
- If the applicant is a beneficiary, then a local government holds title to the property on which the facility is located.
- If the applicant is a local government, then the local government has an exclusive intent agreement to negotiate in this state with the beneficiary.
- The local government in whose jurisdiction the facility is located has passed a resolution after public hearing in support of the project.
- Neither the applicant nor the beneficiary have previously defaulted or failed to meet the requirements of a sports-related program within ch. 288, F.S.
- The applicant is not a Major League Baseball spring training facility, a Professional Golf Hall of Fame facility, or an International Game Fish Association World Center facility.
- The applicant has demonstrated a commitment to employing Florida residents and firms, and purchasing locally available building materials whenever possible.
- If the applicant is a local government, then they have a signed agreement with a beneficiary for use of the facility.
- If the applicant is a beneficiary, then they must enter into an agreement with DEO that requires them to repay any state funds disbursed, plus a five percent penalty should they cease to be the facility's primary tenant before their agreement expires, and to pay for VISIT Florida-approved advertising at the facility.
- The total project cost must be at least $100 million, with more than half the funding coming from private sources.
- The applicant has provided the Expected Sales Tax Analysis. DEO must consult with DOR or EDR to verify the analysis and may consult with DOR or EDR to develop a standard calculation for estimating new incremental state sales taxes generated by sales at the facility and adjustments to annual distributions.

By February 1 of each year, DEO will provide evaluations of all recommended applications, in ranked order, to the Governor, the President of the Senate, and the Speaker of the House of Representatives for final approval. Rankings will be determined by the project's ability to produce a significant positive economic impact within the state based on the following criteria:

- The ability of the project to provide a positive return on the state's investment.
- The proposed use of state funds.
- The length of time that a beneficiary has agreed to use the facility.
- The percentage of total project funds provided by the applicant, the percentage of total project funds provided by the beneficiary, and the total amount of private or in-kind contributions to the project.
- The number and type of "signature events"[21] the facility is likely to attract during the duration of the agreement with the beneficiary.

[21] Signature events are defined as sporting events that create a significant positive economic impact within the state, and enhances that status of the state as a premier sports tourism destination. Signature events include, but are not limited to, NFL Super Bowls, College Football Playoff games, college football bowl games, professional sports all-star games, international sporting events and tournaments, and professional motorsports events.

- The anticipated increase in average annual ticket sales and attendance at the facility due to the project.
- The potential to attract out-of-state visitors to the facility.
- The multiuse capabilities of the facility.
- The facility's projected employment of state residents, contracts with firms based within the state, and purchases of locally available building materials.
- The amount of positive advertising or media coverage the facility generates.
- The estimate provided in the Expected Sales Tax Analysis.
- The size and scope of the project and number of temporary and permanent jobs that will be created as a direct result of the project.

DEO may not recommend more than one annual distribution for any applicant, facility, or beneficiary at a time.

Legislative Approval

In order to receive a distribution through this program, an applicant must be approved by the Legislature and enacted by general law approved by the Governor.[22]

An applicant whose application is recommended by DEO but not approved by the Legislature may reapply and update any information in the original application as required.

Certification and Contract

An applicant approved by the Legislature and certified by DEO must enter into a contract with the department that:

- Specifies the terms of the state's investment.
- States the criteria that the certified applicant must meet in order to remain certified.
- States that the certified applicant is subject to decertification as recommended by DEO and approved by the Legislature.
- Requires the certified applicant to submit both analyses outlined in the bill.
- Specifies information that the certified applicant must report to DEO.
- Requires that the certified applicant reimburse the state each year that the Expected Sales Tax Analysis demonstrates the amount of new incremental state sales taxes generated by sales at the facility is less than the annual distribution amount.
- Includes any other provisions deemed prudent by DEO.

Annual Distribution of State Funds

DEO shall determine the annual distribution a certified applicant may receive based on the estimate of new incremental states sales taxes provided in the Expected Sales Tax Analysis. A certified applicant may receive up to 75 percent of the estimate or $2 million, whichever is less.

Before the sixth annual distribution is made by DOR, the certified applicant must submit to DEO an analysis (Initial Comparison Analysis) prepared by an independent CPA comparing the actual amount of new incremental state sales taxes generated by sales at the facility since certification to the sum of the first five annual distributions. DEO may consult with DOR to verify the Initial Comparison Analysis.

Annually, beginning with the sixth annual distribution, the certified applicant must submit to DEO an analysis (Annual Comparison Analysis) prepared by an independent CPA comparing the actual amount

[22] S. 8, Art. III of the State Constitution.

of new incremental state sales taxes generated by sales at the facility over the previous 12-month period to the most recent annual distribution. DEO may consult with DOR to verify each Annual Comparison Analysis.

In any 12-month period when total annual distributions for all certified applicants equal $12 million or more, DEO may not certify new annual distributions for any additional certified applicants.

DOR will begin annual distributions within 60 days of notification from DEO that an applicant is certified.

Approved Use of Funds

A certified applicant may only use state funds for the following purposes:

- Constructing, reconstructing, renovating, or improving a facility.
- Reimbursing costs associated with constructing, reconstructing, renovating, or improving a facility.
- Paying or pledging for the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable associated with bonds issued for the construction or renovation of a facility.

Reports

By November 1 of each year, a certified applicant must submit to DEO any required information for inclusion in the report the department will provide to the Legislature by February 1. Every three years, DEO must verify that a certified applicant is meeting the program requirements. If they are not, DEO must notify the Governor and Legislature of the requirements not being met and recommend future action as part of the report due February 1. DEO will consider exceptions that may have prevented the certified applicant from meeting the requirements of the program if they include force majeure events or a significant economic downturn.

Audits

Every five years, beginning in 2020, the Auditor General will conduct audits to verify the Annual Comparison Analyses, and to verify that the annual distributions are being expended as required. The findings will be reported to DEO. If the Auditor General finds that the annual distributions are not expended as required, then DOR must be notified.

