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# **Government Operations Appropriations Subcommittee**

**Tuesday, March 18, 2014  
12:30 PM – 2:30 PM  
Morris Hall (17 HOB)**

**MEETING PACKET**

**Will Weatherford  
Speaker**

**Clay Ingram  
Chair**



# **The Florida House of Representatives**

## **Appropriations Committee**

### **Government Operations Appropriations Subcommittee**

**Will Weatherford**  
**Speaker**

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**Chair**

**March 18, 2013**

**AGENDA**  
**12:30 PM – 2:30 PM**  
**Morris Hall**

- I. Call to Order/Roll Call**
- II. CS/HB 623 Money Services Businesses by Rep. Roberson**
- III. HB 785 Workers' Compensation by Rep. Albritton**
- IV. Chair's Budget Proposal for FY 2014-15**
- V. PCB GOAS 14-03 Surplus Lines Revenue**
- VI. PCB GOAS 14-04 SUNCOM Services**
- VII. Closing/Adjourn**



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 623 Money Services Businesses  
**SPONSOR(S):** Insurance & Banking Subcommittee; Roberson  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/CS/SB 590

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N, As CS	Bauer	Cooper
2) Criminal Justice Subcommittee	12 Y, 0 N	Jones	Cunningham
3) Government Operations Appropriations Subcommittee		Keith <i>AK</i>	Topp <i>BDT</i>
4) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

Money services businesses ("MSBs") offer a variety of non-depository financial services involving the receipt and transmission of currency, monetary value, or payment instruments through a variety of means, including wire, electronic transfer, or through third-party payment systems. MSBs that are located in Florida or do business in this state must comply with the federal Bank Secrecy Act and implementing regulations, as well as the Florida Money Services Businesses Act (ch. 560, F.S., "the Act"), which is administered and enforced by the Florida Office of Financial Regulation ("OFR").

#### The bill:

- Makes violations under s. 560.310(2)(d), F.S., relating to electronic log and database reporting requirements applicable to licensed check cashers that cash checks exceeding \$1,000, a third-degree felony;
- Allows the OFR to summarily suspend the license of a MSB pursuant to s. 120.60(6), F.S., if the OFR finds the licensee poses an immediate, serious danger to the public health, safety, and welfare, and if a natural person listed on the application is criminally charged or arrested for specified crimes;
- Provides that a deferred presentment transaction is void if the person conducting the transaction is not authorized under the Act, and such person has no right to collect funds relating to such transaction; and
- Updates outdated cross-references to federal MSB regulations.

The bill has an insignificant, yet indeterminate fiscal impact on state government expenditures due to the creation of a new third degree felony offense for persons who knowingly and willfully violate information reporting requirements of check cashing transactions. The bill has not been heard by the Criminal Justice Impact Conference to determine an impact on state prison beds. However, a preliminary estimate by the Office of Economic and Demographic Research determined that this bill will have an insignificant impact on state prison beds. The bill's provision regarding unauthorized deferred presentment transactions may have a positive impact on the private sector.

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

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Money services businesses (MSBs) offer a variety of non-depository financial services involving the receipt and transmission of currency, monetary value, or payment instruments through a variety of means, including wire, electronic transfer, or through third-party payment systems. MSBs that are located in, or do business in this state (whether within Florida or into Florida from locations outside Florida or country)<sup>1</sup>, must comply with the following federal and state laws and regulations.

##### ***Federal Regulation of MSBs – Bank Secrecy Act***

The Financial Crimes Enforcement Network (FinCEN) is a bureau within the U.S. Department of the Treasury, and its mission is to "safeguard the financial system from illicit use and combat money laundering and promote national security through the collection, analysis, and dissemination of financial intelligence and strategic use of financial authorities."<sup>2</sup>

FinCEN enforces the Currency and Foreign Transactions Reporting Act of 1970 (commonly referred to as the "Bank Secrecy Act" or "BSA"), which requires U.S. financial institutions to assist U.S. government agencies to detect and prevent money laundering. The BSA is sometimes referred to as an "anti-money laundering" law ("AML") or jointly as "BSA/AML."<sup>3</sup> The BSA was amended by Title III of the USA PATRIOT Act of 2001 to include additional measures to prevent, detect, and prosecute terrorist-related activities and international money laundering. The BSA requires financial institutions to keep records of cash purchases of negotiable instruments, file reports of cash transactions exceeding \$10,000 (daily aggregate amount), and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities. In addition, MSBs conducting more than \$1,000 in business with one person in one or more transactions are required to register with FinCEN or be subject to civil money penalties and criminal prosecution.<sup>4</sup>

The Secretary of the Treasury has delegated to the Director of FinCEN the authority to implement, administer, and enforce compliance with the BSA and associated regulations under 31 C.F.R. Part 103.<sup>5</sup> On March 1, 2011, FinCEN transferred its regulations from 31 CFR Part 103 to 31 CFR Chapter X as part of an ongoing effort to increase the efficiency and effectiveness of its regulatory oversight. There have been no substantive changes made to the underlying regulation as a result of this transfer and reorganization.<sup>6</sup>

##### ***State Regulation of MSBs - Money Services Businesses Act***

In 1994, the Florida Legislature enacted the Money Transmitters' Code (renamed the Money Services Business Act, ch. 560, F.S., "the Act"). The Act consists of four parts: (I) general provisions, (II) payment instruments and funds transmission; (III) check cashing and foreign currency exchange; and (IV) deferred presentment. The Act does not apply to state and federally chartered banks, credit unions, trust companies, and other financial depository institutions, nor does it apply to the sovereign.<sup>7</sup> Part I of the Act gives supervisory, licensing, and enforcement authority to the Florida Office of Financial Regulation

<sup>1</sup> See s. 560.103(22), F.S. (definition of "money services business").

<sup>2</sup> FinCEN, "What We Do," at [http://www.fincen.gov/about\\_fincen/wwd/](http://www.fincen.gov/about_fincen/wwd/) (last accessed March 5, 2014).

<sup>3</sup> FinCEN, "FinCEN's Mandate from Congress / Bank Secrecy Act," at [http://www.fincen.gov/statutes\\_regs/bsa/](http://www.fincen.gov/statutes_regs/bsa/) (last accessed March 5, 2014).

<sup>4</sup> 31 C.F.R. § 1022.380.

<sup>5</sup> U.S. Department of the Treasury, Treasury Order 180-01, at <http://www.treasury.gov/about/role-of-treasury/orders-directives/Pages/to180-01.aspx> (last accessed March 5, 2014).

<sup>6</sup> FinCEN, Chapter X, at [http://www.fincen.gov/statutes\\_regs/ChapterX/](http://www.fincen.gov/statutes_regs/ChapterX/) (last accessed March 5, 2014).

<sup>7</sup> Section 560.104, F.S.

("OFR"), and authorizes the OFR's rulemaking body, the Financial Services Commission (Commission), to adopt rules to implement the Act's requirements regarding books and records, examinations, forms, and fees.

According to the Act, MSBs are persons who act as one or more of the following:

- **Part II:**
  - *Payment instrument seller*: a qualified entity that sells instruments like checks, money orders, and travelers checks. Payment instruments do not include gift cards, credit card vouchers, and letters of credit.
  - *Money transmitter*: a qualified entity that receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means to, within, or from the U.S.
  
- **Part III:**
  - *Foreign currency exchanger*: a person who exchanges currency of one country to that of another for compensation.
  - *Check casher*: a person who sells currency in exchange for payment instruments received, excluding travelers checks.
    - Licensed check cashers are required to comply with federal requirements, if applicable, and state requirements, such as maintaining specified records and reporting information to the OFR. Section 560.310, F.S., requires licensed check cashers to maintain copies of cashed checks, and for checks exceeding \$1,000, the licensed check casher must submit specified transactional data to an electronic log or check-cashing database.
      - In 2013, the Florida Legislature enacted CS/CS/HB 217,<sup>8</sup> which authorized the OFR to issue a competitive solicitation for a statewide, real-time online check cashing database. The database will hold the same transactional information required from licensed check cashers for checks exceeding \$1,000 that is currently required in an electronic log format. The implementation of check cashing database will also be used by the Department of Financial Services' Division of Workers Compensation and Division of Insurance Fraud and various law enforcement agencies in efforts to combat workers' compensation insurance fraud.
  
- **Part IV:**
  - *Deferred presentment provider ("DPP", commonly known as payday lenders)*: DPPs are a MSB designation, not a separate license. DPPs are persons licensed under part II or part III of the Act, and have filed a declaration of intent with the OFR to engage in *deferred presentment transactions*, which means providing currency or a payment instrument in exchange for a customer's check and agreeing to hold the check for a deferment period.
    - Part IV of ch. 560, F.S., regulates DPPs and deferred presentment transactions. A deferred presentment transaction means providing currency or a payment instrument in exchange for a person's check and agreeing to hold the person's check for a period prior to presentment, deposit, or redemption.<sup>9</sup> The face amount of a check taken for a deferred presentment may not exceed \$500.<sup>10</sup> A DPP may charge a maximum fee of 10 percent of the currency or payment instrument provided (exclusive of the verification fee). Section 560.404(19), F.S., prohibits a DPP from entering into a deferred presentment agreement with a customer if the customer has an outstanding deferred presentment agreement with any DPP, or terminated an agreement within the previous 24 hours.

<sup>8</sup> CS/CS/HB 217 was approved by the Governor on June 7, 2013 (ch. 2013-139, Laws of Florida).

<sup>9</sup> See s. 560.402(3), F.S.

<sup>10</sup> Section 560.404, F.S.

The current licensee statistics from the OFR<sup>11</sup> are:

- Part II: 163 licensees
- Part III: 1,133 licensees
- Part IV: 162 declarations of intent
  - 21 DPPs are licensed under Part II
  - 141 DPPs are licensed under Part III

To qualify for licensure as a MSB under the Act, an applicant must meet the following requirements:

- Demonstrate to the OFR the character and general fitness necessary to command the confidence of the public and warrant the belief that the money services business or deferred presentment provider will operate lawfully;
- Be legally authorized to do business in Florida;
- Be registered as a MSB with the FinCEN as required by 31 C.F.R. s. 103.41, if applicable;
- Have an anti-money laundering program in place that meets the requirements of 31 C.F.R. s. 103.125;<sup>12</sup> and
- Provide the OFR with information required under the Act and related rules.<sup>13</sup>

### **Prohibited Acts**

The Act prohibits MSBs, authorized vendors, and affiliated parties from engaging in specified acts in s. 560.111, F.S., such as embezzlement and making false entries in books and documents with the intent to deceive or defraud. A person who violates any of these acts commits a third-degree felony.<sup>14</sup> In addition, the Act prohibits a willful violation of certain DPP requirements (i.e., willfully failing to file a declaration of intent, willfully failing to comply with the requirements for deferred presentment transactions, or willfully failing to comply with deposit and redemption requirements<sup>15</sup>), which is also a third-degree felony.

### **Emergency Suspension Authority**

Currently, the Act authorizes the OFR to immediately suspend the license of a MSB that fails to provide the office specified records or fails to maintain a federally insured depository account, and such failure constitutes immediate and serious danger to the public health, safety, and welfare, for purposes of s. 120.60(6), F.S.<sup>16</sup>

The OFR has an emergency suspension and restriction authority pursuant to s. 120.60(6), F.S., which provides that:

(6) If the agency *finds that* immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the agency may take such action by any procedure that is fair under the circumstances if:

- (a) The procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;
- (b) The agency takes only that action necessary to protect the public interest under the emergency procedure; and
- (c) The agency states in writing at the time of, or prior to, its action the *specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances*. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable. Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding

<sup>11</sup> E-mail from the OFR (received January 21, 2014), on file with the Insurance & Banking Subcommittee staff.

<sup>12</sup> In 2008, the Florida Legislature adopted a number of BSA/AML regulations in the Act and provided that it was a violation of state law, subject to administrative sanctions by the OFR, to fail to comply with federal BSA/AML regulations. Ch. 2008-177, Laws of Florida.

<sup>13</sup> Section 560.1401, F.S.

<sup>14</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>15</sup> These DPP requirements are found at ss. 560.403, 560.404, and 560.405, F.S.

<sup>16</sup> Section 560.114(2), F.S.

pursuant to ss. 120.569 and 120.57, F.S., shall also be promptly instituted and acted upon (emphasis added).

A licensee who is the subject of an emergency order may request an expedited administrative hearing with the Division of Administrative Hearings to challenge the factual basis of an emergency suspension order (ESO), or may seek to enjoin the ESO and immediately appeal to a district court of appeal to determine the limited issue of whether the ESO complies with the statutory and due process requirements of the Administrative Procedures Act.<sup>17</sup>

The case law surrounding ESOs has repeatedly held that general conclusory predictions of harm are not sufficient to support the issuance of an emergency suspension order; rather, the agency's stated reasons "must be factually explicit and persuasive concerning the existence of a genuine emergency."<sup>18</sup> The courts have found to sustain an ESO, it must: "contain *factual allegations* which demonstrate that (i) the complained of conduct was likely to continue; (ii) the order was necessary to stop the emergency; and (iii) the order was sufficiently narrowly tailored to be fair."<sup>19</sup>

The *Bio-Med* court further held that although proof of a specific statutory violation (such as being criminally charged with a felony) may satisfy an agency's burden in an ordinary non-emergency administrative proceeding, "an allegation of such a violation does not, by itself, satisfy the requirements of s. 120.60(6)" and the specific regulatory statute authorizing emergency action.<sup>20</sup>

### **Effect of the Bill**

#### ***Prohibited Acts – s. 560.111, F.S.***

The bill provides that any licensed check casher who knowingly and willfully violates the check casher electronic log and database reporting requirements of s. 560.310(2)(d), F.S., commits a felony of the third degree. As noted above, the electronic log and database reporting requirements of s. 560.310(2)(d), F.S., apply to checks exceeding \$1,000 that are cashed by licensees.

#### ***BSA/Chapter X citation updates***

Sections 2, 3, 5, 6, and 7 of the bill conforms the Act's cross-references to federal BSA/AML regulations which were moved and renumbered by FinCEN on March 1, 2011.

#### ***Summary suspension powers – s. 560.114(2), F.S.***

The bill gives the OFR an additional ground to summarily suspend a MSB's license pursuant to s. 120.60(6), F.S., if the OFR "finds that licensee poses an immediate, serious danger to the public health, safety, and welfare." Specifically, the bill allows the OFR to summarily suspend a MSB's license when a natural person who is required to be listed on the license application is criminally charged, or arrested for one of the crimes listed in:

- s. 560.114(1)(o), F.S. – A felony or equivalent which involves fraud, moral turpitude, or dishonest dealing;
- s. 560.114(1)(p), F.S. – A crime under 18 U.S.C. 1956 [laundering of monetary instruments] or 31 U.S.C. s. 5324 [structuring transactions to evade reporting requirement]; or
- s. 560.114(1)(q), F.S. – Misappropriation, conversion, or unlawful withholding of moneys belonging to others.

<sup>17</sup> *Robin Hood Group, Inc. v. Fla. Office of Ins. Regulation*, 885, So.2d 393, 396 (Fla. 4th DCA 2004) and *Bertany Ass'n for Travel and Leisure, Inc. v. Fla. Dep't of Fin. Servs.*, 877 So.2d 854, 855 (Fla. 1st DCA 2004).

<sup>18</sup> *Fla. Home Builders v. Div. of Labor*, 355 So.2d 1245, 1246 (Fla. 1st DCA 1978).

<sup>19</sup> *Bio-Med Plus, Inc., v. Fla. Dep't of Health*, 915 So.2d 669 at 672 (Fla. 1st DCA 2005).

<sup>20</sup> *Id.* at 673.



The bill requires the OFR to seek the issuance of a final order for the summary suspension of the licensee at a proceeding conducted by the commissioner of the OFR, or his or her designee, who shall issue the final order. Currently, s. 20.121(3)(c), F.S., designates the director (commissioner) as the agency head for purposes of final agency action under ch. 120, F.S.

### **Unauthorized deferred presentment – s. 560.125, F.S.**

#### ***Current Situation***

Often, out-of-state payday lenders evade applicable rate caps and state licensing requirements by operating through the Internet, which present challenges for regulatory detection and enforcement. Persons who provide deferred presentment transactions in Florida without the appropriate Part II or Part III license and declaration of intent, as required by the Act, typically operate through the Internet and thus evade other regulatory requirements that were intended to provide consumer protections (such as the Act's prohibitions on DPP rollovers, excessive fees, and extensions of multiple, simultaneous loans, or interest rate in excess of the caps set forth in the Florida Consumer Finance Act, ch. 516, F.S.<sup>21</sup>). In addition, unlicensed internet payday lenders may also seek subterfuge by operating offshore, affiliating with Native American tribes in order to claim tribal immunity, or incorporating in states with no usury caps with the belief that only the home state law applies despite reaching other states' residents through the Internet.

A number of states have recently increased enforcement efforts and/or legislative measures towards payday lending abuses, such as enacting rate caps, reaching affiliates (banks and debt collectors) who participate in the making or servicing of unauthorized loans,<sup>22</sup> and exercising state jurisdiction to out-of-state lenders who make usurious loans.<sup>23</sup> In addition, state and federal courts have ruled in favor of state jurisdiction over online payday lenders.<sup>24</sup>

Section 560.125(1), F.S., provides that a person may not engage in the business of a money services business or deferred presentment provider in this state unless the person is licensed or exempted from the licensure under ch. 560, F.S.

#### **Effect of the Bill**

The bill amends s. 560.125(1), F.S., to add that a deferred presentment transaction conducted by a person who is not authorized by the OFR under the Act as a DPP is void, and that the unauthorized person has no right to collect, receive, or retain any principal, interest, or charges relating to such transactions. This would mean that the unauthorized lender does not have the legal authority to collect on the loan via garnishment, court action, or otherwise.