Repayment of Distributions

A certified applicant may be subject to repayment of state funds if:

- The beneficiary has broken the terms of its agreement with a local government. A beneficiary must reimburse the state for funds that have been distributed, plus a five percent penalty, if the beneficiary no longer occupies or uses a facility as the facility's primary tenant before the agreement expires.
- DEO has determined that an applicant has submitted any false or misleading information. The applicant must reimburse the state for funds that have been distributed, plus a five percent penalty.
- The amount of new incremental state sales taxes generated by sales at the facility that is less than the sum of the first five annual distributions as demonstrated in the Initial Comparison Analysis. The certified applicant must reimburse the state for the difference between state funds that have been disbursed and actual new state sales taxes generated by sales at the facility, plus a five percent penalty, if such determination is made.
- The actual new incremental sales taxes generated by sales at the facility during the most recent 12-month period was less than the annual distribution as demonstrated in the Annual Comparison Analysis. This applies to the sixth annual distribution and all subsequent annual distributions.

Halting of Payments

The applicant may request to halt future annual distributions by providing DEO with written notice at least 20 days prior to the next annual distribution payment. DEO must notify DOR to halt future payments.

DEO will direct DOR to halt future disbursements to any certified applicant that has not made reimbursements as required by the program in a timely manner.

Other Changes

The bill amends s. 212.20, F.S., to allow applicants certified under the program to receive monthly payments from DOR equal to $1/12^{th}$ the amount certified by DEO. It also places a $12 million cap on the total amount that may be distributed annually by DOR to certified applicants.

The bill amends s. 218.64, F.S., to allow municipalities and counties the option to expend portions of the local government half-cent sales tax for the purpose of reimbursing the state as a condition of the contract terms required for this program.

The bill amends s. 288.0001, F.S., to add this program to the list of economic development programs scheduled to be reviewed by EDR and the OPPAGA by January 1, 2015.

B. SECTION DIRECTORY:

Section 1: Amends s. 212.20, F.S., to allow applicants certified under the Professional Sports Facility Program to receive monthly payments equal to $1/12^{th}$ the annual distribution amount authorized by the program.

Section 2: Amends s. 218.64, F.S., to allow municipalities and counties the option to expend portions of the local government half-cent sales tax for the purpose of reimbursing the state for funds expended.

Section 3: Amends s. 288.0001, F.S., to add the Professional Sports Facility Incentive Program to the list of economic development programs scheduled for review by January 1, 2015.

Section 4: Creates s. 288.11625, F.S., the Professional Sports Facility Incentive Program to provide state funding under s. 212.60(6)(d)6.f., F.S., for the public purpose of constructing, reconstructing, renovating, or improving a professional sports facility.

Section 5: Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   See Fiscal Comments.

2. Expenditures:

   DEO and DOR did not advise of any additional resources that would be required to implement the bill. DEO advised the bill formalizes and expands a process that is currently in place.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The provisions of the bill may encourage the owners or operators of pro sports stadiums to undertake major renovations, which could have positive impacts on the construction sector. Additionally, such renovations could have a positive impact on ticket sales and other sales associated with sporting and other events.

D. FISCAL COMMENTS:

The bill prohibits DOR from distributing more than $12 million to certified applicants in a single year, and prohibits any single certified applicant from receiving an annual disbursement over $2 million. Certified applicants are subject to reimburse state funds if they do not meet all program requirements. Certified applicants may receive annual payments for as long as 30 years.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

DEO may adopt rules to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

A bill to be entitled

An act relating to the professional sports facilities incentive application process; amending s. 212.20, F.S.; providing for the distribution of a specified amount of tax proceeds to certain applicants of the professional sports facility incentive program; prohibiting the Department of Revenue from distributing more than a specified amount to program applicants; amending s. 218.64, F.S.; authorizing municipalities and counties to use local government half-cent sales tax distributions to reimburse the state for funding received under the professional sports facility incentive program; amending s. 288.0001, F.S.; requiring the Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability to provide a detailed analysis of the professional sports facility incentive program; creating s. 288.11625, F.S.; creating the professional sports facility incentive program; providing definitions; providing application requirements and procedures; providing procedures and criteria for the evaluation of applications and the recommendation of applications for legislative approval; providing that an applicant must receive legislative approval of its application in order to receive state funding; requiring an applicant whose

application is approved by the Legislature to enter into a contract with the Department of Economic Opportunity containing specified terms in order to become certified; providing for the duration of certain certifications; providing for the distribution of state funds to certified applicants; requiring certain certified applicants to submit an annual analysis including specified information; providing for the determination of annual distribution amounts; restricting the amount of state funds that may be provided to certified applicants in a specified period; restricting the use of state funds received by a certified applicant to specified purposes; providing for the repayment of distributions under certain circumstances; requiring the department to submit an annual report containing specified information to the Governor and Legislature; requiring the Auditor General to conduct an audit of the program; authorizing the Department of Revenue to recover improperly expended distributions at the request of the Auditor General; providing for the halting of payments; authorizing the Department of Economic Opportunity to adopt rules; providing an effective date.

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

Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

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

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

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and

distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant certified as a facility for a new or retained professional sports franchise

pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided for in s. 288.1162(5) or s. 288.11621(3).

c. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification

and before July 1, 2000.

e. The department shall distribute up to $55,555 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $111,110 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 30 years, except as otherwise provided in s. 288.11631. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

f. Beginning 60 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been approved by the Legislature, enacted by general law approved by the Governor, and certified by the Department of Economic Opportunity under s. 288.11625, the department shall distribute each month an amount equal to one-twelfth the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than $12 million annually to all applicants approved by the Legislature and certified by the Department of Economic Opportunity pursuant to s. 288.11625.

7. All other proceeds must remain in the General Revenue Fund.

Section 2. Subsections (2) and (3) of section 218.64, Florida Statutes, are amended to read:

218.64 Local government half-cent sales tax; uses; limitations.—

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs, for reimbursing the state as required by a contract pursuant to s. 288.11625(6), or for municipality-wide property tax or municipal utility tax relief. All utility tax rate reductions afforded by participation in the local government half-cent sales tax shall be applied uniformly across all types of taxed utility services.