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

**Section 1:** Amends s. 560.111, F.S., relating to definitions.

**Section 2:** Amends s. 560.114, F.S., relating to disciplinary actions; penalties.

**Section 3:** Amends s. 560.1235, F.S., relating to anti-money laundering requirements.

**Section 4:** Amends s. 560.125, F.S., relating to unlicensed activity; penalties.

<sup>21</sup> The Florida Consumer Finance Act (ch. 516, F.S.), is also administered by the OFR and sets forth allowable interest rates for small unsecured loans. That act also provides a similar provision in that “[a] loan for which a greater rate of interest or charge than is allowed by this chapter has been contracted for or received, wherever made, is not enforceable in this state.” (s. 516.02(2)(c), F.S.).

<sup>22</sup> New York Department of Financial Services press release on payday loan investigation (August 6, 2013), at <http://www.dfs.ny.gov/about/press2013/pr1308061.htm> (last accessed March 5, 2014).

<sup>23</sup> See Center for Responsible Lending, *Issue Brief: Effective State and Federal Payday Lending Enforcement: Paving the Way for Broader, Stronger Protections* (October 4, 2013), on file with the Insurance & Banking Subcommittee staff.

<sup>24</sup> Consumer Federation of America, *States Have Jurisdiction over Online Payday Lenders* (May 2010), on file with the Insurance & Banking Subcommittee staff.

**Section 5:** Amends s. 560.1401, F.S., relating to licensing standards.

**Section 6:** Amends s. 560.141, F.S., relating to license application.

**Section 7:** Amends s. 560.309, F.S., relating to conduct of business.

**Section 8:** Provides an effective date of July 1, 2014.

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

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

**1. Revenues:**

None.

**2. Expenditures:**

The bill has an insignificant, yet indeterminate fiscal impact on state government expenditures due to the creation of a new third degree felony offense for persons who knowingly and willfully violate information reporting requirements of check cashing transactions. The bill has not been heard by the Criminal Justice Impact Conference to determine an impact on state prison beds. However, a preliminary estimate by the Office of Economic and Demographic Research determined that this bill will have an insignificant impact on state prison beds<sup>25</sup>.

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

**1. Revenues:**

None.

**2. Expenditures:**

None.

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

The bill may have a positive impact on the private sector due to the bill's prohibition on unlicensed deferred presentment transactions. This could be beneficial to consumers and may provide competitive equality for licensed MSBs who comply with the Part IV/DPP requirements of the Act.

### **D. FISCAL COMMENTS:**

None.

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<sup>25</sup> Email correspondence with the Office of Economic and Demographic Research (March 6, 2014) on file with the Government Operations Appropriations Subcommittee.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None provided in the bill. However, the bill's updating of the federal regulations cited in the Act will also require updating of the same citations currently in Chapter 69V-560, Fla. Admin. Code.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On February 11, 2014, the Insurance & Banking Subcommittee considered and adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment retained the provisions of the bill and made the following changes:

- Provided a title change to the bill;
- Clarified that failure to provide certain information relating to a check cashing transaction is a felony;
- Clarified the OFR's emergency suspension powers;
- Corrected several cross-references to federal Bank Secrecy Act regulations in the Act; and
- Clarified the regulatory approval required of deferred presentment providers.

This analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.

1 A bill to be entitled

2 An act relating to money services businesses; amending  
 3 s. 560.111, F.S.; prohibiting the knowing and willful  
 4 failure of a licensee to provide certain information  
 5 relating to a check cashing transaction; providing  
 6 criminal penalties; reenacting and amending s.  
 7 560.114, F.S.; updating cross-references; authorizing  
 8 the Office of Financial Regulation to summarily  
 9 suspend a license if criminal charges are filed  
 10 against certain persons or such persons are arrested  
 11 for certain offenses; amending s. 560.1235, F.S.;  
 12 updating cross-references; amending s. 560.125, F.S.;  
 13 providing that a deferred presentment transaction  
 14 conducted by an unauthorized person is void; amending  
 15 ss. 560.1401 and 560.141, F.S.; updating cross-  
 16 references; amending s. 560.309, F.S.; updating a  
 17 cross-reference; providing an effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

20  
 21 Section 1. Subsection (6) is added to section 560.111,  
 22 Florida Statutes, to read:

23 560.111 Prohibited acts.—

24 (6) A person who knowingly and willfully violates s.  
 25 560.310(2)(d) commits a felony of the third degree, punishable  
 26 as provided in s. 775.082, s. 775.083, or s. 775.084.

27 Section 2. Paragraphs (e) and (y) of subsection (1) and  
 28 subsection (2) of section 560.114, Florida Statutes, are  
 29 amended, and paragraph (h) of subsection (1) of that section is  
 30 reenacted, to read:

31 560.114 Disciplinary actions; penalties.—

32 (1) The following actions by a money services business,  
 33 authorized vendor, or affiliated party constitute grounds for  
 34 the issuance of a cease and desist order; the issuance of a  
 35 removal order; the denial, suspension, or revocation of a  
 36 license; or taking any other action within the authority of the  
 37 office pursuant to this chapter:

38 (e) Failure to maintain, preserve, keep available for  
 39 examination, and produce all books, accounts, files, or other  
 40 documents required by this chapter or related rules or orders,  
 41 by 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.340,  
 42 1010.410, 1010.415, 1022.210, 1022.320, 1022.380, and 1022.410  
 43 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33, 103.37,~~  
 44 ~~103.41, and 103.125,~~ or by an any agreement entered into with  
 45 the office.

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

47 (y) Violations of 31 C.F.R. ss. 1010.306, 1010.311,  
 48 1010.312, 1010.340, 1010.410, 1010.415, 1022.210, 1022.320,  
 49 1022.380, and 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28,~~  
 50 ~~103.29, 103.33, 103.37, 103.41, and 103.125,~~ and United States  
 51 Treasury Interpretive Release 2004-1.

52 (2) Pursuant to s. 120.60(6), the office may summarily

53 suspend the license of a money services business if the office  
 54 finds that a licensee poses an immediate, serious danger to the  
 55 public health, safety, and welfare. A proceeding in which the  
 56 office seeks the issuance of a final order for the summary  
 57 suspension of a licensee shall be conducted by the Commissioner  
 58 of Financial Regulation, or his or her designee, who shall issue  
 59 such order. The following acts are deemed to constitute an  
 60 immediate and serious danger to the public health, safety, and  
 61 welfare, and the office may immediately suspend the license of a  
 62 any money services business if ~~the money services business fails~~  
 63 to:

64 (a) The money services business fails to provide to the  
 65 office, upon written request, any of the records required by s.  
 66 560.123, s. 560.1235, s. 560.211, or s. 560.310 or any rule  
 67 adopted under those sections. The suspension may be rescinded if  
 68 the licensee submits the requested records to the office.

69 (b) The money services business fails to maintain a  
 70 federally insured depository account as required by s. 560.309.

71 (c) A natural person required to be listed on the license  
 72 application for a money service business pursuant to s.  
 73 560.141(1)(a)3. is criminally charged with or arrested for a  
 74 crime described in paragraph (1)(o), paragraph (1)(p), or  
 75 paragraph (1)(q).

76  
 77 ~~For purposes of s. 120.60(6), failure to perform any of the acts~~  
 78 ~~specified in this subsection constitutes immediate and serious~~

79 ~~danger to the public health, safety, and welfare.~~

80 Section 3. Section 560.1235, Florida Statutes, is amended  
81 to read:

82 560.1235 Anti-money laundering requirements.-

83 (1) A licensee and authorized vendor must comply with all  
84 state and federal laws and rules relating to the detection and  
85 prevention of money laundering, including, as applicable, s.  
86 560.123, and 31 C.F.R. ss. 1010.306, 1010.311, 1010.312,  
87 1010.313, 1010.340, 1010.410, 1010.415, 1022.320, 1022.380, and  
88 1022.410 ~~103.20, 103.22, 103.23, 103.27, 103.28, 103.29, 103.33,~~  
89 ~~103.37, and 103.41.~~

90 (2) A licensee and authorized vendor must maintain an  
91 anti-money laundering program in accordance with 31 C.F.R. s.  
92 1022.210 ~~103.125~~. The program must be reviewed and updated as  
93 necessary to ensure that the program continues to be effective  
94 in detecting and deterring money laundering activities.

95 (3) A licensee must comply with United States Treasury  
96 Interpretive Release 2004-1.

97 Section 4. Subsection (1) of section 560.125, Florida  
98 Statutes, is amended to read:

99 560.125 Unlicensed activity; penalties.-

100 (1) A person may not engage in the business of a money  
101 services business or deferred presentment provider in this state  
102 unless the person is licensed or exempted from licensure under  
103 this chapter. A deferred presentment transaction conducted by a  
104 person not authorized to conduct such a transaction under this

105 chapter is void, and the unauthorized person has no right to  
 106 collect, receive, or retain any principal, interest, or charges  
 107 relating to such transaction.

108 Section 5. Subsections (3) and (4) of section 560.1401,  
 109 Florida Statutes, are amended to read:

110 560.1401 Licensing standards.—To qualify for licensure as  
 111 a money services business under this chapter, an applicant must:

112 (3) Be registered as a money services business with the  
 113 Financial Crimes Enforcement Network as required by 31 C.F.R. s.  
 114 1022.380 ~~103.41~~, if applicable.