(3) Subject to ordinances enacted by the majority of the members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of such county, counties may use up to $2 million annually of the local government half-cent sales tax allocated to that county for funding for any of the following purposes ~~applicants~~:

(a) Funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162 or a certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. It is the Legislature's intent that the provisions of s. 288.1162, including, but not limited to, the evaluation process by the Department of Economic Opportunity except for the limitation on the number of certified

applicants or facilities as provided in that section and the restrictions set forth in s. 288.1162(8), shall apply to an applicant's facility to be funded by local government as provided in this subsection.

(b) Funding a certified applicant as a "motorsport entertainment complex," as provided for in s. 288.1171. Funding for each franchise or motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.

(c) Reimbursing the state as required by a contract pursuant to s. 288.11625(6).

Section 3. Paragraph (b) of subsection (2) of section 288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program

established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. The ~~VISIT~~ Florida Tourism Industry Marketing Corporation and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.11625, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171.

Section 4. Section 288.11625, Florida Statutes, is created to read:

288.11625 Professional sports facility incentive program.—

(1) PURPOSE.—There is created within the department the professional sports facility incentive program. The purpose of the program is to provide for distributions of state funding to applicants under s. 212.20(6)(d)6.f. for the public purpose of constructing, reconstructing, renovating, or improving a facility.

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

(a) "Beneficiary" means a professional sports franchise of the National Football League, the National Hockey League, the National Basketball Association, the National League or the American League of Major League Baseball, Major League Soccer, or the National Association for Stock Car Auto Racing, or a nationally recognized professional sports association that occupies or uses a facility as the facility's primary tenant. A

beneficiary may also be an applicant under this section.

(b) "Facility" means a facility used primarily to host games or events held by a beneficiary. The term does not include any portion of a facility used for transient lodging. The term also does not include a Major League Baseball spring training facility, a facility certified under s. 288.1168, or a facility certified under s. 288.1169.

(c) "Project" means the proposed construction, reconstruction, renovation, or improvement of a facility or the proposed acquisition of land to construct a new facility.

(d) "State sales taxes generated by sales at the facility" means state sales taxes imposed under chapter 212 and generated by admissions to the facility or by sales made by vendors at the facility who are accessible to persons attending events occurring at the facility.

(3) APPLICATION PROCESS.—

(a) To apply for a distribution of state funds under s. 212.20(6)(d)6.f., an applicant must:

1. Be a unit of local government, as defined in s. 218.369, that is responsible for construction, management, or operation of a facility; or

2. If not a unit of local government, be another entity responsible for construction, management, or operation of a facility, in which case, a unit of local government must hold title to the property on which the facility is or will be located.

(b) The annual application period is June 1 through November 1.

(c) The department shall establish procedures and application forms deemed necessary pursuant to the requirements of this section. The department may notify an applicant of any incomplete or additional required information necessary for the department to evaluate the application.

(d) Each application shall include an independent analysis prepared by a certified public accountant licensed in this state that demonstrates:

1. The average annual amount of state sales taxes generated by sales at the facility during the 36-month period immediately before the beginning of the application period, which shall be known as the "baseline amount."

2. The expected amount of new incremental state sales taxes generated by sales at the facility in excess of the baseline amount to be generated annually as a result of the project.

(e) Within 60 days after receipt of a completed application, the department shall evaluate the application as provided in subsection (4) and notify the applicant in writing of the department's decision to recommend legislative approval of the application or to deny the application.

(4) EVALUATION PROCESS.—

(a) Before recommending an applicant for a distribution of state funds under s. 212.20(6)(d)6.f., the department shall

verify:

1. That the applicant or beneficiary is responsible for construction, reconstruction, renovation, or improvement of the facility.

2. If the applicant is also the beneficiary, that a unit of local government holds title to the property on which the facility and project are or will be located.

3. If the applicant is a unit of local government within whose jurisdiction the facility is or will be located, that the unit of local government has an exclusive intent agreement to negotiate in this state with the beneficiary.

4. That the unit of local government, within whose jurisdiction the facility is or will be located, supports the application for state funds. Such support must be verified by adoption, after a public hearing, of a resolution that the project serves a public purpose.

5. That the applicant or beneficiary has not previously defaulted or failed to meet any statutory requirement of a previous state-administered sports-related program under this chapter.

6. That the applicant or beneficiary has sufficiently demonstrated a commitment to employ residents of this state, contract with Florida-based firms, and purchase locally available building materials to the greatest extent practicable.

7. If the applicant is a unit of local government, that the applicant has a certified copy of a signed agreement with a

beneficiary for use of the facility. If the applicant is a beneficiary, the beneficiary must enter into an agreement with the department. The applicant or beneficiary's agreement must require the following:

a. If, before expiration of the agreement, the beneficiary relocates to another venue or no longer occupies or uses the facility as the facility's primary tenant, the beneficiary shall reimburse the state for state funds distributed under this section, plus a 5-percent penalty.

b. The beneficiary shall pay for signage or advertising within the facility. The signage or advertising shall be placed in a prominent location as close to the field of play or competition as is practicable, shall be displayed consistent with signage or advertising in the same location and be of like value, and shall feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation.

8. That the total project cost is greater than $100 million and more than one-half of the funds used to pay for the project are from private sources.

9. The independent analysis submitted by the applicant pursuant to paragraph (3)(d). The department shall consult with the Department of Revenue or the Office of Economic and Demographic Research to verify the independent analysis. Such consultation may include the development of a standard calculation for estimating new incremental state sales taxes generated by sales at the facility and adjustments to

distributions.

(b) By February 1 of each year, as part of its annual report submitted pursuant to paragraph (10)(a), the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an evaluation of each application received during the application period that the department recommends for legislative approval to receive a distribution of state funds. The department's evaluation shall include a list of the recommended projects, ranked in order of projects most likely to produce a significant positive economic impact within the state based on the following criteria:

1. The ability to provide a positive return on the state's investment.

2. The proposed use of state funds.

3. The length of time that a beneficiary has agreed to use the facility.

4. The percentage of total project funds provided by the applicant, the percentage of total project funds provided by the beneficiary, and the total amount of private or in-kind contributions to the project.