115 (4) Have an anti-money laundering program in place which  
 116 meets the requirements of 31 C.F.R. s. 1022.210 ~~103.125~~.

117 Section 6. Paragraph (d) of subsection (1) of section  
 118 560.141, Florida Statutes, is amended to read:

119 560.141 License application.—

120 (1) To apply for a license as a money services business  
 121 under this chapter, the applicant must submit:

122 (d) A copy of the applicant's written anti-money  
 123 laundering program required under 31 C.F.R. s. 1022.210 ~~103.125~~.

124 Section 7. Subsection (5) of section 560.309, Florida  
 125 Statutes, is amended to read:

126 560.309 Conduct of business.—

127 (5) A licensee must report all suspicious activity to the  
 128 office in accordance with the criteria ~~set forth~~ in 31 C.F.R. s.  
 129 1022.320 ~~103.20~~. In lieu of filing such reports, the commission  
 130 may prescribe by rule that the licensee may file such reports



CS/HB 623

2014



131 | with an appropriate regulator.

132 | Section 8. This act shall take effect July 1, 2014.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 785 Workers' Compensation  
**SPONSOR(S):** Albritton  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 952

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

### SUMMARY ANALYSIS

Workers' compensation premiums are based on the employer's payroll, the type of work performed by its employees (roofers, clerical, etc., each with a classification code to which a specific premium rate applies), and the employer's loss experience (as reflected in an experience modification factor). Generally, premiums are paid up front to provide coverage for the policy period. At the end of the policy, the insurer conducts an audit to ensure that the appropriate premium has been paid. If the actual payroll is less than that initially estimated, the employer will receive a refund. If the actual payroll exceeds the initial estimation, the employer must pay an additional amount to the insurer.

Retrospective rating plans are utilized by large, sophisticated employers to decrease workers' compensation premiums. Briefly, the final premium paid by the employer is based on the employer's actual loss experience during the policy period, plus insurer expenses and an insurance charge. If the employer controls the amount of claims during the policy period, it will pay a lower premium. Retrospective rating plans allow for negotiations between an insurer and employer on various factors, e.g., negotiations on what maximum and minimum premium factors to use. These plans provide for a minimum premium and a maximum premium.

The bill permits a retrospective rating plan to contain a provision for negotiation of a workers' compensation premium between an employer and insurer if the employer has: (1) exposure in more than one state; (2) an estimated annual standard workers' compensation premium in Florida of at least \$175,000; and (3) an estimated annual countrywide standard workers' compensation premium of at least \$1 million.

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

The bill is effective July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Workers' Compensation Premiums**

Workers' compensation premiums are based on the employer's payroll, the type of work performed by its employees (roofers, clerical, etc., each with a classification code to which a specific premium rate applies), and the employer's loss experience (as reflected in an experience modification factor). Generally, premiums are paid up front to provide coverage for the policy period. At the end of the policy, the insurer conducts an audit to ensure that the appropriate premium has been paid. If the actual payroll is less than that initially estimated, the employer will receive a refund. If the actual payroll exceeds the initial estimation, the employer must pay an additional amount to the insurer.

##### **Retrospective Rating Plans**

Retrospective rating plans are utilized by large, sophisticated employers to decrease workers' compensation premiums. Briefly, the final premium paid by the employer is based on actual loss experience during the policy period, plus insurer expenses and an insurance charge. If the employer controls the amount of claims during the policy period, it will pay a lower premium. Before there were large deductible programs in workers' compensation, retrospective rating plans were the dominant rating plan for large employers.<sup>1</sup>

The Office of Insurance Regulation (OIR) relates that retrospective rating has been a component of workers' compensation for over 50 years in Florida and nationwide. Retrospective rating plans allow for negotiations between an insurer and employer on various factors, e.g., negotiations on what maximum and minimum premium factors to use. Limitations in the National Council on Compensation Insurance's (NCCI) "Retrospective Rating Plan Manual for Workers' Compensation and Employers Liability Insurance," which has been approved in Florida, are designed to ensure that the calculations always result in an actuarially sound premium.<sup>2</sup>

The bill permits retrospective rating plans to contain a provision for negotiation of a workers' compensation premium between an employer and insurer if the employer has: (1) exposure in more than one state; (2) an estimated annual standard workers' compensation premium in Florida of at least \$175,000; and (3) an estimated annual countrywide standard workers' compensation premium of at least \$1 million.

#### B. SECTION DIRECTORY:

**Section 1.** Amends s. 627.072, F.S., relating to the making and use of workers' compensation rates.

**Section 2.** Amends s. 627.281, F.S., relating to appeals from workers' compensation and employer's liability rate filings.

**Section 3.** Provides an effective date of July 1, 2014.

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<sup>1</sup>See "2013 Workers' Compensation Annual Report" (December 31, 2013) by the Florida Office of Insurance Regulation. Available at: <http://www.flor.com/Office/DataReports.aspx> (Last accessed: March 8, 2014).

<sup>2</sup> Correspondence from OIR dated February 27, 2014, on file with the Insurance & Banking Subcommittee. OIR informs that in the early 1990s, NCCI filed the Large Risk Alternative Rating Option (LRARO) in Florida, which was disapproved by the Department of Insurance (the predecessor of the OIR). LRARO is a modification of the retrospective rating plan that removes the limitations on rating factors. The concern with such plans is that premiums may not be sufficient to cover expected losses and expenses. LRARO plans are available in many other states.

## 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:

To the extent that the bill allows large employers and insurers to negotiate workers' compensation insurance premiums beyond the negotiations already allowed in current retrospective rating plans, the premiums paid by large employers under such plans may decrease. However, in certain circumstances, negotiations could lead to a premium that is not sufficient to cover expected losses and expenses.

### D. FISCAL COMMENTS:

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

According to the Department of Financial Services, there is the potential for workers' compensation premium savings generated by a retrospective rating plan. However, there is also potential for additional premiums generated by a retrospective rating plan. Ultimately, any premium paid by an employer under a retrospective rating plan would depend on how the employer's losses develop over a period of time. For instance, the employer's premium would be less if losses show to be less than expected; correspondingly, the employer's premium would be more if losses show to be more than expected. Aggregately, the rating plans should be revenue neutral.<sup>3</sup>

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<sup>3</sup> Email correspondence with the Department of Financial Services (March 12, 2014) on file with the Government Operations Appropriations Subcommittee.  
STORAGE NAME: h0785b.GOAS.DOCX  
DATE: 3/14/2014

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

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

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

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

A bill to be entitled

An act relating to workers' compensation; amending s. 627.072, F.S.; authorizing employers to negotiate the retrospectively rated premium with insurers under certain conditions; amending s. 627.281, F.S.; conforming a cross-reference; providing an effective date.

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

Section 1. Subsections (2), (3), and (4) of section 627.072, Florida Statutes, are renumbered as subsections (3), (4), and (5), respectively, and subsection (2) is added to that section, to read:

627.072 Making and use of rates.—

(2) A retrospective rating plan may contain a provision that allows for negotiation of a premium between the employer and the insurer for employers having exposure in more than one state and an estimated annual standard premium in this state of \$175,000 and an estimated annual countrywide standard premium of \$1 million or more for workers' compensation.

Section 2. Subsection (2) of section 627.281, Florida Statutes, is amended to read:

627.281 Appeal from rating organization; workers' compensation and employer's liability insurance filings.—

(2) If such appeal is based upon the failure of the rating

HB 785

2014

27 organization to make a filing on behalf of such member or  
28 subscriber which is based on a system of expense provisions  
29 which differs, in accordance with the right granted in s.  
30 627.072(3) ~~627.072(2)~~, from the system of expense provisions  
31 included in a filing made by the rating organization, the office  
32 shall, if it grants the appeal, order the rating organization to  
33 make the requested filing for use by the appellant. In deciding  
34 such appeal, the office shall apply the applicable standards set  
35 forth in ss. 627.062 and 627.072.

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





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB GOAS 14-03 Surplus Lines Revenue  
**SPONSOR(S):** Government Operations Appropriations Subcommittee  
**TIED BILLS:** IDEN./SIM. **BILLS:**

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

**SUMMARY ANALYSIS**

Surplus lines insurance is a high risk category of insurance that consumers can pursue when there is no market available for insurance coverage through standard insurance carriers. Surplus lines insurance provides consumers with an option for access to insurance coverage when Florida-authorized insurers do not provide it. The Office of Insurance Regulation (OIR) approves companies, who are not licensed in Florida, to provide coverage for surplus lines insurance and to transact insurance in the state as "eligible" insurers.

Section 626.932, F.S., provides for a five percent tax on premiums of surplus lines insurance, independently procured coverage, and insurance provided by risk retention groups. Currently, 100 percent of the tax revenue generated from the surplus lines premium tax is deposited into the General Revenue Fund. However, the 100 percent distribution of surplus lines tax proceeds to the General Revenue Fund will sunset July 1, 2014, and the distribution percentages will revert to prior law.

Prior to July 1, 2009, 15.74 percent of surplus lines tax revenues were deposited to the credit of the Insurance Regulatory Trust Fund in the Department of Financial Services (DFS) and 84.26 percent of the tax proceeds were deposited into the General Revenue Fund. Chapter 2009-70, Laws of Florida, redirected all surplus lines tax revenues to the General Revenue Fund.

The bill repeals section 9 of chapter 2009-70, Laws of Florida, to provide for the continued 100 percent distribution of surplus lines tax revenues to the General Revenue Fund.

The Revenue Estimating Conference held March 12, 2014 indicated a negative \$31.3 million fiscal impact to the General Revenue Fund should the redirect expire July 1, 2014, and 15.74 percent of surplus lines tax revenue be deposited in the Insurance Regulatory Trust Fund.

The General Revenue Fund appropriations within the proposed Fiscal Year 2014-2015 House General Appropriations Act contain the \$31.3 million in surplus lines tax revenues this bill provides.

The bill is effective upon becoming law.

## **FULL ANALYSIS**

### **I. SUBSTANTIVE ANALYSIS**

#### **A. EFFECT OF PROPOSED CHANGES:**

##### **Current Situation**

Surplus lines insurance is a high risk category of insurance that consumers pursue when there is no market available for insurance coverage through standard insurance carriers<sup>1</sup>. The Office of Insurance Regulation (OIR) approves companies, who are not licensed in Florida, to provide coverage for this type of insurance and to transact insurance in the state as "eligible" insurers. Surplus lines insurance is covered in ss. 626.913 through 626.937, F.S., and provides consumers with an option for access to insurance coverage when Florida-authorized insurers do not provide it.

In order for an agent to place an insured with a surplus lines carrier, agents must attempt through a "diligent effort"<sup>2</sup> to place a policy with a Florida-authorized insurer before placing the policy with a surplus lines carrier. "Diligent effort" has been demonstrated when the agent has three written rejections of coverage from authorized insurers currently writing this type of insurance coverage.

The rates that surplus lines insurers charge may not be less than rates that are offered on similar coverage, with similar risks, by authorized insurers writing policies in Florida. The types of insurance coverage available from surplus lines insurers include coverage for some sea vessels', commercial aircraft, and homeowners' insurance in hurricane-prone areas.

Agents who provide surplus lines coverage must be registered with the Department of Financial Services (DFS) and meet stringent qualifications for licensure. Risk retention groups are corporations or limited liability associations who purchase liability insurance on a group basis in order to assume and spread all or any portion of the liability exposure of its group members<sup>3</sup>.

Current law provides for a five percent tax on premiums for surplus lines insurance, independently procured coverage and insurance provided by risk retention groups. The distribution set forth for surplus lines insurance is also applied to insurance provided by risk retention groups. Presently, 100 percent of the tax proceeds are distributed to the General Revenue Fund. However, the 100 percent distribution of surplus lines tax proceeds to the General Revenue Fund will sunset July 1, 2014, and the distribution percentages will revert to prior law.

Prior to July 1, 2009, 15.74 percent of surplus lines tax revenues were deposited to the credit of the Insurance Regulatory Trust Fund within the DFS and 84.26 percent of the tax proceeds were deposited into the General Revenue Fund. Chapter 2009-70, Laws of Florida, redirected all surplus lines tax revenues to the General Revenue Fund.

The Insurance Regulatory Trust Fund (IRTF) funds the expenditures of the OIR and partially funds the DFS for its administrative and regulatory functions. Historical information on the IRTF is as follows:

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<sup>1</sup> s. 626.913, F.S.

<sup>2</sup> s. 626.914(4), F.S.

<sup>3</sup> s. 627.942(9)(a), F.S.

<b>Insurance Regulatory Trust Fund Historical Information</b>		
<b>Fiscal Year</b>	<b>Revenues</b>	<b>Expenditures</b>
2009-2010	\$ 125,712,511	\$ 96,889,616
2010-2011	\$ 127,513,076	\$ 89,183,800
2011-2012	\$ 139,239,823	\$ 86,791,694
2012-2013	\$ 139,654,742	\$ 83,377,485
2013-2014 <sup>4</sup>	\$ 129,015,214	\$ 91,994,084
2014-2015 <sup>5</sup>	\$ 127,966,511 <sup>6</sup>	\$ 90,494,877 <sup>7</sup>

Based on current law and the present forecast of revenues, the Insurance Regulatory Trust Fund will meet all financial obligations without proceeds from surplus lines tax revenues.

Historical information on surplus lines revenue collections is as follows:

<b>Surplus Lines Revenue Collections<sup>8</sup></b>			
<b>Fiscal Year</b>	<b>Total Collections</b>	<b>GR Distribution</b>	<b>IRTF Distribution</b>
2009-2010	\$ 189,200,000	\$ 189,200,000	\$ -
2010-2011	\$ 178,000,000	\$ 178,000,000	\$ -
2011-2012	\$ 170,300,000	\$ 170,300,000	\$ -
2012-2013	\$ 198,900,000	\$ 198,900,000	\$ -
2013-2014	\$ 204,900,000	\$ 204,900,000	\$ -
2014-2015	\$ 216,200,000	\$ 182,170,120	\$ 34,029,880

If current law sunsets, 15.74 percent of surplus lines tax proceeds will be deposited into the Insurance Regulatory Trust Fund within the DFS and 84.26 percent of the tax proceeds will be deposited into the General Revenue Fund.

The Insurance Regulatory Trust Fund distribution figure shown above reflects the total estimated surplus lines receipts to the IRTF of \$34.0 million. However, \$34.0 million is prior to the deduction of the eight percent general revenue service charge on trust funds, which is deposited into the General Revenue Fund. The eight percent service charge to the IRTF amounts to \$2.7 million, which provides a net trust fund increase of revenues to the IRTF of \$31.3 million.

### **Effect of Proposed Changes**

The bill repeals section 9 of chapter 2009-70, Laws of Florida, to provide for the continued 100 percent distribution of surplus lines tax revenues to the General Revenue Fund. In addition, the bill amends the distribution of surplus lines tax revenues collected on premiums from surplus lines insurance, pursuant to s. 626.932(5), F.S.; independently procured coverage, pursuant to s. 626.938(7), F.S.; and insurance provided by risk retention groups, pursuant to 627.944(3), F.S. The bill provides that all surplus lines tax revenues be distributed to the General Revenue Fund.

<sup>4</sup> Revenue and appropriation amounts gathered from the DFS Schedule I Trust Funds Available PDF document in the Agency Legislative Budget Request for Fiscal Year 2014-2015. Available at: <http://floridafiscalportal.state.fl.us/Documents.aspx?FY=2015&EXID=149&AGY=4300&DOCID=1832&DisplayAgy=Y> (Last accessed: March 11, 2014).

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

<sup>6</sup> \$127,966,511 represents revenues deposited into the Insurance Regulatory Trust Fund, less the Surplus Lines premium tax revenue.

<sup>7</sup> \$90,494,877 represents the Insurance Regulatory Trust Fund portion of the DFS base budget.

<sup>8</sup> Revenue amounts gathered from the March 12, 2014 General Revenue Fund Revenue Estimating Conference. Available at: <http://edr.state.fl.us/Content/conferences/generalrevenue/index.cfm> (Last accessed: March 12, 2014).

The Revenue Estimating Conference held March 12, 2014 indicated a negative \$31.3 million fiscal impact to the General Revenue Fund should the redirect expire July 1, 2014 and 15.74 percent of surplus lines tax revenue be redirected to the Insurance Regulatory Trust Fund<sup>9</sup>.

The bill provides that the act shall take effect upon becoming law.

**B. SECTION DIRECTORY:**

**Section 1:** Repeals section 9 of chapter 2009-70, Laws of Florida.

**Section 2:** Reenacts s. 626.932(5), F.S., relating to surplus lines tax.

**Section 3:** Reenacts s. 626.938(7), F.S., relating to the report and tax of independently procured coverages.

**Section 4:** Provides that the act is effective upon becoming law.

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

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

**1. Revenues:**

The bill provides for the continued distribution of all surplus lines tax revenues to the General Revenue Fund. The Revenue Estimating Conference held March 12, 2014 indicated a negative \$31.3 million fiscal impact to the General Revenue Fund should the redirect expire July 1, 2014, and 15.74 percent of surplus lines tax revenue be redirected to the Insurance Regulatory Trust Fund (\$34.0 million in total estimated receipts, less service charge to the General Revenue Fund of \$2.7 million, providing a net loss of \$31.3 million to the General Revenue Fund).

The General Revenue Fund appropriations within the proposed Fiscal Year 2014-2015 House General Appropriations Act contain the \$31.3 million in surplus lines tax revenues this bill provides.

**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:**

None.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

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

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to surplus lines revenue; repealing s.  
 3           9, chapter 2009-70, Laws of Florida, relating to the  
 4           scheduled reversion of statutory provisions related to  
 5           the distribution of surplus lines taxes and interest;  
 6           reenacting ss. 626.932(5) and 626.938(7), F.S.,  
 7           relating to the deposit of surplus lines taxes and  
 8           interest; providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12           Section 1. Section 9 of chapter 2009-70, Laws of Florida,  
 13 is repealed.