5. The number and type of signature events that the facility is likely to attract during the duration of the agreement with the beneficiary. For purposes of this subparagraph, the term "signature event" means a sporting event that creates a significant positive economic impact within the state, as determined by the department, and enhances the status

of the state as a premier sports tourism destination. Such events may include, but are not limited to:

a. National Football League Super Bowls.

b. College Football Playoff games.

c. College football bowl games.

d. Professional sports all-star games.

e. International sporting events and tournaments.

f. Professional motorsports events.

6. The anticipated increase in average annual ticket sales and attendance at the facility due to the project.

7. The potential to attract out-of-state visitors to the facility.

8. The multiuse capabilities of the facility.

9. The facility's projected employment of residents of this state, contracts with Florida-based firms, and purchases of locally available building materials.

10. The amount of positive advertising or media coverage that the facility generates.

11. The estimate by an independent certified public accountant licensed in this state of the amount of new incremental state sales taxes that the facility is expected to generate annually as a result of the project provided pursuant to subparagraph (3)(d)2.

12. The size and scope of the project and number of temporary and permanent jobs that will be created as a direct result of the facility improvement.

(c) The department may recommend no more than one distribution under this section for any applicant, facility, or beneficiary at a time.

(5) LEGISLATIVE APPROVAL.—

(a) In order for an applicant to receive a distribution of state funds under s. 212.20(6)(d)6.f., its application must be approved by the Legislature, enacted by general law approved by the Governor in the manner provided in s. 8, Art. III of the State Constitution.

(b) An applicant whose application is recommended by the department but not approved by the Legislature may reapply and update any information in the original application as required by the department.

(6) CERTIFICATION AND CONTRACT.—

(a) To be certified by the department to receive a distribution of state funds under s. 212.20(6)(d)6.f., an applicant whose application is approved by the Legislature must enter into a contract with the department that:

1. Specifies the terms of the state's investment.

2. States the criteria that the applicant must meet in order to become and remain certified.

3. States that the applicant is subject to decertification if recommended by the department and approved by the Legislature.

4. Requires the applicant to submit the independent analyses required under paragraphs (3)(d) and (7)(c).

5. Specifies information that the applicant must report to the department.

6. Requires the applicant to reimburse the state in an amount equal to the sum of the first five annual distributions less 75 percent of the actual new incremental state sales taxes generated by sales at the facility since the date of certification of the applicant, plus a 5 percent penalty.

7. Beginning with the sixth annual distribution, requires the applicant to reimburse the state each year in an amount equal to the annual distribution received less 75 percent of the actual new incremental state sales taxes generated by sales at the facility during the most recent 12-month period.

8. Includes any other provisions deemed prudent by the department.

(b) An application by a unit of local government which is approved by the Legislature, enacted by general law approved by the Governor, and subsequently certified by the department remains certified for the duration of the beneficiary's agreement with the applicant or for 30 years, whichever is less, if the certified applicant has an agreement with a beneficiary at the time of initial certification by the department.

(c) An application by a beneficiary which is approved by the Legislature, enacted by general law approved by the Governor, and subsequently certified by the department remains certified for the duration of the beneficiary's agreement with the unit of local government that owns the underlying property

or for 30 years, whichever is less, if the certified applicant has an agreement with the unit of local government at the time of initial certification by the department.

(d) An applicant that is certified under this section does not require legislative approval in any subsequent year in order to continue to receive distributions of state funding authorized pursuant to that certification.

(7) DISTRIBUTIONS.—

(a) The Department of Revenue shall begin distributions within 60 days after notification of initial certification by the department.

(b) The department shall determine the amount of the first five annual distributions to be disbursed to a certified applicant before receipt of the analysis required under paragraph (c). The determination of the distribution amounts shall be based on the estimate of the amount of new incremental state sales taxes that the facility is expected to generate as a result of the project provided pursuant to subparagraph (3)(d)2. However, a certified applicant may not receive an annual distribution amount under this paragraph that exceeds 75 percent of the estimated new incremental state sales taxes generated by sales at the facility or $2 million, whichever is less.

(c) Before the sixth annual distribution, as near to such distribution as determined practicable by the department by rule, a certified applicant shall submit to the department an analysis prepared by an independent certified public accountant

licensed in this state demonstrating the actual amount of new incremental state sales taxes generated by sales at the facility since the date of certification. The applicant shall certify to the department a comparison of the actual amount of state sales taxes generated by sales at the facility since the date of certification to the sum of the first five annual distributions. The department shall verify the analysis. The department may consult with the Department of Revenue to verify the analysis.

(d) The amount of a sixth or subsequent annual distribution to be disbursed to a certified applicant shall be determined by the department based on the estimate of the amount of new incremental state sales taxes that the facility is expected to generate annually in excess of the baseline amount as a result of the project provided pursuant to subparagraph (3)(d)2. However, a sixth or subsequent annual distribution to a certified applicant may not exceed 75 percent of the estimated amount of new incremental state sales taxes generated by sales at the facility or $2 million, whichever is less.

(e) The department may not certify new distributions for additional certified applicants if total distributions for all certified applicants equal or exceed $12 million in any 12-month period.

(8) USE OF FUNDS.—A certified applicant may only use state funds distributed under this section for the following purposes:

(a) Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs.

(b) Paying or pledging the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto; bonds issued for the construction or renovation of such facility; or for the reimbursement of such costs or the refinancing of bonds issued for such purposes.

(9) REPAYMENT OF DISTRIBUTIONS.—

(a) If a beneficiary breaks the terms of its agreement with a certified applicant and relocates to another venue or no longer occupies or uses the facility as the facility's primary tenant, the beneficiary shall reimburse the state for state funds that have been distributed, plus a 5-percent penalty.