14           Section 2. Subsection (5) of section 626.932, Florida  
 15 Statutes, is reenacted to read:

16           626.932 Surplus lines tax.—  
 17           (5) Taxes collected under this section shall be deposited  
 18 into the General Revenue Fund.

19           Section 3. Subsection (7) of section 626.938, Florida  
 20 Statutes, is reenacted to read:

21           626.938 Report and tax of independently procured  
 22 coverages.—

23           (7) Taxes and interest collected under this section shall  
 24 be deposited into the General Revenue Fund.

25           Section 4. This act shall take effect upon becoming a law.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** PCB GOAS 14-04 SUNCOM Services  
**SPONSOR(S):** Government Operations Appropriations Subcommittee  
**TIED BILLS:** IDEN./SIM. **BILLS:**

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<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR or BUDGET/POLICY CHIEF</b>
Orig. Comm.: Government Operations Appropriations Subcommittee		White <i>CCW</i>	Topp <i>BT</i>

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**SUMMARY ANALYSIS**

The bill amends the duties of the Department of Management Services (DMS) by requiring the department to design, engineer, implement, manage, and operate the Florida Information Resource Network (FIRN) that is established in s. 1001.271, F.S. For the school districts that utilize FIRN, the DMS is also required to submit the appropriate federal forms for receiving federal universal service support funds (commonly referred to as E-rate funds) available through the Schools and Libraries Program that is administered by the Universal Service Administrative Company of the Federal Communications Commission.

The bill requires the DMS to develop and make publicly available on its website an interactive geographical information system map that will monitor each school district's deployment of FIRN. Beginning January 1, 2015, the DMS must provide quarterly reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives on the implementation of FIRN within each school district.

The bill also clarifies that the SUNCOM Network is the enterprise data transport service of the state and that the DMS is specifically required to establish a network security perimeter for this network. The network security perimeter will provide for intrusion detection and prevention by unauthorized entities or applications.

The proposed House 2014-2015 Fiscal Year General Appropriations Act provides \$507,994 in recurring and \$19,360 in nonrecurring funds to the Department of Management Services and five full-time equivalent positions that are necessary for the department to (1) implement and manage the Florida Information Resource Network (FIRN); (2) work with each school district in the submission of the appropriate federal forms requesting E-rate funding; and (3) develop, implement, and maintain the interactive geographical information system map. Additionally, the proposed House budget includes approximately \$53.7 million in budget authority in the Department of Management Services' Special Categories - Florida Information Resource Network/District Bandwidth Support necessary to implement the FIRN pursuant to s. 1001.271, F.S.

The bill is effective July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Florida Information Resource Network**

###### **Current Situation**

The Florida Information Resource Network (FIRN) was created in the early 1980s to electronically link the state's public education entities to computing resources. FIRN's purpose was to provide equal access to computing resources for all public education entities, to enable the exchange of information among these entities, and to transmit administrative data to the Department of Education (DOE) in a timely manner.<sup>1</sup> FIRN was established within the Department of Education and over the years, its services expanded from providing a way to transmit administrative and student information to providing e-mail and connections to the Internet.

To address the challenge of the expanded use of FIRN services, FIRN was outsourced in July 2003. The State Technology Office,<sup>2</sup> on behalf of the DOE, contracted with a vendor to provide educational network services, including Internet access and data reporting services, to school districts, public postsecondary institutions and libraries. The services provided by the vendor were referred to as FIRN2 since they replaced the former FIRN network that was owned, operated, and maintained by the state. The vendor subcontracted with various telecommunications companies to provide connections to the Internet.<sup>3</sup> The FIRN2 contract included a termination date of June 30, 2007; however, the contract also included an option of two one-year renewals which were executed.

The Department of Management Services issued a Request for Proposal No. DMS-08/09-061 for Internet Access and Telecommunications Services, which is the successor service to FIRN2. On January 1, 2009, the department executed a contract for this service. The contract included an expiration date of June 30, 2012, with a renewal option. Amendment 2 of the contract was executed in December 2011 to extend the term of the contract to June 30, 2015.

Since the passage of the federal Telecommunications Act of 1996, universal service funds have been used to fund a significant amount of FIRN's services. This federal act established the Universal Service Administrative Company (USAC), which is an independent, not-for-profit corporation designated by the Federal Communications Commission as the administrator of the Universal Service Fund. USAC collects contributions from telecommunications carriers and administers support programs designed to help communities across the country secure access to affordable telecommunications services.<sup>4</sup> One such program is the Schools and Libraries Program, commonly referred to as the E-rate program. The primary measure for determining a school's funding support for this program is the percentage of students eligible for free and reduced lunches under the National School Lunch Program.<sup>5</sup>

Beginning in Fiscal Year 2000-2001, FIRN services were supported by state general revenue, educational aids trust fund, and E-rate funds. In a 2006 report issued by the Office of Program Policy Analysis & Government Accountability, it stated that school districts' demand for increased bandwidth

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<sup>1</sup> FIRN 2008 Proviso Report, Recommendations and Options for the Continued Operation of the Florida Information Resource Network; submitted September 15, 2008.

<sup>2</sup> On July 1, 2005, the information technology functions that were previously performed by the State Technology Office were incorporated into the Department of Management Services' Enterprise Information Technology Services.

<sup>3</sup> FIRN 2008 Proviso Report, Recommendations and Options for the Continued Operation of the Florida Information Resource Network; submitted September 15, 2008

<sup>4</sup> <http://www.usac.org/about/>

<sup>5</sup> <http://www.usac.org/sl/applicants/step04/alternative-discounts.aspx>

and Internet access was exceeding the level of funding provided in the General Appropriations Act.<sup>6</sup> As such, several school districts needed to purchase additional bandwidth and Internet access from other service providers.

In the Fiscal Year 2008-2009 General Appropriations Act, proviso was included that directed the Commissioner of Education to submit a report that provided recommendations and options for the continued operation and funding of FIRN. The report was submitted on September 15, 2008, and the Commissioner of Education's recommendation was that the Legislature should continue to fund the services provided by FIRN to ensure that public schools receive funds for the sole purpose of purchasing FIRN's Internet services.<sup>7</sup>

The Fiscal Year 2009-2010 General Appropriations Act included each school district's funding for FIRN into the Florida Education Finance Program (FEFP). Additionally, chapter 2009-59, Laws of Florida, created s. 1001.271, F.S., which provided that the Commissioner of Education, upon requisition from school districts, shall purchase the non E-rate portion of their Internet access services and related services. For Fiscal Year 2009-2010, each school district eligible for the E-rate funding was required to submit a requisition to the Commissioner for at least the same level of Internet access services used through the FIRN contract in Fiscal Year 2008-2009.

### **Effect of Proposed Changes**

The bill amends the duties of the Department of Management Services (DMS) to design, engineer, implement, manage, and operate the Florida Information Resource Network (FIRN) pursuant to s. 1001.271, F.S. For those school districts utilizing FIRN, the bill requires the DMS to submit the appropriate federal forms for receiving the federal universal service support funds, commonly referred to as E-rate funds, which are available through the Schools and Libraries Program of the Universal Service Fund administered by the Universal Service Administrative Company.

The bill also requires the DMS to develop and make publicly available on its website an interactive geographical information system map that will monitor the implementation status of FIRN.

### **SUNCOM Services**

#### **Current Situation**

The SUNCOM Network, commonly referred to as MyFloridaNet, is established within the Department of Management Services (DMS) as the state enterprise telecommunications system. The DMS is responsible for designing, engineering, implementing, managing, and operating through state ownership, commercial leasing, contracted services, or some combination thereof, the facilities, equipment, and contracts providing SUNCOM Network services.<sup>8</sup>

Current law also requires the DMS to manage and control, but not intercept or interpret, telecommunications within the SUNCOM Network by establishing technical standards to physically interface with the SUNCOM Network.<sup>9</sup> Although not specifically stated in law, the DMS has identified certain security standards that involve four layers of security for the SUNCOM Network:

- Layer 1 - prevents the unauthorized access of state resources from the public Internet.
- Layer 2 - provides inter-agency access to permit the sharing of information between agencies through common services.

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<sup>6</sup> OPPAGA Report No. 06-36, Users Satisfied with FIRN2; Options Exist for Future Services to Educational Entities.

<sup>7</sup> FIRN 2008 Proviso Report, Recommendations and Options for the Continued Operation of the Florida Information Resource Network; submitted September 15, 2008.

<sup>8</sup> Section 282.702, Florida Statutes.

<sup>9</sup> Section 282.702(12)(a), Florida Statutes.