(b) If the department determines that a certified applicant has submitted information or made a representation that is false, misleading, deceptive, or otherwise untrue, the certified applicant shall reimburse the state for state funds that have been distributed, plus a 5-percent penalty.

(c) A certified applicant shall reimburse the state in an amount equal to the sum of the first five annual distributions less 75 percent of the actual new incremental state sales taxes generated by sales at the facility since certification of the applicant, plus a 5 percent penalty.

(d) Beginning with the sixth annual distribution, a certified applicant shall reimburse the state each year in an amount equal to the annual distribution received less 75 percent of the actual new incremental state sales taxes generated by

sales at the facility during the most recent 12-month period.

(e) If a certified applicant is unable or unwilling to reimburse the state as required by paragraphs (b), paragraph (c), or paragraph (d), the department may place a lien on the certified applicant's facility. If the applicant is a municipality or county, it may reimburse the state using local government half-cent sales tax distributions as provided in s. 218.64(3). Reimbursements shall be sent to the Department of Revenue for deposit into the General Revenue Fund.

(10) REPORTS.—

(a) By February 1 of each year, the department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include the department's recommendations submitted for legislative approval under paragraph (4)(b) and any other information required to be submitted pursuant to this subsection.

(b) On or before November 1 of each year, a certified applicant approved to receive state funds under this section shall submit to the department any information required by the department. The department shall summarize this information for inclusion in its annual report submitted under paragraph (a).

(c) Every 3 years after the first month that a certified applicant receives a monthly distribution, the department shall verify that the applicant is meeting the program requirements. If the applicant is not meeting program requirements, the

department shall notify the Governor, the President of the Senate, and the Speaker of the House of Representatives of the requirements not being met and shall recommend future action as part of the department's annual report submitted under paragraph (a). The department shall consider any extenuating circumstances that may have prevented the applicant from meeting the program requirements, such as a force majeure event or a significant economic downturn.

(11) AUDITS.—Every 5 years beginning in 2020, the Auditor General shall conduct audits pursuant to s. 11.45 to verify the independent analyses required under paragraph (7)(c) and to verify that distributions were expended in accordance with this section. The Auditor General shall report the findings to the department. If the Auditor General determines that a distribution was not expended in accordance with this section, the Auditor General shall notify the Department of Revenue, which may pursue recovery of the distribution under the laws and rules that govern the assessment of taxes.

(12) HALTING OF PAYMENTS.—

(a) A certified applicant may request to halt future distributions by providing the department with written notice at least 20 days before the next monthly distribution payment. Upon receiving such notice, the department shall immediately notify the Department of Revenue to halt future payments.

(b) If a certified applicant fails to make timely reimbursements as required under paragraph (9)(c) or paragraph

(9)(d), the department shall direct the Department of Revenue to halt future distributions to the certified applicant.

(13) RULEMAKING.—The department may adopt rules to administer this section.

Section 5. This act shall take effect July 1, 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		

Committee/Subcommittee hearing bill: Appropriations Committee
Representative Patronis offered the following:

Amendment

Remove everything after the enacting clause and insert:

Section 1. Paragraph (d) of subsection (6) of section 212.20, Florida Statutes, is amended to read:

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

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

(d) The proceeds of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be distributed as follows:

1. In any fiscal year, the greater of $500 million, minus an amount equal to 4.6 percent of the proceeds of the taxes

collected pursuant to chapter 201, or 5.2 percent of all other taxes and fees imposed pursuant to this chapter or remitted pursuant to s. 202.18(1)(b) and (2)(b) shall be deposited in monthly installments into the General Revenue Fund.

2. After the distribution under subparagraph 1., 8.814 percent of the amount remitted by a sales tax dealer located within a participating county pursuant to s. 218.61 shall be transferred into the Local Government Half-cent Sales Tax Clearing Trust Fund. Beginning July 1, 2003, the amount to be transferred shall be reduced by 0.1 percent, and the department shall distribute this amount to the Public Employees Relations Commission Trust Fund less $5,000 each month, which shall be added to the amount calculated in subparagraph 3. and distributed accordingly.

3. After the distribution under subparagraphs 1. and 2., 0.095 percent shall be transferred to the Local Government Half-cent Sales Tax Clearing Trust Fund and distributed pursuant to s. 218.65.

4. After the distributions under subparagraphs 1., 2., and 3., 2.0440 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Counties pursuant to s. 218.215.

5. After the distributions under subparagraphs 1., 2., and 3., 1.3409 percent of the available proceeds shall be transferred monthly to the Revenue Sharing Trust Fund for Municipalities pursuant to s. 218.215. If the total revenue to

be distributed pursuant to this subparagraph is at least as great as the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, no municipality shall receive less than the amount due from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000. If the total proceeds to be distributed are less than the amount received in combination from the Revenue Sharing Trust Fund for Municipalities and the former Municipal Financial Assistance Trust Fund in state fiscal year 1999-2000, each municipality shall receive an amount proportionate to the amount it was due in state fiscal year 1999-2000.

6. Of the remaining proceeds:

a. In each fiscal year, the sum of $29,915,500 shall be divided into as many equal parts as there are counties in the state, and one part shall be distributed to each county. The distribution among the several counties must begin each fiscal year on or before January 5th and continue monthly for a total of 4 months. If a local or special law required that any moneys accruing to a county in fiscal year 1999-2000 under the then-existing provisions of s. 550.135 be paid directly to the district school board, special district, or a municipal government, such payment must continue until the local or special law is amended or repealed. The state covenants with holders of bonds or other instruments of indebtedness issued by

local governments, special districts, or district school boards before July 1, 2000, that it is not the intent of this subparagraph to adversely affect the rights of those holders or relieve local governments, special districts, or district school boards of the duty to meet their obligations as a result of previous pledges or assignments or trusts entered into which obligated funds received from the distribution to county governments under then-existing s. 550.135. This distribution specifically is in lieu of funds distributed under s. 550.135 before July 1, 2000.

b. The department shall distribute $166,667 monthly pursuant to s. 288.1162 to each applicant certified as a facility for a new or retained professional sports franchise pursuant to s. 288.1162. Up to $41,667 shall be distributed monthly by the department to each certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. However, not more than $416,670 may be distributed monthly in the aggregate to all certified applicants for facilities for spring training franchises. Distributions begin 60 days after such certification and continue for not more than 30 years, except as otherwise provided in s. 288.11621. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided for in s. 288.1162(5) or s. 288.11621(3).

c. Beginning 30 days after notice by the Department of

Economic Opportunity to the Department of Revenue that an applicant has been certified as the professional golf hall of fame pursuant to s. 288.1168 and is open to the public, $166,667 shall be distributed monthly, for up to 300 months, to the applicant.

d. Beginning 30 days after notice by the Department of Economic Opportunity to the Department of Revenue that the applicant has been certified as the International Game Fish Association World Center facility pursuant to s. 288.1169, and the facility is open to the public, $83,333 shall be distributed monthly, for up to 168 months, to the applicant. This distribution is subject to reduction pursuant to s. 288.1169. A lump sum payment of $999,996 shall be made, after certification and before July 1, 2000.

e. The department shall distribute up to $55,555 monthly to each certified applicant as defined in s. 288.11631 for a facility used by a single spring training franchise, or up to $111,110 monthly to each certified applicant as defined in s. 288.11631 for a facility used by more than one spring training franchise. Monthly distributions begin 60 days after such certification or July 1, 2016, whichever is later, and continue for not more than 30 years, except as otherwise provided in s. 288.11631. A certified applicant identified in this sub-subparagraph may not receive more in distributions than expended by the applicant for the public purposes provided in s. 288.11631(3).

f. Beginning 60 days after notice by the Department of Economic Opportunity to the Department of Revenue that an applicant has been approved by the Legislature, enacted by general law approved by the Governor, and certified by the Department of Economic Opportunity under s. 288.11625, the department shall distribute each month an amount equal to one-twelfth the annual distribution amount certified by the Department of Economic Opportunity for the applicant. The department may not distribute more than $12 million annually to all applicants approved by the Legislature and certified by the Department of Economic Opportunity pursuant to s. 288.11625.

7. All other proceeds must remain in the General Revenue Fund.

Section 2. Subsections (2) and (3) of section 218.64, Florida Statutes, are amended to read:

218.64 Local government half-cent sales tax; uses; limitations.—

(2) Municipalities shall expend their portions of the local government half-cent sales tax only for municipality-wide programs, for reimbursing the state as required by a contract pursuant to s. 288.11625(6), or for municipality-wide property tax or municipal utility tax relief. All utility tax rate reductions afforded by participation in the local government half-cent sales tax shall be applied uniformly across all types of taxed utility services.

(3) Subject to ordinances enacted by the majority of the

members of the county governing authority and by the majority of the members of the governing authorities of municipalities representing at least 50 percent of the municipal population of such county, counties may use up to $2 million annually of the local government half-cent sales tax allocated to that county for funding for any of the following purposes ~~applicants~~:

(a) Funding a certified applicant as a facility for a new or retained professional sports franchise under s. 288.1162 or a certified applicant as defined in s. 288.11621 for a facility for a spring training franchise. It is the Legislature's intent that the provisions of s. 288.1162, including, but not limited to, the evaluation process by the Department of Economic Opportunity except for the limitation on the number of certified applicants or facilities as provided in that section and the restrictions set forth in s. 288.1162(8), shall apply to an applicant's facility to be funded by local government as provided in this subsection.

(b) Funding a certified applicant as a "motorsport entertainment complex," as provided for in s. 288.1171. Funding for each franchise or motorsport complex shall begin 60 days after certification and shall continue for not more than 30 years.

(c) Reimbursing the state as required by a contract pursuant to s. 288.11625(6).

Section 3. Paragraph (b) of subsection (2) of section 288.0001, Florida Statutes, is amended to read:

288.0001 Economic Development Programs Evaluation.—The Office of Economic and Demographic Research and the Office of Program Policy Analysis and Government Accountability (OPPAGA) shall develop and present to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees the Economic Development Programs Evaluation.

(2) The Office of Economic and Demographic Research and OPPAGA shall provide a detailed analysis of economic development programs as provided in the following schedule:

(b) By January 1, 2015, and every 3 years thereafter, an analysis of the following:

1. The entertainment industry financial incentive program established under s. 288.1254.

2. The entertainment industry sales tax exemption program established under s. 288.1258.

3. The ~~VISIT~~ Florida Tourism Industry Marketing Corporation and its programs established or funded under ss. 288.122, 288.1226, 288.12265, and 288.124.

4. The Florida Sports Foundation and related programs established under ss. 288.1162, 288.11621, 288.11625, 288.1166, 288.1167, 288.1168, 288.1169, and 288.1171.

Section 4. Section 288.11625, Florida Statutes, is created to read:

288.11625 Professional sports facility incentive program.—

(1) PURPOSE.—There is created within the department the

professional sports facility incentive program. The purpose of the program is to provide for distributions of state funding to applicants under s. 212.20(6)(d)6.f. for the public purpose of constructing, reconstructing, renovating, or improving a facility.

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

(a) "Beneficiary" means a professional sports franchise of the National Football League, the National Hockey League, the National Basketball Association, the National League or the American League of Major League Baseball, the National Association of Professional Baseball Leagues, Major League Soccer, or the North American Soccer League, the Professional Rodeo Cowboy Association, the National Association for Stock Car Auto Racing, or other nationally recognized professional sports association that occupies or uses a facility as the facility's primary tenant. A beneficiary may also be an applicant under this section.

(b) "Facility" means a facility used primarily to host games or events held by a beneficiary. The term does not include any portion of a facility used for transient lodging. The term also does not include a Major League Baseball spring training facility, a facility certified under s. 288.1168, or a facility certified under s. 288.1169.

(c) "Project" means the proposed construction, reconstruction, renovation, or improvement of a facility or the proposed acquisition of land to construct a new facility.