- Layer 3 - provides intra-agency access to connect a single agency's network resources within their own private closed user-group.
- Layer 4 - provides for overall protection from third-party entities attempting to disrupt data traffic on the SUNCOM Network.<sup>10</sup>

### **Effect of Proposed Changes**

The bill clarifies that the SUNCOM Network is the enterprise data transport service designed and procured by the DMS to meet the needs of the state and its state agencies. The bill also specifically requires the DMS to establish a network security perimeter for the SUNCOM Network to provide for intrusion detection and prevention by unauthorized entities or applications while also assuring continued operation of the network. This codifies the current DMS operational practice of implementing the safeguards and controls needed to protect the integrity of the SUNCOM Network and to take action to respond to any threats by implementing new mitigation techniques.

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

Section 1: Amends s. 282.0041, F.S., by amending the existing definitions for "SUNCOM Network" and "Telecommunications" and creating definitions for "Network security perimeter" and "SUNCOM services".

Section 2: Amends s. 282.702, F.S., by authorizing two additional duties for the Department of Management Services to include the establishment of the network security perimeter and designing, implementing, managing, and operating the Florida Information Resource Network.

Section 3: Amends s. 282.702, F.S., by aligning terminology with changes made in s. 282.0041, F.S.

Section 4: Amends s. 282.704, F.S., by aligning terminology with changes made in s. 282.0041, F.S.

Section 5: Amends s. 282.705, F.S., by aligning terminology with changes made in s. 282.0041, F.S.

Section 6: Amends s. 282.706, F.S., by aligning terminology with changes made in s. 282.0041, F.S.

Section 7: Amends s. 282.707, F.S., by aligning terminology with changes made in s. 282.0041, F.S.

Section 8: Amends s. 282.708, F.S., by aligning terminology with changes made in s. 282.0041, F.S.

Section 9: Provides an effective date of July 1, 2014.

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

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

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

The proposed House 2014-2015 Fiscal Year General Appropriations Act provides \$507,994 in recurring funds and \$19,360 in nonrecurring funds in the Communications Working Capital Trust Fund to the Department of Management Services and five full-time equivalent positions that are necessary for the department to (1) implement and manage the Florida Information Resource Network (FIRN); (2) work with each school district in the submission of the appropriate federal forms requesting E-rate funding; and (3) develop, implement, and maintain the interactive geographical information system map. Additionally, the proposed House budget includes

<sup>10</sup> The Department of Management Services provided information that describes the four layers of security currently in use for the SUNCOM Network.

approximately \$53.7 million in budget authority in the Department of Management Services' Special Categories - Florida Information Resource Network/District Bandwidth Support in the Communications Working Capital Trust Fund necessary to implement the FIRN pursuant to s. 1001.271, F.S.

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:

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

None.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to SUNCOM services; amending s.  
 3           282.0041, F.S.; providing and revising definitions;  
 4           amending s. 282.702, F.S.; revising the powers and  
 5           duties of the Department of Management Services;  
 6           requiring the department to establish a network  
 7           security perimeter and implement the Florida  
 8           Information Resource Network; requiring the department  
 9           to make certain network information available on its  
 10          website and provide reports to the Governor and  
 11          Legislature; amending ss. 282.703, 282.704, 282.705,  
 12          282.706, 282.707, and 282.708, F.S.; conforming  
 13          provisions to changes made by the act; providing an  
 14          effective date.

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

17  
 18           Section 1. Subsections (16) through (28) of section  
 19   282.0041, Florida Statutes, are amended to read:

20           282.0041 Definitions.—As used in this chapter, the term:  
 21           (16) "Network security perimeter" means the network core  
 22           routers, state firewalls, and enterprise intrusion prevention  
 23           systems implemented to control access into internal closed user  
 24           networks from nonauthorized sources.

25           (17)~~(16)~~ "Performance metrics" means the measures of an  
 26           organization's activities and performance.

27        (18)~~(17)~~ "Primary data center" means a data center that is  
 28 a recipient entity for consolidation of nonprimary data centers  
 29 and computing facilities and that is established by law.

30        (19)~~(18)~~ "Project" means an endeavor that has a defined  
 31 start and end point; is undertaken to create or modify a unique  
 32 product, service, or result; and has specific objectives that,  
 33 when attained, signify completion.

34        (20)~~(19)~~ "Risk analysis" means the process of identifying  
 35 security risks, determining their magnitude, and identifying  
 36 areas needing safeguards.

37        (21)~~(20)~~ "Service level" means the key performance  
 38 indicators (KPI) of an organization or service which must be  
 39 regularly performed, monitored, and achieved.

40        (22)~~(21)~~ "Service-level agreement" means a written  
 41 contract between a data center and a customer entity which  
 42 specifies the scope of services provided, service level, the  
 43 duration of the agreement, the responsible parties, and service  
 44 costs. A service-level agreement is not a rule pursuant to  
 45 chapter 120.

46        (23)~~(22)~~ "Standards" means required practices, controls,  
 47 components, or configurations established by an authority.

48        (24)~~(23)~~ "SUNCOM Network" means the enterprise data  
 49 transport service designed and procured by the department to  
 50 meet the needs of the state and state agencies ~~state enterprise~~  
 51 ~~telecommunications system that provides all methods of~~  
 52 ~~electronic or optical telecommunications beyond a single~~

53 ~~building or contiguous building complex and used by entities~~  
54 ~~authorized as network users under this part.~~

55 (25) "SUNCOM services" means the portfolio of  
56 telecommunications services that are designed, procured, and  
57 delivered by the department to meet the needs of state agencies.

58 ~~(26)+(24)~~ "Telecommunications" means the transmission,  
59 propagation, and reception of analog or digital information and  
60 data science and technology of communication at a distance,  
61 including the electronic systems, software, connections, and  
62 components used in the process of sending or receiving  
63 information used in the transmission or reception of  
64 information.

65 ~~(27)+(25)~~ "Threat" means any circumstance or event that may  
66 cause harm to the integrity, availability, or confidentiality of  
67 information technology resources.

68 ~~(28)+(26)~~ "Total cost" means all costs associated with  
69 information technology projects or initiatives, including, but  
70 not limited to, value of hardware, software, service,  
71 maintenance, incremental personnel, and facilities. Total cost  
72 of a loan or gift of information technology resources to an  
73 agency includes the fair market value of the resources.

74 ~~(29)+(27)~~ "Usage" means the billing amount charged by the  
75 primary data center, less any pass-through charges, to the  
76 customer entity.

77 ~~(30)+(28)~~ "Usage rate" means a customer entity's usage or  
78 billing amount as a percentage of total usage.



79 Section 2. Subsections (1), (2), (12), and (13) of section  
 80 282.702, Florida Statutes, are amended, and subsections (16) and  
 81 (17) are added to that section, to read:

82 282.702 Powers and duties.—The Department of Management  
 83 Services shall have the following powers, duties, and functions:

84 (1) To publish electronically the portfolio of SUNCOM  
 85 services available from the department, including pricing  
 86 information; the policies and procedures governing usage of  
 87 available services; and a forecast of the department's  
 88 priorities for each SUNCOM ~~telecommunications~~ service.

89 (2) To adopt technical standards by rule for SUNCOM  
 90 services ~~the state telecommunications network~~ which ensure the  
 91 interconnection and operational security of computer networks,  
 92 telecommunications, and information systems of agencies.

93 (12) ~~Unless delegated to the agencies by the department,~~  
 94 To manage and control the transmission of information  
 95 transferred through, but not intercept or interpret,  
 96 telecommunications within ~~the~~ SUNCOM services Network by:

97 (a) Establishing technical standards to physically  
 98 interface with ~~the~~ SUNCOM services Network.

99 (b) Specifying how telecommunications are transmitted  
 100 within ~~the~~ SUNCOM services Network.

101 (c) Controlling the routing of telecommunications within  
 102 the SUNCOM Network.

103 (d) Establishing standards, policies, and procedures for  
 104 access to and the security of the SUNCOM Network.

105 (e) Ensuring orderly and reliable telecommunications  
 106 services in accordance with the service level agreements  
 107 executed with state agencies.

108 (13) To plan, design, and conduct experiments for  
 109 telecommunications services, equipment, and technologies, and to  
 110 implement enhancements to SUNCOM services in the state  
 111 ~~telecommunications network~~ if in the public interest and cost-  
 112 effective. Funding for such experiments must be derived from  
 113 SUNCOM services Network service revenues and may not exceed 2  
 114 percent of the amount to pay telecommunications service  
 115 providers in annual budget for the SUNCOM Network for any fiscal  
 116 year ~~or as provided in the General Appropriations Act~~. New  
 117 services offered as a result of this subsection may not affect  
 118 existing rates for facilities or services.

119 (16) To establish a network security perimeter as defined  
 120 in s. 282.0041 to prevent the disruption of information  
 121 transported through the SUNCOM Network and to prevent  
 122 unauthorized interception or interruption of information  
 123 transported through the SUNCOM Network.

124 (17) (a) To design, engineer, implement, manage, and  
 125 operate through state ownership, commercial leasing, contracted  
 126 services, or some combination thereof, the Florida Information  
 127 Resource Network pursuant to s. 1001.271.

128 (b) For those school districts using the Florida  
 129 Information Resource Network, the department must submit the  
 130 appropriate federal forms for receiving applicable federal

131 universal service support funds available through the Schools  
 132 and Libraries Program, commonly cited as the E-rate program, of  
 133 the federal Universal Service Fund administered by the Universal  
 134 Service Administrative Company under direction of the Federal  
 135 Communications Commission.