(d) "State sales taxes generated by sales at the facility" means state sales taxes imposed under chapter 212 and generated by admissions to the facility, by parking on property owned or controlled by the beneficiary or the applicant, or by sales made by vendors at the facility.

(3) APPLICATION PROCESS.—

(a) To apply for a distribution of state funds under s. 212.20(6)(d)6.f., an applicant must:

1. Be a unit of local government, as defined in s. 218.369, that is responsible for construction, management, or operation of a facility; or

2. If not a unit of local government, be another entity responsible for construction, management, or operation of a facility, in which case, a unit of local government must hold title to the property on which the facility is or will be located.

(b) The annual application period is June 1 through November 1.

(c) The department shall establish procedures and application forms deemed necessary pursuant to the requirements of this section. The department may notify an applicant of any incomplete or additional required information necessary for the department to evaluate the application.

(d) Each application shall include an independent analysis prepared by a certified public accountant licensed in this state that demonstrates:

1. The average annual amount of state sales taxes generated by sales at the facility during the 36-month period immediately before the beginning of the application period, which shall be known as the "baseline amount."

2. The expected amount of new incremental state sales taxes generated by sales at the facility in excess of the baseline amount to be generated annually as a result of the project.

(e) Each application may include a statement describing the positive economic impact the project is expected to have on the state.

(f) Within 60 days after receipt of a completed application, the department shall evaluate the application as provided in subsection (4) and notify the applicant in writing of the department's decision to recommend legislative approval of the application or to deny the application.

(4) EVALUATION PROCESS.—

(a) Before recommending an applicant for a distribution of state funds under s. 212.20(6)(d)6.f., the department shall verify:

1. That the applicant or beneficiary is responsible for construction, reconstruction, renovation, or improvement of the facility.

2. If the applicant is also the beneficiary, that a unit of local government holds title to the property on which the facility and project are or will be located.

3. If the applicant is a unit of local government within whose jurisdiction the facility is or will be located, that the unit of local government has an exclusive intent agreement to negotiate in this state with the beneficiary.

4. That the unit of local government, within whose jurisdiction the facility is or will be located, supports the application for state funds. Such support must be verified by adoption, after a public hearing, of a resolution that the project serves a public purpose.

5. That the applicant or beneficiary has not previously defaulted or failed to meet any statutory requirement of a previous state-administered sports-related program under this chapter.

6. That the applicant or beneficiary has sufficiently demonstrated a commitment to employ residents of this state, contract with Florida-based firms, and purchase locally available building materials to the greatest extent practicable.

7. If the applicant is a unit of local government, that the applicant has a certified copy of a signed agreement with a beneficiary for use of the facility. If the applicant is a beneficiary, the beneficiary must enter into an agreement with the department. The applicant or beneficiary's agreement must require the following:

a. If, before expiration of the agreement, the beneficiary relocates to another venue or no longer occupies or uses the facility as the facility's primary tenant, the beneficiary shall

reimburse the state for state funds distributed under this section, plus a 5-percent penalty.

b. The beneficiary shall pay for signage or advertising within the facility. The signage or advertising shall be placed in a prominent location as close to the field of play or competition as is practicable, shall be displayed consistent with signage or advertising in the same location and be of like value, and shall feature Florida advertising approved by the Florida Tourism Industry Marketing Corporation.

8. That the total project cost is greater than $100 million and more than one-half of the funds used to pay for the project are from private sources.

9. The independent analysis submitted by the applicant pursuant to paragraph (3)(d). The department shall consult with the Department of Revenue or the Office of Economic and Demographic Research to verify the independent analysis. Such consultation may include the development of a standard calculation for estimating new incremental state sales taxes generated by sales at the facility and adjustments to distributions.

(b) By February 1 of each year, as part of its annual report submitted pursuant to paragraph (10)(a), the department shall submit to the Governor, the President of the Senate, and the Speaker of the House of Representatives an evaluation of each application received during the application period.

(c) The department shall include a list of all

applications the department recommends to receive a distribution of state funds, ranked in order of projects most likely to produce a significant positive economic impact within the state based on the following criteria:

1. The ability to provide a positive return on the state's investment.

2. The proposed use of state funds.

3. The length of time that a beneficiary has agreed to use the facility.

4. The percentage of total project funds provided by the applicant, the percentage of total project funds provided by the beneficiary, and the total amount of private or in-kind contributions to the project.

5. The number and type of signature events that the facility is likely to attract during the duration of the agreement with the beneficiary. For purposes of this subparagraph, the term "signature event" means a sporting event that creates a significant positive economic impact within the state, as determined by the department, and enhances the status of the state as a premier sports tourism destination. Such events may include, but are not limited to:

a. National Football League Super Bowls.

b. College Football Playoff games.

c. College football bowl games.

d. Professional sports all-star games.

e. International sporting events and tournaments.

f. Professional motorsports events.

6. The anticipated increase in average annual ticket sales and attendance at the facility due to the project.

7. The potential to attract out-of-state visitors to the facility.

8. The multiuse capabilities of the facility.

9. The facility's projected employment of residents of this state, contracts with Florida-based firms, and purchases of locally available building materials.

10. The amount of positive advertising or media coverage that the facility generates.

11. The estimate by an independent certified public accountant licensed in this state of the amount of new incremental state sales taxes that the facility is expected to generate annually as a result of the project provided pursuant to subparagraph (3)(d)2.

12. The size and scope of the project and number of temporary and permanent jobs that will be created as a direct result of the facility improvement.

(c) The department may certify no more than one distribution under this section for any applicant, facility, or beneficiary at a time.

(5) LEGISLATIVE APPROVAL.—

(a) In order for an applicant to receive a distribution of state funds under s. 212.20(6)(d)6.f., its application must be approved by the Legislature, enacted by general law approved by

the Governor in the manner provided in s. 8, Art. III of the State Constitution.

(b) An applicant whose application is received by the department but not approved by the Legislature may reapply and update any information in the original application as required by the department.