136 (c) For purposes of implementing and managing the Florida  
 137 Information Resource Network, the department must comply with  
 138 all applicable federal service provider requirements issued by  
 139 the Schools and Libraries Program of the federal Universal  
 140 Service Fund, as well as all other applicable federal laws,  
 141 regulations, and policies regarding the security and privacy of  
 142 student records and data.

143 (d) The department shall develop and make publicly  
 144 available on its website an interactive geographical information  
 145 system map at the census tract level that will monitor each  
 146 school district's deployment of the Florida Information Resource  
 147 Network. Beginning January 1, 2015, the department shall provide  
 148 quarterly reports to the Governor, the President of the Senate,  
 149 and the Speaker of the House of Representatives on the  
 150 implementation status of the Florida Information Resource  
 151 Network.

152 Section 3. Section 282.703, Florida Statutes, is amended  
 153 to read:

154 282.703 SUNCOM services Network; exemptions from the  
 155 required use.—

156 (1) ~~The~~ SUNCOM services, as defined in s. 282.0041, are

157 available Network ~~is established within the department as the~~  
 158 ~~state enterprise telecommunications system for providing local~~  
 159 ~~and long distance communications services~~ to state agencies,  
 160 political subdivisions of the state, municipalities, and  
 161 nonprofit corporations pursuant to this part. ~~The~~ SUNCOM  
 162 services Network shall be developed to transmit all types of  
 163 telecommunications signals, including, but not limited to,  
 164 voice, data, video, image, and radio. State agencies shall  
 165 cooperate and assist in the development and joint use of SUNCOM  
 166 ~~telecommunications systems and services.~~

167 (2) The department shall design, engineer, implement,  
 168 manage, and operate through state ownership, commercial leasing,  
 169 contracted services, or some combination thereof, the  
 170 facilities, equipment, and contracts providing SUNCOM ~~Network~~  
 171 services, and shall develop a system of equitable billings and  
 172 charges for such telecommunications services.

173 (3) The department shall own, manage, and establish  
 174 standards for the telecommunications addressing and numbering  
 175 plans for ~~the~~ SUNCOM services Network. This includes  
 176 distributing or revoking numbers and addresses to authorized  
 177 users of SUNCOM services ~~the network~~ and delegating or revoking  
 178 the delegation of management of subsidiary groups of numbers and  
 179 addresses to authorized users of SUNCOM services ~~the network~~.

180 (4) The department shall maintain a directory of  
 181 information and services which provides the names, phone  
 182 numbers, and e-mail addresses for employees, agencies, and

183 network devices that are served, in whole or in part, by ~~the~~  
 184 SUNCOM services ~~Network~~. State agencies and political  
 185 subdivisions of the state shall cooperate with the department by  
 186 providing timely and accurate directory information in the  
 187 manner established by the department.

188 (5) All state agencies shall use ~~the~~ SUNCOM services  
 189 ~~Network~~ for agency telecommunications services as the services  
 190 become available; however, an agency is not relieved of  
 191 responsibility for maintaining telecommunications services  
 192 necessary for effective management of its programs and  
 193 functions. The department may provide SUNCOM ~~such communications~~  
 194 services to a state university if requested by the university.

195 (a) If a SUNCOM ~~Network~~ service does not meet the  
 196 telecommunications requirements of an agency, the agency must  
 197 notify the department in writing and detail the requirements for  
 198 that service. If the department is unable to meet an agency's  
 199 requirements by enhancing the SUNCOM ~~Network~~ service, the  
 200 department may grant the agency an exemption from the required  
 201 use of specified SUNCOM ~~Network~~ services.

202 (b) Unless an exemption is ~~has been~~ granted by the  
 203 department, ~~effective October 1, 2010,~~ all customers of the a  
 204 state ~~primary~~ data center, excluding state universities, must  
 205 use the shared SUNCOM Network ~~telecommunications~~ services  
 206 connecting the state ~~primary~~ data center to SUNCOM services for  
 207 all telecommunications needs in accordance with department  
 208 rules.

209 1. Upon discovery of customer noncompliance with this  
 210 paragraph, the department shall provide the affected customer  
 211 with a schedule for transferring to the shared  
 212 ~~telecommunications services provided by the~~ SUNCOM Network and  
 213 an estimate of all associated costs. The state ~~primary~~ data  
 214 centers and their customers shall cooperate with the department  
 215 to accomplish the transfer.

216 2. Customers may request an exemption from this paragraph  
 217 in the same manner as authorized in paragraph (a).

218 (6) This section may not be construed to require a state  
 219 university to use the SUNCOM ~~Network communication~~ services.

220 Section 4. Section 282.704, Florida Statutes, is amended  
 221 to read:

222 282.704 Use of ~~state~~ SUNCOM services ~~Network~~ by  
 223 municipalities.—Any municipality may request the department to  
 224 provide any or all of the SUNCOM ~~Network's portfolio of~~  
 225 ~~communications~~ services upon such terms and conditions as the  
 226 department may establish. The requesting municipality shall pay  
 227 its share of installation and recurring costs according to the  
 228 published rates for the SUNCOM ~~Network~~ services and as invoiced  
 229 by the department. Such municipality shall also pay for any  
 230 requested modifications to existing SUNCOM ~~Network~~ services, if  
 231 any charges apply.

232 Section 5. Subsections (1), (2), (3), and (4) of section  
 233 282.705, Florida Statutes, are amended to read:

234 282.705 Use of ~~state~~ SUNCOM services ~~Network~~ by nonprofit

235 corporations.-

236 (1) The department shall provide a means whereby private  
 237 nonprofit corporations under contract with state agencies or  
 238 political subdivisions of the state may use the ~~state~~ SUNCOM  
 239 services Network, subject to the limitations in this section. In  
 240 order to qualify to use the ~~state~~ SUNCOM services Network, a  
 241 nonprofit corporation shall:

242 (a) Expend the majority of its total direct revenues for  
 243 the provision of contractual services to the state, a  
 244 municipality, or a political subdivision; and

245 (b) Receive only a small portion of its total revenues  
 246 from any source other than a state agency, a municipality, or a  
 247 political subdivision during the time the SUNCOM ~~Network~~  
 248 services are requested.

249 (2) Each nonprofit corporation seeking authorization to  
 250 use the ~~state~~ SUNCOM services Network shall provide to the  
 251 department, upon request, proof of compliance with subsection  
 252 (1).

253 (3) Nonprofit corporations established pursuant to general  
 254 law and an association of municipal governments which is wholly  
 255 owned by the municipalities are eligible to use the ~~state~~ SUNCOM  
 256 services Network, subject to the terms and conditions of the  
 257 department.

258 (4) Institutions qualified to participate in the William  
 259 L. Boyd, IV, Florida Resident Access Grant Program pursuant to  
 260 s. 1009.89 are eligible to use the ~~state~~ SUNCOM services

261 ~~Network~~, subject to the terms and conditions of the department.  
 262 Such entities are not required to satisfy the other criteria of  
 263 this section.

264 Section 6. Section 282.706, Florida Statutes, is amended  
 265 to read:

266 282.706 Use of SUNCOM services ~~Network~~ by libraries.—The  
 267 department may provide the ~~SUNCOM Network~~ services to any  
 268 library in the state, including libraries in public schools,  
 269 community colleges, state universities, and nonprofit private  
 270 postsecondary educational institutions, and libraries owned and  
 271 operated by municipalities and political subdivisions. This  
 272 section may not be construed to require a state university  
 273 library to use the ~~SUNCOM Network~~ services.

274 Section 7. Subsections (1) and (2) of section 282.707,  
 275 Florida Statutes, are amended to read:

276 282.707 SUNCOM services ~~Network~~; criteria for usage.—

277 (1) The department and customers served by the department  
 278 shall periodically review the qualifications of subscribers  
 279 using the ~~state~~ SUNCOM services ~~Network~~ and terminate services  
 280 provided to a facility not qualified under this part or rules  
 281 adopted hereunder. In the event of nonpayment of invoices by  
 282 subscribers whose ~~SUNCOM Network~~ invoices are paid from sources  
 283 other than legislative appropriations, such nonpayment  
 284 represents good and sufficient reason to terminate service.

285 (2) The department shall adopt rules for implementing and  
 286 operating the ~~state~~ SUNCOM services ~~Network~~, which include



PCB GOAS 14-04

2014

287 | procedures for withdrawing and restoring authorization to use  
 288 | the ~~state~~ SUNCOM services ~~Network~~. Such rules shall provide a  
 289 | minimum of 30 days' notice to affected parties before  
 290 | terminating voice communications service.

291 |       Section 8. Section 282.708, Florida Statutes, is amended  
 292 | to read:

293 |       282.708 Emergency assumption of control.—In the event of  
 294 | an emergency, the Governor may direct emergency management  
 295 | assumption of control over all or part of the SUNCOM services  
 296 | ~~state communications system~~.

297 |       Section 9. This act shall take effect July 1, 2014.