(6) CERTIFICATION AND CONTRACT.—

(a) To be certified by the department to receive a distribution of state funds under s. 212.20(6)(d)6.f., an applicant whose application is approved by the Legislature must enter into a contract with the department that:

1. Specifies the terms of the state's investment.

2. States the criteria that the applicant must meet in order to become and remain certified.

3. States that the applicant is subject to decertification by the department or by the Legislature.

4. Requires the applicant to submit the independent analyses required under paragraphs (3)(d) and (7)(c).

5. Specifies information that the applicant must report to the department.

6. Requires the applicant to reimburse the state in the manner prescribed in paragraph (9)(c).

7. Includes any other provisions deemed prudent by the department.

(b) An application by a unit of local government which is approved by the Legislature, enacted by general law approved by

the Governor, and subsequently certified by the department remains certified for the duration of the beneficiary's agreement with the applicant or for 30 years, whichever is less, if the certified applicant has an agreement with a beneficiary at the time of initial certification by the department.

(c) An application by a beneficiary which is approved by the Legislature, enacted by general law approved by the Governor, and subsequently certified by the department remains certified for the duration of the beneficiary's agreement with the unit of local government that owns the underlying property or for 30 years, whichever is less, if the certified applicant has an agreement with the unit of local government at the time of initial certification by the department.

(d) An applicant that is certified under this section does not require legislative approval in any subsequent year in order to continue to receive distributions of state funding authorized pursuant to that certification.

(7) DISTRIBUTIONS.—

(a) The Department of Revenue shall begin distributions within 60 days after notification of initial certification by the department.

(b) The department shall determine the amount of each annual distribution to be disbursed to a certified applicant based on the estimate of the amount of new incremental state sales taxes that the facility is expected to generate as a result of the project provided pursuant to subparagraph (3)(d)2.

However, a certified applicant may not receive an annual distribution amount under this paragraph that exceeds 75 percent of the estimated new incremental state sales taxes generated by sales at the facility or $2 million, whichever is less.

(c) Beginning 12 months following certification, and for each year an applicant remains certified by the department, a certified applicant shall submit to the department an analysis prepared by an independent certified public accountant licensed in this state demonstrating the actual amount of new incremental state sales taxes generated by sales at the facility over the previous 12-month period. The department shall verify the analysis. The department may consult with the Department of Revenue to verify the analysis.

(d) The department may not certify new distributions for additional certified applicants if total distributions for all certified applicants equal or exceed $12 million in any 12-month period.

(8) USE OF FUNDS.—A certified applicant may only use state funds distributed under this section for the following purposes:

(a) Constructing, reconstructing, renovating, or improving a facility or reimbursing such costs.

(b) Paying or pledging the payment of debt service on, or to fund debt service reserve funds, arbitrage rebate obligations, or other amounts payable with respect thereto; bonds issued for the construction or renovation of such facility; or for the reimbursement of such costs or the

refinancing of bonds issued for such purposes.

(9) REPAYMENT OF DISTRIBUTIONS.—

(a) If a beneficiary breaks the terms of its agreement with a certified applicant and relocates to another venue or no longer occupies or uses the facility as the facility's primary tenant, the beneficiary shall reimburse the state for state funds that have been distributed, plus a 5-percent penalty.

(b) If the department determines that a certified applicant has submitted information or made a representation that is false, misleading, deceptive, or otherwise untrue, the department shall decertify the certified applicant and direct the Department of Revenue to halt distributions. The certified applicant shall reimburse the state for state funds that have been distributed, plus a 5-percent penalty.

(c) Beginning 24 months after the first annual distribution has been disbursed, a certified applicant shall reimburse the state in an amount equal to each subsequent annual distribution less 75 percent of the actual new incremental state sales taxes generated by sales at the facility each year that an applicant is certified, plus a 5 percent penalty. Such reimbursements must be submitted to the Department of Revenue no later than 60 days following the certified applicant's final annual distribution as determined by the certified applicant's contract with the department.

(d) If a certified applicant is unable or unwilling to reimburse the state as required by paragraphs (b) or (c), the

department may place a lien on the certified applicant's facility. If the applicant is a municipality or county, it may reimburse the state using local government half-cent sales tax distributions as provided in s. 218.64(3). Reimbursements shall be sent to the Department of Revenue for deposit into the General Revenue Fund.

(10) REPORTS.—

(a) By February 1 of each year, the department shall submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report shall include evaluations of each application received by the department during the application period, the department's ranking of recommended applications submitted for legislative approval under paragraph (4)(b), and any other information required to be submitted pursuant to this subsection.

(b) On or before November 1 of each year, a certified applicant approved to receive state funds under this section shall submit to the department any information required by the department. The department shall summarize this information for inclusion in its annual report submitted under paragraph (a).

(c) Every 3 years after the first month that a certified applicant receives a monthly distribution, the department shall verify that the applicant is meeting the program requirements. If the applicant is not meeting program requirements, the department shall notify the Governor, the President of the Senate, and the Speaker of the House of Representatives of the

requirements not being met and shall recommend future action as part of the department's annual report submitted under paragraph (a). The department shall consider any extenuating circumstances that may have prevented the applicant from meeting the program requirements, such as a force majeure event or a significant economic downturn.

(11) AUDITS.—Every 5 years beginning in 2020, the Auditor General shall conduct audits pursuant to s. 11.45 to verify the independent analyses required under paragraph (7)(c), and to verify that distributions were expended in accordance with this section. The Auditor General shall report the findings to the department. If the Auditor General determines that a distribution was not expended in accordance with this section, the Auditor General shall notify the Department of Revenue, which may pursue recovery of the distribution under the laws and rules that govern the assessment of taxes.

(12) HALTING OF DISTRIBUTIONS.— A certified applicant may request to halt future distributions by providing the department with written notice at least 20 days before the next monthly distribution payment. Upon receiving such notice, the department shall immediately notify the Department of Revenue to halt future payments.

(13) RULEMAKING.—The department may adopt rules to administer this section.

Section 5. This act shall take effect July 1, 2014.